

6576

2009-2010 Regular Sessions

I N A S S E M B L Y

March 6, 2009

Introduced by M. of A. BURLING, WALKER, FINCH, BALL -- Multi-Sponsored
by -- M. of A. BACALLES, BARCLAY, KOLB, OAKS -- read once and
referred to the Committee on Housing

AN ACT to amend the private housing finance law, in relation to removing
the annual monetary limitation on contracts entered into with neigh-
borhood preservation companies and not-for-profit corporations for
housing preservation and community renewal activities

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

1 Section 1. Subdivision 4 of section 903 of the private housing finance
2 law, as amended by section 1 of part II of chapter 59 of the laws of
3 2008, is amended to read as follows:
4 4. Contracts entered into [hereunder] PURSUANT TO THIS SECTION with
5 neighborhood preservation companies shall be limited in duration to
6 periods of one year, but may thereafter be renewed, extended or
7 succeeded by new contracts from year to year in the discretion of the
8 commissioner; they shall be limited in amount to the sum of one hundred
9 thousand dollars in a single year [and to the aggregate sum of two
10 million one hundred four thousand five hundred dollars for a single
11 neighborhood preservation company, provided that in any year in which
12 the aggregate sum of three hundred thousand dollars shall have been
13 reached and all succeeding years, the annual contract amount shall be
14 subject to a limit of ninety-seven thousand five hundred dollars per
15 year]; they shall define with particularity the neighborhood or portion
16 thereof within which the neighborhood preservation activities shall be
17 performed; they shall specify the nature of the neighborhood preserva-
18 tion activities which shall be performed including the approximate
19 number of buildings, residential dwelling units and local retail and
20 service establishments which shall be affected; they shall locate and
21 describe, with as much particularity as is reasonably possible, the
22 buildings with respect to which such activities shall be performed

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

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1 during the contract term; and they shall specify the number of persons,
2 salaries or rates of compensation and a description of duties of those
3 who shall be engaged by the neighborhood preservation company to perform
4 the activities embraced by the contract together with a schedule of
5 other anticipated expenses.

6 S 2. Subdivision 4 of section 1003 of the private housing finance law,
7 as amended by section 2 of part II of chapter 59 of the laws of 2008, is
8 amended to read as follows:

9 4. Contracts pursuant to this section shall be for a period of no more
10 than one year, but may be renewed or extended from year to year, and
11 shall provide for payment by the division of no more than one hundred
12 thousand dollars per year [and shall be limited to the aggregate sum of
13 two million one hundred four thousand five hundred dollars for a single
14 corporation, provided that in any year in which the aggregate sum of
15 three hundred thousand dollars shall have been reached and all succeed-
16 ing years, the annual contract amount shall be subject to a limit of
17 ninety-seven thousand five hundred dollars per year]; they shall define
18 with particularity the region or portion thereof within which the hous-
19 ing preservation and community renewal activities shall be performed;
20 they shall specify the nature of the housing preservation and community
21 renewal activities which shall be performed including the approximate
22 number of buildings, residential dwelling units and local retail and
23 service establishments which shall be affected; they shall locate and
24 describe, with as much particularity as is reasonably possible, the
25 buildings with respect to which such activities shall be performed
26 during the contract term; and they shall specify the number of persons,
27 salaries or rates of compensation and a description of duties of those
28 who shall be engaged by the corporation to perform the activities
29 embraced by the contract together with a schedule of other anticipated
30 expenses.

31 S 3. Subdivision 2 of section 906 of the private housing finance law,
32 as amended by chapter 432 of the laws of 1997, is amended to read as
33 follows:

34 2. The affordable housing corporation, the housing trust fund corpo-
35 ration or their designee as the case may be, shall provide an incentive
36 grant to each company that is awarded a contract pursuant to article
37 eighteen or nineteen of this chapter. Such incentive grant shall consist
38 of the payment of an additional sum of money equal to NOT LESS THAN
39 three percent BUT NOT MORE THAN SIX PERCENT of the amount payable to
40 such company pursuant to each contract provided, however, that such
41 payment shall not be counted against the per dwelling unit total
42 imposed by subdivision one of section eleven hundred two of this chapter
43 or the per dwelling unit limitation imposed by subdivision one of
44 section eleven hundred twelve of this chapter, and provided further that
45 such additional amount shall not exceed forty thousand dollars per
46 contract. Such incentive grant shall be utilized either for [purposes]
47 ADMINISTRATIVE EXPENSES consistent with the provisions of this article
48 or for the cost of neighborhood preservation activities related to such
49 contract and shall not be subject to the limitation on the amount of
50 funds which may be received by companies contained in subdivision four
51 of section nine hundred three of this article. Such incentive grant
52 shall be added to and considered a payment under the contract for
53 purposes of allocating funds to any single municipality.

