

STATE OF NEW YORK

3669--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. CYMBROWITZ, EPSTEIN -- read once and referred to the Committee on Housing -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, the local finance law, and the private housing finance law, in relation to the modernization of affordable housing financing authorities; and to repeal certain provisions of the private housing finance law relating thereto

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

1 Section 1. Paragraphs a, c and g of subdivision 1 of section 696-a of
2 the general municipal law, as amended by chapter 320 of the laws of
3 1999, are amended to read as follows:

4 a. Notwithstanding the provisions of any general, special or local
5 law, an agency is hereby authorized to make or contract to make grants
6 or loans to the owner of any property that is part of an urban develop-
7 ment action area project for the purpose of (i) rehabilitation of an
8 existing private or multiple dwelling, (ii) providing site improvements
9 within the urban development action area in which the urban development
10 action area project is located, including, but not limited to, water and
11 sewer facilities, sidewalks, landscaping, parks and open space, social,
12 recreational, communal and other non-residential facilities and the
13 outfitting thereof, the curing of problems caused by abnormal site
14 conditions, excavation and construction of footings and foundations and
15 other improvements associated with the provision of infrastructure, or
16 (iii) providing for other costs of construction for the development of
17 private and multiple dwelling housing accommodations.

18 c. Any loan made in accordance with this section shall be secured by a
19 note and mortgage upon the property, or any portion of such property,
20 improved or, in the case of a condominium, a note and mortgage upon each
21 of the housing accommodations aided by such loan, or in the case of a

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

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1 cooperative housing corporation, a note and mortgage upon the economic
2 interest in such corporation of each tenant-shareholder aided by such
3 loan, or upon the property, or any portion of such property, improved,
4 or upon both such economic interest or property; provided, however, that
5 all or part of any such loan may be unsecured if necessary to satisfy
6 the requirements of any participating lender. Such loan shall be repaid
7 over such period as the agency shall determine.

8 g. For purposes of this section, (i) the term "mortgage" shall include
9 any pledge or assignment of shares or assignment of a proprietary lease
10 in a cooperative housing corporation where such pledge or assignment is
11 intended as security for the performance of an obligation and which
12 imposes a lien on or affects title to such shares or such proprietary
13 lease; and (ii) the term "owner" shall mean an individual, partnership,
14 corporation or other entity, including a non-profit company, a mutual
15 company, or a housing development fund company, having record or benefi-
16 cial title in fee simple to real property or the lessee thereof under a
17 lease having a term of at least forty-nine years.

18 § 2. Section 696-a of the general municipal law, as amended by chapter
19 465 of the laws of 1993, is amended to read as follows:

20 § 696-a. Loans. Notwithstanding the provisions of any general, special
21 or local law, an agency is hereby authorized to make or contract to make
22 grants or loans[~~+(i)~~] to the owner of any property that is part of an
23 urban development action area project for the purpose of: (i) rehabili-
24 tation of an existing private or multiple dwelling, (ii) [~~for the~~
25 ~~purpose of~~] providing site improvements within the urban development
26 action area in which the urban development action area project is
27 located, including, but not limited to, water and sewer facilities,
28 sidewalks, landscaping, parks and open space, social, recreational,
29 communal and other non-residential facilities and the outfitting there-
30 of, the curing of problems caused by abnormal site conditions, exca-
31 vation and construction of footings and foundations and other improve-
32 ments associated with the provision of infrastructure, or (iii) [~~for the~~
33 ~~purpose of~~] providing for other costs of construction for the develop-
34 ment of private and multiple dwelling housing accommodations. In the
35 case of a grant made under this section for the rehabilitation of an
36 existing multiple dwelling intended to be converted to a condominium or
37 cooperative form of ownership or for the development of one to four unit
38 housing accommodations or a condominium or cooperative housing corpo-
39 ration, such grant shall require a regulatory agreement with the agency
40 limiting profits. Any loan made in accordance with this section shall be
41 secured by a note and mortgage upon the property, or any portion of such
42 property, improved or, in the case of a condominium, a note and mortgage
43 upon each of the housing accommodations aided by such loan, or in the
44 case of a cooperative housing corporation, a note and mortgage upon the
45 economic interest in such corporation of each tenant-shareholder aided
46 by such loan, or upon the property, or any portion of such property,
47 improved, or upon both such economic interest or property; provided,
48 however, that all or part of any such loan may be unsecured if necessary
49 to satisfy the requirements of any participating lender. Such loan
50 shall be repaid over such period as the agency shall determine. In the
51 case of a loan for rehabilitation of an existing multiple dwelling
52 intended to be converted to a condominium or cooperative form of owner-
53 ship or a loan for the provision of infrastructure or for the provision
54 of other costs of construction for the development of one to four unit
55 housing accommodations or a condominium or cooperative housing corpo-
56 ration, such note and mortgage may provide that the loan shall automat-

ically be reduced to zero over a period of owner-occupancy of the housing accommodations assisted by such loan. In the case of a grant or loan made under this section for the purpose of providing rental housing for persons of low income as defined in section two of the private housing finance law, such loan or grant shall require a regulatory agreement with the agency limiting profits and rentals charged. In the case of a loan made under this section for the purpose of providing rental housing for persons of low income as defined in section two of the private housing finance law, such note and mortgage may provide that the loan shall automatically be reduced to zero over a period of up to thirty years of compliance by the owner with a regulatory agreement with the agency limiting profits and rentals charged. The repayment of any loan made in accordance with this section shall be made in such manner as may be provided in such note and mortgage in connection with such loan, and may authorize the owner, with the consent of the agency, to prepay the principal of the loan subject to such terms and conditions as therein provided. Such note and mortgage may contain such other terms and conditions not inconsistent with the provisions of this article as the agency may deem necessary or desirable to carrying out the purposes and provisions of this article including, but not limited to, provisions concerning the repayment of the loan, the interest, if any, thereon, and other charges in connection therewith. For purposes of this section, (1) the term "mortgage" shall include any pledge or assignment of shares or assignment of a proprietary lease in a cooperative housing corporation where such pledge or assignment is intended as security for the performance of an obligation and which imposes a lien on or affects title to such shares or such proprietary lease; and (2) the term "owner" shall mean an individual, partnership, corporation or other entity, including a non-profit company, a mutual company, or a housing development fund company, having record or beneficial title in fee simple to real property or the lessee thereof under a lease having a term of at least forty-nine years.

§ 3. The general municipal law is amended by adding a new section 696-e to read as follows:

§ 696-e. Servicing. An agency may make provision for the performance of loan or grant servicing functions, including but not limited to functions related to lending or providing a grant for construction, as may generally be performed by an institutional lender. Such agency may act in such capacity or appoint or consent to the appointment of a financial institution or other qualified entity, as determined by such agency, to act in such capacity on behalf of such agency. Such agency is authorized to pay a reasonable and customary fee to such financial institution or other qualified entity for the performance of such services.

§ 4. Subdivision 41 of paragraph a of section 11.00 of the local finance law, as amended by chapter 400 of the laws of 1994, is amended to read as follows:

41. Housing. The effectuating of any of the purposes of the public housing law, other than making loans to limited profit housing companies pursuant to article two of the private housing finance law, and other than making loans to owners of existing multiple dwellings, fifty years; bonds issued by a housing authority pursuant to section forty-one of the public housing law and guaranteed by a municipality pursuant to section ninety-five of the public housing law, five years, in addition to the foregoing period of fifty years, for the temporary financing of a project prior to the permanent financing thereof; evidences of indebtedness issued to the state pursuant to paragraph c of section 20.00 of

1 this chapter, three years, in addition to the foregoing period of fifty
2 years for the temporary financing of a project prior to the permanent
3 financing thereof; loans to limited profit housing companies pursuant to
4 article two of the private housing finance law, fifty-five years; loans
5 or grants to owners of existing private or multiple dwellings, non-resi-
6 dential property, or vacant land pursuant to the provisions of article
7 eight, article eight-A, article eight-B, article eleven or article
8 fifteen of the private housing finance law, or loans for the
9 construction of multiple dwellings pursuant to article eleven of the
10 private housing finance law, or loans or grants for the pre-development
11 costs or construction of private or multiple dwellings pursuant to arti-
12 cle twenty-two of the private housing finance law, thirty years.

13 § 5. Section 2 of the private housing finance law is amended by adding
14 a new subdivision 30 to read as follows:

15 30. "Climate resiliency improvements." Improvements for the purpose of
16 protecting land or any structures thereon from damage resulting from or
17 which may result from changes in climate, including, but not limited to,
18 extreme weather events, abnormal temperatures, and sea level rise, or of
19 reducing the impact of the operation of such structures on climate
20 change, including, but not limited to, improvements that reduce energy
21 consumption or promote the efficient use of natural resources.

