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

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I N S E N A T E

March 4, 2016

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to establishing the community reinvestment program; and establishes the community reinvestment program fund council

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 is ongoing. This state's communities have been devastated by the dramatic increase in foreclosures since the 2008 financial crisis. Many New Yorkers are working to keep their homes, but are faced with a mortgage servicing system moving too slowly. Communities across the state struggle to cope with vacant, distressed or abandoned properties that, if repaired and returned to the market, would be affordable housing and generate tax income for municipalities. The legislature finds that it is necessary to create a statewide program to protect communities throughout the state by: (i) preventing foreclosures when possible, (ii) reducing blight, (iii) restoring property tax revenue, and (iv) supporting affordable housing options. Accordingly the legislature hereby creates the community reinvestment program.

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

1. "Asset" means real property or notes secured by mortgages.

2. "Community development financial institution" or "CDFI" means an organization 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.

3. "Community reinvestment program fund" or "fund" means the community reinvestment program fund established pursuant to section 85 of the state finance law.

4. "Council" means the community reinvestment program fund council.

5. "Fund manager" means a Community Development Financial Institution ("CDFI") fund manager.

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

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6. "Not-for-profit members" means members of the community reinvestment program fund council who do not have a significant financial interest in or control of a business or profit making entity involved in real estate transactions or real estate speculation.

7. "Program manager" means a property holding company that will own and manage the assets purchased through the community reinvestment program.

8. "Real estate owned" means real property owned by a lender, including a banking organization, or federal or state agency, which owns such property as the result of a default in payments on a mortgage.

9. "Vacant" means real property which has no current residents.

S 3. The state finance law is amended by adding a new section 85 to read as follows:

S 85. COMMUNITY REINVESTMENT PROGRAM FUND. 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE "COMMUNITY REINVESTMENT PROGRAM FUND".

2. THE COMMUNITY REINVESTMENT PROGRAM FUND SHALL CONSIST OF MONEYS DEPOSITED THEREIN BY THE STATE COMPTROLLER. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS, MONIES OBTAINED THROUGH JUDGMENTS AND SETTLEMENTS FROM THE STATE OR ANY OTHER GOVERNMENTAL ENTITY, 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 TO FOUR UNIT HOMES AT DISCOUNTED RATES; AND

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

(I) WHERE POSSIBLE, MODIFY THE MORTGAGE TO AN AFFORDABLE RATE TO KEEP CURRENT HOMEOWNERS IN THE PROPERTY;

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

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

(IV) REHABILITATE DISTRESSED PROPERTIES FOR NEW OWNERS; AND/OR

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

4. (A) AS USED IN THIS SECTION, THE TERMS "COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION" "CDFI", "FUND MANAGER" AND "PROGRAM MANAGER" SHALL HAVE THE SAME MEANINGS AS ASCRIBED TO SUCH TERMS BY SECTION TWO OF THE CHAPTER OF THE LAWS OF TWO THOUSAND SIXTEEN THAT ADDED THIS SECTION.

(B) AS USED IN THIS SECTION, "COMMUNITY REINVESTMENT PROGRAM FUND COUNCIL" MEANS SUCH COUNCIL AS ESTABLISHED BY SECTION FOUR OF THE CHAPTER OF THE LAWS OF TWO THOUSAND SIXTEEN THAT ADDED THIS SECTION.

5. THE DIVISION OF HOUSING AND COMMUNITY RENEWAL, IN CONSULTATION WITH THE COMMUNITY REINVESTMENT PROGRAM FUND COUNCIL, SHALL SELECT THE FUND MANAGER AND PROGRAM MANAGER THROUGH THE REQUEST FOR PROPOSAL PROCESS.

6. THE FUND MANAGER SHALL:

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

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

(C) SEEK AND RECEIVE 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 RESEARCH, ACQUIRE AND PURCHASE DISTRESSED OR UNDERPERFORMING ASSETS IN ORDER TO TRANSFER SUCH ASSETS TO THE PROGRAM MANAGER;

(E) WORK WITH THE COMMUNITY REINVESTMENT PROGRAM FUND COUNCIL TO DEVELOP STRATEGIES FOR ACQUIRING DISTRESSED ASSETS AND TO IDENTIFY OPPORTUNITIES TO ACQUIRE DISTRESSED ASSETS;

(F) WORK WITH THE PROGRAM MANAGER AND THE COMMUNITY REINVESTMENT PROGRAM 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; PROVIDED, HOWEVER, THAT IF NO NOT-FOR-PROFIT DEVELOPER IS AVAILABLE IN A PARTICULAR LOCATION, A FOR-PROFIT DEVELOPER MAY, WITH THE CONSENT AND APPROVAL OF THE COMMUNITY REINVESTMENT PROGRAM FUND COUNCIL, BE SELECTED;

