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I N S E N A T E

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Introduced by Sens. HUNTLEY, ADAMS, DIAZ, KRUEGER, PARKER, 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 mutual housing company rehabilitation loan fund 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 26 to read as follows:

ARTICLE 26

MUTUAL HOUSING COMPANY REHABILITATION LOAN FUND

SECTION 1203. STATEMENT OF LEGISLATIVE FINDINGS AND PURPOSES.
1204. DEFINITIONS.
1205. MUTUAL HOUSING COMPANY REHABILITATION LOAN FUND CONTRACTS.
1206. GENERAL AND ADMINISTRATIVE PROVISIONS.

S 1203. STATEMENT OF LEGISLATIVE FINDINGS AND PURPOSES. THE LEGISLATURE HEREBY FINDS AND DECLARES THAT THE PROJECTS OF CERTAIN LIMITED PROFIT MUTUAL HOUSING COMPANIES HAVE OVER TIME SUFFERED SERIOUS DETERIORATION OF MAJOR COMPONENTS AND SYSTEMS. STATE AND LOCAL GOVERNMENTS HAVE INVESTED IN THE CONSTRUCTION AND OPERATION OF THESE PROJECTS OWNED AND OPERATED AS COOPERATIVES BY SUCH COMPANIES. THE PROVISIONS OF THE REHABILITATION LOAN PROGRAM ESTABLISHED PURSUANT TO THIS ARTICLE ARE DECLARED TO BE IN THE PUBLIC INTEREST AND NECESSARY FOR THE PRESERVATION OF THIS VITAL AND IRREPLACEABLE ASSET.

S 1204. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. "AGENCY" SHALL MEAN THE NEW YORK STATE HOUSING FINANCE AGENCY CREATED BY SECTION FORTY-THREE OF THIS CHAPTER.

2. "PROJECT" SHALL MEAN ANY PROPERTY WHICH IS OWNED AS A LIMITED PROFIT MUTUAL HOUSING COMPANY PURSUANT TO ARTICLE TWO OF THIS CHAPTER.

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

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3. "ELIGIBLE APPLICANT" SHALL MEAN A LIMITED PROFIT MUTUAL HOUSING COMPANY WITHIN A CITY WITH A POPULATION OF ONE MILLION OR MORE WHICH HAS BEEN IN EXISTENCE FOR A PERIOD OF TWENTY YEARS OR MORE AND IS SUBJECT TO SUPERVISION BY EITHER THE COMMISSIONER OR THE SUPERVISING AGENCY.

4. "REHABILITATION" SHALL MEAN THE RECONSTRUCTION, IMPROVEMENT, OR RECONDITIONING OF EXISTING NON-CONSTRUCTION RELATED DETERIORATED CONDITIONS, WHICH WILL BENEFIT AND PRESERVE THE PROJECT AS A WHOLE.

S 1205. MUTUAL HOUSING COMPANY REHABILITATION LOAN FUND CONTRACTS. 1. WITHIN THE LIMIT OF FUNDS AVAILABLE IN THE MUTUAL HOUSING COMPANY REHABILITATION LOAN FUND, THE AGENCY IS HEREBY AUTHORIZED TO ENTER INTO CONTRACTS WITH ELIGIBLE APPLICANTS TO PROVIDE LOANS WHICH SUCH ELIGIBLE APPLICANTS SHALL USE FOR PROJECT REHABILITATION. THE AGENCY SHALL APPORTION ALLOCATIONS FROM THE FUND AMONG ELIGIBLE APPLICANTS IN AN EQUITABLE MANNER AND SHALL NOT MAKE ANY SUCH ALLOCATION IN A GIVEN YEAR TO AN APPLICANT WHICH WILL, IN SUCH YEAR RECEIVE TEN PERCENT OR MORE OF THE MONIES AVAILABLE IN THE FUND.