22 § 6. Section 400 of the private housing finance law is amended to read
23 as follows:

24 § 400. Policy and purposes of article. It is hereby declared that
25 there exists in municipalities in this state a seriously inadequate
26 supply of safe and sanitary dwelling accommodations for persons and
27 families of low income; that such shortage constitutes an emergency and
28 a grave menace to the health, safety, morals, welfare and comfort of
29 citizens of this state; that there exists in such municipalities a large
30 number of multiple dwellings which are inadequate, unsafe or insanitary
31 by reason of the absence of proper heating facilities or by reason of
32 the necessity for elimination of conditions dangerous to human life or
33 detrimental to health, including nuisances as defined[7] in section
34 three hundred nine of the multiple dwelling law, or for other rehabili-
35 tation or improvement and which can be made adequate, safe and sanitary,
36 by the installation of proper heating facilities or by other rehabili-
37 tation, preservation or improvement or by the elimination of such condi-
38 tions; that such installation, rehabilitation, preservation or improve-
39 ment cannot readily be provided by the ordinary unaided operation of
40 private enterprise for occupancy by persons or families of low income
41 without public aid in the form of low interest loans or grants to owners
42 of such multiple dwellings for the purpose of such installation, reha-
43 bilitation, preservation or improvement; that the installation of proper
44 heating facilities in such multiple dwellings or other rehabilitation,
45 preservation or improvement thereof for occupancy by persons of low
46 income as defined in this article is a public use and a public purpose
47 for which public money may be loaned or granted; that such conditions
48 require the provisions hereinafter enacted; and the necessity in the
49 public interest for the provisions hereinafter enacted is hereby
50 declared as a matter of legislative determination.

51 § 7. Subdivision 3 of section 401 of the private housing finance law,
52 paragraph a as amended by chapter 44 of the laws of 1976, and paragraph
53 b as amended by chapter 904 of the laws of 1962, is amended to read as
54 follows:

55 3. a. The term "persons or families of low income" shall mean "persons
56 of low income" or "families of low income" as defined in section two of

1 this chapter~~[, whose probable aggregate annual income during the period~~
2 ~~of occupancy does not exceed six times the rental (including the value~~
3 ~~or cost to them of heat, light, water and cooking fuel) of dwelling~~
4 ~~units occupied by such persons or families in existing multiple dwell-~~
5 ~~ings aided by a loan pursuant to this article, except that in the case~~
6 ~~of persons or families with three or more dependents, such ratio shall~~
7 ~~not exceed seven to one, and except further that the income limitations~~
8 ~~prescribed by this paragraph shall be subject to the provisions of~~
9 ~~subdivision two of section four hundred three of this article.~~

10 ~~In calculating annual income, social security payments and income~~
11 ~~received from private pension funds by any person sixty two years of age~~
12 ~~or more shall be excluded up to a total maximum amount of seventy five~~
13 ~~dollars per month. The term "probable aggregate annual income" means the~~
14 ~~annual income of the chief wage earner of the family, plus all other~~
15 ~~income of other members of the family over the age of twenty-one years,~~
16 ~~plus a proportion of income of gainfully employed members under the age~~
17 ~~of twenty-one years, the proportion to be determined by the agency. The~~
18 ~~agency may exclude a proportion of the income of other members of the~~
19 ~~family over the age of twenty-one years for the purpose of determining~~
20 ~~eligibility for commencement of occupancy or continued occupancy, or for~~
21 ~~establishing rental of such family, or for all such purposes].~~

22 b. Notwithstanding the provisions of paragraph a of this subdivision,
23 ~~[and subject to the provisions of subdivision three of section four~~
24 ~~hundred three of this article]~~ the term "persons or families of low
25 income" shall also mean any person or family who, immediately prior to
26 the date on which a contract for a loan with respect to an existing
27 multiple dwelling is entered into pursuant to the provisions of this
28 article, occupies any dwelling unit in such multiple dwelling and who
29 continuously occupies such unit during and after completion of central
30 heating or other rehabilitation or improvement performed pursuant to
31 such contract provided, however, that any person or family required to
32 remove from any such dwelling unit because of such installation, reha-
33 bilitation or improvement shall, for the purpose of this section, be
34 deemed to have continuously occupied such unit and shall have preference
35 in re-entering such multiple dwelling upon completion of the aforesaid
36 work.

37 § 8. Subdivision 6 of section 401 of the private housing finance law,
38 as added by chapter 505 of the laws of 1973, is amended to read as
39 follows:

40 6. The term "owner" shall mean a person having record or beneficial
41 title in fee simple to real property or the lessee thereof under a lease
42 having an unexpired term of at least thirty years.

43 § 9. Subdivision 1 of section 402 of the private housing finance law,
44 as amended by chapter 808 of the laws of 1971, is amended and a new
45 subdivision 1-a is added to read as follows:

46 1. Notwithstanding the provisions of any general, special or local
47 law, a municipality, by such officer or agency as determined by its
48 local legislative body, is hereby authorized:

49 (a) to make or contract to make loans to the owners of existing multi-
50 ple dwellings within its territorial limits, subject to the limitations
51 in subdivision two of this section, in such amounts as may be required
52 for the installation of proper heating facilities, the incorporation of
53 climate resiliency improvements or elimination of conditions dangerous
54 to human life or detrimental to health, including nuisances as defined
55 in section three hundred nine of the multiple dwelling law, or other
56 rehabilitation, preservation or improvement of such multiple dwellings,

1 and if such owner acquires the multiple dwelling for the purposes of
2 such rehabilitation, preservation or improvement or owns the multiple
3 dwelling subject to an outstanding indebtedness, such loans may be made
4 exclusively for or may include such amounts as may be required for the
5 cost of such acquisition or for the refinancing of such outstanding
6 indebtedness, and may make temporary loans or advances to such owners in
7 anticipation of the permanent municipal loans for such purposes[~~+~~]; and

8 (b) to make or contract to make grants to any owner described in para-
9 graph (a) of this subdivision, on the same terms as permitted under such
10 paragraph for a loan.

11 1-a. As used in this article, the term "loan" shall include any grant
12 made by a municipality pursuant to this section, provided, however, that
13 any provision of this article concerning the repayment or forgiveness
14 of, or security for, a loan shall not apply to any grant made pursuant
15 to this article.

16 § 10. Subdivisions 2-a, 2-b, and 2-c of section 402 of the private
17 housing finance law, subdivision 2-a as added by chapter 213 of the laws
18 of 1975, subdivision 2-b as amended by chapter 362 of the laws of 2000,
19 and subdivision 2-c as amended by chapter 101 of the laws of 1994, are
20 amended to read as follows:

21 ~~2-a. [As used in this section the term "value" shall mean the "as is"~~
22 ~~value of the multiple dwelling and the land upon which it is situated~~
23 ~~prior to such installation, elimination, other rehabilitation or~~
24 ~~improvement referred to in subdivision one of this section plus the~~
25 ~~total of all costs of such installation, elimination, rehabilitation or~~
26 ~~improvement including, but not limited to, the costs of any or all~~
27 ~~undertakings necessary for the planning, financing, tenant relocation,~~
28 ~~acquisition, construction, equipment and development in connection ther-~~
29 ~~ewith.~~

30 ~~2-b.]~~ (a) Each permanent loan shall be secured by a bond and mortgage
31 or note and mortgage upon the multiple dwelling, or any portion of such
32 multiple dwelling, and the land upon which it is situated[~~+~~ ~~where the~~
33 ~~loan is made to an owner who is a lessee, such loan shall be secured by~~
34 ~~a first lien on such property].~~

35 (b) ~~[The amount of any such loan shall not exceed the cost of the~~
36 ~~installation of proper heating facilities, or elimination of conditions~~
37 ~~dangerous to human life or detrimental to health, including nuisances as~~
38 ~~defined in section three hundred nine of the multiple dwelling law, or~~
39 ~~other rehabilitation or improvement provided that, if any portion of~~
40 ~~such loan is used for the cost of acquisition of the land and the multi-~~
41 ~~ple dwelling or for re-financing, the total amount of such loan shall~~
42 ~~not exceed two times the cost of such installation, elimination of such~~
43 ~~conditions, rehabilitation or improvement.~~

44 ~~(c) The amount of any such loan, together with the amount of all prior~~
45 ~~liens and encumbrances, shall not exceed, except in the case of a loan~~
46 ~~made to a non-profit company, a mutual company, or a housing development~~
47 ~~fund company, ninety per centum of the value of the property, after~~
48 ~~completion of the installation of proper heating facilities, or elimi-~~
49 ~~nation of such conditions or other rehabilitation or improvement, as~~
50 ~~estimated by the agency, unless the agency makes a written determination~~
51 ~~that the owner has insufficient resources to pay for the remaining ten~~
52 ~~per centum of the value of the property, after completion of such~~
53 ~~installation, elimination, or other rehabilitation or improvement, as~~
54 ~~estimated by the agency, in which case such loan shall not exceed nine-~~
55 ~~ty-five per centum of the value of the property, after completion of the~~
56 ~~installation of proper heating facilities, or elimination of such condi-~~

