STATE OF NEW YORK

6413

2017-2018 Regular Sessions

IN SENATE

May 17, 2017

Introduced by Sen. LITTLE -- (at request of the Division of Housing & Community Renewal) -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the private housing finance law and the public authorities law, in relation to the powers of the New York State Housing Finance Agency and the State of New York Mortgage Agency

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

Section 1. Section 44 of the private housing finance law is amended by adding a new subdivision 33 to read as follows:

33. (a) To form one or more subsidiaries for the purpose of limiting the potential liability of the agency when exercising the powers and duties conferred upon the agency by this article in connection with the exercise of remedies by the agency against any borrower that has defaulted in its obligations under its loan agreement or mortgage with the agency and for which an event of default has been declared by the agency. Each 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 interest including: (i) bidding for, taking, holding, selling, conveying, assigning or transferring title to such property; (ii) entering into leases, subleases, operating agreements, security agreements, loan agreements or other encumbrances or arrangements with regard to such property and acting in a manner consistent with the rights, obligations or responsibilities of the owner of such property pursuant to such agreements or encumbrances; and (iii) assuming any indebtedness or other liabilities secured by such property. Notwithstanding any other provision of law to the contrary, but in all

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

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instances subject to the provisions of any contract with bondholders, the transfer of title to any 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, manage or dispose of the property shall be deemed to be a corporate purpose of the agency and shall not impair the validity of any bonds, notes or other obligations of the agency to which the mortgage, security interest or other collateral interest relates.

(b) Each such subsidiary authorized by paragraph (a) of this subdivision 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. Each 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 each such subsidiary shall be the same as the members of the agency and the provisions of section fifty-six-a of this article shall in all respects apply to such members when acting in such capacity.

(c) Nothing in this subdivision shall be construed to impose any liabilities, obligations or responsibilities of any such subsidiary upon the agency and the agency shall have no liability or responsibility therefor unless the agency expressly agrees to assume the same.

(d) Each such subsidiary created pursuant to this subdivision shall be subject to any other provision of this article pertaining to subsidiaries of public authorities.

§ 2. Section 2427 of the public authorities law is amended by adding a new subdivision 11 to read as follows:

11. (a) To form one or more subsidiaries for the purpose of limiting the potential liability of the agency only with respect to insuring mortgage loans and providing development corporation credit support. Each 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 with respect to insuring mortgage loans and providing development corporation credit support in connection with real and personal property with respect to which the agency holds or held a mortgage, security interest or other collateral interest including: (i) bidding for, taking, holding, selling, conveying, assigning or transferring title to such property; (ii) entering into leases, subleases, operating agreements, security agreements, loan agreements or other encumbrances or arrangements with regard to such property and acting in a manner consistent with the rights, obligations or responsibilities of the owner of such property pursuant to such agreements or encumbrances; and (iii) assuming any indebtedness or other liabilities secured by such property. Notwithstanding any other provision of law to the contrary, but in all instances subject to the provisions of any contract of insurance, the transfer of title to any 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, manage or dispose of the property shall be deemed to be a corporate purpose of the agency.

(b) Each such subsidiary authorized by paragraph (a) of this subdivision 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. Each 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 each such subsidiary shall be the same as the members of the agency and the provisions of section fifty-six-a of the private housing finance law shall in all respects apply to such members when acting in such capacity.

(c) Nothing in this subdivision shall be construed to impose any liabilities, obligations or responsibilities of any such subsidiary upon the agency and the agency shall have no liability or responsibility therefor unless the agency expressly agrees to assume the same.

(d) Each such subsidiary created pursuant to this subdivision shall be subject to any other provision of this article pertaining to subsidiaries of public authorities.

§ 3. Subdivision 9 of section 2404 of the public authorities law, as amended by chapter 1023 of the laws of 1971, is amended to read as follows:

(9) Subject to any agreement with bondholders or noteholders, to sell any mortgages or other personal property acquired by the agency at public or private sale and at such price or prices as it shall determine[~~, provided, however, that a private sale shall be limited to an agency of the federal government, the federal national mortgage association, or a sale of a mortgage to a bank from which it was originally purchased~~]. If the agency determines to sell mortgages at public sale, a notice of such sale shall be published at least once at least five days prior to the date of such sale in a financial newspaper or journal published in the city of New York;

§ 4. This act shall take effect immediately.