

5474

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

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

AN ACT to amend the state finance law, in relation to establishing the community restoration fund

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

1 Section 1. Statement of legislative purpose and findings. The legisla-
2 ture finds and declares that New York's mortgage foreclosure crisis
3 continues. Many New Yorkers are still unable to meet their mortgage
4 obligations. There are delays in the foreclosure process, homes are
5 sitting vacant or in a state of ill repair because of drawn out loan
6 modification and foreclosures, neighborhoods with high concentrations of
7 foreclosures are losing value and the owners are losing equity. Fore-
8 closures that were the result of the real estate downturn and great
9 recession will continue to be a problem within the state. The legisla-
10 ture finds that it is necessary to create a statewide program to stabi-
11 lize communities throughout the state by: (i) avoiding foreclosures and
12 ameliorating the effects of the mortgage foreclosure crisis; (ii) elimi-
13 nating blighted properties and vacant lots that bring down community
14 values and create attractive nuisances within communities; (iii) restor-
15 ing property tax income to counties and towns; and (iv) maintaining
16 affordable housing. Accordingly the legislature hereby creates the
17 community restoration fund.

18 S 2. Definitions. As used in this act, the following words and phrases
19 shall have the following meanings:

20 1. "Community development financial institution" or "CDFI" means an
21 organization located in this state which has been certified as a commu-
22 nity development financial institution by the federal community develop-
23 ment financial institutions fund, as established pursuant to 12 U.S.C.
24 4701 et seq.

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

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1 2. "Fund manager" means a New York-based Community Development Finan-
2 cial Institution ("CDFI") fund manager.

3 3. "Program manager" means a property holding company that will own
4 and manage the assets purchased through the community restoration fund.

5 S 3. The state finance law is amended by adding a new section 99-x to
6 read as follows:

7 S 99-X. COMMUNITY RESTORATION FUND. 1. THERE IS HEREBY ESTABLISHED IN
8 THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE
9 "COMMUNITY RESTORATION FUND".

10 2. THE COMMUNITY RESTORATION FUND SHALL CONSIST OF MONEYS DEPOSITED
11 THEREIN BY THE STATE COMPTROLLER FROM THE ATTORNEY GENERAL OF THE STATE
12 OBTAINED THROUGH JUDGMENTS AND SETTLEMENTS WITH LENDING INSTITUTIONS FOR
13 SUBPRIME AND PREDATORY LOANS, FOR MORTGAGE SERVICING AND SECURITIZA-
14 TIONS, CLAIMS RELATED TO MORTGAGE PRACTICES, MORTGAGE BACKED SECURITIES,
15 CASES RELATED TO MORTGAGE AND MORTGAGE SECURITIES IN THE LONDON INTER-
16 BANK OFFERED RATE AND OTHER MORTGAGE FORECLOSURE RELATED CASES AND FROM
17 FEDERAL, STATE OR LOCAL GOVERNMENTS AND PRIVATE INVESTORS. NOTHING
18 CONTAINED IN THIS SECTION SHALL PREVENT THE STATE FROM RECEIVING GRANTS,
19 GIFTS OR BEQUESTS AND DEPOSITING THEM INTO THE ACCESSIBLE ELECTRONIC
20 INFORMATION SERVICE FUND ACCORDING TO LAW.

21 3. THE MONEYS IN THE FUND SHALL BE USED TO:

22 (A) PURCHASE MORTGAGE NOTES ON ONE, TWO, THREE AND FOUR FAMILY HOMES
23 AT DISCOUNTED RATES WITH THE INTENT OF MODIFYING THE MORTGAGE TO AN
24 AFFORDABLE RATE TO KEEP CURRENT HOMEOWNERS IN THE PROPERTY; AND

25 (B) ACQUIRE HOMES AT DISCOUNTED RATES FROM LENDERS, AND PURCHASE HOMES
26 AT AUCTION OR THROUGH SHORT SALE WITH THE INTENT TO:

27 (I) RENT OR SELL BACK TO HOMEOWNERS WITH AN AFFORDABLE LOAN;

28 (II) FUND LOCAL, NOT-FOR-PROFIT-DEVELOPMENT EFFORTS TO TURN VACANT
29 PROPERTIES INTO AFFORDABLE HOUSING;

30 (III) REHABILITATE DISTRESSED PROPERTIES FOR NEW OWNERS IF THE PROPER-
31 TY WAS VACANT; AND/OR

32 (IV) DEMOLISH HOMES BEYOND REPAIR.

