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

8141

I N S E N A T E

June 14, 2016

Introduced by Sen. SAVINO -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public authorities law, in relation to establishing the New York state community restoration fund

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

Section 1. Section 2401 of the public authorities law, is amended by adding a new closing paragraph to read as follows:

IT IS FURTHER FOUND AND DETERMINED THAT THERE IS A NEED TO ESTABLISH A PROGRAM TO ASSIST HOMEOWNERS IN THE STATE OF NEW YORK WHO HAVE BEEN AFFECTED BY THE NATIONAL MORTGAGE CRISIS WHO ARE EITHER DELINQUENT ON THEIR MORTGAGE PAYMENTS OR ARE IN DANGER OF GOING INTO DEFAULT BECAUSE OF ECONOMIC HARDSHIP, AS SUCH TERM IS DEFINED UNDER THE AGENCY'S GUIDELINES, IN CONSULTATION WITH THE ADVISORY COUNCIL ESTABLISHED IN SUBDIVISION THREE OF SECTION TWENTY-FOUR HUNDRED FIVE-F OF THIS PART, WHO MAY LOSE THEIR HOMES TO FORECLOSURE, OR WHO MAY HAVE ABANDONED THEIR HOMES DUE TO ECONOMIC HARDSHIP AND WHO MAY BENEFIT FROM ASSISTANCE. IN ADDITION, THE EXISTENCE OF VACANT, ABANDONED, DISTRESSED, DILAPIDATED OR REASONABLY BEYOND REPAIR PROPERTIES MAY CONTRIBUTE TO THE PERSISTENCE OF CONDITIONS THAT INCREASE BLIGHT AND ADD TO THE DETERIORATION OF THE QUALITY OF THE ENVIRONMENT AND LIVING CONDITIONS OF A LARGE NUMBER OF PERSONS RESIDING IN THE STATE. TO ADDRESS THESE CONDITIONS, IT IS HEREBY FOUND AND DETERMINED THAT THE STATE OF NEW YORK MORTGAGE AGENCY SHALL BE AUTHORIZED TO CREATE AND MANAGE A FUND TO ACQUIRE RESIDENCES AND TO PURCHASE MORTGAGES AND MORTGAGE NOTES, OR TO PROVIDE MONIES TO ELIGIBLE INSTITUTIONS TO ACQUIRE RESIDENCES AND TO PURCHASE MORTGAGES AND MORTGAGE NOTES AND TO CARRY OUT SUCH OTHER FUNCTIONS IN CONNECTION WITH SUCH ACQUISITIONS AS ARE NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS PARAGRAPH. IN CONNECTION THEREWITH, THE STATE OF NEW YORK MORTGAGE AGENCY SHALL BE AUTHORIZED TO CREATE A SUBSIDIARY CORPORATION TO CARRY OUT THE PROGRAM AUTHORIZED UNDER THIS PARAGRAPH.

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

LBD12089-01-6

S 2. Subdivision 31 of section 2404 of the public authorities law, as renumbered by chapter 151 of the laws of 2013, is renumbered subdivision 33 and two new subdivisions 31 and 32 are added to read as follows:

(31) TO ADMINISTER THE FUND AND OPERATE THE PROGRAM SET FORTH IN SECTION TWENTY-FOUR HUNDRED FIVE-F OF THIS PART.