~~tions or other rehabilitation or improvement, as estimated by the agency. The amount of any such loan, together with the amount of all prior liens and encumbrances, made to a non-profit company, a mutual company, or a housing development fund company shall not exceed the value of the property after completion of such installation, elimination, or other rehabilitation or improvement, as estimated by the agency provided that when after completion of such installation, elimination or other rehabilitation or improvement, such project is, or is to be operated exclusively for the benefit of persons or families who are entitled to occupancy by reason of ownership of stock in the corporate owners, such loan shall not exceed ninety-eight percentum of the value of the property, after completion of such installation, elimination, or other rehabilitation or improvement, as estimated by the agency, unless the agency makes a written determination that the owner has insufficient resources to pay for the remaining two per centum of the value of the property, after completion of such installation, elimination, or other rehabilitation or improvement, as estimated by the agency, in which case such loan shall not exceed the value of the property, after completion of such installation, elimination, or other rehabilitation or improvement, as estimated by the agency.~~

~~(d)] Each such bond and mortgage or note and mortgage shall be repaid over or within a period of [thirty] thirty-five years, provided that such period may be extended and shall be repaid within thirty-five years, in such manner as may be provided in such bond and mortgage or note and mortgage and contract ~~[but in no case to exceed the probable life of the multiple dwelling which is hereby determined to be thirty years]~~. Such bond and mortgage or note and mortgage and the contract in connection with such permanent and temporary loans may contain such other terms and provisions not inconsistent with the provisions of this article as the local legislative body or the agency may deem necessary or desirable to secure repayment of the loan, the interest thereon and other charges in connection therewith and to carry out the purposes and provisions of this article~~[, notwithstanding the foregoing, a loan made prior to January first, nineteen hundred seventy-eight may, in the discretion of the agency, be extended to a term up to forty-five years. The agency may modify the rate and time of payment of interest on the original loan and the rate and time of amortization of principal in such manner as required to secure payment of the loan within the extended term]~~.~~

~~[2-a.]~~ 2-b. If a loan pursuant to this article is made to a non-profit company or a housing development fund company which agrees to provide housing accommodations exclusively for persons and families of low income, at least thirty percent of whom are referred to it by the municipality and have prior to their initial occupancy in such accommodations resided in emergency shelter facilities operated by or on behalf of the municipality, the agency may provide that the note and mortgage shall automatically be reduced to zero in five equal annual decrements commencing on the tenth year after the initial occupancy date, provided that such accommodations have been owned and operated in a manner consistent with an agreement with the municipality contained in such note and mortgage to provide housing for such persons.

§ 11. Subdivisions 2, 3, 4 and 5 of section 403 of the private housing finance law, subdivision 2, paragraphs a, b and c of subdivision 3 and subdivision 4 as amended by chapter 904 of the laws of 1962, are amended to read as follows:

2. ~~[In the event that after any person or family included within the provisions of paragraph a of subdivision three of section four hundred one of this article, but not included within the provisions of paragraph b of such subdivision three, begins occupancy of any dwelling unit in any multiple dwelling aided by a loan pursuant to this article, and during the period while such dwelling unit is subject to a maximum rent prescribed pursuant to this article, the income of such person or family increases so as to exceed the applicable maximum prescribed by such paragraph a by more than fifty per centum, such person shall be subject to removal from such dwelling with the approval of the agency.]~~

3. ~~a. In the event that on the date on which a contract for a loan is made with respect to a multiple dwelling aided by a loan pursuant to this article, any person or family occupying a dwelling unit in such multiple dwelling and included within the provisions of paragraph b of subdivision three of section four hundred one of this article, has a probable aggregate annual income, as determined in accordance with the provisions of paragraph a of such subdivision three, which exceeds the income limits specified in such paragraph a by more than fifty per cent, such person or family shall be subject to removal from such dwelling unit with the approval of the agency upon the expiration of a period of two years after the date on which such contract is entered into.~~

~~b. In the event that at any time within a period of two years after any such contract is entered into, the income of any such person or family increases so as to exceed the income limits specified in such paragraph a by more than fifty per cent, such person or family shall be subject to removal from such dwelling unit with the approval of the agency upon the expiration of such period of two years.~~

~~c. If, at any time subsequent to the expiration of a period of two years after any such contract is entered into, and during the period while the dwelling unit occupied by any such person or family is subject to a maximum rent prescribed pursuant to this article, the income of such person or family increases so as to exceed the income limits specified in such paragraph a by more than fifty per cent, such person or family shall be subject to removal from such dwelling unit with the approval of the agency.~~

4.] Any person or family in occupancy~~[, whether included within the provisions of paragraph a or paragraph b of subdivision three of section four hundred one of this article, whose income exceeds the maximum prescribed by the provisions of such paragraph a with respect to the time of beginning of occupancy, shall]~~ whose income precludes the inclusion of such person or family within the definition provided in paragraph a of subdivision three of section four hundred one of this article may be required to pay a rental surcharge in accordance with a schedule of surcharges to be promulgated by the agency. In determining imposition of any such surcharge, the agency shall consider factors such as the net operating income and debt service coverage ratio of the property aided by a loan pursuant to this article. Rental surcharges collected pursuant to this section shall be paid by the owner to the municipality which has granted such owner tax exemption or tax abatement pursuant to any law authorizing the granting of same, as reimbursement to such municipality therefor. In the event that such tax exemption and tax abatement have not been granted, or in the event that a sum equal to the total amount of tax exemption and tax abatement granted to the owner has been paid to the municipality, the excess, if any, of surcharges shall be paid to the municipality in reduction of the loan.

~~1 [5. Any person or family whose removal is required by any provision of~~
~~2 this article shall be subject to removal by summary proceedings.]~~

3 § 12. The opening paragraph of subdivision 1 of section 404 of the
4 private housing finance law, as added by chapter 904 of the laws of
5 1962, is amended to read as follows:

6 No such loan shall be made by a municipality to an owner of an exist-
7 ing multiple dwelling unless the owner of such multiple dwelling ~~[and~~
8 ~~all persons holding a lien prior to that of the municipality]~~ shall
9 covenant in writing that so long as any part of such loan remains
10 unpaid, any exemption and abatement from taxation on the property
11 resulting from the installations, alterations or improvements made with
12 such loan remains in effect or for a period of at least ten years from
13 the occupancy date, whichever is the later:

14 § 13. Section 450 of the private housing finance law, as amended by
15 chapter 273 of the laws of 1975, is amended to read as follows:

16 § 450. Policy and purposes of article. It is hereby declared that
17 there exists in municipalities in this state a seriously inadequate
18 supply of safe and sanitary dwelling accommodations; that such shortage
19 constitutes an emergency and a grave menace to the health, safety,
20 morals, welfare and comfort of citizens of this state; that existing
21 conditions of deterioration of housing marked by noncompliance with the
22 multiple dwelling law or local housing codes threaten a further decrease
23 in such supply; that rehabilitation and improvement of dwellings to
24 prolong the useful life of such dwellings may be necessary to arrest
25 such conditions of deterioration; that the elimination of such condi-
26 tions by rehabilitation or other improvement cannot readily be provided
27 by the ordinary unaided operation of private enterprise without public
28 aid in the form of low interest loans or grants to owners of such multi-
29 ple dwellings; that such rehabilitation or other improvement of such
30 dwellings to bring them into conformance with the multiple dwelling law
31 and local housing codes is a public use, a public purpose and a city
32 purpose for which public money may be loaned or granted by a munici-
33 pality and for which indebtedness may be contracted by a municipality;
34 that such conditions require the provisions hereinafter enacted, and the
35 necessity in the public interest for the provisions hereinafter enacted
36 is hereby declared as a matter of legislative determination.

37 § 14. Subdivisions 2 and 3 of section 451 of the private housing
38 finance law, subdivision 2 as amended by chapter 705 of the laws of 1976
39 and subdivision 3 as amended by chapter 269 of the laws of 1985, are
40 amended to read as follows:

41 2. "Occupancy by persons of low income." Occupancy by ~~[persons paying~~
42 ~~rentals or carrying charges not in excess of the average rentals or~~
43 ~~carrying charges prevailing in local projects of municipally-aided~~
44 ~~limited-profit housing companies aided under article two of this chap-~~
45 ~~ter, the occupancy of which commenced on or after May eighteenth, nine-~~
46 ~~teen hundred seventy]~~ "persons of low income" or "families of low
47 income," as such terms are defined in section two of this chapter.

48 3. "Owner." An individual, partnership, corporation or other entity,
49 including a non-profit company, a mutual company, or a housing develop-
50 ment fund company, which holds record or beneficial title in fee simple
51 to the multiple dwelling and the real property upon which it is situate
52 or the lessee thereof under a lease the unexpired term of which shall be
53 not less than the term of the loan to be made under this article.

