

STATE OF NEW YORK

11083

IN ASSEMBLY

June 4, 2018

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Epstein) --
read once and referred to the Committee on Banks

AN ACT directing the department of financial services to study, evaluate
and make recommendations concerning lending practices by financial
institutions to landlords acquiring property that includes rent-regu-
lated tenants

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Legislative findings and intent. The legislature finds and
2 declares that the practice known as "predatory equity" is furthering the
3 state's affordable housing crisis. Predatory equity is a model in which
4 landlords purchase affordable housing units based on speculative income,
5 which leads them to displace rent-regulated tenants and return apart-
6 ments to market rate in order to earn back what was owed.

7 The legislature further finds that it is necessary to scrutinize the
8 role of the lenders involved in predatory equity, in order to determine
9 appropriate accountability for the financial institutions involved.
10 Affordable housing is critically important to the wellbeing of middle
11 and low-income New Yorkers as well as the state as a whole. It is incum-
12 bent upon the state to take remedial action to resolve the affordability
13 crisis.

14 § 2. 1. For the purposes of this act, "financial institutions" means a
15 bank, trust company, savings institution, credit union, or any other
16 entity authorized to originate and service loans.

17 2. The department of financial services is hereby authorized and
18 directed to prepare or have prepared a study to review the process in
19 which financial institutions provide loans to landlords acquiring prop-
20 erty that includes rent-regulated tenants. Such study shall examine:

21 (a) whether financial institutions are considering the following
22 factors when reviewing a landlord's loan application:

23 (i) debt service coverage ratio;

24 (ii) capitalization rate;

25 (iii) gross rent multiplier;

26 (iv) loan to value; and

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

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(v) net operating income, including income and expenses;

(b) whether financial institutions are including the following factors in their underwriting calculations of debt:

- (i) current rent charged or rent expected to be charged in the future;
- (ii) whether any preferential rent is charged and any projections to terminate such preferential rent in the future;
- (iii) the number of vacant units in a property and whether such units are classified as market rate, deregulated or rent-regulated;
- (iv) whether individual apartment improvements will be performed on any vacant units;
- (v) the number of rent-regulated units at the time of loan origination;
- (vi) any projected construction or major capital improvements; and
- (vii) projections of any turnover in rent-regulated apartments.

(c) whether financial institutions are appropriately considering only currently established rents and realistic maintenance costs when determining the net operating costs for the property;

(d) whether financial institutions are appropriately examining the types of capital improvements included in the landlord's plans for the property;

(e) whether financial institutions are using realistic appraisal values and appropriately doing so;

(f) whether financial institutions are ascertaining whether the landlord or property manager is taking on more debt than the property can support;

(g) whether financial institutions are considering a landlord's additional private equity including the source of such equity and the expected rate of return;

(h) whether financial institutions are considering a landlord's additional debt including debt from other lenders;

(i) how financial institutions are evaluating the records of landlords and property managers and whether such financial institutions are utilizing multiple sources and considering factors including, but not limited to liens and violations against the property managers and landlords, as well as any prior indication by not-for-profits or governmental organizations that such landlords or property managers have ever engaged in the practices associated with "predatory equity" including, but not limited to hazardous conditions and tenant harassment;

(j) whether financial institutions intend to have individuals personally visit the buildings and correspond with the tenants to address their needs;

(k) whether financial institutions hold information sessions with tenant advocacy groups and organizers;

(l) whether financial institutions review the number of rent-regulated units in a building two years prior to and two years after a loan disbursement;

(m) whether financial institutions have any established standards and practices when loaning to a landlord or property manager and if such practices are at least as rigorous as those that apply to mortgages; and

(n) any other criteria the department of financial services deems necessary to understand the nature and frequency of predatory equity.

§ 3. The superintendent of financial services, in consultation with appropriate staff, is authorized to draft and issue a request for proposal (RFP) to an outside firm or entity in order to conduct the study.

1 § 4. The department of financial services is authorized to charge
2 financial institutions, collectively, for the costs of conducting the
3 study up to \$350,000.

4 § 5. No later than eighteen months after the effective date of this
5 act, the department of financial services shall report to the legisla-
6 ture and the governor on the findings of the study conducted pursuant to
7 section two of this act including on the scope, nature and frequency of
8 involvement in predatory equity throughout the financial industry and
9 any legislative recommendations deemed to be necessary.

10 § 6. This act shall take effect immediately.