2. NO SUCH LOAN MAY BE MADE OR ITS TERM EXTENDED PURSUANT TO THIS ARTICLE, UNLESS THE AGENCY DETERMINES THAT THE ELIGIBLE APPLICANT CANNOT AFFORD OR OBTAIN THE FINANCING NECESSARY TO ACCOMPLISH THE PURPOSES OF SUCH LOAN THROUGH THE ORDINARY UNAIDED OPERATION OF PRIVATE ENTERPRISE.

3. THE AGENCY SHALL NOT ENTER INTO LOANS UNDER THIS ARTICLE EXCEPT WITH AN ELIGIBLE APPLICANT WHICH HAS SUBMITTED A PLAN ACCEPTABLE TO THE AGENCY WHICH PROVIDES THAT SUBSEQUENT TO REHABILITATION THE PROJECT SHALL BE MAINTAINED IN SUBSTANTIALLY IMPROVED CONDITION THAN PRIOR TO THE MAKING OF SUCH LOAN.

4. SUCH CONTRACTS MAY PROVIDE FOR LOANS BY THE AGENCY FOR THE ACTIVITIES TO BE CARRIED OUT BY THE ELIGIBLE APPLICANT UNDER THE CONTRACT, INCLUDING 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, PRIVATE OR PUBLIC EMPLOYEE PENSION FUNDS OR THE STATE OF NEW YORK MORTGAGE AGENCY. LOANS SHALL BE AT THE PREVAILING INTEREST RATE IN THE AREA FOR LONG TERM RESIDENTIAL MORTGAGES OR AT SUCH LOWER RATE AS THE AGENCY DETERMINES TO BE NECESSARY FOR THE PROJECT TO BE FINANCIALLY FEASIBLE. LOANS SHALL NOT EXCEED NINETY-FIVE PERCENT OF THE REHABILITATION COSTS. THE TERM OF THE LOAN SHALL NOT EXCEED TEN YEARS UNLESS EXTENDED FOR PERIODS NOT TO EXCEED TEN YEARS IN WHICH CASE THE TERM OF THE LOAN AS EXTENDED SHALL NOT EXCEED THIRTY YEARS IN THE AGGREGATE AND THE AMORTIZATION SCHEDULE FOR THE LOAN SHALL NOT EXCEED THIRTY YEARS.

5. THE AGENCY SHALL PROVIDE FOR THE REVIEW, AT PERIODIC INTERVALS NOT LESS THAN ANNUALLY, OF THE PERFORMANCE OF APPLICANTS RECEIVING FINANCIAL ASSISTANCE PURSUANT TO THIS ARTICLE. SUCH REVIEW SHALL, AMONG OTHER THINGS, BE FOR THE PURPOSES OF ASCERTAINING CONFORMITY TO CONTRACTUAL PROVISIONS, THE FINANCIAL INTEGRITY AND EFFICIENCY OF APPLICANTS AND THE EVALUATION OF THE APPLICANTS' ACTIVITIES. CONTRACTS ENTERED INTO PURSUANT TO THIS ARTICLE MAY BE TERMINATED, FUNDS MAY BE WITHHELD AND UNSPENT FUNDS RECAPTURED BY THE AGENCY UPON A FINDING OF SUBSTANTIAL NONPERFORMANCE OR BREACH BY THE APPLICANT OF ITS OBLIGATIONS UNDER ITS CONTRACT.

S 1206. GENERAL AND ADMINISTRATIVE PROVISIONS. 1. THE AGENCY MAY ISSUE AND PROMULGATE RULES AND REGULATIONS FOR THE ADMINISTRATION OF THIS ARTICLE. THE RULES AND REGULATIONS SHALL INCLUDE PROVISIONS CONCERNING THE ELIGIBILITY OF APPLICANTS FOR LOANS UNDER THIS ARTICLE; FUNDING CRITERIA AND THE FUNDING DETERMINATION PROCESS; SUPERVISION AND EVALUATION OF CONTRACTING APPLICANTS; REPORTING, BUDGETING AND RECORD-KEEPING REQUIREMENTS; PROVISIONS FOR MODIFICATION AND TERMINATION OF CONTRACTS; AND SUCH OTHER MATTERS NOT INCONSISTENT WITH THE PURPOSES AND PROVISIONS

OF THIS ARTICLE AS THE AGENCY SHALL DEEM NECESSARY, PROPER AND APPROPRIATE.