54 § 15. Subdivision 1 of section 452 of the private housing finance law,
55 as amended by chapter 923 of the laws of 1983, is amended and a new
56 subdivision 1-a is added to read as follows:

1 1. Notwithstanding the provisions of any general, special or local
2 law, a municipality is hereby authorized:

3 (a) to make or contract to make loans to the owners of existing multi-
4 ple dwellings within its territorial limits, subject to the limitations
5 in subdivision two of this section, for the elimination of any substand-
6 ard or insanitary condition or conditions in violation of the multiple
7 dwelling law or local housing code, for the incorporation of climate
8 resiliency improvements or for such replacement and rehabilitation of
9 the heating, plumbing, electrical and related systems or other improve-
10 ments as shall be reasonably necessary to prolong the useful life of
11 such dwellings, and may make temporary loans to such owners in antic-
12 ipation of the permanent municipal loans for such purposes; and

13 (b) to make or contract to make grants to any owner described in
14 paragraph (a) of this subdivision, on the same terms as permitted under
15 such paragraph for a loan.

16 1-a. As used in this article, the term "loan" shall include any grant
17 made by a municipality pursuant to this section, provided, however, that
18 provisions of this article concerning the repayment or forgiveness of,
19 or security for, a loan shall not apply to any grant made pursuant to
20 this article.

21 § 16. Subdivision 2 of section 452 of the private housing finance law,
22 as amended by chapter 408 of the laws of 2009, is amended to read as
23 follows:

24 2. Each loan shall be evidenced by a note executed by the owner of the
25 existing multiple dwelling. The supervising agency in its discretion may
26 require one or more of the shareholders of a corporate owner to co-sign
27 such note or to otherwise guarantee or pledge security for the repayment
28 of the loan. ~~[The amount of any such loan shall not exceed the sum of~~
29 ~~thirty-five thousand dollars (\$35,000) per dwelling unit, or the cost of~~
30 ~~eliminating such substandard or insanitary condition or conditions, or~~
31 ~~effecting such rehabilitation or improvement, whichever is less.]~~ Each
32 such note shall be repaid within a period ~~[of the probable life of the~~
33 ~~existing multiple dwelling which is hereby determined to be thirty~~
34 ~~years, or such shorter period as the supervising agency shall determine]~~
35 of thirty-five years, provided that such period may be extended and
36 shall be repaid within thirty-five years. The repayment shall be made

37 in such manner as may be provided in such note and contract, if any, in
38 connection with such loan and may authorize such owner, with the consent
39 of the supervising agency, to prepay the principal of the loan subject
40 to such terms and conditions as therein provided. Such note and contract
41 may contain such other terms and provisions not inconsistent with the
42 provisions of this article as the local legislative body or supervising
43 agency may deem necessary or desirable to secure repayment of the loan,
44 the interest thereon and other charges in connection therewith and to
45 carry out the purposes and provisions of this article, including but not
46 limited to provisions ensuring availability of rents for such repayment.

47 § 17. Section 453 of the private housing finance law, as added by
48 chapter 924 of the laws of 1970, paragraphs (c) and (d) as amended and
49 paragraph (e) of subdivision 1 as added by chapter 273 of the laws of
50 1975, is amended to read as follows:

51 § 453. Conditions precedent to making such loans. ~~[1.]~~ No such loan
52 shall be made by a municipality to an owner of an existing multiple
53 dwelling unless the owner of such multiple dwelling shall covenant in
54 writing that so long as any part of such loan shall remain unpaid or
55 for a period of at least ten years from the date of the loan, whichever
56 is later:

1 ~~[(a)]~~ 1. Each dwelling unit in such multiple dwelling shall be avail-
2 able solely for occupancy by persons of low income;

3 ~~[(b)]~~ 2. No person who lives in such multiple dwelling at the time the
4 loan is made shall be required to move because of the rehabilitation or
5 improvement financed thereby, except that a temporary relocation may be
6 required in connection with such rehabilitation or improvement;

7 ~~[(e)]~~ 3. All persons operating or managing such multiple dwelling will
8 permit the duly authorized officers, employees, agents or inspectors of
9 the municipality to enter in or upon and inspect such multiple dwelling
10 at all reasonable hours; ~~[and~~

11 ~~[(d)]~~ 4. The municipality by such duly authorized representatives as
12 aforesaid shall have full power to investigate into and order the owner
13 of such multiple dwelling to furnish such reports and information as it
14 may require concerning such rehabilitation or improvement and shall have
15 full power to audit the books of said owner with respect to such
16 matters; and

17 ~~[(e)]~~ 5. The owner will submit to the supervising agency annually a
18 statement of the income and expenses of such multiple dwelling, in such
19 form as shall be approved by such agency.

20 ~~[2. No such loan shall be made by a municipality unless such owner~~
21 ~~executed an affidavit that he was unable to obtain financing for such~~
22 ~~rehabilitation or improvement because of the neighborhood, the age of~~
23 ~~the building, or other factors indicating an inability of the private~~
24 ~~sector unaided to cause such rehabilitation or improvement to be made.]~~

25 § 18. The article heading of article 8-B of the private housing
26 finance law, as added by chapter 786 of the laws of 1987, is amended to
27 read as follows:

28 LOANS TO ~~[OWNER-OCCUPANTS]~~ OWNERS OF ONE TO FOUR UNIT
29 PRIVATE AND MULTIPLE DWELLINGS

30 § 19. Section 470 of the private housing finance law, as amended by
31 chapter 200 of the laws of 1997, is amended to read as follows:

32 § 470. Policy and purposes of article. It is hereby declared and found
33 that there exists in municipalities within the state substandard and
34 unsanitary areas and neighborhoods containing deteriorated ~~[owner-occu-~~
35 ~~pied]~~ one to four unit private and multiple dwellings, and that the
36 rehabilitation or preservation of such dwellings is necessary in order
37 to aid in the prevention and elimination of slums and blight in such
38 areas and neighborhoods.

39 It further is found that there exists in such municipalities a seri-
40 ously inadequate supply of safe and sanitary ~~[owner-occupied]~~ one to
41 four unit private and multiple dwellings, particularly for persons of
42 low and moderate income, that existing non-compliance with local housing
43 codes and with the multiple dwelling law and the multiple residence law
44 threatens to decrease such supply, and that the rehabilitation, preser-
45 vation and improvement of such dwellings is necessary to arrest such
46 conditions of deterioration.

47 It further is found that the elimination of such conditions by reha-
48 bilitation or other improvements cannot be readily provided without
49 public aid in the form of low interest loans or grants to ~~[low and~~
50 ~~moderate income owner-occupants]~~ owners of such one to four unit dwell-
51 ings.

52 The rehabilitation, preservation or other improvements of such dwell-
53 ings ~~[owned and occupied by low and moderate income persons or fami-~~
54 ~~lies,~~ is hereby declared a public purpose and a municipal purpose for
55 which public monies may be loaned or granted.

1 In order, further, to promote the preservation and rehabilitation of
2 such dwellings, it is hereby declared that additional provisions should
3 be made to provide public monies for interest reduction subsidies for
4 private loans made by private investors for such rehabilitation.

5 The necessity in the public interest for the provisions of this arti-
6 cle is hereby declared as a matter of legislative determination.

7 § 20. Subdivisions 6 and 9 of section 471 of the private housing
8 finance law are REPEALED and subdivisions 7, 8, 10, 11, and 12 are
9 renumbered 6, 7, 8, 9 and 10.

10 § 21. Subdivision 7 of section 471 of the private housing finance law,
11 as amended by chapter 200 of the laws of 1997, and as renumbered by
12 section twenty of this act, is amended to read as follows:

13 7. "Owner" shall mean an individual or individuals, a partnership, a
14 corporation or other entity, including but not limited to a trust, or a
15 joint tenancy, tenancy in common or tenancy by the entirety holding
16 record or beneficial title in fee simple to an existing private or
17 multiple dwelling and the real property upon which it is situated, or
18 the lessee thereof under a lease having an unexpired term of at least
19 thirty years. "Owner" shall be deemed to also include a cooperative
20 corporation or a condominium association.

21 § 22. Section 472 of the private housing finance law, as added by
22 chapter 786 of the laws of 1987, subdivision 1 as amended by chapter 479
23 of the laws of 2005, subdivision 2 as amended by chapter 408 of the laws
24 of 2009, subdivision 3 as amended by chapter 84 of the laws of 2001, and
25 subdivision 7 as added by chapter 705 of the laws of 1991, is amended to
26 read as follows:

27 § 472. Loans to [~~owner-occupants~~] owners. 1. Notwithstanding the
28 provisions of any general, special or local law, a municipality, acting
29 through an agency, is authorized:

30 (a) to make, or contract to make, loans to [~~low and moderate income~~
31 ~~owner-occupants~~] owners of one to four unit existing private or multiple
32 dwellings within its territorial limits, subject to the limitation of
33 subdivisions two through seven of this section, in such amounts as shall
34 be required for the rehabilitation, improvement or acquisition of such
35 dwellings[, provided, [~~however, that such loans shall not exceed sixty~~
36 ~~thousand dollars per dwelling unit. Such~~] that any such rehabilitation
37 or improvement may include climate resiliency improvements. Such loans
38 may also be made exclusively for or include the refinancing of the
39 outstanding indebtedness of such dwellings, and the municipality may
40 make temporary loans or advances to such [~~owner-occupants~~] owners in
41 anticipation of permanent loans for such purposes; and

42 (b) to make or contract to make grants to any owner described in para-
43 graph (a) of this subdivision, on the same terms as permitted under such
44 paragraph for a loan.

