

STATE OF NEW YORK

7719

2021-2022 Regular Sessions

IN ASSEMBLY

May 20, 2021

Introduced by M. of A. BURDICK, 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 public authorities law, in relation to the construction of modular and manufactured housing

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

1 Section 1. Section 2401 of the public authorities law is amended by
2 adding a new undesignated paragraph to read as follows:

3 It is further found and determined that there is a shortage of
4 adequate funds to assist in the new construction of modular and manufac-
5 tured housing.

6 § 2. Subdivisions 2, 5, and 12 of section 2402 of the public authori-
7 ties law, subdivision 2 as amended by chapter 806 of the laws of 1990,
8 subdivision 5 as amended by chapter 151 of the laws of 2013, and subdi-
9 vision 12 as added by chapter 915 of the laws of 1982, are amended to
10 read as follows:

11 (2) "Bank". Any bank or trust company, savings bank, savings and loan
12 association, industrial bank, credit union, national banking associ-
13 ation, federal savings and loan association, federal savings bank or
14 federal credit union which is located in the state. The term "bank"
15 shall also include a New York state licensed mortgage banker, or a
16 domestic not-for-profit corporation whose public purposes include
17 combatting community deterioration and which is an exempt organization
18 as defined in paragraph (e) of subdivision one of section five hundred
19 ninety of the banking law, or an entity exempt from licensing provisions
20 in accordance with paragraph (a) of subdivision two of such section
21 ~~[five hundred ninety of such law]~~, which in any such case is approved as
22 a mortgage lender by the Federal National Mortgage Association or by the
23 Federal Home Loan Mortgage Corporation, or domestic not-for-profit
24 corporations that are certified by the United States department of trea-

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

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sury as community development financial institutions or licensed by the New York state department of financial services.

(5) "Mortgage". A loan owed to a bank secured by a first lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure or, on which a residential structure for use as single-family modular or manufactured housing purchased and sited on land shall be constructed using the proceeds of such loan, whether or not insured or guaranteed by the United States of America or any agency thereof. The term "mortgage" shall also include a loan owed to a bank secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure or on which a residential structure for use as single-family modular or manufactured housing purchased and sited on land shall be constructed using the proceeds of the related loan described in paragraph (a) or (b) of this subdivision, whether or not insured or guaranteed by the United States of America or any agency thereof, provided, however, that such second lien: (a) secures a loan purchased by the agency, and (b) is made at the same time as a first lien securing a loan purchased by the agency pursuant to its programs or by a government sponsored enterprise or is made at the same time as a new housing loan purchased by the agency pursuant to section twenty-four hundred five-c of this part. The term "mortgage" shall also include loans made by the agency and secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure or on which a residential structure for use as single-family modular or manufactured housing purchased and sited on land shall be constructed using the proceeds of such loan, whether or not insured or guaranteed by the United States of America or any agency thereof, provided however, that the loan made by the agency and secured by such second lien is made at the same time as a first lien securing a mortgage loan purchased by the agency pursuant to its programs or by a government sponsored enterprise. In the case of any second lien purchased or made hereunder, the mortgagor shall be obligated to contribute from his or her own verifiable funds an amount not less than such percentage as the agency shall determine, of the lower of the purchase price or appraised value of the property subject to the first lien. "Real property" as used in this subdivision shall include air rights.

For the purposes of this title and of [~~section one hundred ninety and subsection (a) of section one thousand four hundred fifty-six~~] section one hundred eighty-seven of the tax law, "mortgage" shall include housing loans as defined below. Except for the purposes of subdivision seven of section [~~two thousand four~~] twenty-four hundred five and subdivision eight of section two thousand four hundred five-b of this part, "mortgage" shall also include a loan owed to a bank by an individual borrower incurred for the purpose of financing the purchase of certificates of stock or other evidence of ownership of an interest in, and a proprietary lease from, a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state, secured by an assignment or transfer of the benefits of such cooperative ownership, and containing such terms and conditions as the agency may approve.

(12) "Forward commitment mortgage". A mortgage, which includes construction loans for single-family modular or manufactured housing purchased and sited on land, for which a commitment to advance funds is made not earlier than the date the agency issues an invitation to purchase mortgages or such later date as specified in the invitation. A

1 mortgage made in satisfaction of the obligation of a bank under section
2 twenty-four hundred five of this [~~title~~] part is not a forward commit-
3 ment mortgage.

