

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

10730

I N A S S E M B L Y

June 14, 2016

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Weinstein,
Robinson) -- (at request of the Governor) -- read once and referred to
the Committee on Housing

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 2401 of the public authorities law, is amended by
2 adding a new closing paragraph to read as follows:
3 IT IS FURTHER FOUND AND DETERMINED THAT THERE IS A NEED TO ESTABLISH A
4 PROGRAM TO ASSIST HOMEOWNERS IN THE STATE OF NEW YORK WHO HAVE BEEN
5 AFFECTED BY THE NATIONAL MORTGAGE CRISIS WHO ARE EITHER DELINQUENT ON
6 THEIR MORTGAGE PAYMENTS OR ARE IN DANGER OF GOING INTO DEFAULT BECAUSE
7 OF ECONOMIC HARDSHIP, AS SUCH TERM IS DEFINED UNDER THE AGENCY'S GUIDE-
8 LINES, IN CONSULTATION WITH THE ADVISORY COUNCIL ESTABLISHED IN SUBDIVI-
9 SION THREE OF SECTION TWENTY-FOUR HUNDRED FIVE-F OF THIS PART, WHO MAY
10 LOSE THEIR HOMES TO FORECLOSURE, OR WHO MAY HAVE ABANDONED THEIR HOMES
11 DUE TO ECONOMIC HARDSHIP AND WHO MAY BENEFIT FROM ASSISTANCE. IN ADDI-
12 TION, THE EXISTENCE OF VACANT, ABANDONED, DISTRESSED, DILAPIDATED OR
13 REASONABLY BEYOND REPAIR PROPERTIES MAY CONTRIBUTE TO THE PERSISTENCE OF
14 CONDITIONS THAT INCREASE BLIGHT AND ADD TO THE DETERIORATION OF THE
15 QUALITY OF THE ENVIRONMENT AND LIVING CONDITIONS OF A LARGE NUMBER OF
16 PERSONS RESIDING IN THE STATE. TO ADDRESS THESE CONDITIONS, IT IS HEREBY
17 FOUND AND DETERMINED THAT THE STATE OF NEW YORK MORTGAGE AGENCY SHALL BE
18 AUTHORIZED TO CREATE AND MANAGE A FUND TO ACQUIRE RESIDENCES AND TO
19 PURCHASE MORTGAGES AND MORTGAGE NOTES, OR TO PROVIDE MONIES TO ELIGIBLE
20 INSTITUTIONS TO ACQUIRE RESIDENCES AND TO PURCHASE MORTGAGES AND MORT-
21 GAGE NOTES AND TO CARRY OUT SUCH OTHER FUNCTIONS IN CONNECTION WITH SUCH
22 ACQUISITIONS AS ARE NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS PARA-
23 GRAPH. IN CONNECTION THEREWITH, THE STATE OF NEW YORK MORTGAGE AGENCY
24 SHALL BE AUTHORIZED TO CREATE A SUBSIDIARY CORPORATION TO CARRY OUT THE
25 PROGRAM AUTHORIZED UNDER THIS PARAGRAPH.

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

LBD12089-01-6

1 S 2. Subdivision 31 of section 2404 of the public authorities law, as
2 renumbered by chapter 151 of the laws of 2013, is renumbered subdivision
3 33 and two new subdivisions 31 and 32 are added to read as follows:

