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

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2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sens. COMRIE, PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law, in relation to establishing the community restoration fund

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

Section 1. Statement of legislative purpose and findings. The legislature finds and declares that New York's mortgage foreclosure crisis continues. Many New Yorkers are still unable to meet their mortgage obligations. There are delays in the foreclosure process, homes are sitting vacant or in a state of ill repair because of drawn out loan modification and foreclosures, neighborhoods with high concentrations of foreclosures are losing value and the owners are losing equity. Foreclosures that were the result of the real estate downturn and great recession will continue to be a problem within the state. The legislature finds that it is necessary to create a statewide program to stabilize communities throughout the state by: (i) avoiding foreclosures and ameliorating the effects of the mortgage foreclosure crisis; (ii) eliminating blighted properties and vacant lots that bring down community values and create attractive nuisances within communities; (iii) restoring property tax income to counties and towns; and (iv) maintaining affordable housing. Accordingly the legislature hereby creates the community restoration fund.

S 2. Definitions. As used in this act, the following words and phrases shall have the following meanings:

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

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1. "Community development financial institution" or "CDFI" means 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.

2. "Fund manager" means a New York-based Community Development Financial Institution ("CDFI") fund manager.

3. "Program manager" means a property holding company that will own and manage the assets purchased through the community restoration fund.

S 3. The state finance law is amended by adding a new section 99-z to read as follows:

S 99-Z. COMMUNITY RESTORATION FUND. 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE "COMMUNITY RESTORATION FUND".

2. THE COMMUNITY RESTORATION FUND SHALL CONSIST OF MONEYS DEPOSITED THEREIN BY THE STATE COMPTROLLER FROM THE ATTORNEY GENERAL OF THE STATE OBTAINED THROUGH JUDGMENTS AND SETTLEMENTS WITH LENDING INSTITUTIONS FOR SUBPRIME AND PREDATORY LOANS, FOR MORTGAGE SERVICING AND SECURITIZATIONS, CLAIMS RELATED TO MORTGAGE PRACTICES, MORTGAGE BACKED SECURITIES, CASES RELATED TO MORTGAGE AND MORTGAGE SECURITIES IN THE LONDON INTERBANK OFFERED RATE AND OTHER MORTGAGE FORECLOSURE RELATED CASES AND FROM FEDERAL, STATE OR LOCAL GOVERNMENTS AND PRIVATE INVESTORS. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS AND DEPOSITING THEM INTO THE ACCESSIBLE ELECTRONIC INFORMATION SERVICE FUND ACCORDING TO LAW.

3. THE MONEYS IN THE FUND SHALL BE USED TO:

(A) PURCHASE MORTGAGE NOTES ON ONE, TWO, THREE AND FOUR FAMILY HOMES AT DISCOUNTED RATES WITH THE INTENT OF MODIFYING THE MORTGAGE TO AN AFFORDABLE RATE TO KEEP CURRENT HOMEOWNERS IN THE PROPERTY; AND

(B) ACQUIRE HOMES AT DISCOUNTED RATES FROM LENDERS, AND PURCHASE HOMES AT AUCTION OR THROUGH SHORT SALE WITH THE INTENT TO:

(I) RENT OR SELL BACK TO HOMEOWNERS WITH AN AFFORDABLE LOAN;

(II) FUND LOCAL, NOT-FOR-PROFIT-DEVELOPMENT EFFORTS TO TURN VACANT PROPERTIES INTO AFFORDABLE HOUSING;

(III) REHABILITATE DISTRESSED PROPERTIES FOR NEW OWNERS IF THE PROPERTY WAS VACANT; AND/OR

(IV) DEMOLISH HOMES BEYOND REPAIR.

4. THE URBAN DEVELOPMENT CORPORATION SHALL SELECT THE FUND MANAGER AND PROGRAM MANAGER THROUGH THE REQUEST FOR PROPOSAL PROCESS.

5. THE FUND MANAGER SHALL:

(A) BE RESPONSIBLE FOR THE RECEIPT, MANAGEMENT AND EXPENDITURE OF MONIES HELD IN THE COMMUNITY RESTORATION FUND;

(B) MAINTAIN BOOKS AND RECORDS PERTAINING TO ALL MONIES RECEIVED AND DISBURSED PURSUANT TO THIS SECTION;

(C) RECEIVE PUBLIC, SETTLEMENT AND OTHER FUNDS AND USE THOSE FUNDS TO PURCHASE ASSETS THAT WILL BE HELD BY THE PROGRAM MANAGER;

(D) HAVE THE AUTHORITY TO ACQUIRE DISTRESSED ASSETS AND PURCHASE MORTGAGE NOTES ON ONE, TWO, THREE AND/OR FOUR FAMILY HOMES, WHETHER CURRENT, DELINQUENT AND/OR IN FORECLOSURE, OCCUPIED, VACANT OR ABANDONED, WHERE PURCHASED:

(I) BY A FUND MANAGER AT CURRENT APPRAISED VALUES;

(II) THROUGH NEGOTIATED SALES AT FHA DISTRESSED ASSET STABILIZATION PROGRAM SALES;

(III) THROUGH AUCTIONS, SHORT SALES, REAL ESTATE OWNED PROPERTIES OR PROPERTIES IDENTIFIED BY THE NOT-FOR-PROFIT ORGANIZATIONS ON THE COMMUNITY RESTORATION FUND COUNCIL;

