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2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

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

AN ACT to amend the private housing finance law, in relation to establishing the rural homeowners assistance program and making an appropriation therefor

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

1 Section 1. The private housing finance law is amended by adding a new
2 article 16-B to read as follows:

3 ARTICLE XVI-B

4 RURAL HOMEOWNERSHIP ASSISTANCE PROGRAM

5 SECTION 930. DECLARATION OF LEGISLATIVE FINDINGS.

6 931. DEFINITIONS.

7 932. CONTRACTS WITH NEIGHBORHOOD PRESERVATION COMPANIES IN RURAL
8 AREAS.

9 933. PAYMENTS TO NEIGHBORHOOD PRESERVATION COMPANIES FOR
10 HOMEOWNERSHIP, TECHNICAL ASSISTANCE AND TRAINING.

11 934. LEGAL AID AGREEMENTS.

12 935. ANNUAL REPORT TO THE LEGISLATURE.

13 S 930. DECLARATION OF LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY
14 FINDS AND DECLARES THAT THERE HAS DEVELOPED A DAMAGING IMPACT OF PREDATORY
15 AND SUB-PRIME RESIDENTIAL MORTGAGE LENDING PATTERNS IN VARIOUS
16 VULNERABLE NEIGHBORHOODS AND COMMUNITIES OF THE STATE AND THAT THE
17 RELATIONSHIP BETWEEN THE PREDOMINANCE OF SUB-PRIME LOANS AND HIGH
18 CONCENTRATIONS OF FORECLOSURE ACTIONS BEING FILED HAS BEEN FORECAST AND
19 CLEARLY DOCUMENTED. THE LEGISLATURE FURTHER FINDS THAT THE SCARCITY OF
20 RESOURCES DEDICATED TO HOUSING COUNSELING AND HOME BUYER EDUCATION
21 SERVICES HAS LEFT MANY FIRST TIME, LOW OR MODERATE INCOME, OR MINORITY
22 HOMEBUYERS AT RISK.

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

LBD02009-01-9

1 THE LEGISLATURE FURTHER FINDS THAT IN RURAL COMMUNITIES WHERE
2 SUB-PRIME LENDERS DOMINATE REFINANCING AND HOME EQUITY MORTGAGE MARKETS,
3 AND WHERE NECESSITY COMBINED WITH POOR DECISION-MAKING OFTEN PLACES LOW
4 AND MODERATE INCOME HOMEOWNERS IN NON-SUSTAINABLE MORTGAGE PRODUCTS, THE
5 ADJUSTED COST OF THE HOME IS FREQUENTLY EXCEEDED AS A RESULT OF REFI-
6 NANCING PRODUCTS, HOME EQUITY PRODUCTS COMPOUNDED WITH FIRST MORTGAGES,
7 AND RUNAWAY FEES. AS A RESULT, MANY HOMEOWNERS ARE RENDERED AT RISK OF
8 FORECLOSURE. BESIDES THE PERSONAL TRAGEDIES THESE HOUSEHOLDS FACE, FORE-
9 CLOSURE FURTHER AFFECTS NEIGHBORHOODS AND COMMUNITIES BY DE-STABILIZING
10 THE CHARACTER OF THE AREA. THE LEGISLATURE FURTHER FINDS THAT IN ORDER
11 TO PREVENT AND/OR MITIGATE FORECLOSURES, FINANCIAL LITERACY MUST BE
12 IMPARTED TO INDIVIDUALS WHO ARE ABOUT TO PURCHASE A HOME OR ARE AT RISK
13 OF FORECLOSURE.

