STATE OF NEW YORK

8443

IN SENATE

June 3, 2020

Introduced by Sens. GAUGHRAN, KAVANAGH, ADDABBO, BROOKS, CARLUCCI, HARCKHAM, KAMINSKY, KAPLAN, MARTINEZ, MAY, METZGER, SKOUFIS, THOMAS -- 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 public housing law, in relation to establishing the COVID-19 emergency homeownership stability program

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

Section 1. The public housing law is amended by adding a new article 14 to read as follows:

ARTICLE 14

COVID-19 EMERGENCY HOMEOWNERSHIP STABILITY PROGRAM

Section 600. Definitions.
601. Authority to implement COVID-19 emergency homeownership stability program.
602. Eligibility.
603. Tax lien foreclosure.
604. Mortgage foreclosure.
605. Payment.

§ 600. Definitions. For purposes of this article, the following terms shall have the following meanings:

1. "Adjusted income" shall mean income minus any deductions allowable at the discretion of the commissioner pursuant to this section. In determining the income of a household for the purposes of this paragraph, income shall be considered to include only income that the household is receiving at the time of application for assistance from the program and any income recently terminated shall not be included, except that for purposes of households receiving assistance for arrearages income may include the income that the household was receiving at the time such arrearages were incurred.

2. "Income" shall mean income from all sources of each member of the household, including all wages, tips, overtime, salary, recurring gifts, returns on investments, welfare assistance, social security payments, child support payments, unemployment benefits, any benefit, payment or

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

LBD16482-01-0

cash grant whose purpose is to assist with rental payments, any payments whose purpose is to replace lost income, and any other government benefit or cash grant. The term "income" shall not include: employment income from children under eighteen years of age, employment income from children eighteen years of age or older who are full-time students, foster care payments, sporadic gifts, groceries provided by persons not living in the household, supplemental nutrition assistance program benefits, earned income disregard, or the earned income tax credit.

3. "Qualified property" means residential real property owned by the homeowner which is used exclusively as the homeowner's primary residence; provided however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be ineligible for the payment established pursuant to this subdivision.

4. "Property tax" shall mean a tax levied, or portion of those taxes levied, by or on behalf of any county, city, town, village, school district or special district on the qualified property which is attributable to the year two thousand twenty.

5. "Mortgagor" shall mean an individual who resides in New York whose principal dwelling is encumbered by a home loan pursuant to paragraph (a) of subdivision six of section thirteen hundred four of the real property actions and proceedings law or whose principal dwelling is a co-operative unit whose shares are encumbered by any loan otherwise meeting the requirements of a home loan under paragraph (a) of subdivision six of section thirteen hundred four of the real property actions and proceedings law, from or serviced by a regulated institution.

6. "Reverse mortgage loan" shall have the same meaning as section two hundred eighty of the real property law.

7. "Homeowner" shall mean a person or persons who is a resident of the state and who owns and primarily resides in qualified property within the state.

8. "Homeownership payments" shall mean mortgage payments, reverse mortgage payments, property taxes, hazard insurance payments, flood insurance payments, mortgage insurance payments, homeowners' association fees, condominium common charges, or utility payments. Homeownership payments shall not include: any mortgage payments that have been placed in forbearance at the time of application if such forbearance extends beyond the covered period.

9. "Utility" shall mean electric, gas, water, and internet service, including broadband internet access service.

10. "Fair market rent" shall mean the fair market rent for each rental area as promulgated annually by the United States department of housing and urban development's office of policy development and research pursuant to 42 U.S.C. 1437(f).

11. "Commissioner" shall mean the commissioner of New York homes and community renewal and its subsidiary, the housing finance agency.

12. "Covered period" means the period during which the restrictions constituting New York on PAUSE, as defined by Executive Order 202.31, applied in the county of the homeowner's residence.

§ 601. Authority to implement COVID-19 emergency homeownership stability program. The commissioner, as soon as practicable and subject to the disbursement of federal funds expressly for this purpose to the housing finance agency, shall implement an emergency COVID-19 homeownership stability program. The commissioner may delegate the administration of portions of this program to any state agency, city, county, town, or non-profit organization in accordance with the provisions of this arti-

cle. The housing finance agency, or the agency, governmental entity, or organization so designated by the commissioner, shall issue an emergency homeownership payment directly to the eligible homeowner.

§ 602. Eligibility. The commissioner shall promulgate standards for determining eligibility for this program. A homeowner shall be eligible for this program if:

1. The homeowner, during the covered period:

(a) applied and qualified for unemployment insurance benefits; or

(b) experienced a significant loss of income as determined by the department of taxation and finance or as determined in a manner prescribed by the commissioner; and

(c) the sum total of all homeownership payments that came due or will be owed during the covered period is greater than thirty percent of annualized adjusted income as pro-rated by the length of the covered period.

2. In addition to the eligibility criteria above, the commissioner may promulgate limits on assets as part of any determination of eligibility for this program.

3. A homeowner shall not be eligible for this program if their current annualized income is an amount equal to or greater than their income for the year two thousand nineteen.

4. Any ambiguity in eligibility criteria promulgated by the commissioner shall be resolved in favor of the applicant when determining eligibility.

5. Not less than sixty percent of the amount made available to the state shall be used for emergency homeownership payments that assist homeowners having incomes equal to or less than eighty percent of the area median income.

6. The commissioner may establish preference in processing applications for this payment. Such preference may include any or all of the following:

(a) the homeowner's historical income level prior to the covered period as it relates to the area median income;

(b) the homeowner's current income as it relates to the area median income;

(c) the taxpayer's property tax burden;

(d) the percentage of income the homeowner lost;

(e) the homeowner's status as a victim of domestic violence; and

(f) the current income of any additional parties on the deed for the qualified property who are not homeowners as defined in this section and, to the extent that any mortgage payments are considered in the total sum reached in paragraph (b) of this subdivision, the current income of any additional parties to the mortgage.

§ 603. Tax lien foreclosure. Notwithstanding any provision of law to the contrary, a tax lien foreclosure initiated pursuant to article eleven of the real property tax law which includes unpaid taxes that came due during the covered period cannot be commenced against a homeowner who has applied for this program unless or until a final determination of ineligibility has been issued. The action may proceed ninety days after the determination of ineligibility or after payment is released by the housing finance agency.

§ 604. Mortgage foreclosure. Notwithstanding any provision of law to the contrary, a mortgage foreclosure on a home loan as defined by section thirteen hundred four of the real property actions and proceedings law which includes unpaid mortgage payments that came due during the covered period cannot be commenced or proceed against a home-

owner who has applied for this program unless or until a final determination of ineligibility has been issued. The action may proceed ninety days after the determination of ineligibility or after payment is released by the housing finance agency.

§ 605. Payment. The emergency homeownership payment shall be a one-time payment paid directly to the homeowner. The amount of emergency homeownership payment shall be the lesser of:

1. the difference between the sum of homeownership payments due pursuant to section six hundred three of this article and thirty percent of the current annualized adjusted income as pro-rated by the duration of the covered period; or

2. the difference between two hundred fifty percent of the fair market rent for the area and thirty percent of the current annualized adjusted income as pro-rated by the duration of the covered period.

§ 2. 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 judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this act directly involved in the controversy in which such judgment 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 clause, sentence, paragraph, subdivision, section or part had not been included herein.

§ 3. This act shall take effect immediately.