

1674

2011-2012 Regular Sessions

I N S E N A T E

January 11, 2011

Introduced by Sen. 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 rural homeowners assistance program and making an appropriation therefor

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

1 Section 1. The private housing finance law is amended by adding a new
2 article 16-B to read as follows:

3 ARTICLE XVI-B

4 RURAL HOMEOWNERSHIP ASSISTANCE PROGRAM

5 SECTION 930. DECLARATION OF LEGISLATIVE FINDINGS.

6 931. DEFINITIONS.

7 932. CONTRACTS WITH NEIGHBORHOOD PRESERVATION COMPANIES IN RURAL
8 AREAS.

9 933. PAYMENTS TO NEIGHBORHOOD PRESERVATION COMPANIES FOR
10 HOMEOWNERSHIP, TECHNICAL ASSISTANCE AND TRAINING.

11 934. LEGAL AID AGREEMENTS.

12 935. ANNUAL REPORT TO THE LEGISLATURE.

13 S 930. DECLARATION OF LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY
14 FINDS AND DECLARES THAT THERE HAS DEVELOPED A DAMAGING IMPACT OF PREDATORY
15 AND SUB-PRIME RESIDENTIAL MORTGAGE LENDING PATTERNS IN VARIOUS
16 VULNERABLE NEIGHBORHOODS AND COMMUNITIES OF THE STATE AND THAT THE
17 RELATIONSHIP BETWEEN THE PREDOMINANCE OF SUB-PRIME LOANS AND HIGH
18 CONCENTRATIONS OF FORECLOSURE ACTIONS BEING FILED HAS BEEN FORECAST AND
19 CLEARLY DOCUMENTED. THE LEGISLATURE FURTHER FINDS THAT THE SCARCITY OF
20 RESOURCES DEDICATED TO HOUSING COUNSELING AND HOME BUYER EDUCATION
21 SERVICES HAS LEFT MANY FIRST TIME, LOW OR MODERATE INCOME, OR MINORITY
22 HOMEBUYERS AT RISK.

23 THE LEGISLATURE FURTHER FINDS THAT IN RURAL COMMUNITIES WHERE
24 SUB-PRIME LENDERS DOMINATE REFINANCING AND HOME EQUITY MORTGAGE MARKETS,

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

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1 AND WHERE NECESSITY COMBINED WITH POOR DECISION-MAKING OFTEN PLACES LOW
2 AND MODERATE INCOME HOMEOWNERS IN NON-SUSTAINABLE MORTGAGE PRODUCTS, THE
3 ADJUSTED COST OF THE HOME IS FREQUENTLY EXCEEDED AS A RESULT OF REFI-
4 NANCING PRODUCTS, HOME EQUITY PRODUCTS COMPOUNDED WITH FIRST MORTGAGES,
5 AND RUNAWAY FEES. AS A RESULT, MANY HOMEOWNERS ARE RENDERED AT RISK OF
6 FORECLOSURE. BESIDES THE PERSONAL TRAGEDIES THESE HOUSEHOLDS FACE, FORE-
7 CLOSURE FURTHER AFFECTS NEIGHBORHOODS AND COMMUNITIES BY DE-STABILIZING
8 THE CHARACTER OF THE AREA. THE LEGISLATURE FURTHER FINDS THAT IN ORDER
9 TO PREVENT AND/OR MITIGATE FORECLOSURES, FINANCIAL LITERACY MUST BE
10 IMPARTED TO INDIVIDUALS WHO ARE ABOUT TO PURCHASE A HOME OR ARE AT RISK
11 OF FORECLOSURE.