14 THE LEGISLATURE FURTHER FINDS THAT THE NEIGHBORHOOD PRESERVATION
15 COMPANIES WHICH HAVE BEEN ESTABLISHED THROUGHOUT THE STATE ARE INSTRU-
16 MENTAL AS PROVIDERS OF INFORMATION, TRAINING AND ASSISTANCE TO RESIDENTS
17 IN THEIR SERVICE AREAS IN NEED OF HOUSING SERVICES INTERVENTION IN THE
18 RETENTION OF AFFORDABLE HOMEOWNERSHIP; THAT CONDITIONS AGGRAVATED BY AN
19 AFFORDABLE RENTAL HOUSING CRISIS HAVE OVERBURDENED THEIR RESOURCES AND
20 ARE BEING COMPOUNDED BY THE DEMAND FOR HOMEOWNERSHIP ASSISTANCE AND
21 FORECLOSURE PREVENTION; AND THAT THERE IS A NECESSITY FOR THE SERVICES
22 OF NEIGHBORHOOD PRESERVATION COMPANIES FAMILIAR WITH THE SPECIFIC NEEDS
23 OF THE RESIDENTS IN THEIR SERVICE AREAS TO PROVIDE TARGETED ASSISTANCE
24 TO EXISTING AND POTENTIAL HOMEOWNERS TO SECURE PERMANENT, AFFORDABLE AND
25 FISCALLY VIABLE HOMEOWNERSHIP. THE NECESSITY IN THE PUBLIC INTEREST FOR
26 THE PROVISIONS HEREINAFTER ENACTED IS HEREBY DECLARED AS A MATTER OF
27 LEGISLATIVE DETERMINATION.

28 S 931. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND
29 PHRASES SHALL HAVE THE FOLLOWING MEANINGS:

30 1. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF THE STATE DIVISION OF
31 HOUSING AND COMMUNITY RENEWAL.

32 2. "DIVISION" SHALL MEAN THE STATE DIVISION OF HOUSING AND COMMUNITY
33 RENEWAL.

34 3. "NEIGHBORHOOD PRESERVATION COMPANY" SHALL MEAN A CORPORATION ORGAN-
35 IZED UNDER THE PROVISIONS OF THE NOT-FOR-PROFIT CORPORATION LAW WHICH
36 HAS BEEN PRIMARILY ENGAGED IN ONE OR MORE PRESERVATION ACTIVITIES AS
37 DEFINED IN SUBDIVISION FIVE OF SECTION ONE THOUSAND TWO OF THIS CHAPTER.

38 4. "HOMEOWNERSHIP ASSISTANCE ACTIVITIES" SHALL MEAN COUNSELING FOR
39 DEFAULT AND FORECLOSURE PREVENTION, BUDGET MANAGEMENT, DEBT REDUCTION
40 PLANNING, CREDIT REPAIR, REFINANCING OPTIONS, IN THE RECOGNITION OF
41 PREDATORY LENDERS, CONSUMER SCAMS, HOMEOWNER BASICS AND THE HIRING OF
42 CONTRACTORS AND ALL SUCH OTHER ACTIVITIES AS MAY BE DEEMED ESSENTIAL TO
43 ENSURING THE PREVENTION OF FORECLOSURE.

44 5. "ACCESSIBILITY" SHALL MEAN CULTURAL AND LINGUISTIC ACCESSIBILITY TO
45 DIVERSE RESIDENTS.

46 6. "RESIDENTS" SHALL MEAN INDIVIDUALS OR FAMILIES WITH INCOMES NOT
47 EXCEEDING NINETY PERCENT OF MEDIAN INCOME RESIDING IN RURAL AREAS
48 DEFINED IN SUBDIVISION THREE OF SECTION ONE THOUSAND THREE OF THIS CHAP-
49 TER AND CURRENTLY IN RESIDENCE OR WITH EVIDENCE OF FORTHCOMING RESIDENCY
50 IN THE SERVICE AREA.

51 7. "SERVICE AREA" SHALL MEAN THE ESTABLISHED BOUNDARIES OF A NEIGHBOR-
52 HOOD PRESERVATION COMPANY AS SPECIFIED IN SUBDIVISION THREE OF SECTION
53 ONE THOUSAND THREE OF THIS CHAPTER.