2. THE AGENCY MAY PROVIDE TECHNICAL SERVICES AND ASSISTANCE OR CONTRACT TO PROVIDE TECHNICAL SERVICES AND ASSISTANCE TO ELIGIBLE APPLICANTS TO COMPLY WITH THE PROVISIONS AND INTENT OF THIS ARTICLE WHICH SERVICES AND ASSISTANCE MAY INCLUDE BUT SHALL NOT NECESSARILY BE LIMITED TO FINANCIAL PACKAGING AND ENGINEERING AND ARCHITECTURAL SERVICES NECESSARY FOR THE PREPARATION OF PROPOSALS FOR ENTERING INTO CONTRACTS.

3. THE AGENCY AND APPLICANTS SHALL DEPOSIT ANY RECAPTURED FUNDS OR FUNDS FROM THE REPAYMENT OF LOANS AND INTEREST RECEIVED ON LOANS INTO THE MUTUAL HOUSING COMPANY REHABILITATION LOAN FUND.

4. NOTWITHSTANDING THE PROVISIONS OF ARTICLE ONE-A OF THE PUBLIC AUTHORITIES LAW, CONTRACTS ENTERED INTO BY THE AGENCY PURSUANT TO THIS ARTICLE SHALL NOT BE SUBJECT TO THE PROVISIONS OF ARTICLE ONE-A OF THE PUBLIC AUTHORITIES LAW.

5. THE AGENCY SHALL REQUIRE THE SUBMISSION OF THE NAMES, ADDRESSES AND BUSINESS BACKGROUND OF THE PRINCIPALS INVOLVED, THE NATURE OF THEIR FIDUCIARY RELATIONSHIP AND THEIR FINANCIAL RELATIONSHIP, PAST, PRESENT AND FUTURE, TO THE PROJECT AND TO EACH OTHER.

S 2. The private housing finance law is amended by adding a new section 59-j to read as follows:

S 59-J. MUTUAL HOUSING COMPANY REHABILITATION LOAN FUND. THE AGENCY SHALL CREATE AND ESTABLISH A SPECIAL FUND TO BE KNOWN AS THE MUTUAL HOUSING COMPANY REHABILITATION LOAN FUND AND SHALL PAY INTO SUCH FUND ANY MONEYS WHICH MAY BE MADE AVAILABLE TO SUCH AGENCY FOR THE PURPOSES OF SUCH FUND FROM ANY SOURCE INCLUDING BUT NOT LIMITED TO MONEYS APPROPRIATED BY AND MADE AVAILABLE PURSUANT TO APPROPRIATION BY THE STATE, AND ANY INCOME OR LOAN REPAYMENTS OR INTEREST EARNED BY, OR INCREMENT TO, THE FUND DUE TO THE INVESTMENT THEREOF OR LOANS MADE PURSUANT TO ARTICLE TWENTY-SIX OF THIS CHAPTER. THE MONEYS HELD IN OR CREDITED TO THE FUND ESTABLISHED UNDER THIS SECTION SHALL BE EXPENDED SOLELY TO CARRY OUT THE PROVISIONS OF ARTICLE TWENTY-SIX OF THIS CHAPTER.

S 3. The sum of ten million dollars ($10,000,000), or so much thereof as may be necessary, is hereby appropriated to the New York state housing finance agency out of any moneys in the state treasury in the general fund to the credit of the state purposes account not otherwise appropriated, for the purpose of the mutual housing company rehabilitation loan fund, in carrying out the provisions of this act.

S 4. This act shall take effect immediately.