(32) TO FORM A SUBSIDIARY TO BE KNOWN AS "THE STATE OF NEW YORK MORTGAGE AGENCY COMMUNITY RESTORATION FUND" FOR THE PURPOSE OF USING FUNDS AVAILABLE TO THE AGENCY UNDER THE PROGRAM SET FORTH IN SECTION TWENTY-FOUR HUNDRED FIVE-F OF THIS PART AND OF OWNING AND HOLDING ANY RESIDENCES, MORTGAGES AND MORTGAGE NOTES ACQUIRED BY THE AGENCY, AND TO OTHERWISE CARRY OUT THE PURPOSES OF SECTION TWENTY-FOUR HUNDRED FIVE-F OF THIS PART. SUCH SUBSIDIARY CREATED PURSUANT TO THIS SUBDIVISION MAY EXERCISE AND PERFORM ONE OR MORE OF THE PURPOSES, POWERS, DUTIES, FUNCTIONS, RIGHTS AND RESPONSIBILITIES OF THE AGENCY, OTHER THAN THE ISSUANCE OF INDEBTEDNESS, IN CONNECTION WITH REAL AND PERSONAL PROPERTY WITH RESPECT TO WHICH THE AGENCY HOLDS OR HELD A MORTGAGE, SECURITY INTEREST OR OTHER COLLATERAL. SUCH SUBSIDIARY SHALL HAVE THE POWER TO OWN, ACQUIRE AND DISPOSE OF REAL PROPERTY, AND TO ACQUIRE, OWN AND HOLD, SERVICE AND DISPOSE OF MORTGAGES AND MORTGAGE NOTES. IT SHALL HAVE THE RIGHT TO FORECLOSE OR CONTRACT TO FORECLOSE ON ANY MORTGAGE ACQUIRED BY SUCH SUBSIDIARY, UNDER THE LAWS OF THE STATE, TO COMMENCE ANY ACTION TO PROTECT OR TO ENFORCE THE RIGHTS CONVEYED TO IT BY LAW, CONTRACT OR ANY AGREEMENT AND TO DISPOSE OF ANY SUCH PROPERTY AND TO OTHERWISE PROCEED WITH ANY ACTION AS MAY BE NECESSARY TO PROTECT THE INTERESTS OF SAID SUBSIDIARY. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE TRANSFER OF TITLE TO SUCH SUBSIDIARY OR ANY OTHER ACTIONS TAKEN BY THE AGENCY OR SUCH SUBSIDIARY TO ENFORCE THE AGENCY'S RIGHTS UNDER THE MORTGAGE, SECURITY INTEREST OR OTHER COLLATERAL INTEREST OR TO PROTECT, ACQUIRE, OWN, MANAGE OR DISPOSE OF THE PROPERTY SHALL BE DEEMED TO BE A CORPORATE PURPOSE OF THE AGENCY GRANTED TO IT TO CARRY OUT THE PURPOSES OF SECTION TWENTY-FOUR HUNDRED FIVE-F OF THIS PART. SUCH SUBSIDIARY SHALL BE ESTABLISHED IN THE FORM OF A PUBLIC BENEFIT CORPORATION BY EXECUTING AND FILING WITH THE SECRETARY OF STATE A CERTIFICATE OF INCORPORATION WHICH SHALL IDENTIFY THE AGENCY AS THE ENTITY ORGANIZING SUCH SUBSIDIARY AND SET FORTH THE NAME OF SUCH SUBSIDIARY PUBLIC BENEFIT CORPORATION, ITS DURATION, THE LOCATION OF ITS PRINCIPAL OFFICE AND ITS CORPORATE PURPOSES AS PROVIDED IN THIS SUBDIVISION AND WHICH CERTIFICATE MAY BE AMENDED FROM TIME TO TIME BY THE FILING OF AMENDMENTS THERETO WITH THE SECRETARY OF STATE, PROVIDED THAT THE SUBSIDIARY CREATED HEREUNDER SHALL CEASE TO EXIST AT SUCH TIME AS THE PROGRAM AUTHORIZED UNDER SECTION TWENTY-FOUR HUNDRED FIVE-F OF THIS PART IS NO LONGER IN EXISTENCE. SUCH SUBSIDIARY SHALL BE ORGANIZED AS A PUBLIC BENEFIT CORPORATION, SHALL BE A BODY POLITIC AND CORPORATE, AND SHALL HAVE ALL THE PRIVILEGES, IMMUNITIES, TAX EXEMPTIONS AND OTHER EXEMPTIONS OF THE AGENCY. THE MEMBERS OF SUCH SUBSIDIARY SHALL BE THE SAME AS THE MEMBERS OF THE AGENCY.

S 3. The public authorities law is amended by adding a new section 2405-f to read as follows:

S 2405-F. NEW YORK STATE COMMUNITY RESTORATION FUND. (1) DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "FUND" SHALL MEAN THE NEW YORK STATE COMMUNITY RESTORATION FUND ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION;

(B) "RESIDENTIAL HOME LOAN" SHALL MEAN A FIRST OR SUBORDINATE LIEN LOAN, INCLUDING MORTGAGE LOANS PURCHASED BY THE AGENCY UNDER SECTION TWENTY-FOUR HUNDRED FIVE-B OF THIS PART, THAT IS SECURED BY A BORROWER'S