54 8. "SIGNIFICANT" SHALL MEAN NO LESS THAN SEVENTY-FIVE PERCENT OF THE
55 SPECIFIED CONTRACTED SERVICES.

1 S 932. CONTRACTS WITH NEIGHBORHOOD PRESERVATION COMPANIES IN RURAL
2 AREAS. 1. THE COMMISSIONER SHALL ENTER INTO CONTRACTS WITH NEIGHBORHOOD
3 PRESERVATION COMPANIES FOR THE PERFORMANCE OF HOMEOWNERSHIP ASSISTANCE
4 ACTIVITIES. SUCH CONTRACTS SHALL BE ENTERED INTO, HOWEVER, ONLY AFTER
5 APPROPRIATE FINDINGS BY THE COMMISSIONER AND SHALL BE SUBJECT TO THE
6 LIMITATIONS AS SET FORTH IN THIS SECTION.

7 2. PRIOR TO ENTERING INTO A CONTRACT WITH AN EXISTING NEIGHBORHOOD
8 PRESERVATION COMPANY, THE COMMISSIONER SHALL HAVE MADE A FINDING, THAT
9 THE COMPANY IS IN GOOD STANDING PURSUANT TO THE PROVISIONS OF SUBDIVI-
10 SION FIVE OF SECTION ONE THOUSAND THREE OF THIS CHAPTER AND THAT THERE
11 IS A NEED FOR PROPOSED HOMEOWNERSHIP ACTIVITIES BEING PROPOSED BASED ON
12 THE DOCUMENTED SUBMISSION OF THE COMPANY.

13 3. PRIOR TO ENTERING INTO A CONTRACT WITH AN EXISTING NEIGHBORHOOD
14 PRESERVATION COMPANY, THE COMMISSIONER SHALL HAVE MADE A FINDING THAT
15 THE COMPANY HAS OR IS PREPARED TO ENGAGE IN SERVICES OR HAS EMPLOYED
16 PERSONS TO RENDER CULTURAL AND LINGUISTIC ACCESSIBILITY TO THE DIVERSE
17 TARGET POPULATION.

18 4. CONTRACTS ENTERED INTO PURSUANT TO THIS SECTION WITH NEIGHBORHOOD
19 PRESERVATION COMPANIES SHALL BE LIMITED IN DURATION TO PERIODS OF ONE
20 YEAR, BUT MAY THEREAFTER BE RENEWED, EXTENDED OR SUCCEEDED BY NEW
21 CONTRACTS FROM YEAR TO YEAR IN THE DISCRETION OF THE COMMISSIONER; THEY
22 SHALL BE LIMITED IN AMOUNT TO FORTY-FIVE THOUSAND DOLLARS PER YEAR AND
23 SHALL NOT BE CONSIDERED PART OF THE AGGREGATE SUM LIMITATIONS IMPOSED
24 UNDER SUBDIVISION FOUR OF SECTION ONE THOUSAND THREE OF THIS CHAPTER.

25 5. PRIOR TO RENEWING OR EXTENDING A CONTRACT OR ENTERING A SUCCEEDING
26 CONTRACT WITH A NEIGHBORHOOD PRESERVATION COMPANY THE DIVISION SHALL
27 DETERMINE THAT:

28 (A) THE COMPANY SHALL HAVE SUBSTANTIALLY COMPLETED THE HOMEOWNERSHIP
29 ACTIVITIES SPECIFIED IN THE CONTRACT TO BE RENEWED OR SUCCEEDED;

30 (B) THE COMPANY SHALL HAVE RECEIVED THE SUMS AND FUNDS SPECIFIED IN
31 THIS SECTION; AND

32 (C) THE ACTIVITIES CARRIED OUT BY THE COMPANY PURSUANT TO ITS CONTRACT
33 SHALL HAVE RESULTED IN A SIGNIFICANT IMPACT ON THE NEEDS OF THE AT-RISK
34 EXISTING AND POTENTIAL HOMEOWNERS IN THE SERVICE AREA.