(G) MAKE FUNDS DIRECTLY AVAILABLE TO NOT-FOR-PROFIT ORGANIZATIONS AND DEVELOPERS FOR USE TO ACQUIRE, REHABILITATE AND/OR FINANCE PROPERTIES DIRECTLY; PROVIDED, HOWEVER, THAT IF NO NOT-FOR-PROFIT ORGANIZATIONS AND DEVELOPERS ARE AVAILABLE IN A PARTICULAR LOCATION, FOR-PROFIT ORGANIZATIONS AND DEVELOPERS MAY, WITH THE CONSENT AND APPROVAL OF THE COMMUNITY REINVESTMENT PROGRAM FUND COUNCIL, BE SELECTED. THESE FUNDS WOULD BE MADE AVAILABLE THROUGH A REQUEST FOR PROPOSAL PROCESS CONDUCTED THROUGH THE DIVISION OF HOUSING AND COMMUNITY RENEWAL, IN CONSULTATION WITH THE FUND MANAGER;

(H) DEVELOP A PLAN TO MAKE THE FUND A REVOLVING LOAN FUND;

(I) APPLY FOR FEDERAL OR PRIVATE GRANT MONEY THAT BECOMES AVAILABLE TO CARRY OUT THE PURPOSE OF THIS SECTION;

(J) COORDINATE WITH MUNICIPALITIES TO IDENTIFY MORTGAGE NOTES FOR PURCHASE; AND

(K) PERFORM ANY AND ALL TASKS AND FUNCTIONS NECESSARY TO OPERATE THE FUND.

7. THE PROGRAM MANAGER SHALL:

(A) HAVE THE AUTHORITY TO ACQUIRE, PURCHASE OR SELL DISTRESSED REAL PROPERTY ASSETS OR MORTGAGE NOTES ON ONE TO FOUR UNIT HOMES, WHETHER CURRENT, DELINQUENT AND/OR IN FORECLOSURE, OCCUPIED, VACANT OR ABANDONED, WHERE PURCHASED OR ACQUIRED:

(I) AT OR BELOW REASONABLE AND CUSTOMARY PRICES;

(II) THROUGH NEGOTIATED SALES AT FHA DISTRESSED ASSET STABILIZATION PROGRAM SALES OR AT ANY OTHER SUCH SALES CONDUCTED BY A GOVERNMENT ENTITY;

(III) THROUGH AUCTIONS, SHORT SALES, REAL ESTATE OWNED PROPERTIES OR PROPERTIES IDENTIFIED BY THE MEMBERS OF THE COMMUNITY REINVESTMENT PROGRAM FUND COUNCIL;

(IV) THROUGH DONATION OR BY OTHER MEANS;

(B) OWN AND MANAGE THE DISTRESSED OR UNDERPERFORMING ASSETS;

(C) HAVE THE POWER TO MODIFY MORTGAGE NOTES ON THE ACQUIRED ASSETS;

(D) WITH THE INPUT OF THE COMMUNITY REINVESTMENT PROGRAM FUND COUNCIL, DEVELOP DISPOSITION STRATEGIES TAILORED TO THE NEEDS AND MARKET CONDITIONS IN THE LOCAL COMMUNITIES WHERE THE DISTRESSED OR UNDERPERFORMING ASSETS ARE LOCATED;

(E) WORK WITH THE COMMUNITY REINVESTMENT PROGRAM FUND COUNCIL TO DETERMINE OPTIMAL OUTCOMES FOR ACQUIRED MORTGAGE NOTES AND PROPERTIES;

(F) HAVE A RELATIONSHIP WITH A SPECIALTY MORTGAGE SERVICER WHOSE ROLE IS TO ASSIST WITH MODIFICATIONS OF ACQUIRED MORTGAGE NOTES;

(G) WORK WITH THE FUND MANAGER AND THE COMMUNITY REINVESTMENT PROGRAM FUND COUNCIL TO DEVELOP MODIFICATION CRITERIA;

(H) WORK WITH LOAN SERVICERS, HOUSING COUNSELORS AND ATTORNEYS TO ASSIST BORROWERS WITH APPLICATIONS FOR LOAN MODIFICATIONS AND REFINANCING;

(I) WITH THE APPROVAL OF THE COMMUNITY REINVESTMENT PROGRAM FUND COUNCIL, MAKE AVAILABLE REASONABLE EXPENSES TO NOT-FOR-PROFIT ORGANIZATIONS FOR DIRECT DISPOSITION EXPENSES, INCLUDING WORKING WITH HOMEOWNERS TO ACHIEVE LOAN MODIFICATIONS AND OTHER WORKOUT OPTIONS;

(J) WORK WITH THE FUND MANAGER AND THE COMMUNITY REINVESTMENT PROGRAM 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;

(K) MEET WITH THE COMMUNITY REINVESTMENT PROGRAM FUND COUNCIL AT A MINIMUM EVERY QUARTER OF THE CALENDAR YEAR, AND PROVIDE SUCH COUNCIL WITH THE INFORMATION NEEDED TO ASSESS WHETHER THE FUND IS OPERATING WITHIN THE PURPOSES OF THIS SECTION; AND

(L) PERFORM ANY AND ALL TASKS AND FUNCTIONS NECESSARY TO OPERATE THE FUND.

