

STATE OF NEW YORK

7403

2023-2024 Regular Sessions

IN ASSEMBLY

May 19, 2023

Introduced by M. of A. McMAHON -- (at request of the New York State Homes and Community Renewal) -- read once and referred to the Committee on Housing

AN ACT to amend the public authorities law, in relation to facilitating the purchase by the state of New York mortgage agency of mortgages on manufactured homes

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

Section 1. The tenth undesignated paragraph of section 2401 of the public authorities law, as added by chapter 628 of the laws of 2021, is amended to read as follows:

It is further found and determined that there is a shortage of adequate funds to assist in the new construction of modular and manufactured housing, and to assist in the purchase of existing modular and manufactured housing.

§ 2. Subdivision 5 of section 2402 of the public authorities law, as amended by chapter 65 of the laws of 2022, 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, or on any other instrument which shall constitute or create a security interest in tangible personal property constituting modular or manufactured housing, located in the state and improved by a residential structure or, on which a residential structure for use as single-family modular or manufactured housing purchased and sited on land shall be constructed using the proceeds of such loan, 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, or on any other instrument which shall constitute or create a security interest in tangible personal property constituting modular or manufactured housing, located

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

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1 in the state and improved by a residential structure or on which a resi-
2 dential structure for use as single-family modular or manufactured hous-
3 ing purchased and sited on land shall be constructed using the proceeds
4 of the related loan described in paragraph (a) or (b) of this subdivi-
5 sion, whether or not insured or guaranteed by the United States of Amer-
6 ica or any agency thereof, provided, however, that such second lien: (a)
7 secures a loan purchased by the agency, and (b) is made at the same time
8 as a first lien securing a loan purchased by the agency pursuant to its
9 programs or by a government sponsored enterprise or is made at the same
10 time as a new housing loan purchased by the agency pursuant to section
11 twenty-four hundred five-c of this part. The term "mortgage" shall also
12 include loans made by the agency and secured by a second lien on a fee
13 simple or leasehold estate in real property, or on any other instrument
14 which shall constitute or create a security interest in tangible
15 personal property constituting modular or manufactured housing, located
16 in the state and improved by a residential structure or on which a resi-
17 dential structure for use as single-family modular or manufactured hous-
18 ing purchased and sited on land shall be constructed using the proceeds
19 of such loan, whether or not insured or guaranteed by the United States
20 of America or any agency thereof, provided however, that the loan made
21 by the agency and secured by such second lien is made at the same time
22 as a first lien securing a mortgage loan purchased by the agency pursu-
23 ant to its programs or by a government sponsored enterprise. In the case
24 of any second lien purchased or made hereunder, the mortgagor shall be
25 obligated to contribute from his or her own verifiable funds an amount
26 not less than such percentage as the agency shall determine, of the
27 lower of the purchase price or appraised value of the property subject
28 to the first lien. "Real property" as used in this subdivision shall
29 include air rights.

30 For the purposes of this title and subdivision ten of section two
31 hundred ten-B of the tax law, "mortgage" shall include housing loans as
32 defined below. Except for the purposes of subdivision seven of section
33 twenty-four hundred five and subdivision eight of section twenty-four
34 hundred five-b of this part, "mortgage" shall also include a loan owed
35 to a bank by an individual borrower incurred for the purpose of financ-
36 ing the purchase of certificates of stock or other evidence of ownership
37 of an interest in, and a proprietary lease from, a cooperative housing
38 corporation formed for the purpose of the cooperative ownership of resi-
39 dential real estate in the state, secured by an assignment or transfer
40 of the benefits of such cooperative ownership, and containing such terms
41 and conditions as the agency may approve.

