S T A T E O F N E W Y O R K

4399--A

Cal. No. 543

2013-2014 Regular Sessions

I N S E N A T E

March 26, 2013

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public authorities law, in relation to the powers of the state of New York mortgage agency

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 5 of section 2402 of the public authorities law, as amended by section 1 of chapter 208 of the laws of 2010, is amended to read as follows:

(5) "Mortgage". A loan owed to a bank secured by a first lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof. The term "mortgage" shall also include a loan owed to a bank secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof, provided, however, that such second lien: (a) secures a loan purchased by the agency, and (b) is made at the same time as a first lien securing a loan purchased by the agency pursuant to its programs or by a government sponsored enterprise or is made at the same time as a new housing loan purchased by the agency pursuant to section twenty-four hundred five-c of this part[, provided that, in]. THE TERM "MORTGAGE" SHALL ALSO INCLUDE LOANS MADE BY THE AGENCY AND SECURED BY A SECOND LIEN ON A FEE SIMPLE OR LEASEHOLD ESTATE IN REAL PROPERTY LOCATED IN THE STATE AND IMPROVED BY A RESIDENTIAL STRUCTURE, WHETHER OR NOT INSURED OR GUARANTEED BY THE UNITED STATES OF AMERICA OR ANY AGENCY THEREOF, PROVIDED HOWEVER, THAT THE LOAN MADE BY THE AGENCY AND SECURED BY SUCH SECOND

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

LBD09086-02-3

LIEN IS MADE AT THE SAME TIME AS A FIRST LIEN SECURING A MORTGAGE LOAN PURCHASED BY THE AGENCY PURSUANT TO ITS PROGRAMS OR BY A GOVERNMENT SPONSORED ENTERPRISE. IN the case of any second lien PURCHASED OR MADE HEREUNDER, the mortgagor shall be obligated to contribute from his or her own verifiable funds an amount not less than such percentage as the agency shall determine, of the lower of the purchase price or appraised value of the property subject to the first lien. "Real property" as used in this subdivision shall include air rights.

For the purposes of this title and of section one hundred ninety and subsection (a) of section one thousand four hundred fifty-six of the tax law, "mortgage" shall include housing loans as defined below. Except for the purposes of subdivision seven of section two thousand four hundred five and subdivision eight of section two thousand four hundred five-b of this part, "mortgage" shall also include a loan owed to a bank by an individual borrower incurred for the purpose of financing the purchase of certificates of stock or other evidence of ownership of an interest in, and a proprietary lease from, a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state, secured by an assignment or transfer of the benefits of such cooperative ownership, and containing such terms and conditions as the agency may approve.

S 2. Subdivision 5 of section 2402 of the public authorities law, as amended by section 2 of chapter 208 of the laws of 2010, is amended to read as follows:

(5) "Mortgage". A loan owed to a bank secured by a first lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof. The term "mortgage" shall also include a loan owed to a bank secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof, provided, however, that such second lien: (a) secures a loan purchased by the agency, and (b) is made at the same time as a first lien securing a loan purchased by the agency pursuant to its programs or by a government sponsored enterprise or is made at the same time as a new housing loan purchased by the agency pursuant to section twenty-four hundred five-c of this part[, provided that, in]. THE TERM "MORTGAGE" SHALL ALSO INCLUDE LOANS MADE BY THE AGENCY AND SECURED BY A SECOND LIEN ON A FEE SIMPLE OR LEASEHOLD ESTATE IN REAL PROPERTY LOCATED IN THE STATE AND IMPROVED BY A RESIDENTIAL STRUCTURE, WHETHER OR NOT INSURED OR GUARANTEED BY THE UNITED STATES OF AMERICA OR ANY AGENCY THEREOF, PROVIDED HOWEVER, THAT THE LOAN MADE BY THE AGENCY AND SECURED BY SUCH SECOND LIEN IS MADE AT THE SAME TIME AS A FIRST LIEN SECURING A MORTGAGE LOAN PURCHASED BY THE AGENCY PURSUANT TO ITS PROGRAMS OR BY A GOVERNMENT SPONSORED ENTERPRISE. IN the case of any second lien PURCHASED OR MADE HEREUNDER, the mortgagor shall be obligated to contribute from his or her own verifiable funds an amount not less than such percentage as the agency shall determine, of the lower of the purchase price or appraised value of the property subject to the first lien. "Real property" as used in this subdivision shall include air rights.