35 6. PRIOR TO TERMINATING OR NOT ENTERING INTO A SUCCEEDING CONTRACT THE
36 DIVISION SHALL:

37 (A) DETERMINE THAT THE COMPANY IS IN VIOLATION OF THE TERMS AND CONDI-
38 TIONS OF THE CONTRACT OR THAT FUNDS PROVIDED PURSUANT TO THE CONTRACT
39 ARE BEING EXPENDED IN A MANNER NOT CONSISTENT WITH THE TERMS OR
40 PROVISIONS OF THIS ARTICLE; OR

41 (B) DETERMINE THAT THE SIGNIFICANT NEED IN THE SERVICE AREA HAS BEEN
42 FULFILLED; OR

43 (C) PROVIDE THE COMPANY WITH WRITTEN NOTICE, AT LEAST FORTY-FIVE DAYS
44 IN ADVANCE, OF ITS INTENT TO TERMINATE OR NOT RENEW THE CONTRACT AND
45 PROVIDE THE COMPANY WITH THE OPPORTUNITY TO APPEAR AND BE HEARD BEFORE
46 THE DIVISION WITH RESPECT TO THE REASONS FOR SUCH PROPOSED TERMINATION
47 OR NON-RENEWAL. AT THE SAME TIME THAT A COMPANY IS NOTIFIED OF THE DIVI-
48 SION'S INTENT TO TERMINATE, OR NOT RENEW THE CONTRACT, THE DIVISION
49 SHALL LIKEWISE INFORM THE SENATE AND ASSEMBLY MEMBERS WHO REPRESENT
50 AREAS WITHIN SUCH COMPANY'S GEOGRAPHIC BOUNDARIES.

51 7. THE DIVISION MAY TEMPORARILY WITHHOLD PAYMENTS AND MAY ELECT NOT TO
52 ENTER INTO A SUCCEEDING CONTRACT WITH ANY NEIGHBORHOOD PRESERVATION
53 COMPANY IF THE COMPANY IS NOT IN COMPLIANCE WITH THE CONTRACT OR HAS
54 WITHOUT GOOD CAUSE FAILED TO SUBMIT THE DOCUMENTATION REQUIRED UNDER THE
55 CONTRACT.

1 S 933. PAYMENTS TO NEIGHBORHOOD PRESERVATION COMPANIES FOR HOMEOWNER-
2 SHIP, TECHNICAL ASSISTANCE AND TRAINING. 1. EACH CONTRACT ENTERED INTO
3 WITH A NEIGHBORHOOD PRESERVATION COMPANY SHALL PROVIDE PAYMENT TO THE
4 NEIGHBORHOOD PRESERVATION COMPANY FOR RURAL HOMEOWNERSHIP ASSISTANCE
5 ACTIVITIES WHICH THE COMPANY HAS PERFORMED.

6 2. PAYMENT TO NEIGHBORHOOD PRESERVATION COMPANIES PURSUANT TO THIS
7 ARTICLE SHALL BE RESTRICTED TO SUMS REQUIRED FOR THE PAYMENT OF SALARIES
8 AND WAGES TO EMPLOYEES OF SUCH COMPANIES AND FEES TO LEGAL CONSULTANTS
9 RETAINED BY THEM WHO ARE ENGAGED IN RENDERING HOMEOWNERSHIP ASSISTANCE
10 ACTIVITIES TO THE TARGET POPULATION.