33 4. THE URBAN DEVELOPMENT CORPORATION SHALL SELECT THE FUND MANAGER AND
34 PROGRAM MANAGER THROUGH THE REQUEST FOR PROPOSAL PROCESS.

35 5. THE FUND MANAGER SHALL:

36 (A) BE RESPONSIBLE FOR THE RECEIPT, MANAGEMENT AND EXPENDITURE OF
37 MONIES HELD IN THE COMMUNITY RESTORATION FUND;

38 (B) MAINTAIN BOOKS AND RECORDS PERTAINING TO ALL MONIES RECEIVED AND
39 DISBURSED PURSUANT TO THIS SECTION;

40 (C) RECEIVE PUBLIC, SETTLEMENT AND OTHER FUNDS AND USE THOSE FUNDS TO
41 PURCHASE ASSETS THAT WILL BE HELD BY THE PROGRAM MANAGER;

42 (D) HAVE THE AUTHORITY TO ACQUIRE DISTRESSED ASSETS AND PURCHASE MORT-
43 GAGE NOTES ON ONE, TWO, THREE AND/OR FOUR FAMILY HOMES, WHETHER CURRENT,
44 DELINQUENT AND/OR IN FORECLOSURE, OCCUPIED, VACANT OR ABANDONED, WHERE
45 PURCHASED:

46 (I) BY A FUND MANAGER AT CURRENT APPRAISED VALUES;

47 (II) THROUGH NEGOTIATED SALES AT FHA DISTRESSED ASSET STABILIZATION
48 PROGRAM SALES;

49 (III) THROUGH AUCTIONS, SHORT SALES, REAL ESTATE OWNED PROPERTIES OR
50 PROPERTIES IDENTIFIED BY THE NOT-FOR-PROFIT ORGANIZATIONS ON THE COMMU-
51 NITY RESTORATION FUND COUNCIL;

52 (E) HAVE THE AUTHORITY TO TRANSFER DISTRESSED ASSETS TO THE PROGRAM
53 MANAGER;

54 (F) WORK WITH THE COMMUNITY RESTORATION FUND COUNCIL TO DEVELOP STRAT-
55 EGIES FOR ACQUIRING DISTRESSED ASSETS AND TO IDENTIFY OPPORTUNITIES TO
56 ACQUIRE DISTRESSED ASSETS;

(G) WORK WITH THE PROGRAM MANAGER AND THE COMMUNITY RESTORATION FUND COUNCIL TO IDENTIFY NOT-FOR-PROFIT DEVELOPERS ABLE TO IMPLEMENT DISPOSITIONS TAILORED TO LOCAL NEEDS, WHETHER SALES TO NEW HOMEOWNERS, USE AS AFFORDABLE RENTAL PROPERTY, OR DEMOLITION AND REPURPOSING FOR OTHER COMMUNITY USES;

(H) MAKE FUNDS DIRECTLY AVAILABLE TO NOT-FOR-PROFIT ORGANIZATIONS AND DEVELOPERS FOR USE TO ACQUIRE, REHABILITATE AND/OR FINANCE PROPERTIES DIRECTLY. THESE FUNDS WOULD BE MADE AVAILABLE THROUGH A REQUEST FOR PROPOSAL PROCESS CONDUCTED BY A STATE AGENCY IN CONSULTATION WITH THE FUND MANAGER;

(I) DEVELOP A PLAN TO MAKE THIS A REVOLVING LOAN FUND; AND

(J) APPLY FOR FEDERAL OR PRIVATE GRANT MONEY THAT BECOMES AVAILABLE TO CARRY OUT THE PURPOSE OF THIS SECTION.