12 THE LEGISLATURE FURTHER FINDS THAT THE NEIGHBORHOOD PRESERVATION
13 COMPANIES WHICH HAVE BEEN ESTABLISHED THROUGHOUT THE STATE ARE INSTRU-
14 MENTAL AS PROVIDERS OF INFORMATION, TRAINING AND ASSISTANCE TO RESIDENTS
15 IN THEIR SERVICE AREAS IN NEED OF HOUSING SERVICES INTERVENTION IN THE
16 RETENTION OF AFFORDABLE HOMEOWNERSHIP; THAT CONDITIONS AGGRAVATED BY AN
17 AFFORDABLE RENTAL HOUSING CRISIS HAVE OVERBURDENED THEIR RESOURCES AND
18 ARE BEING COMPOUNDED BY THE DEMAND FOR HOMEOWNERSHIP ASSISTANCE AND
19 FORECLOSURE PREVENTION; AND THAT THERE IS A NECESSITY FOR THE SERVICES
20 OF NEIGHBORHOOD PRESERVATION COMPANIES FAMILIAR WITH THE SPECIFIC NEEDS
21 OF THE RESIDENTS IN THEIR SERVICE AREAS TO PROVIDE TARGETED ASSISTANCE
22 TO EXISTING AND POTENTIAL HOMEOWNERS TO SECURE PERMANENT, AFFORDABLE AND
23 FISCALLY VIABLE HOMEOWNERSHIP. THE NECESSITY IN THE PUBLIC INTEREST FOR
24 THE PROVISIONS HEREINAFTER ENACTED IS HEREBY DECLARED AS A MATTER OF
25 LEGISLATIVE DETERMINATION.

26 S 931. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND
27 PHRASES SHALL HAVE THE FOLLOWING MEANINGS:

28 1. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF THE STATE DIVISION OF
29 HOUSING AND COMMUNITY RENEWAL.

30 2. "DIVISION" SHALL MEAN THE STATE DIVISION OF HOUSING AND COMMUNITY
31 RENEWAL.

32 3. "NEIGHBORHOOD PRESERVATION COMPANY" SHALL MEAN A CORPORATION ORGAN-
33 IZED UNDER THE PROVISIONS OF THE NOT-FOR-PROFIT CORPORATION LAW WHICH
34 HAS BEEN PRIMARILY ENGAGED IN ONE OR MORE PRESERVATION ACTIVITIES AS
35 DEFINED IN SUBDIVISION FIVE OF SECTION ONE THOUSAND TWO OF THIS CHAPTER.

36 4. "HOMEOWNERSHIP ASSISTANCE ACTIVITIES" SHALL MEAN COUNSELING FOR
37 DEFAULT AND FORECLOSURE PREVENTION, BUDGET MANAGEMENT, DEBT REDUCTION
38 PLANNING, CREDIT REPAIR, REFINANCING OPTIONS, IN THE RECOGNITION OF
39 PREDATORY LENDERS, CONSUMER SCAMS, HOMEOWNER BASICS AND THE HIRING OF
40 CONTRACTORS AND ALL SUCH OTHER ACTIVITIES AS MAY BE DEEMED ESSENTIAL TO
41 ENSURING THE PREVENTION OF FORECLOSURE.

42 5. "ACCESSIBILITY" SHALL MEAN CULTURAL AND LINGUISTIC ACCESSIBILITY TO
43 DIVERSE RESIDENTS.

44 6. "RESIDENTS" SHALL MEAN INDIVIDUALS OR FAMILIES WITH INCOMES NOT
45 EXCEEDING NINETY PERCENT OF MEDIAN INCOME RESIDING IN RURAL AREAS
46 DEFINED IN SUBDIVISION THREE OF SECTION ONE THOUSAND THREE OF THIS CHAP-
47 TER AND CURRENTLY IN RESIDENCE OR WITH EVIDENCE OF FORTHCOMING RESIDENCY
48 IN THE SERVICE AREA.

49 7. "SERVICE AREA" SHALL MEAN THE ESTABLISHED BOUNDARIES OF A NEIGHBOR-
50 HOOD PRESERVATION COMPANY AS SPECIFIED IN SUBDIVISION THREE OF SECTION
51 ONE THOUSAND THREE OF THIS CHAPTER.