INTEREST IN: (I) RESIDENTIAL REAL PROPERTY, INCLUDING AS DEFINED IN SECTION THIRTEEN HUNDRED FIVE OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW, AND ANY IMPROVEMENTS OR STRUCTURES THEREON; (II) A SHARE OR SHARES OF A COOPERATIVE CORPORATION THAT ENTITLES A BORROWER TO A HOUSING UNIT; OR (III) A RESIDENTIAL STRUCTURE THAT IS PART OF A CONDOMINIUM DEVELOPMENT. RESIDENTIAL HOME LOAN SHALL ALSO INCLUDE INTEREST, TAXES, HOMEOWNERSHIP ASSOCIATIONS FEES, CARRYING CHARGES, AND OTHER LIENS ENCUMBERING THE RESIDENCE;

(C) "VACANT AND ABANDONED" RESIDENTIAL REAL PROPERTY SHALL MEAN (I) RESIDENTIAL REAL PROPERTY, AS DEFINED IN SECTION THIRTEEN HUNDRED FIVE OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW, WHERE THE PROPERTY IS NOT OCCUPIED BY THE TENANT, AS THAT TERM IS DEFINED IN SECTION THIRTEEN HUNDRED FIVE OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW, HOMEOWNER, OR MORTGAGOR AND (II) EITHER:

(A) THE PROPERTY IS A RISK TO THE HEALTH, SAFETY, OR WELFARE OF THE PUBLIC, OR ANY ADJOINING OR ADJACENT PROPERTY OWNERS, DUE TO ACTS OF VANDALISM, LOITERING, CRIMINAL CONDUCT, OR PHYSICAL DESTRUCTION OR DETERIORATION OF THE PROPERTY; OR

(B) THE RELEVANT GOVERNMENTAL AUTHORITY HAS DECLARED THE PROPERTY UNFIT FOR OCCUPANCY AND EITHER ORDERED THAT THE PROPERTY REMAIN VACANT AND UNOCCUPIED OR ORDERED THAT THE PROPERTY BE DEMOLISHED; OR

(C) EACH HOMEOWNER OR MORTGAGOR HAS SEPARATELY INFORMED THE MORTGAGEE, IN WRITING, THAT THEY DO NOT INTEND TO OCCUPY THE PROPERTY IN THE FUTURE, AND

(III) WHERE INDICIA OF LACK OF OCCUPANCY MAY INCLUDE, BUT SHALL NOT BE LIMITED TO: (A) OVERGROWN OR DEAD VEGETATION; (B) ACCUMULATION OF NEWSPAPERS, CIRCULARS, FLYERS, OR MAIL; (C) PAST DUE UTILITY NOTICES, DISCONNECTED UTILITIES OR UTILITIES NOT IN USE; (D) ACCUMULATION OF TRASH, REFUSE OR OTHER DEBRIS; (E) ABSENCE OF WINDOW COVERINGS SUCH AS CURTAINS, BLINDS, OR SHUTTERS; (F) ABSENCE OF FURNISHINGS OR PERSONAL ITEMS CONSISTENT WITH RESIDENTIAL HABITATION; (G) ONE OR MORE BOARDED, MISSING OR BROKEN WINDOWS; (H) THE PROPERTY IS OPEN TO CASUAL ENTRY OR TRESPASS; (I) THE PROPERTY HAS A BUILDING OR STRUCTURE THAT IS OR APPEARS STRUCTURALLY UNSOUND OR HAS ANY OTHER CONDITION THAT PRESENTS A POTENTIAL HAZARD OR DANGER TO THE SAFETY OF PERSONS, AND

(IV) WHERE SUCH RESIDENTIAL REAL PROPERTY SHALL NOT BE CONSIDERED "VACANT AND ABANDONED" IF, ON THE PROPERTY: (A) THERE IS AN UNOCCUPIED BUILDING WHICH IS UNDERGOING CONSTRUCTION, RENOVATION, OR REHABILITATION THAT IS PROCEEDING TO COMPLETION, AND THE BUILDING IS IN COMPLIANCE WITH ALL APPLICABLE ORDINANCES, CODES, REGULATIONS, AND STATUTES; (B) THERE IS A BUILDING THAT IS SECURE, BUT IS THE SUBJECT OF A PROBATE ACTION, ACTION TO QUIET TITLE, OR OTHER SIMILAR OWNERSHIP DISPUTE; (C) THERE IS A BUILDING DAMAGED BY NATURAL DISASTER UPON DECLARATION OF A STATE DISASTER EMERGENCY BY THE GOVERNOR PURSUANT TO SECTION TWENTY-EIGHT OF THE EXECUTIVE LAW RELATING TO ANY CLAIM ARISING FROM THE CAUSE OF SUCH DECLARATION, WHILE AWAITING FUNDS TO REPAIR; OR (D) THERE IS A BUILDING OCCUPIED ON A SEASONAL BASIS, BUT OTHERWISE SECURE;