(E) HAVE THE AUTHORITY TO TRANSFER DISTRESSED ASSETS TO THE PROGRAM MANAGER;
(F) WORK WITH THE COMMUNITY RESTORATION FUND COUNCIL TO DEVELOP STRATEGIES FOR ACQUIRING DISTRESSED ASSETS AND TO IDENTIFY OPPORTUNITIES TO ACQUIRE DISTRESSED ASSETS;
(G) WORK WITH THE PROGRAM MANAGER AND THE COMMUNITY RESTORATION FUND COUNCIL TO IDENTIFY NOT-FOR-PROFIT DEVELOPERS ABLE TO IMPLEMENT DISPOSITIONS TAILORED TO LOCAL NEEDS, WHETHER SALES TO NEW HOMEOWNERS, USE AS AFFORDABLE RENTAL PROPERTY, OR DEMOLITION AND REPURPOSING FOR OTHER COMMUNITY USES;
(H) MAKE FUNDS DIRECTLY AVAILABLE TO NOT-FOR-PROFIT ORGANIZATIONS AND DEVELOPERS FOR USE TO ACQUIRE, REHABILITATE AND/OR FINANCE PROPERTIES DIRECTLY. THESE FUNDS WOULD BE MADE AVAILABLE THROUGH A REQUEST FOR PROPOSAL PROCESS CONDUCTED BY A STATE AGENCY IN CONSULTATION WITH THE FUND MANAGER;
(I) DEVELOP A PLAN TO MAKE THIS A REVOLVING LOAN FUND; AND
(J) APPLY FOR FEDERAL OR PRIVATE GRANT MONEY THAT BECOMES AVAILABLE TO CARRY OUT THE PURPOSE OF THIS SECTION.
6. THE PROGRAM MANAGER SHALL:
(A) OWN AND MANAGE THE DISTRESSED ASSETS ACQUIRED BY THE FUND MANAGER;
(B) HAVE THE POWER TO MODIFY MORTGAGE NOTES ON THE ACQUIRED ASSETS;
(C) WITH THE INPUT OF THE COMMUNITY RESTORATION FUND COUNCIL, DEVELOP DISPOSITION STRATEGIES TAILORED TO THE NEEDS AND MARKET CONDITIONS IN THE LOCAL COMMUNITIES WHERE THE DISTRESSED ASSETS ARE LOCATED;
(D) WORK WITH THE COMMUNITY RESTORATION FUND COUNCIL TO DETERMINE OPTIMAL OUTCOMES FOR ACQUIRED MORTGAGE NOTES AND PROPERTIES;
(E) HAVE A RELATIONSHIP WITH A SPECIALTY MORTGAGE SERVICER WHOSE ROLE IS TO ASSIST WITH MODIFICATIONS OF ACQUIRED MORTGAGE NOTES;
(F) WORK WITH THE FUND MANAGER AND THE COMMUNITY RESTORATION FUND COUNCIL TO DEVELOP MODIFICATION CRITERIA;
(G) WORK WITH LOAN SERVICERS AND HOUSING COUNSELORS TO ASSIST BORROWERS WITH APPLICATIONS FOR LOAN MODIFICATIONS AND REFINANCING; AND
(H) WORK WITH THE FUND MANAGER AND THE COMMUNITY RESTORATION FUND COUNCIL TO IDENTIFY NOT-FOR-PROFIT DEVELOPERS ABLE TO IMPLEMENT DISPOSITIONS TAILORED TO LOCAL NEEDS, WHETHER SALES TO NEW HOMEOWNERS, USE AS AFFORDABLE RENTAL PROPERTY, OR DEMOLITION AND REPURPOSING FOR OTHER COMMUNITY USES.
S 4. Community restoration fund council. 1. There is hereby established the community restoration fund council consisting of thirty members. The purpose of such council is to serve as an advisory board to both the community restoration fund and the program manager, assist with the identification of opportunities to acquire distressed assets, assist in the development of disposition strategies tailored to meet the needs and market conditions in the local communities where distressed assets are located, work with the program manager to determine optimal outcomes for acquired mortgage notes and properties, work with the fund manager and program manager to determine the loan servicer's modification criteria, and work with the fund manager and program manager to identify not-for-profit developers able to implement dispositions tailored to local needs, whether sales to new homeowners, use as affordable rental property, or demolition and repurposing for other community uses.
2. The members of the council shall consist of:
a. The commissioner of the New York state department of economic development;
b. The commissioner of New York state homes and community renewal;

c. Twenty-eight community based, not-for-profit members with two members from each of the regional economic development regions, with the exception of New York city where there will be two community based, not-for-profit members from each borough.

3. No member shall receive any compensation for his or her services.

S 5. Annual report to the legislature. The urban development corporation shall submit a report to the governor, the speaker of the assembly and the temporary president of the senate on or before the first of October, and annually thereafter, describing the use of the community restoration fund pursuant to this act, including asset purchases, loan modifications, home sales, rentals, property rehabilitations and other information provided pursuant to this act, including: the number of assets purchased, number of loans modified, number of properties rented and a description of projects financed or assisted by fund monies; the amount and source of funds leveraged; and such other information as the state agency may deem appropriate.

S 6. The urban development corporation is hereby authorized to promulgate rules and regulations in accordance with the state administrative procedure act that are necessary to fulfill the purposes of this act. Such rules and regulations are to be completed within one hundred eighty days of the effective date of this act.

S 7. This act shall take effect immediately.