STATE OF NEW YORK

5995

2011-2012 Regular Sessions

IN ASSEMBLY

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 neighborhood 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 4 of section 903 of the private housing finance law, as amended by section 1 of part FF of chapter 57 of the laws of 2009, is amended to read as follows:

4. Contracts entered into [hereunder] PURSUANT TO THIS SECTION with neighborhood preservation companies shall be limited in duration to periods of one year, but may thereafter be renewed, extended or succeeded by new contracts from year to year in the discretion of the commissioner; they shall be limited in amount to the sum of one hundred thousand dollars in a single year, [provided that in any year in which the aggregate sum of three hundred thousand dollars shall have been reached and all succeeding years, the annual contract amount shall be subject to a limit of ninety-seven thousand five hundred dollars per year]; they shall define with particularity the neighborhood or portion thereof within which the neighborhood preservation activities shall be performed; they shall specify the nature of the neighborhood preservation activities which shall be performed including the approximate number of buildings, residential dwelling units and local retail and service establishments which shall be affected; they shall locate and describe, with as much particularity as is reasonably possible, the buildings with respect to which such activities shall be performed during the contract term; and they shall specify the number of persons, 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.

LBD03412-01-1

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

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

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

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

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

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

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

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

S 5. Subdivision 1 of section 1102 of the private housing finance law, as amended by 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 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 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, 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. 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 repay-

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

1. Within the limit of funds available in the affordable housing development account, the corporation is hereby authorized to enter into contracts with eligible applicants to provide grants which such applicants shall use to finance affordable home ownership development programs subject to the terms and conditions of this article. Any grants received by a municipality hereunder shall not be deemed to be municipal funds. Grantees shall utilize funds provided pursuant to this article solely as payments, grants and loans to owners to reduce the costs of new construction, rehabilitation or home improvement or the cost of acquisition, but only where such acquisition is part of an affordable home ownership development program or project to construct or rehabilitate homes, or 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. Such financial assistance may be in the form of loans, 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, or grants, on such terms and conditions as the grantee with the approval of the corporation shall determine, provided that no such payments, grants and loans shall exceed the lesser of (i) sixty percent of the project cost or (ii) the following per dwelling unit limitations (A) thirty-five thousand dollars for projects except as provided in clause (B) of this item (ii) or (B) forty thousand dollars for a high cost project or a project which will receive a loan from the federal farmers home administration. Among the criteria the corporation shall consider in determining whether a project is a high cost project 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. No more than fifty percent of the total amount appropriated pursuant to this article in any fiscal year shall be allocated to homes located within any single municipality.

S 8. 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 chapter 199 of the laws of 2008, as amended, when upon such date the provisions of section six of this act shall take effect.