(D) "HOMEOWNER" SHALL MEAN A NATURAL PERSON WHO HAS A LEGAL INTEREST IN THE PROPERTY OTHER THAN A TENANT AND IS THE OCCUPANT OF A RESIDENCE THAT SECURES SUCH RESIDENTIAL HOME LOAN;

(E) "ELIGIBLE INSTITUTION" SHALL MEAN A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION OR A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION PARTNERED WITH A NOT-FOR-PROFIT, HOUSING COUNSELING AGENCY, LAND BANK, OR OTHER LOCAL GOVERNMENT ENTITY, OR ANY OF THE AFOREMENTIONED, EITHER ON THEIR OWN OR PARTNERED WITH A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION. AN ELIGIBLE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION SHALL HAVE

A RECORD OF SUCCESS IN SERVING INVESTMENT AREAS OR TARGETED POPULATIONS; AND/OR SHALL HAVE AGREED TO EXPAND ITS OPERATIONS INTO A NEW INVESTMENT AREA OR TO SERVE A NEW TARGETED POPULATION, OFFER MORE PRODUCTS OR SERVICES, OR INCREASE THE VOLUME OF ITS CURRENT BUSINESS. ELIGIBLE NOT-FOR-PROFITS SHALL, AMONG OTHER THINGS, HAVE THE ABILITY TO: UNDERTAKE REPAIR OR REHABILITATION EFFORTS; CARRY OUT PROPERTY AND ASSET MANAGEMENT, INCLUDING SERVICING, UNDERTAKE DEMOLITION; AND/OR PROVIDE ASSISTANCE IN FINDING HOUSING OPTIONS, MARKET PROPERTIES FOR SALE OR RENTAL; COORDINATE, PROVIDE, AND/OR CONNECT HOMEOWNERS TO COUNSELING, MEDIATION, LEGAL REPRESENTATION, AND NEGOTIATE ON BEHALF OF HOMEOWNERS SEEKING A RESIDENTIAL HOME LOAN PAYMENT MODIFICATION, PROVIDE TRAINING AND SUPPORT FOR COUNSELORS, MEDIATORS, AND ATTORNEYS REGARDING SUCH ASSISTANCE TO HOMEOWNERS, AS WELL AS PROVIDE CREDIT COUNSELING;

(F) "COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION" OR "CDFI" SHALL MEAN AN ORGANIZATION LOCATED IN THIS STATE WHICH HAS BEEN CERTIFIED AS A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BY THE FEDERAL COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND, AS ESTABLISHED PURSUANT TO 12 U.S.C. 4701 ET SEQ., AS AMENDED FROM TIME TO TIME;

(G) "INVESTMENT AREA" MEANS A GEOGRAPHIC AREA THAT IS DETERMINED BY THE AGENCY, FROM TIME TO TIME, AS MEETING CRITERIA INDICATIVE, AS OF SUCH TIME, OF ECONOMIC DISTRESS, INCLUDING UNEMPLOYMENT RATE; FORECLOSURE RATE; PERCENTAGES AND NUMBERS OF LOW-INCOME RESIDENTS; PER CAPITA INCOME AND PER CAPITA REAL PROPERTY WEALTH; AND SUCH OTHER INDICATORS OF DISTRESS AS THE AGENCY SHALL DETERMINE. ECONOMICALLY DISTRESSED AREAS MAY INCLUDE COUNTIES, CITIES, MUNICIPALITIES, BLOCK NUMBERING AREAS, AND CENSUS TRACTS. THE PROGRAM SHALL TO THE FULLEST EXTENT POSSIBLE STRIVE FOR REGIONAL DIVERSITY IN PROVIDING FORECLOSURE RELIEF AND ASSISTANCE CONSISTENT WITH THE PROGRAM GOALS TO COMMUNITIES THROUGHOUT NEW YORK STATE THAT ARE IMPACTED BY THE FORECLOSURE CRISES;