54 S 4. Subdivision 2 of section 1006 of the private housing finance law,
55 as amended by chapter 432 of the laws of 1997, is amended to read as
56 follows:

1 2. The affordable housing corporation or the housing trust fund corpo-
2 ration, as the case may be, shall provide an incentive grant to each
3 corporation that is awarded a contract pursuant to article eighteen or
4 nineteen of this chapter. Such incentive grants shall consist of the
5 payment of an additional sum of money equal to NOT LESS THAN three
6 percent BUT NO MORE THAN SIX PERCENT of the amount payable to such
7 corporation pursuant to each contract provided, however, that such
8 payment shall not be counted against the per dwelling unit total imposed
9 by subdivision one of section eleven hundred two of this chapter or the
10 per dwelling unit limitation imposed by subdivision one of section elev-
11 en hundred twelve of this chapter, and provided further that such addi-
12 tional amount shall not exceed forty thousand dollars per contract. Such
13 incentive grant shall be utilized either for [purposes] ADMINISTRATIVE
14 EXPENSES consistent with the provisions of this article or for the cost
15 of housing preservation and community renewal activities related to such
16 contract and shall not be subject to the limitation on the amount of
17 funds which may be received by corporations contained in subdivision
18 four of section one thousand three of this article. Such incentive grant
19 shall be added to and considered a payment under the contract for
20 purposes of allocating funds to any single municipality.

21 S 5. Subdivision 1 of section 1102 of the private housing finance law,
22 as amended by chapter 199 of the laws of 2008, is amended to read as
23 follows:

24 1. Within the limit of funds available in the housing trust fund
25 account, the corporation is hereby authorized to enter into contracts
26 with eligible applicants for the furnishing by such applicants of hous-
27 ing for persons of low income. Each such contract shall provide that
28 eligible applicants rehabilitate or construct one or more projects or
29 convert one or more nonresidential properties. Such contracts may
30 provide for payments, grants or loans by the corporation for the activ-
31 ities to be carried out by the eligible applicant under the contract.
32 Such contracts shall provide that a private developer make an equity
33 investment of the greater of (i) two and one-half percent of project
34 costs or (ii) five percent of project costs less grants which are to be
35 applied to such costs. The foregoing shall not preclude a private devel-
36 oper from making a greater equity investment. Any payments, grants or
37 loans made by the corporation outstanding at the time of resale shall be
38 subject to repayment in whole or in part upon resale after termination
39 of the regulatory period and as otherwise provided therein. Such repay-
40 ment provisions may survive the end of the regulatory period. Such
41 contracts may provide that eligible applicants shall either (a) perform
42 activities specified under the contract themselves or (b) act as admin-
43 istrators of a program under which projects are rehabilitated or
44 constructed or nonresidential properties are converted by other eligible
45 applicants or (c) perform both such functions. In the case of a munic-
46 ipality acting as an administrator, funds provided to such municipality
47 hereunder shall not be deemed to be municipal funds. The corporation
48 shall refer any request for payments, grants or loans from persons of
49 low income to eligible applicants in the area in which such persons
50 reside. Loans may be in the form of participation in loans including but
51 not limited to participation in loans originated or financed by lending
52 institutions as defined in section forty-two of this chapter, the state
53 of New York mortgage agency, the New York city housing development
54 corporation, the New York state housing finance agency or private or
55 public employee pension funds. Notwithstanding any other provision of
56 law, payments, grants and loans may be deposited by the corporation