52 8. "SIGNIFICANT" SHALL MEAN NO LESS THAN SEVENTY-FIVE PERCENT OF THE
53 SPECIFIED CONTRACTED SERVICES.

54 S 932. CONTRACTS WITH NEIGHBORHOOD PRESERVATION COMPANIES IN RURAL
55 AREAS. 1. THE COMMISSIONER SHALL ENTER INTO CONTRACTS WITH NEIGHBORHOOD
56 PRESERVATION COMPANIES FOR THE PERFORMANCE OF HOMEOWNERSHIP ASSISTANCE

1 ACTIVITIES. SUCH CONTRACTS SHALL BE ENTERED INTO, HOWEVER, ONLY AFTER
2 APPROPRIATE FINDINGS BY THE COMMISSIONER AND SHALL BE SUBJECT TO THE
3 LIMITATIONS AS SET FORTH IN THIS SECTION.

4 2. PRIOR TO ENTERING INTO A CONTRACT WITH AN EXISTING NEIGHBORHOOD
5 PRESERVATION COMPANY, THE COMMISSIONER SHALL HAVE MADE A FINDING, THAT
6 THE COMPANY IS IN GOOD STANDING PURSUANT TO THE PROVISIONS OF SUBDIVI-
7 SION FIVE OF SECTION ONE THOUSAND THREE OF THIS CHAPTER AND THAT THERE
8 IS A NEED FOR PROPOSED HOMEOWNERSHIP ACTIVITIES BEING PROPOSED BASED ON
9 THE DOCUMENTED SUBMISSION OF THE COMPANY.

10 3. PRIOR TO ENTERING INTO A CONTRACT WITH AN EXISTING NEIGHBORHOOD
11 PRESERVATION COMPANY, THE COMMISSIONER SHALL HAVE MADE A FINDING THAT
12 THE COMPANY HAS OR IS PREPARED TO ENGAGE IN SERVICES OR HAS EMPLOYED
13 PERSONS TO RENDER CULTURAL AND LINGUISTIC ACCESSIBILITY TO THE DIVERSE
14 TARGET POPULATION.

15 4. CONTRACTS ENTERED INTO PURSUANT TO THIS SECTION WITH NEIGHBORHOOD
16 PRESERVATION COMPANIES SHALL BE LIMITED IN DURATION TO PERIODS OF ONE
17 YEAR, BUT MAY THEREAFTER BE RENEWED, EXTENDED OR SUCCEEDED BY NEW
18 CONTRACTS FROM YEAR TO YEAR IN THE DISCRETION OF THE COMMISSIONER; THEY
19 SHALL BE LIMITED IN AMOUNT TO FORTY-FIVE THOUSAND DOLLARS PER YEAR AND
20 SHALL NOT BE CONSIDERED PART OF THE AGGREGATE SUM LIMITATIONS IMPOSED
21 UNDER SUBDIVISION FOUR OF SECTION ONE THOUSAND THREE OF THIS CHAPTER.

22 5. PRIOR TO RENEWING OR EXTENDING A CONTRACT OR ENTERING A SUCCEEDING
23 CONTRACT WITH A NEIGHBORHOOD PRESERVATION COMPANY THE DIVISION SHALL
24 DETERMINE THAT:

25 (A) THE COMPANY SHALL HAVE SUBSTANTIALLY COMPLETED THE HOMEOWNERSHIP
26 ACTIVITIES SPECIFIED IN THE CONTRACT TO BE RENEWED OR SUCCEEDED;

27 (B) THE COMPANY SHALL HAVE RECEIVED THE SUMS AND FUNDS SPECIFIED IN
28 THIS SECTION; AND

29 (C) THE ACTIVITIES CARRIED OUT BY THE COMPANY PURSUANT TO ITS CONTRACT
30 SHALL HAVE RESULTED IN A SIGNIFICANT IMPACT ON THE NEEDS OF THE AT-RISK
31 EXISTING AND POTENTIAL HOMEOWNERS IN THE SERVICE AREA.