(H) "LENDER" MEANS BANKS AS DEFINED IN SECTION TWENTY-FOUR HUNDRED TWO OF THIS PART, INVESTORS INCLUDING INSTITUTIONAL INVESTORS, THE AGENCY, ANY STATE AGENCY AUTHORIZED TO ACQUIRE AND HOLD RESIDENTIAL HOME LOANS, MORTGAGE SERVICERS AND OTHER PRIVATE, NON-BANK ENTITIES THAT MAY OWN AND HOLD A MORTGAGE AND MORTGAGE NOTE, THE FEDERAL HOUSING ADMINISTRATION, THE U.S. DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT CORPORATION, THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, THE FEDERAL HOUSING FINANCE AGENCY, AND ANY PRIVATELY OWNED, PUBLICLY CHARTERED ENTITIES AND WHOLLY-OWNED CORPORATE INSTRUMENTALITIES OF THE UNITED STATES WITHIN THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT CREATED BY CONGRESS TO ENCOURAGE LENDING AND REDUCE COSTS PRIMARILY IN THE HOUSING SECTOR OF THE ECONOMY; AND

(I) "RESIDENCE" MEANS RESIDENTIAL REAL PROPERTY AS DEFINED IN SECTION THIRTEEN HUNDRED FIVE OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW.

(2) THE AGENCY IS HEREBY DIRECTED TO ESTABLISH AND ADMINISTER A FUND TO BE KNOWN AS THE "NEW YORK STATE COMMUNITY RESTORATION FUND," WHICH SHALL CONSIST OF MONIES DEPOSITED THEREIN. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE AGENCY FROM RECEIVING GRANTS, GIFTS, OR OTHER MONIES FROM OTHER SOURCES, OR BEQUESTS AND DEPOSITING THEM INTO THE FUND. THE AGENCY SHALL NOT COMMINGLE THE MONIES IN SUCH FUND WITH ANY OTHER MONIES OF THE AGENCY.

(3) THE MONIES IN THE FUND SHALL BE ELIGIBLE TO BE USED BY THE AGENCY UNDER PROGRAM GUIDELINES ESTABLISHED BY THE BOARD OF DIRECTORS OF THE AGENCY, IN CONSULTATION WITH AN ADVISORY COUNCIL TO BE CREATED BY THE AGENCY COMPRISED OF A MINIMUM OF SEVEN MEMBERS, WHERE A MAJORITY OF THE MEMBERSHIP OF THE COUNCIL WILL BE COMPRISED OF REPRESENTATIVES FROM NON-PROFIT MEMBERS OF THE COMMUNITY WITH KNOWLEDGE OF FORECLOSURES,

HOUSING, OR COMMUNITY DEVELOPMENT NEEDS IN COMMUNITIES HARD HIT BY FORECLOSURES. THE GUIDELINES SHALL INCLUDE, AMONG OTHER THINGS, REQUIREMENTS TO ENSURE THAT FUND MONIES ARE EXPENDED BASED UPON DEMONSTRABLE COMMUNITY NEEDS, FOR THE PURPOSES SET FORTH IN THIS SUBDIVISION, AND MAY ALSO BE AWARDED BY THE AGENCY TO ELIGIBLE INSTITUTIONS FOLLOWING THE PROCESS ESTABLISHED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION, TO:

(A) ACQUIRE, PURCHASE, OR SELL RESIDENCES AND/OR MORTGAGE NOTES ON RESIDENTIAL HOME LOANS AND RESIDENCES AT OR BELOW MARKET RATES, OR AT PAR IF SO REQUIRED TO SATISFY LEGAL OR PROGRAMMATIC RESTRICTIONS APPLICABLE TO THE PURCHASE OF ANY MORTGAGE LOANS EXPECTED TO BE ACQUIRED, FROM LENDERS, OR FROM LOCAL, STATE, AND/OR THE FEDERAL GOVERNMENT AT AUCTION, SHORT SALE, OR OTHER PRIVATE OR PUBLIC SALE WITH THE INTENT TO:

(I) WHERE POSSIBLE, PROVIDED THE HOMEOWNER CAN DEMONSTRATE AN ECONOMIC HARDSHIP, AS SUCH TERM IS DEFINED UNDER THE AGENCY'S GUIDELINES, IN CONSULTATION WITH THE ADVISORY COUNCIL, MODIFY THE RESIDENTIAL HOME LOAN TO AN AFFORDABLE RATE TO KEEP THE CURRENT HOMEOWNERS IN THE PROPERTY;

(II) PERMIT THE HOMEOWNER, PROVIDED THE HOMEOWNER CAN DEMONSTRATE AN ECONOMIC HARDSHIP, AS SUCH TERM IS DEFINED UNDER THE AGENCY'S GUIDELINES, IN CONSULTATION WITH THE ADVISORY COUNCIL, TO TRANSFER HIS OR HER OWNERSHIP INTEREST IN THE HOME TO THE AGENCY OR TO AN ELIGIBLE INSTITUTION AND TO REMAIN IN THE RESIDENCE AS A TENANT ON AGREED-UPON TERMS, OR OBTAIN ASSISTANCE FROM THE AGENCY OR AN ELIGIBLE INSTITUTION TO ACQUIRE A NEW AFFORDABLE RESIDENCE;

(III) REHABILITATE DISTRESSED PROPERTIES; AND/OR

(IV) DEMOLISH HOMES THAT ARE DILAPIDATED OR REASONABLY BEYOND REPAIR.

(B) MAKE GRANTS AND LOANS TO ELIGIBLE HOMEOWNERS OR TO POTENTIAL BUYERS OF RESIDENCES IN THE INVESTMENT AREAS; OR

(C) FUND NOT-FOR-PROFIT DEVELOPERS, AFFORDABLE HOUSING DEVELOPERS, AND NOT-FOR-PROFIT AGENCIES TO ACQUIRE VACANT AND ABANDONED PROPERTIES OR OTHER REAL PROPERTY, MORTGAGES, OR MORTGAGE NOTES ACQUIRED UNDER THIS PROGRAM, AND DEVELOP SUCH PROPERTIES INTO AFFORDABLE HOUSING AND TO WORK WITH HOMEOWNERS IN THE INVESTMENT AREA ELIGIBLE TO BE ASSISTED UNDER THIS SECTION, THROUGH ACTIVITIES SUCH AS FORECLOSURE PREVENTION COUNSELING, PROVIDING NEW HOMEOWNER TRAINING, HOME REPAIR AND REHABILITATION, PROPERTY AND ASSET MANAGEMENT, DEMOLITION, AND MARKETING PROPERTIES FOR SALE AND RENTAL.

(4) (A) IN AWARDING FUNDING TO ELIGIBLE INSTITUTIONS, THE AGENCY SHALL SELECT FROM ELIGIBLE INSTITUTIONS PURSUANT TO CRITERIA ESTABLISHED BY THE AGENCY'S BOARD OF DIRECTORS, IN CONSULTATION WITH THE ADVISORY COUNCIL ESTABLISHED IN SUBDIVISION THREE OF THIS SECTION, WHICH CRITERIA SHALL INCLUDE, BUT NOT BE LIMITED TO:

(I) THE EXPERIENCE AND BACKGROUND OF THE ELIGIBLE INSTITUTION'S BOARD OF DIRECTORS OR MANAGEMENT TEAM;

(II) THE EXTENT OF NEED WITHIN THE INVESTMENT AREAS OR TARGETED POPULATIONS;

(III) THE EXTENT OF ECONOMIC DISTRESS WITHIN THE INVESTMENT AREAS OR THE EXTENT OF NEED WITHIN THE TARGETED POPULATIONS;

(IV) THE EXTENT OF THE ELIGIBLE INSTITUTION'S CURRENT AND PLANNED COMMUNITY INVOLVEMENT;

(V) THE EXTENT TO WHICH THE ELIGIBLE INSTITUTION WILL INCREASE ITS RESOURCES THROUGH COORDINATION WITH OTHER ELIGIBLE INSTITUTIONS OR ENCOURAGE COLLABORATIVE APPLICATIONS BY MULTIPLE ELIGIBLE INSTITUTIONS;

(VI) IN THE CASE OF AN INSTITUTION WITH A PRIOR HISTORY OF SERVING INVESTMENT AREAS OR TARGETED POPULATIONS, THE EXTENT OF SUCCESS IN SERVING SUCH AREAS OR POPULATIONS;

(VII) THE EXTENT TO WHICH ELIGIBLE INSTITUTIONS WOULD USE FUNDS TO RESTRUCTURE RESIDENTIAL HOME LOANS TO ALLOW HOMEOWNERS TO CONTINUE TO OCCUPY THEIR RESIDENCES; AND

(VIII) OTHER FACTORS DEEMED TO BE APPROPRIATE BY THE AGENCY.