45 1-a. As used in this article, the term "loan" shall include any grant
46 made by a municipality pursuant to this section, provided, however, that
47 provisions of this article concerning the repayment or forgiveness of,
48 or security for, a loan shall not apply to any grant made pursuant to
49 this article.

50 2. Each loan shall be evidenced by a note executed by the [~~owner-occu-~~
51 ~~pant~~] owner of the existing dwelling. Repayment of each such note shall
52 be within a period of [~~the probable life of the existing dwelling which~~
53 ~~is hereby determined to be thirty years, or such shorter period as the~~
54 ~~agency shall determine~~] thirty-five years, provided that such period may
55 be extended and shall be repaid within thirty-five years. The repayment
56 shall be made in such manner as may be provided in such note and

1 contract, if any, in connection with such loan, and may authorize such
2 [~~owner-occupant~~] owner, with the consent of the agency, to prepay the
3 principal of the loan subject to such terms and conditions as therein
4 provided. In order to make any such loan affordable to the [~~owner-occu-~~
5 ~~pant~~] owner, the agency may provide in such note and contract that all
6 of the outstanding principal of said loan may be self-liquidated over a
7 [~~fifteen-year~~] period of [~~owner-occupancy~~] not less than fifteen years
8 of continuous compliance by the owner with a regulatory agreement or
9 other restrictive covenant with or approved by the agency and upon the
10 satisfaction of any additional conditions specified therein. Such note
11 and contract may contain such other terms and provisions not inconsis-
12 tent with the provisions of this article as the agency may deem necessary
13 or desirable to secure repayment of the loan, the interest thereon, if
14 any, and other charges in connection therewith, and to carry out the
15 purposes and provisions of this article.

16 3. The agency in its discretion may require that the [~~owner-occupant~~]
17 owner execute, acknowledge and deliver a uniform commercial code financ-
18 ing statement for the real property improvement to be in such form as
19 the agency shall specify and in accordance with the requirements of
20 section 9--502 of the uniform commercial code of the state of New York.
21 Said financing statement shall be filed or recorded without charge in
22 accordance with the provisions of paragraph one of subsection (a) of
23 section 9--501 of the uniform commercial code, and from the date of such
24 filing the municipality shall have a lien against said real property
25 improvement for the amount advanced or so much thereof as remains unpaid
26 together with the interest thereon. Upon payment of all sums advanced by
27 the municipality and interest thereon, and upon demand of the then
28 record owner of the real property, the agency shall deliver a copy of
29 the financing statement with an endorsement thereon that the lien is
30 satisfied. Upon filing of such copy in the office where the financing
31 statement was filed and upon payment of the proper fee therefor, the
32 lien of such financing statement shall be discharged.

33 4. The agency may require the [~~owner-occupant~~] owner to execute a
34 mortgage as security for a loan in lieu of or in addition to a financing
35 statement as provided in subdivision three of this section. Such mort-
36 gage shall contain such terms and provisions not inconsistent with the
37 provisions of this article as the agency shall deem necessary or desira-
38 ble to secure repayment of the loan.

39 5. Loans may be made with respect to a one to four unit private or
40 multiple dwelling encumbered by mortgages, provided no mortgage is in
41 default, except if such default shall be remedied by the proposed reha-
42 bilitation or improvement.

43 6. The agency may charge the [~~owner-occupant~~] owner of such existing
44 private or multiple dwelling reasonable fees for administration, financ-
45 ing, regulation, supervision and audit.

46 7. In making a loan under this article, an agency shall have the power
47 to participate in a loan made by any private investor[, ~~provided that~~
48 ~~the portion of the loan funded by the agency shall not exceed an amount~~
49 ~~equal to seventy-five percent of the total loan.~~] The agency may enter
50 into an agreement with a private investor to deposit funds with such
51 private investor to cover the agency's participation in loans to
52 [~~owner-occupants~~] owners of one to four unit existing private and multi-
53 ple dwellings with such funds advanced by such private investor to
54 [~~owner-occupants~~] owners of existing dwellings. The portion of the loan
55 funded by the agency may be equal to or subordinate in lien to the
56 portion of the loan funded by the private investor and the note and

1 contract may contain such terms with respect to interest rate, if any,
2 and time of payment of principal and interest as determined by the agen-
3 cy. The agency may make provision, either in the mortgage or mortgages
4 or by separate agreement, for the performance by the private investor of
5 such services as are generally performed by a banking institution which
6 itself holds a mortgage, including, without limitation, construction
7 loan advances, construction supervision, initiation of foreclosure
8 proceedings, procurement of insurance, and all other matters in
9 connection with the financing, supervision, regulation and audit of any
10 such loan. In order to make the loan affordable to the [~~owner-occupant~~]
11 owner, the agency may provide an interest reduction subsidy pursuant to
12 section four hundred seventy-five of this article, or may provide that
13 all or part of the agency's portion of the outstanding principal of any
14 such participation loan may be self-liquidated over a fifteen year peri-
15 od of [~~owner-occupancy~~] not less than fifteen years of continuous
16 compliance by the owner with a regulatory agreement or other restrictive
17 covenant with or approved by the agency and upon the satisfaction of any
18 additional conditions specified therein.

19 § 23. Subdivisions 1 and 2 of section 473 of the private housing
20 finance law, as added by chapter 786 of the laws of 1987, are amended to
21 read as follows:

22 1. No such loan shall be made to an [~~owner-occupant~~] owner of an
23 existing private or multiple dwelling unless the [~~owner-occupant~~] owner
24 of such private or multiple dwelling shall covenant in writing that so
25 long as any part of such loan shall remain unpaid or for a period of at
26 least ten years from the date of the loan, whichever is later: (i) the
27 [~~owner-occupant~~] owner or managing agent or operator of such dwelling
28 shall permit the duly authorized officers, employees, agents or inspec-
29 tors of the agency to enter in or upon and inspect such private or
30 multiple dwelling at all reasonable hours; (ii) the agency by such duly
31 authorized representatives as aforesaid shall have full power to inves-
32 tigate into and order the [~~owner-occupant~~] owner of such dwelling to
33 furnish such reports and information as it may require concerning such
34 rehabilitation or improvement and shall have full power to audit the
35 books of said owner with respect to such matters; and (iii) if the prop-
36 erty to be rehabilitated is a multiple dwelling, the [~~owner-occupant~~]
37 owner will submit to the agency annually a statement of income and
38 expenses of such dwelling, in such form as shall be approved by the
39 agency.

40 2. A municipality shall neither make nor participate in a loan to an
41 [~~owner-occupant~~] owner of an existing private or multiple dwelling
42 pursuant to this article unless the agency finds that the area in which
43 such dwelling is situated is a blighted, deteriorated or deteriorating
44 area or has a blighting influence on the surrounding area, or is in
45 danger of becoming a slum or a blighted area because of the existence of
46 substandard, unsanitary, deteriorating or deteriorated conditions, an
47 aged housing stock, or other factors indicating an inability of the
48 private sector to cause such rehabilitation to be made.

49 § 24. Subdivision 2 of section 474 of the private housing finance
50 law, as added by chapter 786 of the laws of 1987, is amended to read as
51 follows:

52 2. The agency is authorized to make provision in the note and loan
53 agreement or by separate agreement for the servicing of such loans by a
54 loan servicing company or other qualified entity, as determined by the
55 agency. and such services may include, but not be limited to, the
56 collection of the debt services on such loans and the establishment,

1 administration, and distribution of an escrow account for the payment of
2 the [~~owner-occupant's~~] owner's real estate taxes, sewer and water rents
3 and fire insurance.

4 § 25. Section 475 of the private housing finance law, as added by
5 chapter 786 of the laws of 1987, is amended to read as follows:

6 § 475. Interest reduction subsidies. Notwithstanding the provisions of
7 any general, special or local law, a municipality, acting through an
8 agency, is authorized to provide, or contract to provide, interest
9 reduction subsidies for loans made by private investors to [~~low and~~
10 ~~moderate income owner-occupants~~] owners of one to four unit existing
11 private or multiple dwellings within its territorial limits, if such
12 [~~owner-occupants~~] owners would have been eligible under the provisions
13 of this article for a loan made by the municipality pursuant to this
14 article.

