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

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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:

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

ARTICLE XVI-B

RURAL HOMEOWNERSHIP ASSISTANCE PROGRAM

SECTION 930. DECLARATION OF LEGISLATIVE FINDINGS.
931. DEFINITIONS.
932. CONTRACTS WITH NEIGHBORHOOD PRESERVATION COMPANIES IN RURAL AREAS.
933. PAYMENTS TO NEIGHBORHOOD PRESERVATION COMPANIES FOR HOMEOWNERSHIP, TECHNICAL ASSISTANCE AND TRAINING.
934. LEGAL AID AGREEMENTS.
935. ANNUAL REPORT TO THE LEGISLATURE.

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

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

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

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

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

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

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

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

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

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

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

7. "SERVICE AREA" SHALL MEAN THE ESTABLISHED BOUNDARIES OF A NEIGHBORHOOD PRESERVATION COMPANY AS SPECIFIED IN SUBDIVISION THREE OF SECTION ONE THOUSAND THREE OF THIS CHAPTER.

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

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

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

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

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

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

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

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

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

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

(A) DETERMINE THAT THE COMPANY IS IN VIOLATION OF THE TERMS AND CONDITIONS OF THE CONTRACT OR THAT FUNDS PROVIDED PURSUANT TO THE CONTRACT ARE BEING EXPENDED IN A MANNER NOT CONSISTENT WITH THE TERMS OR PROVISIONS OF THIS ARTICLE; OR

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

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

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

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

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

3. PAYMENTS SHALL BE MADE BY THE DIVISION TO THE NEIGHBORHOOD PRESERVATION COMPANY, NOT LESS FREQUENTLY THAN SEMIANNUALLY AT OR PRIOR TO THE COMMENCEMENT OF THE CONTRACT, TO COMPENSATE THE COMPANY FOR THE HOMEOWNERSHIP ASSISTANCE ACTIVITIES WHICH IT SHALL UNDERTAKE TO PERFORM; PROVIDED THAT WITH RESPECT TO CONTRACTS ENTERED INTO ON OR AFTER JUNE THIRTIETH, THE FIRST SUCH PAYMENT SHALL BE MADE BY THE DIVISION BEGINNING ON OR AFTER JULY FIRST OF THE FISCAL YEAR FOR WHICH AN APPROPRIATION IN SUPPORT OF SUCH PAYMENT IS MADE AND PROVIDED FURTHER THAT THE FINAL SUCH PAYMENT TO THE NEIGHBORHOOD PRESERVATION COMPANY SHALL BE MADE NO LATER THAN MARCH THIRTY-FIRST OF SUCH FISCAL YEAR, UNLESS SUCH PAYMENT HAS BEEN WITHHELD PURSUANT TO THE PROVISIONS OF SUBDIVISION SEVEN OF SECTION NINE HUNDRED THIRTY-TWO OF THIS ARTICLE.

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

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

1. A DESCRIPTION OF SUCH COMPANY'S CONTRACT AMOUNT,

2. THE SPECIFIC HOMEOWNERSHIP ACTIVITIES PERFORMED BY SUCH COMPANY,

3. THE NUMBER OF PERSONS SERVED BY THE COMPANY AND, IF APPLICABLE, ITS LEGAL AID CONSULTANT, AND

4. THE IMPACT OF THE ACTIVITIES PERFORMED.

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

S 3. This act shall take effect immediately.