32 6. PRIOR TO TERMINATING OR NOT ENTERING INTO A SUCCEEDING CONTRACT THE
33 DIVISION SHALL:

34 (A) DETERMINE THAT THE COMPANY IS IN VIOLATION OF THE TERMS AND CONDI-
35 TIONS OF THE CONTRACT OR THAT FUNDS PROVIDED PURSUANT TO THE CONTRACT
36 ARE BEING EXPENDED IN A MANNER NOT CONSISTENT WITH THE TERMS OR
37 PROVISIONS OF THIS ARTICLE; OR

38 (B) DETERMINE THAT THE SIGNIFICANT NEED IN THE SERVICE AREA HAS BEEN
39 FULFILLED; OR

40 (C) PROVIDE THE COMPANY WITH WRITTEN NOTICE, AT LEAST FORTY-FIVE DAYS
41 IN ADVANCE, OF ITS INTENT TO TERMINATE OR NOT RENEW THE CONTRACT AND
42 PROVIDE THE COMPANY WITH THE OPPORTUNITY TO APPEAR AND BE HEARD BEFORE
43 THE DIVISION WITH RESPECT TO THE REASONS FOR SUCH PROPOSED TERMINATION
44 OR NON-RENEWAL. AT THE SAME TIME THAT A COMPANY IS NOTIFIED OF THE DIVI-
45 SION'S INTENT TO TERMINATE, OR NOT RENEW THE CONTRACT, THE DIVISION
46 SHALL LIKEWISE INFORM THE SENATE AND ASSEMBLY MEMBERS WHO REPRESENT
47 AREAS WITHIN SUCH COMPANY'S GEOGRAPHIC BOUNDARIES.

48 7. THE DIVISION MAY TEMPORARILY WITHHOLD PAYMENTS AND MAY ELECT NOT TO
49 ENTER INTO A SUCCEEDING CONTRACT WITH ANY NEIGHBORHOOD PRESERVATION
50 COMPANY IF THE COMPANY IS NOT IN COMPLIANCE WITH THE CONTRACT OR HAS
51 WITHOUT GOOD CAUSE FAILED TO SUBMIT THE DOCUMENTATION REQUIRED UNDER THE
52 CONTRACT.

53 S 933. PAYMENTS TO NEIGHBORHOOD PRESERVATION COMPANIES FOR HOMEOWNER-
54 SHIP, TECHNICAL ASSISTANCE AND TRAINING. 1. EACH CONTRACT ENTERED INTO
55 WITH A NEIGHBORHOOD PRESERVATION COMPANY SHALL PROVIDE PAYMENT TO THE

1 NEIGHBORHOOD PRESERVATION COMPANY FOR RURAL HOMEOWNERSHIP ASSISTANCE
2 ACTIVITIES WHICH THE COMPANY HAS PERFORMED.

3 2. PAYMENT TO NEIGHBORHOOD PRESERVATION COMPANIES PURSUANT TO THIS
4 ARTICLE SHALL BE RESTRICTED TO SUMS REQUIRED FOR THE PAYMENT OF SALARIES
5 AND WAGES TO EMPLOYEES OF SUCH COMPANIES AND FEES TO LEGAL CONSULTANTS
6 RETAINED BY THEM WHO ARE ENGAGED IN RENDERING HOMEOWNERSHIP ASSISTANCE
7 ACTIVITIES TO THE TARGET POPULATION.