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

6 (32) TO FORM A SUBSIDIARY TO BE KNOWN AS "THE STATE OF NEW YORK MORT-
7 GAGE AGENCY COMMUNITY RESTORATION FUND" FOR THE PURPOSE OF USING FUNDS
8 AVAILABLE TO THE AGENCY UNDER THE PROGRAM SET FORTH IN SECTION
9 TWENTY-FOUR HUNDRED FIVE-F OF THIS PART AND OF OWNING AND HOLDING ANY
10 RESIDENCES, MORTGAGES AND MORTGAGE NOTES ACQUIRED BY THE AGENCY, AND TO
11 OTHERWISE CARRY OUT THE PURPOSES OF SECTION TWENTY-FOUR HUNDRED FIVE-F
12 OF THIS PART. SUCH SUBSIDIARY CREATED PURSUANT TO THIS SUBDIVISION MAY
13 EXERCISE AND PERFORM ONE OR MORE OF THE PURPOSES, POWERS, DUTIES, FUNC-
14 TIONS, RIGHTS AND RESPONSIBILITIES OF THE AGENCY, OTHER THAN THE ISSU-
15 ANCE OF INDEBTEDNESS, IN CONNECTION WITH REAL AND PERSONAL PROPERTY WITH
16 RESPECT TO WHICH THE AGENCY HOLDS OR HELD A MORTGAGE, SECURITY INTEREST
17 OR OTHER COLLATERAL. SUCH SUBSIDIARY SHALL HAVE THE POWER TO OWN,
18 ACQUIRE AND DISPOSE OF REAL PROPERTY, AND TO ACQUIRE, OWN AND HOLD,
19 SERVICE AND DISPOSE OF MORTGAGES AND MORTGAGE NOTES. IT SHALL HAVE THE
20 RIGHT TO FORECLOSE OR CONTRACT TO FORECLOSE ON ANY MORTGAGE ACQUIRED BY
21 SUCH SUBSIDIARY, UNDER THE LAWS OF THE STATE, TO COMMENCE ANY ACTION TO
22 PROTECT OR TO ENFORCE THE RIGHTS CONVEYED TO IT BY LAW, CONTRACT OR ANY
23 AGREEMENT AND TO DISPOSE OF ANY SUCH PROPERTY AND TO OTHERWISE PROCEED
24 WITH ANY ACTION AS MAY BE NECESSARY TO PROTECT THE INTERESTS OF SAID
25 SUBSIDIARY. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
26 THE TRANSFER OF TITLE TO SUCH SUBSIDIARY OR ANY OTHER ACTIONS TAKEN BY
27 THE AGENCY OR SUCH SUBSIDIARY TO ENFORCE THE AGENCY'S RIGHTS UNDER THE
28 MORTGAGE, SECURITY INTEREST OR OTHER COLLATERAL INTEREST OR TO PROTECT,
29 ACQUIRE, OWN, MANAGE OR DISPOSE OF THE PROPERTY SHALL BE DEEMED TO BE A
30 CORPORATE PURPOSE OF THE AGENCY GRANTED TO IT TO CARRY OUT THE PURPOSES
31 OF SECTION TWENTY-FOUR HUNDRED FIVE-F OF THIS PART. SUCH SUBSIDIARY
32 SHALL BE ESTABLISHED IN THE FORM OF A PUBLIC BENEFIT CORPORATION BY
33 EXECUTING AND FILING WITH THE SECRETARY OF STATE A CERTIFICATE OF INCOR-
34 PORATION WHICH SHALL IDENTIFY THE AGENCY AS THE ENTITY ORGANIZING SUCH
35 SUBSIDIARY AND SET FORTH THE NAME OF SUCH SUBSIDIARY PUBLIC BENEFIT
36 CORPORATION, ITS DURATION, THE LOCATION OF ITS PRINCIPAL OFFICE AND ITS
37 CORPORATE PURPOSES AS PROVIDED IN THIS SUBDIVISION AND WHICH CERTIFICATE
38 MAY BE AMENDED FROM TIME TO TIME BY THE FILING OF AMENDMENTS THERETO
39 WITH THE SECRETARY OF STATE, PROVIDED THAT THE SUBSIDIARY CREATED HERE-
40 UNDER SHALL CEASE TO EXIST AT SUCH TIME AS THE PROGRAM AUTHORIZED UNDER
41 SECTION TWENTY-FOUR HUNDRED FIVE-F OF THIS PART IS NO LONGER IN EXIST-
42 ENCE. SUCH SUBSIDIARY SHALL BE ORGANIZED AS A PUBLIC BENEFIT CORPO-
43 RATION, SHALL BE A BODY POLITIC AND CORPORATE, AND SHALL HAVE ALL THE
44 PRIVILEGES, IMMUNITIES, TAX EXEMPTIONS AND OTHER EXEMPTIONS OF THE AGEN-
45 CY. THE MEMBERS OF SUCH SUBSIDIARY SHALL BE THE SAME AS THE MEMBERS OF
46 THE AGENCY.