15 § 26. The private housing finance law is amended by adding two new
16 sections 610 and 611 to read as follows:

17 § 610. Rent stabilization and regulatory agreements. 1. Notwithstand-
18 ing any other provision of law, including the provisions of, or any
19 regulation promulgated pursuant to, the emergency tenant protection act
20 of nineteen seventy-four or the rent stabilization law of nineteen
21 hundred sixty-nine, the state division of housing and community renewal,
22 when supervising housing accommodations under provisions of law other
23 than the emergency tenant protection act of nineteen seventy-four or the
24 rent stabilization law of nineteen hundred sixty-nine, the New York city
25 department of housing preservation and development, the New York state
26 urban development corporation, the New York state housing finance agen-
27 cy, the New York state housing trust fund, and the New York city housing
28 development corporation, or such other state or municipal agency, poli-
29 tical subdivision, public benefit corporation, or instrumentality as
30 the state division of housing and community renewal shall identify, may,
31 by agreement with an owner of a multiple dwelling, subject any housing
32 accommodation in such multiple dwelling to the emergency tenant
33 protection act of nineteen seventy-four or the rent stabilization law of
34 nineteen hundred sixty-nine, or both, if applicable to the municipality.
35 The requirements of such agreement shall supplement any requirements
36 imposed on such housing accommodation pursuant to any other provisions
37 of law.

38 2. Any agreement between a state or municipal agency, political subdi-
39 vision, public benefit corporation, or instrumentality described in
40 subdivision one of this section and an owner of a multiple dwelling that
41 contains provisions that are consistent with subdivision one of this
42 section and that is in effect as of the effective date of this section
43 is and will remain valid and enforceable.

44 § 611. Compliance monitoring. 1. Any supervising agency and any public
45 benefit corporation created pursuant to this chapter shall have the
46 power to: (a) subpoena, require the attendance of and examine and take
47 testimony under oath of such persons as it deems necessary to monitor,
48 and enforce compliance with, a note, mortgage, other financing agree-
49 ment, regulatory agreement, deed, land disposition agreement, or other
50 restrictive covenant with or approved by such agency or corporation and
51 entered into in connection with an action taken pursuant to this chap-
52 ter, the general municipal law, the real property tax law, or the New
53 York city zoning resolution; and (b) subpoena and require the production
54 of books, accounts, papers, documents and other evidence related to such
55 monitoring and enforcement.

2. Any person who has been issued a subpoena, or any other requirement to testify or produce books and records, pursuant to subdivision one of this section, shall be required to comply with such subpoena or other requirement within a reasonable period of time established by the supervising agency or public benefit corporation that issued such subpoena. Each day in which a person fails to comply with such subpoena, or with any other such requirement to testify or produce books and records, shall constitute a separate violation of this section. The civil penalty for each such violation shall be not more than two hundred fifty dollars, provided that such penalty shall not apply to any period during which such subpoena or other requirement to testify or produce books and records is the subject of a pending judicial proceeding commenced prior to the expiration of the period of time established by such supervising agency or public benefit corporation for compliance with such subpoena or other requirement to testify or produce books and records.

3. Any such supervising agency or public benefit corporation may promulgate rules and regulations to carry out the provisions of this section.

§ 27. Section 800 of the private housing finance law, as amended by chapter 456 of the laws of 2003, is amended to read as follows:

§ 800. Policy and purposes of article. It is hereby declared and found that there exists in municipalities in this state substandard and insanitary areas and neighborhoods characterized by undermaintained and deteriorating housing accommodations and under-utilized non-residential buildings and under-utilized vacant land. It is further found that there exists in such municipalities a diminishing and seriously inadequate supply of safe and sanitary dwelling accommodations, particularly for persons of low income; that the loss of housing accommodations is caused by the inability of the ordinary unaided operations of private enterprise to make loans for rehabilitation or construction purposes or for conversion which accelerates the process of deterioration and abandonment, turning active and viable neighborhoods into slums and blighted areas; and that the prevention of deterioration and loss through abandonment can only be achieved by the elimination of conditions which are unsafe or detrimental to health, the replacement of antiquated heating, plumbing, and electrical systems and, where necessary, the overall rehabilitation of certain housing accommodations, the construction of new housing accommodations on vacant land and the conversion of under-utilized non-residential property to residential use, and that the unavailability of funds for the conversion of under-utilized property to residential use, for the preservation and rehabilitation of housing accommodations and for the construction of new housing accommodations on vacant land constitutes a threat to the health, safety and well-being of the persons who occupy them and denies to others the possibility of living in safe and sanitary housing accommodations.

In order to promote the preservation and rehabilitation of such housing accommodations, the creation of new housing accommodations by the conversion of under-utilized non-residential property into multiple dwellings and the construction of new housing accommodations on vacant land in such areas and to encourage the investment of private capital in such areas, provision should be made for a municipality to attract private investment for such purposes by utilizing funds, which are available from the federal government through specific or discretionary grants, or are available from other financing sources, for joint participation loans with private investors, or loans or grants by the munici-

1 pality, to effect the required construction, rehabilitation or conver-
2 sion.

3 The necessity in the public interest for the provisions hereinafter
4 enacted is hereby declared as a matter of legislative determination.

5 § 28. Subdivision 5 of section 801 of the private housing finance law,
6 as amended by chapter 456 of the laws of 2003, is amended to read as
7 follows:

8 5. "Owner" shall mean an individual, partnership, corporation or other
9 entity, including a non-profit company, a mutual company, or a housing
10 development fund company, which holds record or beneficial title in fee
11 simple to the existing multiple dwelling to be rehabilitated or the
12 non-residential property to be converted into a multiple dwelling and
13 the real property upon which it is situate or to vacant land upon which
14 the new multiple dwelling is to be constructed, or is the lessee of any
15 such real property having an unexpired term of at least thirty years.

16 § 29. Section 801 of the private housing finance law is amended by
17 adding a new subdivision 5-a to read as follows:

18 5-a. "Participation loan" and the municipality's "participation" in,
19 "portion" of, or "investment" in a loan, or words of similar meaning,
20 shall mean any loan or grant made by the municipality or the New York
21 city housing development corporation pursuant to this article either
22 with or without a private investor, provided, however, that provisions
23 of this article concerning the repayment or forgiveness of, or security
24 for, a loan shall not apply to any grant made pursuant to this article.

25 § 30. Subdivision 6 of section 801 of the private housing finance law,
26 as amended by chapter 456 of the laws of 2003, is amended to read as
27 follows:

28 6. "Private investor" shall mean one or more banking organizations,
29 foundations, labor unions, credit unions, employers' associations,
30 veterans' organizations, colleges, universities, educational insti-
31 tutions, child care institutions, hospitals, medical research insti-
32 tutes, insurance companies, trustees or fiduciaries, trustees of pension
33 and retirement funds and systems, corporations, partnerships, individ-
34 uals or other entities or any combination of the foregoing, and shall
35 include the United States of America and the state of New York and any
36 ~~[of its agencies acting as a lender under the loan program pursuant to~~
37 ~~section three hundred twelve of the housing act of nineteen hundred~~
38 ~~sixty-four and any amendments thereto or any similar program]~~ agency,
39 office or public benefit corporation thereof. As used in this subdivi-
40 sion, the terms "trustees" and "fiduciaries" shall include any fiduciary
41 or fiduciaries holding funds for investment, and the term "banking
42 organizations" shall have the same meaning as in subdivision eleven of
43 section two of the banking law.

44 § 31. Subdivisions 1, 3 and 4 of section 802 of the private housing
45 finance law, subdivisions 1 and 3 as amended by chapter 456 of the laws
46 of 2003 and subdivision 4 as added by chapter 822 of the laws of 1976,
47 are amended to read as follows:

48 1. (a) Notwithstanding the provisions of any general, special or local
49 law, one or more private investors and a municipality, acting through
50 its agency, shall have the power to participate and invest in making
51 loans to the owners of existing multiple dwellings or to the owners of
52 non-residential property or to the owners of vacant land subject to the
53 limitations of subdivisions two through seven of this section, in such
54 amounts as shall be required for (i) the rehabilitation of such existing
55 multiple dwellings or for the conversion of such non-residential proper-
56 ty or for the construction of a new multiple dwelling on such vacant

land, provided that such rehabilitation, conversion or construction may include climate resiliency improvements, and if any such owner acquires the existing multiple dwelling or the non-residential property or the vacant land for the purpose of such rehabilitation, conversion or construction or owns the existing multiple dwelling or the non-residential property or the vacant land subject to an outstanding indebtedness, such loans may be made exclusively for or may include such amounts as may be required for the cost of such acquisition or for the refinancing of such outstanding indebtedness, (ii) providing site improvements located on the property on which such existing multiple dwellings are located or on such non-residential property or vacant land or in a public right-of-way, including, but not limited to, water and sewer facilities, sidewalks, landscaping, parks and open space, social, recreational, communal and other non-residential facilities and the outfitting thereof, the curing of problems caused by abnormal site conditions, excavation and construction of footings and foundations and other improvements associated with the provision of infrastructure for housing accommodations, or (iii) providing for other costs of developing housing accommodations, and such private investors and a municipality may jointly participate or invest in the making of temporary loans or advances to such owners in anticipation of the permanent participation loans for such purposes.

