

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

5995

2011-2012 Regular Sessions

I N A S S E M B L Y

March 3, 2011

Introduced by M. of A. BURLING, FINCH, MONTESANO -- Multi-Sponsored by
-- M. of A. 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 FF of chapter 57 of the laws of
3 2009, 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, [provided that in any year in which
10 the aggregate sum of three hundred thousand dollars shall have been
11 reached and all succeeding years, the annual contract amount shall be
12 subject to a limit of ninety-seven thousand five hundred dollars per
13 year]; they shall define with particularity the neighborhood or portion
14 thereof within which the neighborhood preservation activities shall be
15 performed; they shall specify the nature of the neighborhood preserva-
16 tion activities which shall be performed including the approximate
17 number of buildings, residential dwelling units and local retail and
18 service establishments which shall be affected; they shall locate and
19 describe, with as much particularity as is reasonably possible, the
20 buildings with respect to which such activities shall be performed
21 during the contract term; and they shall specify the number of persons,
22 salaries or rates of compensation and a description of duties of those

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

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1 who shall be engaged by the neighborhood preservation company to perform
2 the activities embraced by the contract together with a schedule of
3 other anticipated expenses.

4 S 2. Subdivision 4 of section 1003 of the private housing finance law,
5 as amended by section 2 of part FF of chapter 57 of the laws of 2009, is
6 amended to read as follows:

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

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

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

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

53 2. The affordable housing corporation or the housing trust fund corpo-
54 ration, as the case may be, shall provide an incentive grant to each
55 corporation that is awarded a contract pursuant to article eighteen or
56 nineteen of this chapter. Such incentive grants shall consist of the

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

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

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

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

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

41 1. Within the limit of funds available in the housing trust fund
42 account, the corporation is hereby authorized to enter into contracts
43 with eligible applicants for the furnishing by such applicants of hous-
44 ing for persons of low income. Each such contract shall provide that
45 eligible applicants rehabilitate or construct one or more projects or
46 convert one or more nonresidential properties. Such contracts may
47 provide for payments, grants or loans by the corporation for the activ-
48 ities to be carried out by the eligible applicant under the contract.
49 Such contracts shall provide that a private developer make an equity
50 investment of the greater of (i) two and one-half percent of project
51 costs or (ii) five percent of project costs less grants which are to be
52 applied to such costs. The foregoing shall not preclude a private devel-
53 oper from making a greater equity investment. Any payments, grants or
54 loans made by the corporation outstanding at the time of resale shall be
55 subject to repayment in whole or in part upon resale after termination
56 of the regulatory period and as otherwise provided therein. Such repay-

1 ment provisions may survive the end of the regulatory period. Such
2 contracts may provide that eligible applicants shall either (a) perform
3 activities specified under the contract themselves or (b) act as admin-
4 istrators of a program under which projects are rehabilitated or
5 constructed or nonresidential properties are converted by other eligible
6 applicants or (c) perform both such functions. In the case of a munici-
7 pality acting as an administrator, funds provided to such municipality
8 hereunder shall not be deemed to be municipal funds. The corporation
9 shall refer any request for payments, grants or loans from persons of
10 low income to eligible applicants in the area in which such persons
11 reside. Loans may be in the form of participation in loans including but
12 not limited to participation in loans originated or financed by lending
13 institutions as defined in section forty-two of this chapter, the state
14 of New York mortgage agency, the New York city housing development
15 corporation, the New York state housing finance agency or private or
16 public employee pension funds. Notwithstanding any other provision of
17 law, payments, grants and loans may be deposited by the corporation
18 directly with a lending institution at or before the time of initial
19 loan closing pursuant to an escrow agreement satisfactory to the corpo-
20 ration. Payments, grants and loans shall be on such terms and conditions
21 as the corporation, or the eligible applicant with the approval of the
22 corporation, as the case may be, shall determine. Payments, grants and
23 loans shall be used to pay for the actual and necessary cost of acquisi-
24 tion, construction, rehabilitation or conversion, provided that not more
25 than twenty-five percent of such payments, grants and loans received for
26 the rehabilitation, construction or conversion of a project may be used
27 for the cost of the project's acquisition and, provided further, that
28 payments, grants or loans shall not be used for (i) the administrative
29 costs of an eligible applicant except as otherwise authorized by law
30 INCLUDING, BUT NOT LIMITED TO, SUBDIVISION TWO OF SECTION NINE HUNDRED
31 SIX AND SUBDIVISION TWO OF SECTION ONE THOUSAND SIX OF THIS CHAPTER,
32 (ii) the cost of the acquisition, construction, conversion or rehabili-
33 tation of residential units which, subsequent to such acquisition,
34 construction, conversion or rehabilitation, are to be occupied by
35 persons other than persons of low income, and (iii) the cost of the
36 acquisition, construction, conversion or rehabilitation of units which,
37 subsequent to such acquisition, construction, conversion or rehabili-
38 tation, are occupied or to be occupied for other than residential
39 purposes. No such payments, grants or loans shall exceed a total of
40 seventy-five thousand dollars per dwelling unit provided, however, that
41 the corporation shall have the discretion to provide payments, grants
42 and loans in excess of seventy-five thousand dollars provided that such
43 additional funds shall not exceed twenty-five thousand dollars per
44 dwelling unit. Among the criteria the corporation shall consider in
45 determining whether to provide additional funds are: average cost of
46 construction in the area, location of the project and the impact of the
47 additional funding on the affordability of the project for the occupants
48 of such project. The length of any loan provided under this article
49 shall not exceed thirty years. No more than fifty percent of the total
50 amount originally appropriated pursuant to this article in any fiscal
51 year shall be allocated to projects located within any single munici-
52 pality. Of the amount originally appropriated to the corporation in any
53 fiscal year, no more than thirty-three and one-third percent shall be
54 allocated to private developers for projects within a city with a popu-
55 lation of one million or more. Of the amount originally appropriated to
56 the corporation in any fiscal year, no more than thirty-three and one-

1 third percent shall be allocated to private developers for projects in
2 the area outside cities with a population of one million or more.

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

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

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