4 § 3. Subdivisions 7 and 14 of section 2404 of the public authorities
5 law, subdivision 7 as amended by chapter 782 of the laws of 1992, and
6 subdivision 14 as added by chapter 612 of the laws of 1970, are amended
7 to read as follows:

8 (7) To (a) acquire, and contract to acquire, existing mortgages owned
9 by banks and to enter into advance commitments to banks for the purchase
10 of said mortgages, all subject to the provisions of section [~~two-thou-~~
11 ~~sand-four~~] twenty-four hundred five of this [~~title~~] part, (b) acquire,
12 and contract to acquire, forward commitment mortgages made by banks and
13 to enter into advance commitments to banks for the purchase of said
14 mortgages, all subject to the provisions of section [~~two-thousand-four~~]
15 twenty-four hundred five-b of this [~~title~~] part, (c) acquire, and
16 contract to acquire, new housing loans made by banks and to enter into
17 advance commitments to banks for the purchase of said housing loans, all
18 subject to the provisions of section [~~two-thousand-four~~] twenty-four
19 hundred five-c of this [~~title~~] part, [~~and~~] (d) to acquire and contract
20 to acquire mortgages pursuant to section twenty-four hundred five-d of
21 this title, and (e) acquire, and contract to acquire, new construction
22 mortgage loans for single-family modular or manufactured housing
23 purchased and sited on land owned by banks and to enter into advance
24 commitments to banks for the purchase of such mortgages, all subject to
25 the provisions of section twenty-four hundred five-b of this part;

26 (14) To renegotiate, refinance or foreclose, or contract for the fore-
27 closure of, any mortgage in default; to waive any default or consent to
28 the modification of the terms of any mortgage; to commence any action to
29 protect or enforce any right conferred upon it by any law, mortgage,
30 contract or other agreement, and to bid for and purchase such property
31 at any foreclosure or at any other sale, or acquire or take possession
32 of any such property; to operate, manage, lease, dispose of, and other-
33 wise deal with such property, in such manner as [~~may be necessary to~~
34 ~~protect the interests of the agency and the holders of its bonds and~~
35 ~~notes~~] would further the purposes of the agency, subject to any agree-
36 ment with its bondholders or noteholders;

37 § 4. Subdivisions 3 and 5 and paragraphs (a) and (h) of subdivision 8
38 of section 2405-b of the public authorities law, subdivisions 3 and 5
39 and paragraphs (a) and (h) of subdivision 8 as added by chapter 915 of
40 the laws of 1982, paragraph (h) of subdivision 8 as further amended by
41 section 104 of part A of chapter 62 of the laws of 2011, are amended to
42 read as follows:

43 (3) In conducting its program of purchasing forward commitment mort-
44 gages, the agency shall be governed by the provisions of paragraph (b)
45 of subdivision three of section twenty-four hundred five of this [~~title~~]
46 part; however, with respect to new construction loans for single-family
47 modular or manufactured housing purchased and sited on land, the agency
48 shall be governed by the provisions of only subparagraph (iii) of para-
49 graph (b) of subdivision three of section twenty-four hundred five of
50 this part.

51 (5) Notwithstanding the maximum interest rate, if any, fixed by
52 section 5-501 of the general obligations law or any other law not
53 specifically amending or applicable to this section, the agency may set
54 the interest rate to be borne by forward commitment mortgages purchased
55 by the agency from banks at a rate or rates which the agency from time
56 to time shall determine [~~to~~], provided however, that if such mortgages

1 are financed through the issuance of the agency's bonds or notes, the
2 interest rate shall be at least sufficient, together with any other
3 available monies, to provide for the payment of its bonds and notes, and
4 forward commitment mortgages bearing such interest rate shall not be
5 deemed to violate any such law or to be unenforceable if originated by a
6 bank in good faith pursuant to an undertaking with the agency with
7 respect to the sale thereof notwithstanding any subsequent failure of
8 the agency to purchase the mortgage or any subsequent sale or disposi-
9 tion of the mortgage by the agency to such bank or any other person.

10 (a) other than with respect to new construction loans for single-fami-
11 ly modular or manufactured housing purchased and sited on land, the
12 mortgage was not made in satisfaction of an obligation of the bank under
13 section twenty-four hundred five of this ~~[title]~~ part;

14 (h) the improvements to, or new construction of single-family modular
15 or manufactured housing purchased and sited on land, the mortgaged real
16 property are covered by a valid and subsisting policy of insurance
17 issued by a company authorized by the superintendent of financial
18 services to issue such policies in the state of New York and providing
19 fire and extended coverage to an amount not less than eighty percent of
20 the insurable value of the improvements to, or new construction of, the
21 mortgaged real property.

22 § 5. This act shall take effect immediately; provided, however, that:

23 a. the amendments to subdivisions 2, 5 and 12 of section 2402 of the
24 public authorities law made by section two of this act shall not affect
25 the expiration of such subdivisions and shall be deemed to expire there-
26 with;

27 b. the amendments to subdivision 7 of section 2404 of the public
28 authorities law made by section three of this act shall not affect the
29 expiration of such subdivision and shall be deemed to expire therewith;
30 and

31 c. the amendments to section 2405-b of the public authorities law made
32 by section four of this act shall not affect the repeal of such section
33 and shall be deemed repealed therewith.