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

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2011-2012 Regular Sessions

I N A S S E M B L Y

January 19, 2011

Introduced by M. of A. FITZPATRICK, McKEVITT -- Multi-Sponsored by -- M. of A. SALADINO -- read once and referred to the Committee on Housing

AN ACT to amend the private housing finance law, in relation to the low income housing trust fund program

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

Section 1. Section 1100 of the private housing finance law, as amended by chapter 121 of the laws of 1988, is amended to read as follows:

S 1100. Statement of legislative findings and purpose. The legislature hereby finds and declares that there is a serious shortage of decent affordable housing in the state for persons of low income; that the cost of providing such housing without public participation and assistance is prohibitively high; that there exists throughout the state a significant number of dwellings which are deteriorated and are vacant or underutilized; THAT THERE EXISTS THROUGHOUT THE STATE A SIGNIFICANT NUMBER OF OCCUPIED DWELLINGS WHICH ARE ALSO DETERIORATED, UNSAFE OR SUBSTANDARD; that the existence of such properties creates a serious threat to the health and safety of persons who live in or near them, limits the availability of decent affordable housing to others, contributes to the blight and deterioration of neighborhoods, and drains municipal resources and expenditures; that the rehabilitation of these properties would stem the deterioration of neighborhoods and promote the preservation and creation of safe and sanitary low income housing; that the potential exists to make such housing available to persons of low income through projects carried out by eligible applicants to rehabilitate these dwelling accommodations, bring these accommodations into compliance with all applicable laws and regulations and remove all hazardous and immediately hazardous code conditions; that the purposes of this article should also be served by providing for new construction of housing for persons of low income in areas in which rehabilitation opportunities are limited or where new construction would prove to be more

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

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effective; that the carrying out of such projects serves a significant public purpose and may appropriately be performed by eligible applicants; that payment for such services, tax exemptions and other public participation in such projects would bring down the cost of such housing and make it affordable to persons of low income; and that it is the policy of the state to preserve and create such housing and to provide for the aid, care, and support of the needy. The legislature therefore finds that a program should be established to provide monies for the rehabilitation and construction of these properties by eligible applicants to promote the preservation and creation of affordable housing for persons of low income.

It is intended that any payments, grants or loans provided to municipalities through this program not substitute for funds which such municipalities would have spent in the absence of this program and that such payments, grants and loans will enable such municipalities to expand their commitment to increase the supply of affordable low income housing to levels greater than would have been possible without this program.

S 2. Subdivision 12 of section 1101 of the private housing finance law, as amended by chapter 121 of the laws of 1988, is amended to read as follows:

12. "Project" shall mean a MODERATE REHABILITATION, cooperative, condominium, homesteading or rental project. In cases where any such project consists of less than the total number of units or the total amount of floor space of a property, any reference in this article, to a "project", "MODERATE REHABILITATION PROJECT", "cooperative project", "condominium project", "rental project" or "homesteading project" shall mean that portion of such property which makes up such project.

S 3. Section 1101 of the private housing finance law is amended by adding a new subdivision 14 to read as follows:

14. "MODERATE REHABILITATION PROJECT" SHALL MEAN ANY OCCUPIED RESIDENTIAL PROPERTY OR ANY PORTION THEREOF WHICH, IF VACANT OR UNDEROCCUPIED, WOULD QUALIFY AS A COOPERATIVE PROJECT, CONDOMINIUM PROJECT, HOMESTEADING PROJECT OR RENTAL PROJECT.

S 4. Subdivision 1 of section 1102 of the private housing finance law, as amended by chapter 445 of the laws of 2004, is amended to read as follows:

1. Within the limit of funds available in the housing trust fund account, the corporation is hereby authorized to enter into contracts with eligible applicants for the furnishing by such applicants of housing for persons of low income. Each such contract shall provide that eligible applicants rehabilitate or construct one or more projects or convert one or more nonresidential properties. Such contracts may provide for payments, grants or loans by the corporation for the activities to be carried out by the eligible applicant under the contract. Such contracts shall provide that a private developer make an equity investment of the greater of (i) two and one-half percent of project costs or (ii) five percent of project costs less grants which are to be applied to such costs. The foregoing shall not preclude a private developer 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, EXCEPT FOR MODERATE REHABILITATION PROJECTS, 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, (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 fiscal year, no more than thirty-three and one-third percent shall be allocated to private developers for projects within a city with a population of one million or more. Of the amount originally appropriated to the corporation in any fiscal year, no more than thirty-three and one-third percent shall be allocated to private developers for projects in the area outside cities with a population of one million or more.

S 5. Subdivision 1 of section 1102 of the private housing finance law, as amended by section 2 of chapter 199 of the laws of 2008, is amended to read as follows:

1. Within the limit of funds available in the housing trust fund account, the corporation is hereby authorized to enter into contracts with eligible applicants for the furnishing by such applicants of housing for persons of low income. Each such contract shall provide that eligible applicants rehabilitate or construct one or more projects or convert one or more nonresidential properties. Such contracts may provide for payments, grants or loans by the corporation for the activities to be carried out by the eligible applicant under the contract. Such contracts shall provide that a private developer make an equity investment of the greater of (i) two and one-half percent of project costs or (ii) five percent of project costs less grants which are to be applied to such costs. The foregoing shall not preclude a private developer 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, EXCEPT FOR MODERATE REHABILITATION PROJECTS, not more than fifty 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 not more than ten percent of such payments, grants and loans may be used for the rehabilitation, construction or conversion of community service facilities 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, (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, except for community service facilities as described above. No

such payments, grants or loans shall exceed a total of one hundred 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 fiscal year, no more than thirty-three and one-third percent shall be allocated to private developers for projects within a city with a population of one million or more. Of the amount originally appropriated to the corporation in any fiscal year, no more than thirty-three and one-third percent shall be allocated to private developers for projects in the area outside cities with a population of one million or more.

S 6. This act shall take effect immediately, provided that the amendments to subdivision 1 of section 1102 of the private housing finance law, made by section five of this act, shall be subject to the expiration and reversion of such subdivision pursuant to section 5 of chapter 199 of the laws of 2008, as amended, when upon such date the provisions of section four of this act shall take effect.