1 directly with a lending institution at or before the time of initial
2 loan closing pursuant to an escrow agreement satisfactory to the corpo-
3 ration. Payments, grants and loans shall be on such terms and conditions
4 as the corporation, or the eligible applicant with the approval of the
5 corporation, as the case may be, shall determine. Payments, grants and
6 loans shall be used to pay for the actual and necessary cost of acquisi-
7 tion, construction, rehabilitation or conversion, provided that not more
8 than fifty percent of such payments, grants and loans received for the
9 rehabilitation, construction or conversion of a project may be used for
10 the cost of the project's acquisition and not more than ten percent of
11 such payments, grants and loans may be used for the rehabilitation,
12 construction or conversion of community service facilities and, provided
13 further, that payments, grants or loans shall not be used for (i) the
14 administrative costs of an eligible applicant except as otherwise
15 authorized by law INCLUDING, BUT NOT LIMITED TO, SUBDIVISION TWO OF
16 SECTION NINE HUNDRED SIX AND SUBDIVISION TWO OF SECTION ONE THOUSAND SIX
17 OF THIS CHAPTER, (ii) the cost of the acquisition, construction, conver-
18 sion or rehabilitation of residential units which, subsequent to such
19 acquisition, construction, conversion or rehabilitation, are to be occu-
20 pied by persons other than persons of low income, and (iii) the cost of
21 the acquisition, construction, conversion or rehabilitation of units
22 which, subsequent to such acquisition, construction, conversion or reha-
23 bilitation, are occupied or to be occupied for other than residential
24 purposes, except for community service facilities as described above. No
25 such payments, grants or loans shall exceed a total of one hundred twen-
26 ty-five thousand dollars per dwelling unit. Among the criteria the
27 corporation shall consider in determining whether to provide additional
28 funds are: average cost of construction in the area, location of the
29 project and the impact of the additional funding on the affordability of
30 the project for the occupants of such project. The length of any loan
31 provided under this article shall not exceed thirty years. No more than
32 fifty percent of the total amount originally appropriated pursuant to
33 this article in any fiscal year shall be allocated to projects located
34 within any single municipality. Of the amount originally appropriated to
35 the corporation in any fiscal year, no more than thirty-three and one-
36 third percent shall be allocated to private developers for projects
37 within a city with a population of one million or more. Of the amount
38 originally appropriated to the corporation in any fiscal year, no more
39 than thirty-three and one-third percent shall be allocated to private
40 developers for projects in the area outside cities with a population of
41 one million or more.

42 S 6. Subdivision 1 of section 1102 of the private housing finance law,
43 as amended by chapter 445 of the laws of 2004, is amended to read as
44 follows:

45 1. Within the limit of funds available in the housing trust fund
46 account, the corporation is hereby authorized to enter into contracts
47 with eligible applicants for the furnishing by such applicants of hous-
48 ing for persons of low income. Each such contract shall provide that
49 eligible applicants rehabilitate or construct one or more projects or
50 convert one or more nonresidential properties. Such contracts may
51 provide for payments, grants or loans by the corporation for the activ-
52 ities to be carried out by the eligible applicant under the contract.
53 Such contracts shall provide that a private developer make an equity
54 investment of the greater of (i) two and one-half percent of project
55 costs or (ii) five percent of project costs less grants which are to be
56 applied to such costs. The foregoing shall not preclude a private devel-

