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

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 20, 2009

Introduced by M. of A. FITZPATRICK, WALKER -- read once and referred to the Committee on Housing

AN ACT to amend the public authorities law, in relation to 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 chapter 353 of the laws of 1984, 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 MEAN A LOAN OWED TO A BANK OR TO THE AGENCY 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 ORIGINATED OR 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 PURSUANT TO SECTION TWENTY-FOUR HUNDRED FIVE-C OF THIS PART. "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] (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 [title] PART, "mortgage" shall also include: (A) 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

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

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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, AND (B) A LOAN OWED TO THE AGENCY BY AN INDIVIDUAL AND SECURED BY A SECOND LIEN AND INCURRED FOR SUCH PURPOSES, AND CONTAINING SUCH TERMS AND CONDITIONS AS THE AGENCY MAY APPROVE, PROVIDED, HOWEVER, THAT: (I) SUCH LOAN WAS ORIGINATED OR PURCHASED BY THE AGENCY WITH MONEY FROM AND (II) IS MADE AT THE SAME TIME AS A FIRST LIEN SECURING A LOAN PURCHASED BY THE AGENCY PURSUANT TO ITS PROGRAMS OR IS MADE PURSUANT TO SECTION TWENTY-FOUR HUNDRED FIVE-C OF THIS PART.

S 2. Subdivision 5 of section 2402 of the public authorities law, as separately amended by chapters 376 and 1023 of the laws of 1971, 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 MEAN A LOAN OWED TO A BANK OR TO THE AGENCY 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 ORIGINATED OR 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 PURSUANT TO SECTION TWENTY-FOUR HUNDRED FIVE-C OF THIS PART. "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) 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, AND (B) A LOAN OWED TO THE AGENCY BY AN INDIVIDUAL AND SECURED BY A SECOND LIEN AND INCURRED FOR SUCH PURPOSES, AND CONTAINING SUCH TERMS AND CONDITIONS AS THE AGENCY MAY APPROVE, PROVIDED, HOWEVER, THAT: (I) SUCH LOAN WAS ORIGINATED OR PURCHASED BY THE AGENCY WITH MONEY FROM AND (II) IS MADE AT THE SAME TIME AS A FIRST LIEN SECURING A LOAN PURCHASED BY THE AGENCY PURSUANT TO ITS PROGRAMS OR IS MADE PURSUANT TO SECTION TWENTY-FOUR HUNDRED FIVE-C OF THIS PART.

S 3. 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 ORIGINATE MORTGAGES CONSTITUTING A SECOND LIEN IN ACCORDANCE WITH SUBDIVISION FIVE OF SECTION TWENTY-FOUR HUNDRED TWO OF THIS PART, PURSUANT TO ANY PROGRAM AUTHORIZED BY THIS TITLE.

S 4. Paragraph (e) of subdivision 7 of section 2405 of the public authorities law, as amended by chapter 915 of the laws of 1982, is amended to read as follows:

(e) the mortgage constitutes a valid first OR SECOND lien on the real property described to the agency IN ACCORDANCE WITH SUBDIVISION FIVE OF

SECTION TWENTY-FOUR HUNDRED TWO OF THIS PART subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value of the real property or improvements thereon;

S 5. Paragraph (e) of subdivision 7 of section 2405 of the public authorities law, as amended by chapter 1023 of the laws of 1971, is amended to read as follows:

(e) the mortgage constitutes a valid first OR SECOND lien on the real property described to the agency IN ACCORDANCE WITH SUBDIVISION FIVE OF SECTION TWENTY-FOUR HUNDRED TWO OF THIS PART subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value of the real property or improvements thereon;

S 6. Paragraph (f) of subdivision 8 of section 2405-b of the public authorities law, as added by chapter 915 of the laws of 1982, is amended to read as follows:

(f) the mortgage constitutes a valid first OR SECOND lien on the real property described to the agency IN ACCORDANCE WITH SUBDIVISION FIVE OF SECTION TWENTY-FOUR HUNDRED TWO OF THIS PART subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value [or] OF the real property or improvements thereon;

S 7. 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 paragraph (e) of subdivision 7 of section 2405 of the public authorities law, made by section four 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 five of this act shall take effect; and provided, further, however, that the amendments to paragraph (f) of subdivision 8 of section 2405-b of the public authorities law, made by section six of this act, shall not affect the repeal of such section and shall be deemed repealed therewith.