11 3. PAYMENTS SHALL BE MADE BY THE DIVISION TO THE NEIGHBORHOOD PRESER-
12 VATION COMPANY, NOT LESS FREQUENTLY THAN SEMIANNUALLY AT OR PRIOR TO THE
13 COMMENCEMENT OF THE CONTRACT, TO COMPENSATE THE COMPANY FOR THE HOMEOWN-
14 ERSHIP ASSISTANCE ACTIVITIES WHICH IT SHALL UNDERTAKE TO PERFORM;
15 PROVIDED THAT WITH RESPECT TO CONTRACTS ENTERED INTO ON OR AFTER JUNE
16 THIRTIETH, THE FIRST SUCH PAYMENT SHALL BE MADE BY THE DIVISION BEGIN-
17 NING ON OR AFTER JULY FIRST OF THE FISCAL YEAR FOR WHICH AN APPROPRI-
18 ATION IN SUPPORT OF SUCH PAYMENT IS MADE AND PROVIDED FURTHER THAT THE
19 FINAL SUCH PAYMENT TO THE NEIGHBORHOOD PRESERVATION COMPANY SHALL BE
20 MADE NO LATER THAN MARCH THIRTY-FIRST OF SUCH FISCAL YEAR, UNLESS SUCH
21 PAYMENT HAS BEEN WITHHELD PURSUANT TO THE PROVISIONS OF SUBDIVISION
22 SEVEN OF SECTION NINE HUNDRED THIRTY-TWO OF THIS ARTICLE.

23 S 934. LEGAL AID AGREEMENTS. A PORTION OF THE FUNDS, NOT TO EXCEED
24 TWENTY PERCENT OF THE APPROPRIATION, FOR THE ACTIVITIES SPECIFIED UNDER
25 THIS ARTICLE SHALL BE DEDICATED, ON A COMPETITIVE BASIS AND BASED ON
26 NEEDS IDENTIFIED BY EACH COMPANY, TO LEGAL AID ORGANIZATIONS WITH ESTAB-
27 LISHED TIES TO THE NEIGHBORHOOD PRESERVATION COMPANY APPLICANT'S SERVICE
28 AREA FOR THE PROVISION OF LEGAL SERVICES. IN THE EVENT THAT SUCH
29 NOT-FOR-PROFIT LEGAL AID ORGANIZATIONS ARE NOT AVAILABLE, THE NEIGHBOR-
30 HOOD PRESERVATION COMPANY SHALL SUBCONTRACT WITH INDIVIDUAL ATTORNEYS OR
31 LAW FIRMS WITH THE APPROVAL OF THE COMMISSIONER.

32 S 935. ANNUAL REPORT TO THE LEGISLATURE. THE COMMISSIONER SHALL SUBMIT
33 AN ANNUAL REPORT TO THE LEGISLATURE ON OR BEFORE DECEMBER THIRTY-FIRST
34 ON THE IMPLEMENTATION OF THIS ARTICLE. SUCH REPORT SHALL INCLUDE, BUT
35 NOT BE LIMITED TO, FOR EACH COMPANY RECEIVING FUNDS UNDER THIS ARTICLE:

- 36 1. A DESCRIPTION OF SUCH COMPANY'S CONTRACT AMOUNT,
- 37 2. THE SPECIFIC HOMEOWNERSHIP ACTIVITIES PERFORMED BY SUCH COMPANY,
- 38 3. THE NUMBER OF PERSONS SERVED BY THE COMPANY AND, IF APPLICABLE, ITS
39 LEGAL AID CONSULTANT, AND
- 40 4. THE IMPACT OF THE ACTIVITIES PERFORMED.

41 S 2. The sum of one million dollars (\$1,000,000.00), or so much there-
42 of as may be necessary, is hereby appropriated to the state division of
43 housing and community renewal out of any moneys in the state treasury in
44 the general fund to the credit of the state division of housing and
45 community renewal, not otherwise appropriated, and made immediately
46 available, for the purpose of carrying out the provisions of this act.
47 Such moneys shall be payable on the audit and warrant of the comptroller
48 on vouchers certified or approved by the commission of the state divi-
49 sion of housing and community renewal in the manner prescribed by law.

50 S 3. This act shall take effect immediately.