8 3. PAYMENTS SHALL BE MADE BY THE DIVISION TO THE NEIGHBORHOOD PRESER-
9 VATION COMPANY, NOT LESS FREQUENTLY THAN SEMIANNUALLY AT OR PRIOR TO THE
10 COMMENCEMENT OF THE CONTRACT, TO COMPENSATE THE COMPANY FOR THE HOMEOWN-
11 ERSHIP ASSISTANCE ACTIVITIES WHICH IT SHALL UNDERTAKE TO PERFORM;
12 PROVIDED THAT WITH RESPECT TO CONTRACTS ENTERED INTO ON OR AFTER JUNE
13 THIRTIETH, THE FIRST SUCH PAYMENT SHALL BE MADE BY THE DIVISION BEGIN-
14 NING ON OR AFTER JULY FIRST OF THE FISCAL YEAR FOR WHICH AN APPROPRI-
15 ATION IN SUPPORT OF SUCH PAYMENT IS MADE AND PROVIDED FURTHER THAT THE
16 FINAL SUCH PAYMENT TO THE NEIGHBORHOOD PRESERVATION COMPANY SHALL BE
17 MADE NO LATER THAN MARCH THIRTY-FIRST OF SUCH FISCAL YEAR, UNLESS SUCH
18 PAYMENT HAS BEEN WITHHELD PURSUANT TO THE PROVISIONS OF SUBDIVISION
19 SEVEN OF SECTION NINE HUNDRED THIRTY-TWO OF THIS ARTICLE.

20 S 934. LEGAL AID AGREEMENTS. A PORTION OF THE FUNDS, NOT TO EXCEED
21 TWENTY PERCENT OF THE APPROPRIATION, FOR THE ACTIVITIES SPECIFIED UNDER
22 THIS ARTICLE SHALL BE DEDICATED, ON A COMPETITIVE BASIS AND BASED ON
23 NEEDS IDENTIFIED BY EACH COMPANY, TO LEGAL AID ORGANIZATIONS WITH ESTAB-
24 LISHED TIES TO THE NEIGHBORHOOD PRESERVATION COMPANY APPLICANT'S SERVICE
25 AREA FOR THE PROVISION OF LEGAL SERVICES. IN THE EVENT THAT SUCH
26 NOT-FOR-PROFIT LEGAL AID ORGANIZATIONS ARE NOT AVAILABLE, THE NEIGHBOR-
27 HOOD PRESERVATION COMPANY SHALL SUBCONTRACT WITH INDIVIDUAL ATTORNEYS OR
28 LAW FIRMS WITH THE APPROVAL OF THE COMMISSIONER.

29 S 935. ANNUAL REPORT TO THE LEGISLATURE. THE COMMISSIONER SHALL SUBMIT
30 AN ANNUAL REPORT TO THE LEGISLATURE ON OR BEFORE DECEMBER THIRTY-FIRST
31 ON THE IMPLEMENTATION OF THIS ARTICLE. SUCH REPORT SHALL INCLUDE, BUT
32 NOT BE LIMITED TO, FOR EACH COMPANY RECEIVING FUNDS UNDER THIS ARTICLE:

- 33 1. A DESCRIPTION OF SUCH COMPANY'S CONTRACT AMOUNT,
- 34 2. THE SPECIFIC HOMEOWNERSHIP ACTIVITIES PERFORMED BY SUCH COMPANY,
- 35 3. THE NUMBER OF PERSONS SERVED BY THE COMPANY AND, IF APPLICABLE, ITS
36 LEGAL AID CONSULTANT, AND
- 37 4. THE IMPACT OF THE ACTIVITIES PERFORMED.

38 S 2. The sum of one million dollars (\$1,000,000.00), or so much there-
39 of as may be necessary, is hereby appropriated to the state division of
40 housing and community renewal out of any moneys in the state treasury in
41 the general fund to the credit of the state division of housing and
42 community renewal, not otherwise appropriated, and made immediately
43 available, for the purpose of carrying out the provisions of this act.
44 Such moneys shall be payable on the audit and warrant of the comptroller
45 on vouchers certified or approved by the commission of the state divi-
46 sion of housing and community renewal in the manner prescribed by law.

47 S 3. This act shall take effect immediately.