Except for the purposes of subdivision seven of section two thousand four hundred five of this part, "mortgage" shall also include a loan owed to a bank by an individual borrower incurred for the purpose of financing the purchase of certificates of stock or other evidence of ownership of an interest in, and a proprietary lease from, a cooperative

housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state, secured by an assignment or transfer of the benefits of such cooperative ownership, and containing such terms and conditions as the agency may approve.

S 3. Subdivision 5 of section 2402 of the public authorities law, as amended by chapter 432 of the laws of 2009, is amended to read as follows:

(5) "Mortgage". A loan owed to a bank secured by a first lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof. The term "mortgage" shall also include a loan owed to a bank secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof, provided, however, that such second lien: (a) secures a loan purchased by the agency, and (b) is made at the same time as a first lien securing a loan purchased by the agency pursuant to its programs or is made at the same time as a new housing loan purchased by the agency pursuant to section twenty-four hundred five-c of this part[, provided that, in]. THE TERM "MORTGAGE" SHALL ALSO INCLUDE LOANS MADE BY THE AGENCY AND SECURED BY A SECOND LIEN ON A FEE SIMPLE OR LEASEHOLD ESTATE IN REAL PROPERTY LOCATED IN THE STATE AND IMPROVED BY A RESIDENTIAL STRUCTURE, WHETHER OR NOT INSURED OR GUARANTEED BY THE UNITED STATES OF AMERICA OR ANY AGENCY THEREOF, PROVIDED HOWEVER, THAT THE LOAN MADE BY THE AGENCY AND SECURED BY SUCH SECOND LIEN IS MADE AT THE SAME TIME AS A FIRST LIEN SECURING A MORTGAGE LOAN PURCHASED BY THE AGENCY PURSUANT TO ITS PROGRAMS OR BY A GOVERNMENT SPONSORED ENTERPRISE. IN the case of any second lien, the mortgagor shall be obligated to contribute from his or her own verifiable funds an amount not less than such percentage as the agency shall determine, of the lower of the purchase price or appraised value of the property subject to the first lien. "Real property" as used in this subdivision shall include air rights.

Except for the purposes of subdivision seven of section two thousand four hundred five of this part, "mortgage" shall also include a loan owed to a bank by an individual borrower incurred for the purpose of financing the purchase of certificates of stock or other evidence of ownership of an interest in, and a proprietary lease from, a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state, secured by an assignment or transfer of the benefits of such cooperative ownership, and containing such terms and conditions as the agency may approve.

S 4. Subdivision 17 of section 2402 of the public authorities law, as added by chapter 208 of the laws of 2010, is amended to read as follows:

(17) "Government sponsored enterprises". Privately owned, publicly chartered entities, AND WHOLLY-OWNED CORPORATE INSTRUMENTALITIES OF THE UNITED STATES WITHIN THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, CREATED PURSUANT TO 12 USC 1717(A)(2)(A), ALL created by Congress to encourage lending and reduce costs primarily in the housing sector of the economy.

S 5. Subdivision 30 of section 2404 of the public authorities law, as renumbered by chapter 229 of the laws of 2007, is renumbered subdivision 31 and a new subdivision 30 is added to read as follows:

(30) TO MAKE LOANS SECURED BY MORTGAGES SECURED BY A SECOND LIEN ON A FEE SIMPLE OR LEASEHOLD ESTATE IN REAL PROPERTY LOCATED IN THE STATE AND IMPROVED BY A RESIDENTIAL STRUCTURE, WHETHER OR NOT INSURED OR GUARAN-

TEED BY THE UNITED STATES OF AMERICA OR ANY AGENCY THEREOF, PROVIDED HOWEVER, THAT THE LOAN MADE BY THE AGENCY AND SECURED BY SUCH SECOND LIEN IS MADE AT THE SAME TIME AS A FIRST LIEN SECURING A MORTGAGE LOAN PURCHASED BY THE AGENCY PURSUANT TO ITS PROGRAMS OR BY A GOVERNMENT SPONSORED ENTERPRISE.

S 6. This act shall take effect immediately, provided that the amendments to subdivision 5 of section 2402 of the public authorities law made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 16 of chapter 915 of the laws of 1982, as amended, when upon such date the provisions of section two of this act shall take effect; provided further, that the amendments to subdivision 5 of section 2402 of the public authorities law made by section two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 4 of chapter 208 of the laws of 2010 as amended, when upon such date the provisions of section three of this act shall take effect; provided further, that the amendments to subdivision 17 of section 2402 made by section four of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.