STATE OF NEW YORK

972--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. GAUGHRAN, KAVANAGH, ADDABBO, BROOKS, COMRIE, HARCKHAM, KAMINSKY, KAPLAN, MAY, SKOUFIS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public housing law, in relation to establishing the COVID-19 emergency homeownership stability program

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

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

ARTICLE 14

COVID-19 EMERGENCY HOMEOWNERSHIP STABILITY PROGRAM

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

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

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

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

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that for purposes of households receiving assistance for arrearages income may include the income that the household was receiving at the time such arrearages were incurred.

2. "Income" shall mean income from all sources of each member of the household, including all wages, tips, overtime, salary, recurring gifts, returns on investments, welfare assistance, social security payments, child support payments, unemployment benefits, any benefit, payment or cash grant whose purpose is to assist with rental payments, any payments whose purpose is to replace lost income, and any other government benefit or cash grant. The term "income" shall not include: employment income from children under eighteen years of age, employment income from children eighteen years of age or older who are full-time students, foster care payments, sporadic gifts, groceries provided by persons not living in the household, supplemental nutrition assistance program benefits, earned income disregard, or the earned income tax credit.

3. "Qualified property" means 1-4 family residential real property owned by the homeowner of which one dwelling unit is used exclusively as the homeowner's primary residence.

4. "Property tax" shall mean a tax levied, or portion of those taxes levied, by or on behalf of any county, city, town, village, school district or special district on the qualified property which is attributable to the period from January twenty-second, two thousand twenty through December thirty-first, two thousand twenty-two.

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

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

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

8. "Other fees associated with homeownership" shall mean principal reduction of a mortgage and expenses incurred facilitating interest rate reductions on a mortgage.

9. "Utility" shall mean electric, gas, water, and internet service, including broadband internet service as defined in section 8.1(b) of title 47, Code of Federal Regulations (or any successor regulation).

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

11. "Commissioner" shall mean the commissioner of New York homes and community renewal.

12. "Covered period" means the period beginning January twenty-second, two thousand twenty and ending on the date that is thirty days after the date on which such state disaster emergency ends.

13. "Mortgage" means any credit transaction that is: (A) secured by a mortgage, deed of trust, or other consensual security interest on a principal residence of a borrower that is a 1- to 4-unit dwelling; and (B) the unpaid principal balance of which was, at the time of origination, not more than the conforming loan limit.

14. "Conforming loan limit" means the applicable limitation governing the maximum original principal obligation of a mortgage secured by a single-family residence, a mortgage secured by a 2-family residence, a mortgage secured by a 3-family residence, or a mortgage secured by a 4-family residence, as determined and adjusted annually under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)).

§ 601. Authority to implement COVID-19 emergency homeownership stability program. The commissioner is hereby authorized and directed to implement, as soon as practicable, a program for financial assistance to allow a homeowner to reinstate a mortgage or to pay other housing related costs related to a period of forbearance, delinquency or default; assistance with homeownership expenses; and other fees related to homeownership for those eligible pursuant to section six hundred two of this article. Such program shall be funded with all funds allocated to the state of New York from the homeowner assistance fund, and any state funds appropriated for such program. The commissioner shall adopt, on an emergency basis pursuant to subdivision six of section two hundred two of the state administrative procedure act, any rules necessary to carry out the provisions of this article. The commissioner may delegate the administration of any portions of this program to any state agency, city, county, town, village, or non-profit organization in accordance with the provisions of this article.

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

1. The homeowner, during the covered period:

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

(b) experienced a significant loss of income during the covered period; and

(c) the sum total of all homeownership payments that came due or will be owed during the covered period is greater than thirty percent of the homeowner's income for the year two thousand twenty or two thousand twenty-one.

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

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

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

5. Not less than sixty percent of the amount made available to the state shall be used for emergency homeownership payments that assist homeowners having incomes equal to or less than the greater of one hundred percent of the area median income for their household size, or the median income of the United States, as determined by the Secretary of Housing and Urban Development. The commissioner shall prioritize remaining funds to populations or geographies experiencing the greatest need.

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

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

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

(c) the taxpayer's property tax burden;

(d) the percentage of income the homeowner lost;

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

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

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

§ 604. Mortgage foreclosure. Notwithstanding any provision of law to the contrary, a mortgage foreclosure on a home loan as defined by section thirteen hundred four of the real property actions and proceedings law which includes unpaid mortgage payments that came due during the covered period cannot be commenced or proceed against a homeowner who has applied for this program unless or until a final determination of ineligibility has been issued. The action may proceed ninety days after the determination of ineligibility or after payment is released by the housing finance agency.

§ 605. Application. Eligible homeowners may apply for assistance from this program for:

(a) financial assistance to allow a homeowner to reinstate a mortgage or to pay other housing-related costs related to a period of forbearance, delinquency, or default; and/or

(b) any delinquent homeownership expenses that came due during the covered period; and/or

(c) other fees related to homeownership. The commissioner shall make such application available no later than thirty days after the effective date of this program.

§ 606. Payment. 1. The commissioner shall make a one-time payment directly to eligible homeowners pursuant to section six hundred two of this article to cover financial assistance to allow a homeowner to reinstate a mortgage or to pay other housing related costs related to a period of forbearance, delinquency or default and/or delinquent homeownership expenses that came due during the covered period. Such payment shall not exceed the amount equivalent to one hundred fifty percent of the fair market rent for the area and household size times the number of months for which assistance is requested. If, after sixty days, funds remain, the commissioner may provide assistance for expenses related to homeownership.

2. Any payment received pursuant to this section shall only be used to pay the homeownership expenses and other fees related to homeownership for which the homeowner applied for assistance. The commissioner shall require from any recipient of funds under this section documentation of the use of any funds disbursed pursuant to this section within thirty days of receipt. If ninety days after receipt, any funds received pursu-

ant to this section are not used for documented homeownership expenses and other fees related to homeownership for which the homeowner applied for assistance, such funds may be subject to repayment.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this act directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid clause, sentence, paragraph, subdivision, section or part had not been included herein.

§ 3. This act shall take effect immediately.