STATE OF NEW YORK

7716

2021-2022 Regular Sessions

IN ASSEMBLY

May 20, 2021

Introduced by M. of A. CYMBROWITZ -- (at request of the New York State Homes and Community Renewal) -- read once and referred to the Committee on Housing

AN ACT to amend the private housing finance law, in relation to authorizing powers of the housing trust fund corporation, and specifying the scope of eligible purchasers of the housing finance agency and the New York city housing development corporation bonds

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

Section 1. Subdivision 1 of section 1102 of the private housing finance law, as amended by chapter 199 of the laws of 2008, is amended to read as follows:

1. Within the limit of funds available in the housing trust fund account, the corporation is hereby authorized to enter into contracts with eligible applicants for the furnishing by such applicants of housing for persons of low income. Each such contract shall provide that eligible applicants rehabilitate or construct one or more projects or convert one or more nonresidential properties. Such contracts may provide for payments, grants or loans by the corporation for the activities to be carried out by the eligible applicant under the contract. Such contracts shall provide that a private developer make an equity investment of the greater of (i) two and one-half percent of project costs or (ii) five percent of project costs less grants which are to be applied to such costs. The foregoing shall not preclude a private developer from making a greater equity investment. Any payments, grants or loans made by the corporation outstanding at the time of resale shall be subject to repayment in whole or in part upon resale after termination of the regulatory period and as otherwise provided therein. Such repayment provisions may survive the end of the regulatory period. Such contracts may provide that eligible applicants shall either (a) perform activities specified under the contract themselves or (b) act as admin-

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

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istrators of a program under which projects are rehabilitated or constructed or nonresidential properties are converted by other eligible applicants or (c) perform both such functions. In the case of a municipality acting as an administrator, funds provided to such municipality hereunder shall not be deemed to be municipal funds. The corporation shall refer any request for payments, grants or loans from persons of low income to eligible applicants in the area in which such persons reside. Loans may be in the form of participation in loans including but not limited to participation in loans originated or financed by lending institutions as defined in section forty-two of this chapter, the state of New York mortgage agency, the New York city housing development corporation, the New York state housing finance agency or private or public employee pension funds. Notwithstanding any other provision of law, payments, grants and loans may be deposited by the corporation directly with a lending institution at or before the time of initial loan closing pursuant to an escrow agreement satisfactory to the corporation. Payments, grants and loans shall be on such terms and conditions as the corporation, or the eligible applicant with the approval of the corporation, as the case may be, shall determine. Payments, grants and loans shall be used to pay for the actual and necessary cost of acquisition, construction, rehabilitation or conversion, provided that not more than fifty percent of such payments, grants and loans received for the rehabilitation, construction or conversion of a project may be used for the cost of the project's acquisition and not more than ten percent of such payments, grants and loans may be used for the rehabilitation, construction or conversion of community service facilities and, provided further, that payments, grants or loans shall not be used for (i) the administrative costs of an eligible applicant except as otherwise authorized by law, (ii) the cost of the acquisition, construction, conversion or rehabilitation of residential units which, subsequent to such acquisition, construction, conversion or rehabilitation, are to be occupied by persons other than persons of low income, and (iii) the cost of the acquisition, construction, conversion or rehabilitation of units which, subsequent to such acquisition, construction, conversion or rehabilitation, are occupied or to be occupied for other than residential purposes, except for community service facilities as described above. No such payments, grants or loans shall exceed a total of one hundred twenty-five thousand dollars per dwelling unit. Among the criteria the corporation shall consider in determining whether to provide additional funds are: average cost of construction in the area, location of the project and the impact of the additional funding on the affordability of the project for the occupants of such project. The length of any loan provided under this article shall not exceed [~~thirty~~] **forty** years. No more than fifty percent of the total amount originally appropriated pursuant to this article in any fiscal year shall be allocated to projects located within any single municipality. Of the amount originally appropriated to the corporation in any fiscal year, no more than thirty-three and one-third percent shall be allocated to private developers for projects within a city with a population of one million or more. Of the amount originally appropriated to the corporation in any fiscal year, no more than thirty-three and one-third percent shall be allocated to private developers for projects in the area outside cities with a population of one million or more.

§ 2. Paragraph 3 of subdivision 29-a of section 44 of the private housing finance law, as amended by chapter 575 of the laws of 2011, is amended to read as follows:

(3) The powers granted by this subdivision may be exercised only if (a) obligations of the agency have been issued to fund the loan made or purchased by the agency and such obligations have received an investment grade rating from a recognized rating agency; (b) the loan made or purchased by the agency is fully secured as to principal and interest by insurance or a commitment to insure issued by the state of New York mortgage agency or by the general credit of a bank, national bank, trust company, savings bank, savings and loan association, insurance company, governmental agency of the United States, or any combination thereof; or (c) obligations of the agency are purchased by a bank, national bank, trust company, savings bank, savings and loan association, insurance company, governmental agency of the United States, **which for purposes of this subdivision, include the federal home loan mortgage corporation, the federal national mortgage association, the governmental national mortgage association, and any successor of the foregoing,** or any wholly-owned subsidiary or combination thereof.

§ 3. Paragraph 3 of subdivision 23-c of section 654 of the private housing finance law, as amended by chapter 575 of the laws of 2011, is amended to read as follows:

(3) The powers granted by this subdivision may be exercised only if (a) obligations of the corporation have been issued to fund the loan made or purchased by the corporation and such obligations have received an investment grade rating from a recognized rating agency; (b) the loan made or purchased by the corporation is fully secured as to principal and interest by insurance or a commitment to insure by the state of New York mortgage agency or New York city residential mortgage insurance corporation or by the general credit of a bank, national bank, trust company, savings bank, savings and loan association, insurance company, governmental agency of the United States, or any combination thereof; or (c) obligations of the corporation are purchased by a bank, national bank, trust company, savings bank, savings and loan association, insurance company, governmental agency of the United States, **which for purposes of this subdivision, include the federal home loan mortgage corporation, the federal national mortgage association, the governmental national mortgage association, and any successor of the foregoing,** or any wholly-owned subsidiary or combination thereof.

§ 4. This act shall take effect immediately; provided, however, that the amendments to subdivision 29-a of section 44 and subdivision 23-c of section 654 of the private housing finance law made by sections two and three of this act shall not affect the repeal of such subdivisions and shall be deemed to be repealed therewith.