(b) Notwithstanding the provisions of any general, special or local law, and in addition to the power to make or contract to make participation loans granted by paragraph (a) of this subdivision, the municipality, acting through its agency, and the New York city housing development corporation shall each have the power to make or contract to make loans or grants to any owner described in paragraph (a) of this subdivision without the participation of a private investor, on the same terms as permitted under such paragraph for a participation loan.

3. [~~(a)~~] Each participation loan shall be secured by a bond or note and single participating mortgage or by separate bonds or notes and mortgages upon any portion or all of the existing multiple dwelling or the non-residential property and the land upon which it is situated or in the case of the construction of a new multiple dwelling, upon any portion or all of the vacant land and the multiple dwelling to be constructed, provided that each such loan shall be made upon such terms and conditions as may be approved by the agency, including but not limited to provisions that [~~(i)~~] (a) priority may be given to the payment of the principal of and interest on that portion of the mortgage indebtedness attributable to participation in the loan by one or more private investors, [~~(ii)~~] (b) the interest of the municipality created as a result of making such a mortgage loan may be subordinated to the interest that one or more of such private investors may have upon such participation, [~~(iii)~~] (c) the interest of each upon such participation need not be of equal priority as to lien nor be equal as to interest rate, time or rate of amortization of principal or time of payment of interest, or otherwise, [~~(iv)~~] (d) the bond or note and mortgage may provide that the municipality's portion of a participation loan made to an owner shall be reduced to zero commencing in the fifteenth year after the execution of the bond or note and mortgage, provided that, as of the date of any such reduction, such multiple dwelling has been and continues to be owned and operated in a manner consistent with a regulatory agreement with the municipality. Notwithstanding such provision as contained in the bond or note and mortgage, the municipality's portion of the loan shall be reduced to zero only if, prior to or simultaneously

1 with delivery of such bond or note and mortgage, the agency made a writ-
2 ten determination that such reduction would be necessary to ensure the
3 continued affordability or economic viability of the multiple dwelling.
4 Such written determination shall document the basis upon which the loan
5 was determined to be eligible for evaporation.

6 ~~[(b) The aggregate amount of each such participation loan shall not~~
7 ~~exceed the cost of the rehabilitation, conversion or construction, plus~~
8 ~~the costs of any or all undertakings necessary for the planning, financ-~~
9 ~~ing, acquisition, satisfaction of tax liens and other municipal liens~~
10 ~~and encumbrances, construction, equipment and development in connection~~
11 ~~therewith, provided that, if any portion of such loan is used for the~~
12 ~~cost of acquisition or for refinancing, the amount of a municipality's~~
13 ~~portion of such loan shall not exceed one and one half times the cost of~~
14 ~~rehabilitation, conversion or construction.~~

15 ~~[(c) The amount of any such loan, together with the amount of all prior~~
16 ~~liens and encumbrances, shall not exceed, except in the case of a loan~~
17 ~~made to a non-profit company, a mutual company, or a housing development~~
18 ~~fund company, ninety per centum of value unless the agency makes a writ-~~
19 ~~ten determination that the owner has insufficient resources to pay for~~
20 ~~the remaining ten per centum of value, in which case such loan shall not~~
21 ~~exceed ninety five per centum of value. The amount of any such loan,~~
22 ~~together with the amount of all prior liens and encumbrances, made to a~~
23 ~~non-profit company, a mutual company, or a housing development fund~~
24 ~~company shall not exceed value, provided that when after completion of~~
25 ~~such rehabilitation, conversion or construction, such multiple dwelling~~
26 ~~is, or is to be operated, exclusively for the benefit of persons and~~
27 ~~families who are entitled to occupancy by reason of ownership of stock~~
28 ~~in the corporate owners, such loan shall not exceed ninety eight per~~
29 ~~centum of value unless the agency makes a written determination that the~~
30 ~~owner has insufficient resources to pay for the remaining two per centum~~
31 ~~of value, in which case such loan shall not exceed value.]~~

32 4. Each such bond or note and mortgage or bonds or notes and mortgages
33 shall be repaid over or within a period of [~~thirty~~] thirty-five years,
34 provided that such period may be extended and shall be repaid within
35 thirty-five years, in such manner as may be provided in such bond or
36 note and mortgage or bonds or notes and mortgages [~~but in no case shall~~
37 ~~the term of such loan exceed the probable life of the multiple dwelling~~
38 ~~which is hereby determined to be thirty years~~]. Such bond or note and
39 mortgage or bonds or notes and mortgages and any contract in connection
40 with such permanent and temporary loans may contain such other terms and
41 provisions not inconsistent with the provisions of this article as the
42 local legislative body or the agency may deem necessary or desirable to
43 secure repayment of the loan, the interest thereon and other charges in
44 connection therewith and to carry out the purposes and provisions of
45 this article.

46 § 32. Subdivisions 2, 3 and 6 of section 1151 of the private housing
47 finance law, subdivision 2 as amended by chapter 567 of the laws of 1993
48 and subdivisions 3 and 6 as added by chapter 639 of the laws of 1989,
49 are amended to read as follows:

50 2. "Eligible project" shall mean a project intended to construct new
51 housing accommodations on an eligible site by new construction or
52 substantial rehabilitation, provided that such new construction or
53 substantial rehabilitation may include climate resiliency improvements.
54 An eligible project shall serve the needs of persons of low income,
55 including privately-owned one to four family dwellings, condominiums and
56 cooperatives, and rental projects.

3. [~~"Development costs" shall mean the reasonable and necessary costs for planning, financing, acquisition of land or buildings and construction of new buildings or the reconstruction, rehabilitation, repair or remodeling of existing buildings and the costs of necessary site improvements~~] "Participation loan" and the city's "participation" in, "portion" of, or "investment" in a loan, or words of similar meaning, shall mean any loan or grant made by the agency pursuant to this article either with or without a private lender, provided, however, that provisions of this article concerning the repayment or forgiveness of, or security for, a loan shall not apply to any grant.

6. "Loan" shall mean a [~~first~~] mortgage loan made by a private lender in participation with the city of New York to a sponsor for the purpose of construction of an eligible project including a loan in which the portion of the loan funded by the agency is represented by a separate note and mortgage.

§ 33. Section 1152 of the private housing finance law, as added by chapter 639 of the laws of 1989, subdivision 4 as amended and subdivision 13 as added by chapter 241 of the laws of 1998, subdivision 12 as added by chapter 400 of the laws of 1994, and paragraph e of subdivision 12 as amended by chapter 118 of the laws of 2003, is amended to read as follows:

§ 1152. Affordable housing development loans. 1. (a) Notwithstanding the provisions of any general, special or local law, one or more private lenders and the city of New York, acting through the agency shall have the power to participate and invest in making loans to sponsors for the construction of eligible projects. Such loans may be made exclusively for or may include such amounts as may be required for site acquisition or the refinancing of eligible projects. Each such participation loan shall be secured by a bond or note and single participating mortgage or by separate bonds or notes and mortgages upon all or any portion of the eligible project. Such bond or note and mortgage or bonds or notes or mortgages may contain such other terms and provisions not inconsistent with the provisions of this article as the agency may deem necessary or desirable.

(b) Notwithstanding the provisions of any general, special or local law, and in addition to the power to make or contract to make participation loans granted by paragraph (a) of this subdivision, the city of New York, acting through the agency, shall have the power to make or contract to make loans or grants to any owner described in paragraph (a) of this subdivision without the participation of a private lender, on the same terms as permitted under such paragraph for a participation loan.

2. [~~The portion of such loan funded by the agency shall not exceed an amount equal to sixty percent of the actual total development cost of an eligible project.~~] The agency may enter into an agreement with a private lender to deposit its share of a loan with the private lender to be advanced by the private lender. The portion of the loan funded by the agency may be equal to or subordinate in lien to the portion of the loan funded by the private lender and may contain such terms with respect to interest rate, if any, rate of amortization of principal, if any, and time of payment of interest and principal as determined by the agency. The agency may make provision either in the mortgage or mortgages or by separate agreement for the performance by the private lender of such services as are generally performed by a banking institution which itself holds a mortgage, including, without limitation, construction loan advances, construction supervision, initiation of foreclosure

proceedings, procurement of insurance, and all other matters in connection with the financing, supervision, regulation and audit of any such loan to any such eligible project.

