

# STATE OF NEW YORK

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3637

2017-2018 Regular Sessions

## IN SENATE

January 25, 2017

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Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT in relation to alternative finance investment bonds

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and intent. 1. New York's historical  
2 prosperity has derived from the freedom and innovative nature of the  
3 state's capital markets and New York's roles as a center of foreign  
4 trade and investment, which has helped build the industries and create  
5 the jobs that earned the state the nickname of the Empire State.  
6 2. The legislature finds that in order to bring more jobs to New York  
7 in a global economy, and to increase the state's competitiveness, the  
8 state must find new sources of capital investment to create opportu-  
9 nities throughout the state. An innovative way to accomplish this goal  
10 would be to create alternate investment instruments that would attract  
11 capital from investors who for personal, moral or religious reasons are  
12 unable to use conventional debt instruments such as bonds due to their  
13 inability to purchase securities that generate interest.  
14 3. New York has the proud heritage of being a model for the rest of  
15 the nation in the areas of ethnic, national, racial, and religious  
16 tolerance and diversity. However, over time large numbers of New Yorkers  
17 have been unable to participate in investment opportunities offered by  
18 the state, or in public-private partnerships due to the lack of diverse  
19 means of long term capital investments. Broadening the state's portfolio  
20 of investment instruments would not only enfranchise large groups of New  
21 Yorkers and lower the costs of state and local borrowing, but would also  
22 aid in community renewal and revitalization. Creating more inclusive  
23 forms of state financial opportunities would also broaden the streams of  
24 capital available to the state, lowering the cost of financing and once  
25 again involving the world's investors in the development of our state's  
26 economy.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 4. The legislature therefore declares that expanding New York's tools  
2 for economic development by creating new forms of alternative invest-  
3 ments would enable it to participate in the multi-billion dollar market  
4 for alternative investment vehicles akin to conventional bonds, thus  
5 freeing up new capital for business and job creation. The creation of  
6 these innovative financial instruments will furthermore permit individ-  
7 uals and institutions of all faiths to invest in and issue such instru-  
8 ments, redressing historic wrongs and low participation rates in our  
9 economy.

10 § 2. 1. Definitions. (a) "Alternative finance investment bond" shall  
11 mean a certificate of equal value representing undivided shares of  
12 ownership of tangible assets, usufructs and services or (in the owner-  
13 ship of) the assets of particular projects or special investment activ-  
14 ity.

15 (b) "Alternative finance investment bond agreement" shall mean an  
16 agreement where:

17 (i) the agreement provides for a person ("the bond holder") to pay a  
18 sum of money ("the capital") to another ("the bond issuer"),

19 (ii) the agreement identifies assets, or a class of assets, which the  
20 bond issuer will acquire for the purpose of generating income or gains  
21 directly or indirectly ("bond assets"),

22 (iii) the agreement specifies a period at the end of which they cease  
23 to have effect ("the bond term"),

24 (iv) the bond issuer undertakes under the agreement:

25 (A) to make a repayment of the capital ("the redemption payment") to  
26 the bond holder during or at the end of the bond term (whether or not in  
27 installments), and

28 (B) to pay to the bond holder other payments on one or more occasions  
29 during or at the end of the bond term ("additional payments"), and

30 (v) the amount of the additional payments does not exceed an amount  
31 which would be a reasonable commercial return on a loan of the capital.

32 2. The chair of the dormitory authority, the director of the budget,  
33 the superintendent of financial services and the commissioner of taxa-  
34 tion and finance are hereby authorized and directed to assist the chair  
35 of the New York state urban development corporation in creating, within  
36 one calendar year of the effective date of this act, an investment  
37 instrument for the state of New York that will be compliant with the  
38 definition of alternative finance investment bonds, and regulated in a  
39 manner consistent with traditional bonds and other debt instruments.

40 3. The chair of the New York state urban development corporation is  
41 hereby directed to consult with the state comptroller and the attorney  
42 general concerning the regulation of alternative finance investment  
43 bonds, and whether such bonds may be issued by New York municipal enti-  
44 ties in addition to any issuances by the state of New York, and shall  
45 provide the legislature with language necessary for the regulation of  
46 such security.

47 4. Within ninety days of the effective date of this act, the chair of  
48 the New York state urban development corporation shall report to the  
49 governor, the temporary president of the senate, and the speaker of the  
50 assembly, the minority leader of the senate and minority leader of the  
51 assembly concerning the potential domestic and foreign market for alter-  
52 native finance investment bonds, and how such investment vehicles might  
53 be used in economic development generally, and specifically in  
54 distressed census tracts.

55 § 3. This act shall take effect immediately.