(B) IN ALLOCATING FUNDING TO ELIGIBLE INSTITUTIONS, THE AGENCY SHALL BE AUTHORIZED TO MAKE FUNDING AVAILABLE IN ANY MANNER NECESSARY FOR SUCH ELIGIBLE INSTITUTION TO PARTICIPATE IN AUCTIONS DISPOSING OF MORTGAGE NOTES OR RESIDENCES.

(5) THE AGENCY'S BOARD OF DIRECTORS SHALL ESTABLISH, IN CONSULTATION WITH THE ADVISORY COUNCIL ESTABLISHED IN SUBDIVISION THREE OF THIS SECTION, GUIDELINES TO:

(A) DEVELOP APPLICATION AND REPORTING PROCEDURES FOR ELIGIBLE INSTITUTIONS TO USE TO APPLY FOR FUNDS TO CARRY OUT THE PROVISIONS OF THIS SECTION AND CRITERIA FOR USE BY THE ELIGIBLE INSTITUTIONS THAT RECEIVE FUNDS PURSUANT TO THIS SECTION TO EVALUATE APPLICATIONS FOR ASSISTANCE FROM HOMEOWNERS;

(B) DEVELOP GUIDELINES FOR FUNDS ISSUED TO AND LOANS ISSUED BY THE AGENCY AND BY ELIGIBLE INSTITUTIONS, INCLUDING GUIDELINES FOR USE BY THE AGENCY FOR PURCHASE AND SALES OF RESIDENCES AND/OR MORTGAGES AND NOTES;

(C) ESTABLISH THE PROCEDURE BY WHICH ELIGIBLE INSTITUTIONS ARE SELECTED AND COMPENSATED, INCLUDING ESTABLISHING THE RELATIVE IMPORTANCE AND/OR WEIGHT GIVEN TO EACH CRITERION;

(D) ESTABLISH TERMS BY WHICH ELIGIBLE INSTITUTIONS SHALL MAINTAIN AND UTILIZE FUNDS RECEIVED PURSUANT TO THIS SECTION, PROVIDED HOWEVER THAT ELIGIBLE INSTITUTIONS SHALL KEEP SUCH FUNDS SEPARATE FROM ALL OTHER OF ITS BUSINESS OR FIDUCIARY ACCOUNTS; AND

(E) ESTABLISH TERMS BY WHICH THE ELIGIBLE INSTITUTIONS SHALL REPAY THE FUND FOR MONIES ALLOCATED TO THEM PURSUANT TO THIS SECTION, IF APPLICABLE.

(6) NOTHING IN THIS SECTION SHALL PRECLUDE AN ELIGIBLE INSTITUTION FROM WORKING WITH OR COORDINATING ACTIVITIES AND/OR SERVICES WITH ANY ENTITY THAT HANDLES AND FACILITATES THE TRANSFERS OF MORTGAGE NOTES AND/OR PROPERTY TO ELIGIBLE ENTITIES UNDER THIS SECTION; PROVIDED, HOWEVER, THAT ANY FUNDS AWARDED TO AN ELIGIBLE INSTITUTION SHALL ONLY BE USED TO ADVANCE THE PURPOSES OF THIS SECTION.

(7) THE AGENCY SHALL SUBMIT A REPORT TO THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE MINORITY LEADER OF THE SENATE ON OR BEFORE THE FIRST OF FEBRUARY EACH YEAR. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, A DETAILED DESCRIPTION OF THE USE OF FUNDS BY THE AGENCY FOR PROGRAMS UNDER THIS SECTION, AND OF THE USE OF FUNDS FOR EACH ELIGIBLE INSTITUTION RECEIVING FUNDS UNDER THIS SECTION.

S 4. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, section or part thereof directly involved in the controversy in which such judgement shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 5. This act shall take effect immediately.