S 4. Community reinvestment program fund council. 1. There is hereby established the community reinvestment program fund council consisting of twenty-seven members. The purpose of such council is to serve as an advisory board to advise the program manager, assist with the identification of opportunities to acquire distressed or underperforming assets, assist in the development of disposition strategies tailored to meet the needs and market conditions in the local communities where distressed or underperforming 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, 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, and perform such functions as shall be necessary to operate the community reinvestment program fund.

2. The members of the council shall consist of:

a. the commissioner of housing and community renewal, or his or her designee, who shall be the chair of the council;

b. the commissioner of economic development, or his or her designee;

c. the chair of the senate committee on housing, construction and community development or his or her designee;

d. the chair of the assembly committee on housing or his or her designee;

e. twenty-three community based, not-for-profit members with two members from each of the regional economic council areas, with the exception of the city of New York. These areas shall include: Western New York, the Finger Lakes, Central New York, the Southern Tier, the Mohawk Valley, the North Country, the Capital Region, the Mid-Hudson Region and Long Island. One member shall be appointed from each borough of the city of New York; and

f. not less than seventy-five percent of the appointed members of the council shall have experience with housing organizations, not-for-profit corporations, advocacy organizations, civic associations, community-based organizations or similar entities with expertise in the fields of housing, housing finance, municipal planning or community development.

3. Members of the council shall serve terms of two years. Members who serve pursuant to paragraphs c and d of subdivision two of this section shall serve for the duration of their two year term and shall not be removed unless there is good cause shown, after notice and an opportunity to be heard.

4. The governor shall appoint the members of the council, with the advice and consent of the senate. The governor shall appoint the members of the council from a list of qualified persons submitted to the division of housing and community renewal by the chairs of the senate committees on banks, and housing, construction and community development, and the chairs of the assembly committees on banks and housing. Such list shall be composed of individuals who have knowledge or expertise in housing issues within their region of the state.

5. Notwithstanding the provisions of subdivision three of this section, of the members of the council initially appointed, in accordance with paragraph c of subdivision two of this section, one member from each regional council area and the members appointed from the boroughs of Manhattan and Staten Island shall be appointed for a term of one year, and all subsequent appointees shall serve terms of two years. The governor shall appoint the initial members, with the advice and consent of the senate, within 180 days of the effective date of this section. Furthermore, the first meeting of the council shall convene within 90 days of the date upon which all members of the council have been appointed.

6. The council shall meet at least quarterly or more frequently at the call of the chair of the council. At the initial meeting of the council and annually thereafter the members of the council shall elect from its members a secretary and such other officers as the council shall deem necessary.

7. The chair of the council shall establish committees for the purpose of conducting special studies pursuant to the duties of the council. Individuals who are not members of the council shall be authorized to be members of a committee to serve as resource persons for the committee. No person who is not a member of the council shall be a voting member of a committee or the council. All recommendations of a committee shall be subject to the approval of the council.

8. The members of the council shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this act. All such expenses shall be payable from the fund.

S 5. Annual report to the legislature. The division of housing and community renewal shall submit a report to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly and the minority leader 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 community reinvestment program shall constitute a governmental entity within the division of housing and community renewal. Such program shall be the primary entity within the state for negotiating the purchase of assets from distressed asset stabilization sales, in consultation with municipalities and local government entities. Such local governments shall enter into participation agreements with the community reinvestment program to establish the terms of asset acquisition. Local government entities shall notify the program manager not less than thirty days prior to making any distressed asset purchase, federal housing

finance agency purchase, or purchase from any other entity engaged in the sale of mortgage note pools for purposes substantially similar to those enumerated in this act. In the event that the program manager is able to expedite such purchases or reduce costs, he or she shall make an effort to do so in consultation with the council.

S 7. The division of housing and community renewal 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 including, but not limited to, rules relating to the management of the fund, distribution of monies therefrom, mortgage note acquisition guidelines, council activities and meeting schedules, and affordability guidelines. The rules shall include guidelines to ensure that fund monies are expended based upon demonstrable community needs. In addition, these rules shall specify that no more than forty percent of the monies of the fund shall be expended on an annual basis in any single economic development council area. Furthermore, such rules and regulations are to be completed not later than one hundred eighty days after the effective date of this act.

S 8. This act shall take effect immediately.