47 S 3. The public authorities law is amended by adding a new section
48 2405-f to read as follows:

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

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

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

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

9 (C) "VACANT AND ABANDONED" RESIDENTIAL REAL PROPERTY SHALL MEAN (I)
10 RESIDENTIAL REAL PROPERTY, AS DEFINED IN SECTION THIRTEEN HUNDRED FIVE
11 OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW, WHERE THE PROPERTY IS
12 NOT OCCUPIED BY THE TENANT, AS THAT TERM IS DEFINED IN SECTION THIRTEEN
13 HUNDRED FIVE OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW, HOMEOWN-
14 ER, OR MORTGAGOR AND (II) EITHER:

15 (A) THE PROPERTY IS A RISK TO THE HEALTH, SAFETY, OR WELFARE OF THE
16 PUBLIC, OR ANY ADJOINING OR ADJACENT PROPERTY OWNERS, DUE TO ACTS OF
17 VANDALISM, LOITERING, CRIMINAL CONDUCT, OR PHYSICAL DESTRUCTION OR DETE-
18 RIORATION OF THE PROPERTY; OR

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

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

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

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

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

51 (E) "ELIGIBLE INSTITUTION" SHALL MEAN A COMMUNITY DEVELOPMENT FINAN-
52 CIAL INSTITUTION OR A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION PART-
53 NERED WITH A NOT-FOR-PROFIT, HOUSING COUNSELING AGENCY, LAND BANK, OR
54 OTHER LOCAL GOVERNMENT ENTITY, OR ANY OF THE AFOREMENTIONED, EITHER ON
55 THEIR OWN OR PARTNERED WITH A COMMUNITY DEVELOPMENT FINANCIAL INSTITU-
56 TION. AN ELIGIBLE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION SHALL HAVE

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

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

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

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

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

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

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

1 HOUSING, OR COMMUNITY DEVELOPMENT NEEDS IN COMMUNITIES HARD HIT BY FORE-
2 CLOSURES. THE GUIDELINES SHALL INCLUDE, AMONG OTHER THINGS, REQUIRE-
3 MENTS TO ENSURE THAT FUND MONIES ARE EXPENDED BASED UPON DEMONSTRABLE
4 COMMUNITY NEEDS, FOR THE PURPOSES SET FORTH IN THIS SUBDIVISION, AND MAY
5 ALSO BE AWARDED BY THE AGENCY TO ELIGIBLE INSTITUTIONS FOLLOWING THE
6 PROCESS ESTABLISHED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION, TO:

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

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

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

24 (III) REHABILITATE DISTRESSED PROPERTIES; AND/OR

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

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

28 (C) FUND NOT-FOR-PROFIT DEVELOPERS, AFFORDABLE HOUSING DEVELOPERS, AND
29 NOT-FOR-PROFIT AGENCIES TO ACQUIRE VACANT AND ABANDONED PROPERTIES OR
30 OTHER REAL PROPERTY, MORTGAGES, OR MORTGAGE NOTES ACQUIRED UNDER THIS
31 PROGRAM, AND DEVELOP SUCH PROPERTIES INTO AFFORDABLE HOUSING AND TO WORK
32 WITH HOMEOWNERS IN THE INVESTMENT AREA ELIGIBLE TO BE ASSISTED UNDER
33 THIS SECTION, THROUGH ACTIVITIES SUCH AS FORECLOSURE PREVENTION COUN-
34 SELING, PROVIDING NEW HOMEOWNER TRAINING, HOME REPAIR AND REHABILI-
35 TATION, PROPERTY AND ASSET MANAGEMENT, DEMOLITION, AND MARKETING PROPER-
36 TIES FOR SALE AND RENTAL.

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

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

44 (II) THE EXTENT OF NEED WITHIN THE INVESTMENT AREAS OR TARGETED POPU-
45 LATIONS;

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

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

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

53 (VI) IN THE CASE OF AN INSTITUTION WITH A PRIOR HISTORY OF SERVING
54 INVESTMENT AREAS OR TARGETED POPULATIONS, THE EXTENT OF SUCCESS IN SERV-
55 ING 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.