3. ~~[If a portion of the loan is to be utilized for acquisition of an eligible site such portion shall in no event exceed fifteen percent of the total amount of such loan or the appraised value of the site, which ever is the lesser.~~

4.] If the eligible project is to consist of one to four unit dwelling accommodations or cooperative or condominium units, the agency's share of the loan may be converted after completion of construction into mortgages on such dwelling accommodations or condominium units or financing statements filed with respect to such cooperative shares, provided such units or such cooperative shares are purchased by persons of [eligible] low income. Such mortgages and any blanket mortgage that the agency retains on any portion of, or on all of, the eligible project may provide that ~~[they]~~ such mortgages and such blanket mortgage will automatically be reduced to zero over a period of continuous ~~[owner-occupancy of the housing accommodations assisted by such loan]~~ compliance by the mortgagee with a regulatory agreement or other restrictive covenant with or approved by the agency and upon the satisfaction of any additional conditions specified therein. Notwithstanding such provision as contained in such mortgage, the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such mortgage, the agency made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of the eligible project. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation. Such period of continuous ~~[owner-occupancy]~~ compliance with such regulatory agreement or other restrictive covenant shall not be less than fifteen years.

~~[5.]~~ 4. If the eligible project is to consist of one to four unit dwelling accommodations or cooperative or condominium units, the agency shall require that the dwelling units be offered only to bona fide purchasers who intend to occupy a unit as their principal place of residence; provided, however, that in the case of two to four unit dwelling accommodations the bona fide purchaser may occupy only a single unit as a principal place of residence. If the purchaser ceases to occupy the unit as a principal place of residence, the agency may provide for recapture of all or a portion of the agency's share of the loan.

~~[6.]~~ 5. If the eligible project is a rental project, the agency's share of the loan may be converted after completion of construction into a ~~[non-interest bearing, non-amortizing thirty year loan]~~ permanent loan with a term of thirty-five years, provided that such period may be extended and shall be repaid within thirty-five years, payable ~~[at the end of its term, provided that such loan shall be also payable out of profits upon any sale or refinancing of the project prior to the end of such thirty year period]~~ in such manner as may be provided in the note and any mortgage in connection with such loan. Such note and mortgage may contain such terms and conditions as the agency may deem necessary or desirable to effectuate the purposes and provisions of this article.

The sponsor or any subsequent owner or owners of such a project shall agree to rent such units only to persons of [eligible] low income for such ~~[thirty year]~~ period ~~[and shall agree that all]~~ as the agency may determine. All such units shall be subject to the emergency tenant protection act of nineteen seventy-four and the rent stabilization law of nineteen hundred sixty-nine, as amended ~~[for a period of thirty years after initial occupancy]~~, unless converted to a cooperative or condominium

1 ium pursuant to subdivision ~~[eight]~~ seven of this section. ~~[At the end~~
2 ~~of such period each unit shall continue to be subject to such law there-~~
3 ~~after until the first vacancy occurs at which time the unit shall be~~
4 ~~decontrolled.]~~ Initial rentals for all rental units shall be set by the
5 agency.

6 ~~[7.]~~ 6. If the eligible project is a rental project annual profits
7 shall be limited to an amount set by the agency for as long as the loan
8 is outstanding. Excess profits shall be used to establish project
9 reserves, provide capital improvements or reduce the principal amount of
10 the agency's loan, as determined by the agency.

11 ~~[8.]~~ 7. If the eligible project is a rental project, no conversion to
12 a cooperative or condominium shall be permitted for a period of twenty
13 years after initial occupancy, and unless (i) the agency's share of the
14 loan is prepaid upon such conversion, (ii) the conversion shall be done
15 pursuant to section three hundred fifty-two-eeee of the general business
16 law as a non-eviction plan, and (iii) apartments occupied by non-pur-
17 chasing tenants continue to be subject to the rent stabilization law of
18 nineteen hundred sixty-nine as amended, until the occurrence of a vacan-
19 cy.

20 ~~[9.]~~ 8. A loan made pursuant to this article shall be exempt from the
21 mortgage recording taxes imposed by article eleven of the tax law.

22 ~~[10.]~~ 9. Notwithstanding the provisions of any general, special or
23 local law or charter, the agency shall have power, without soliciting
24 competing bids, to contract with any sponsor or to make provision in a
25 loan for the construction or reconstruction of any site improvements
26 located in the public right-of-way or on the eligible site which are
27 necessary for the development of an eligible project. Such site improve-
28 ments may include, but shall not be limited to, streets, sidewalks,
29 landscaping, parks and open space, social, recreational, communal and
30 other non-residential facilities and the outfitting thereof, lighting
31 fixtures, and water and sewer lines.

32 ~~[11.]~~ 10. No loan shall be made pursuant to the provisions of this
33 article unless the agency finds that: (a) the construction of the eligi-
34 ble project does not directly displace current low and moderate income
35 residents of the eligible site; (b) the eligible project leverages
36 private and other public investment, if any, so as to reduce the amount
37 of assistance provided pursuant to this article to the minimal amount
38 which is necessary for construction of the eligible project; (c) the
39 eligible project will be built by a private developer/builder who has
40 agreed to limit its profit in accordance with a formula satisfactory to
41 the agency; (d) the eligible project will provide assistance to an area
42 which is blighted or deteriorated or has a blighting influence on the
43 surrounding area, or is in danger of becoming a slum or a blighted area
44 because of neighborhood conditions indicating an inability or unwilling-
45 ness of the private sector to cause the type of construction for which a
46 loan is to be provided; and (e) the eligible project will make home
47 ownership or rental housing affordable to persons who cannot presently
48 afford the housing available based upon the ordinary unaided operation
49 of private enterprise.

50 ~~[12.]~~ 11. a. The agency may make non-interest bearing advances to
51 sponsors to defray the pre-development costs of eligible projects in
52 accordance with the provisions of this chapter.

53 b. No such advances shall be made unless the agency finds that: (i)
54 the sponsor proposes to finance the eligible project in whole or in part
55 by a loan granted pursuant to this article or that the project, if
56 otherwise financed, will provide housing for persons or families of low

1 income, and that such project is otherwise consistent with the purposes
2 of this article; (ii) the project site is suitable, there is a need for
3 the housing type proposed in the area to be served and the project is
4 feasible; and (iii) it is reasonable to anticipate that financing will
5 be obtained and the agency makes a finding to that effect.

6 c. No such advances may be made to a sponsor unless such sponsor
7 enters into an agreement with the agency which provides that such spon-
8 sor shall be regulated with respect to rents, profits, dividends and
9 disposition of its property or franchise, in accordance with the
10 provisions of this article.

11 d. An advance granted pursuant to this section shall be used only to
12 defray the pre-development costs of eligible projects. For purposes of
13 this subdivision, the term pre-development costs shall include, but
14 shall not be limited to: the reasonable and necessary costs for plan-
15 ning, site preparation, developing architectural drawings and conducting
16 engineering and environmental studies, but shall not include acquisition
17 of land or buildings, drainage and landscaping of vacant land,
18 construction of new buildings or the reconstruction or rehabilitation of
19 existing buildings.

20 e. Each such advance shall be repaid in full to the agency by the
21 sponsor. Such repayment shall be made upon receipt by the sponsor or its
22 successor in interest of the proceeds of its mortgage or construction
23 loan for the eligible project, unless the agency extends the period for
24 the repayment of such advances. In no event shall the time of repayment
25 be extended to a date later than the date of final advance of funds
26 pursuant to such mortgage or construction loan. Notwithstanding this
27 paragraph, the agency may reduce such advance to zero over a period of
28 continued compliance with the agency's agreement with the sponsor pursu-
29 ant to paragraph c of this subdivision if the agency has made a written
30 determination that such reduction would be necessary to ensure the
31 continued affordability or economic viability of the eligible project.
32 Such written determination shall document the basis upon which the agen-
33 cy's non-interest bearing advance was determined eligible for evapo-
34 ration.

35 f. If the agency, in its discretion, determines at any time that mort-
36 gage or construction financing for the eligible project may not be
37 obtained, then all advances made to the sponsor pursuant to this subdi-
38 vision shall become immediately due and payable upon the demand of the
39 agency.

40 ~~[13-]~~ 12. If the eligible project is a rental project, the bond or
41 note and mortgage or bonds or notes or mortgages issued by the sponsor
42 of any eligible project to secure a participation loan may provide that
43 the city's portion of such loan shall be reduced to zero commencing on
44 the fifteenth year after the execution of such bond or note and mortgage
45 or bonds or notes or mortgages, provided that, as of the date of any
46 such reduction, the eligible project has been and continues to be owned
47 and operated in a manner consistent with a regulatory agreement with the
48 city. Notwithstanding such provision as contained in the bond or note
49 and mortgage or bonds or notes or mortgages, the loan shall be reduced
50 to zero only if, prior to or simultaneously with delivery of such bond
51 or note and mortgage or bonds or notes or mortgages, the agency made a
52 written determination that such reduction would be necessary to ensure
53 the continued affordability or economic viability of the eligible
54 project. Such written determination shall document the basis upon which
55 the loan was determined to be eligible for evaporation.

1 § 34. This act shall take effect immediately, provided, however, that
2 the amendments to subdivision 1 of section 696-a of the general municipi-
3 pal law made by section one of this act shall be subject to the expira-
4 tion and reversion of such subdivision pursuant to section 2 of chapter
5 613 of the laws of 1996, as amended, when upon such date the provisions
6 of section two of this act shall take effect.