6. THE PROGRAM MANAGER SHALL:

(A) OWN AND MANAGE THE DISTRESSED ASSETS ACQUIRED BY THE FUND MANAGER;

(B) HAVE THE POWER TO MODIFY MORTGAGE NOTES ON THE ACQUIRED ASSETS;

(C) WITH THE INPUT OF THE COMMUNITY RESTORATION FUND COUNCIL, DEVELOP DISPOSITION STRATEGIES TAILORED TO THE NEEDS AND MARKET CONDITIONS IN THE LOCAL COMMUNITIES WHERE THE DISTRESSED ASSETS ARE LOCATED;

(D) WORK WITH THE COMMUNITY RESTORATION FUND COUNCIL TO DETERMINE OPTIMAL OUTCOMES FOR ACQUIRED MORTGAGE NOTES AND PROPERTIES;

(E) HAVE A RELATIONSHIP WITH A SPECIALTY MORTGAGE SERVICER WHOSE ROLE IS TO ASSIST WITH MODIFICATIONS OF ACQUIRED MORTGAGE NOTES;

(F) WORK WITH THE FUND MANAGER AND THE COMMUNITY RESTORATION FUND COUNCIL TO DEVELOP MODIFICATION CRITERIA;

(G) WORK WITH LOAN SERVICERS AND HOUSING COUNSELORS TO ASSIST BORROWERS WITH APPLICATIONS FOR LOAN MODIFICATIONS AND REFINANCING; AND

(H) WORK WITH THE FUND MANAGER AND THE COMMUNITY RESTORATION FUND COUNCIL TO IDENTIFY NOT-FOR-PROFIT DEVELOPERS ABLE TO IMPLEMENT DISPOSITIONS TAILORED TO LOCAL NEEDS, WHETHER SALES TO NEW HOMEOWNERS, USE AS AFFORDABLE RENTAL PROPERTY, OR DEMOLITION AND REPURPOSING FOR OTHER COMMUNITY USES.

S 4. Community restoration fund council. 1. There is hereby established the community restoration fund council consisting of thirty members. The purpose of such council is to serve as an advisory board to both the community restoration fund and the program manager, assist with the identification of opportunities to acquire distressed assets, assist in the development of disposition strategies tailored to meet the needs and market conditions in the local communities where distressed assets are located, work with the program manager to determine optimal outcomes for acquired mortgage notes and properties, work with the fund manager and program manager to determine the loan servicer's modification criteria, and work with the fund manager and program manager to identify not-for-profit developers able to implement dispositions tailored to local needs, whether sales to new homeowners, use as affordable rental property, or demolition and repurposing for other community uses.

2. The members of the council shall consist of:

a. The commissioner of the New York state department of economic development;

b. The commissioner of New York state homes and community renewal;

c. Twenty-eight community based, not-for-profit members with two members from each of the regional economic development regions, with the exception of New York city where there will be two community based, not-for-profit members from each borough.

3. No member shall receive any compensation for his or her services.

1 S 5. Annual report to the legislature. The urban development corpo-
2 ration shall submit a report to the governor, the speaker of the assem-
3 bly and the temporary president of the senate on or before the first of
4 October, and annually thereafter, describing the use of the community
5 restoration fund pursuant to this act, including asset purchases, loan
6 modifications, home sales, rentals, property rehabilitations and other
7 information provided pursuant to this act, including: the number of
8 assets purchased, number of loans modified, number of properties rented
9 and a description of projects financed or assisted by fund monies; the
10 amount and source of funds leveraged; and such other information as the
11 state agency may deem appropriate.

12 S 6. The urban development corporation is hereby authorized to promul-
13 gate rules and regulations in accordance with the state administrative
14 procedure act that are necessary to fulfill the purposes of this act.
15 Such rules and regulations are to be completed within one hundred eighty
16 days of the effective date of this act.

17 S 7. This act shall take effect immediately.