42 § 3. Paragraphs (e), (f) and (h) of subdivision 8 of section 2405-b of
43 the public authorities law, paragraph (e) as added by chapter 915 of the
44 laws of 1982, paragraph (f) as amended by chapter 432 of the laws of
45 2009 and paragraph (h) as amended by chapter 628 of the laws of 2021,
46 are amended to read as follows:

47 (e) the mortgage is evidenced by a bond or promissory note and a mort-
48 gage document which has been properly recorded with the appropriate
49 public official or by an instrument which shall constitute or create a
50 security interest in tangible personal property constituting modular or
51 manufactured housing purchased by the agency;

52 (f) the mortgage constitutes a valid first lien, or second lien on the
53 real property or tangible personal property constituting modular or
54 manufactured housing, described to the agency in accordance with subdivi-
55 sion five of section twenty-four hundred two of this part subject only
56 to real property taxes or other taxes not yet due, installments of

1 assessments not yet due, and easements and restrictions of record which
2 do not adversely affect, to a material degree, the use or value of the
3 real property, tangible personal property constituting modular or manu-
4 factured housing or improvements thereon;

5 (h) the improvements to, or new construction of single-family modular
6 or manufactured housing purchased and sited on land, the mortgaged real
7 property or tangible personal property constituting modular or manufac-
8 tured housing, are covered by a valid and subsisting policy of insurance
9 issued by a company authorized by the superintendent of financial
10 services to issue such policies in the state of New York and providing
11 fire and extended coverage to an amount not less than eighty percent of
12 the insurable value of the improvements to, or new construction of, the
13 mortgaged real property or tangible personal property constituting
14 modular or manufactured housing.

15 § 4. Subdivision 4 of section 2428 of the public authorities law, as
16 amended by chapter 432 of the laws of 2009, is amended as follows:

17 4. To be eligible for insurance under this article, a mortgage loan
18 shall (a) (i) be a first lien of the kind which is commonly given to
19 secure advances on, or the unpaid purchase price of, real property, or
20 tangible personal property constituting modular or manufactured housing
21 in the case of mortgage loans purchased by the agency under its forward
22 commitment program, under the laws of the state together with any credit
23 instrument secured thereby, provided, however, that a mortgage loan may
24 be a second lien if such mortgage loan was purchased by the agency or
25 (ii) be secured by an assignment or transfer of stock certificates or
26 other evidence of ownership interest of the borrower in, and a proprie-
27 tary lease from, a corporation formed for the purpose of the cooperative
28 ownership of residential real estate in the state; (b) secure a rehabil-
29 itation or preservation loan on real property held in fee simple or on a
30 leasehold under a proprietary lease or a lease having a period of years
31 to run at the time the mortgage is insured under this article of at
32 least twenty per centum greater duration than the remaining term of the
33 mortgage; (c) contain terms with respect to prepayment, insurance,
34 repairs, alterations, payment of taxes, special assessments, service
35 charges, default reserves, delinquency charges, foreclosure proceedings,
36 additional and secondary liens, and such other matters as the agency may
37 in its discretion prescribe; (d) be accompanied by certificates, issued
38 by such officers of the mortgage financial institutions, independent
39 appraisers or other persons as the agency may require, certifying that
40 (i) where appropriate, the annual income to be derived from the property
41 equals not less than one hundred and five per centum of the annual
42 charges and expenses, including provision for reserves, satisfactory to
43 the agency, for the amortization of subordinate mortgage loans over the
44 remaining terms of such loans notwithstanding the provisions thereof;
45 (ii) the remaining useful life of the property is greater than the term
46 of the mortgage; and (iii) the property does not contain any substantial
47 violations of local building maintenance and construction codes, except
48 that in the case of a loan made to the owner of a property containing
49 any such violations, the agency may insure or commit to insure such loan
50 if the mortgagee and the owner have submitted a plan, satisfactory to
51 the agency to eliminate such violations and the issuance of such insur-
52 ance shall be conditioned on removal of such violations to the satisfac-
53 tion of the local code enforcement agency; and (e) satisfy such addi-
54 tional terms and conditions as the agency may prescribe. For pool
55 insurance, the requirements of paragraph (b) of this subdivision shall
56 not be applicable.

1 § 5. This act shall take effect immediately, provided, however, that:
2 a. the amendments to subdivision 5 of section 2402 of the public
3 authorities law made by section two of this act shall not affect the
4 expiration of such subdivision and shall be deemed to expire therewith;
5 b. the amendments to section 2405-b of the public authorities law made
6 by section three of this act shall not affect the repeal of such section
7 and shall be deemed to repeal therewith; and
8 c. the amendments to subdivision 4 of section 2428 of the public
9 authorities law made by section four of this act shall not affect the
10 expiration of such subdivision and shall be deemed to expire therewith.