oper from making a greater equity investment. Any payments, grants or loans made by the corporation outstanding at the time of resale shall be subject to repayment in whole or in part upon resale after termination of the regulatory period and as otherwise provided therein. Such repayment provisions may survive the end of the regulatory period. Such contracts may provide that eligible applicants shall either (a) perform activities specified under the contract themselves or (b) act as administrators of a program under which projects are rehabilitated or constructed or nonresidential properties are converted by other eligible applicants or (c) perform both such functions. In the case of a municipality acting as an administrator, funds provided to such municipality hereunder shall not be deemed to be municipal funds. The corporation shall refer any request for payments, grants or loans from persons of low income to eligible applicants in the area in which such persons reside. Loans may be in the form of participation in loans including but not limited to participation in loans originated or financed by lending institutions as defined in section forty-two of this chapter, the state of New York mortgage agency, the New York city housing development corporation, the New York state housing finance agency or private or public employee pension funds. Notwithstanding any other provision of law, payments, grants and loans may be deposited by the corporation directly with a lending institution at or before the time of initial loan closing pursuant to an escrow agreement satisfactory to the corporation. Payments, grants and loans shall be on such terms and conditions as the corporation, or the eligible applicant with the approval of the corporation, as the case may be, shall determine. Payments, grants and loans shall be used to pay for the actual and necessary cost of acquisition, construction, rehabilitation or conversion, provided that not more than twenty-five percent of such payments, grants and loans received for the rehabilitation, construction or conversion of a project may be used for the cost of the project's acquisition and, provided further, that payments, grants or loans shall not be used for (i) the administrative costs of an eligible applicant except as otherwise authorized by law INCLUDING, BUT NOT LIMITED TO, SUBDIVISION TWO OF SECTION NINE HUNDRED SIX AND SUBDIVISION TWO OF SECTION ONE THOUSAND SIX OF THIS CHAPTER, (ii) the cost of the acquisition, construction, conversion or rehabilitation of residential units which, subsequent to such acquisition, construction, conversion or rehabilitation, are to be occupied by persons other than persons of low income, and (iii) the cost of the acquisition, construction, conversion or rehabilitation of units which, subsequent to such acquisition, construction, conversion or rehabilitation, are occupied or to be occupied for other than residential purposes. No such payments, grants or loans shall exceed a total of seventy-five thousand dollars per dwelling unit provided, however, that the corporation shall have the discretion to provide payments, grants and loans in excess of seventy-five thousand dollars provided that such additional funds shall not exceed twenty-five thousand dollars per dwelling unit. Among the criteria the corporation shall consider in determining whether to provide additional funds are: average cost of construction in the area, location of the project and the impact of the additional funding on the affordability of the project for the occupants of such project. The length of any loan provided under this article shall not exceed thirty years. No more than fifty percent of the total amount originally appropriated pursuant to this article in any fiscal year shall be allocated to projects located within any single municipality. Of the amount originally appropriated to the corporation in any

1 fiscal year, no more than thirty-three and one-third percent shall be
2 allocated to private developers for projects within a city with a popu-
3 lation of one million or more. Of the amount originally appropriated to
4 the corporation in any fiscal year, no more than thirty-three and one-
5 third percent shall be allocated to private developers for projects in
6 the area outside cities with a population of one million or more.

7 S 7. Subdivision 1 of section 1112 of the private housing finance law,
8 as amended by chapter 333 of the laws of 2004, is amended to read as
9 follows:

10 1. Within the limit of funds available in the affordable housing
11 development account, the corporation is hereby authorized to enter into
12 contracts with eligible applicants to provide grants which such appli-
13 cants shall use to finance affordable home ownership development
14 programs subject to the terms and conditions of this article. Any grants
15 received by a municipality hereunder shall not be deemed to be municipal
16 funds. Grantees shall utilize funds provided pursuant to this article
17 solely as payments, grants and loans to owners to reduce the costs of
18 new construction, rehabilitation or home improvement or the cost of
19 acquisition, but only where such acquisition is part of an affordable
20 home ownership development program or project to construct or rehabili-
21 tate homes, or as otherwise authorized by law INCLUDING, BUT NOT LIMITED
22 TO, SUBDIVISION TWO OF SECTION NINE HUNDRED SIX AND SUBDIVISION TWO OF
23 SECTION ONE THOUSAND SIX OF THIS CHAPTER. Such financial assistance may
24 be in the form of loans, participation in loans including but not limit-
25 ed to participation in loans originated or financed by lending insti-
26 tutions as defined in section forty-two of this chapter, private or
27 public employee pension funds or the state of New York mortgage agency,
28 or grants, on such terms and conditions as the grantee with the approval
29 of the corporation shall determine, provided that no such payments,
30 grants and loans shall exceed the lesser of (i) sixty percent of the
31 project cost or (ii) the following per dwelling unit limitations (A)
32 thirty-five thousand dollars for projects except as provided in clause
33 (B) of this item (ii) or (B) forty thousand dollars for a high cost
34 project or a project which will receive a loan from the federal farmers
35 home administration. Among the criteria the corporation shall consider
36 in determining whether a project is a high cost project are: average
37 cost of construction in the area, location of the project, and the
38 impact of the additional funding on the affordability of the project for
39 the occupants of such project. No more than fifty percent of the total
40 amount appropriated pursuant to this article in any fiscal year shall be
41 allocated to homes located within any single municipality.

42 S 8. This act shall take effect immediately; provided that the amend-
43 ments to subdivision 1 of section 1102 of the private housing finance
44 law made by section five of this act shall be subject to the expiration
45 and reversion of such subdivision pursuant to chapter 199 of the laws of
46 2008, as amended, when upon such date the provisions of section six of
47 this act shall take effect.