STATE OF NEW YORK

6655--A

2023-2024 Regular Sessions

IN ASSEMBLY

April 25, 2023

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Housing -- 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, the private housing finance law, and the New York city charter, in relation to enacting the "housing affordability, resiliency, and energy efficiency investment act of 2023"

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

Section 1. Short title. This act shall be known and may be cited as the "housing affordability, resiliency, and energy efficiency investment act of 2023".

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

a. Notwithstanding the provisions of any general, special or local law, an agency is hereby authorized to make or contract to make grants or loans to the owner of any property that is part of an urban development action area project for the purpose of (i) rehabilitation of an existing private or multiple dwelling **or construction of a new private or multiple dwelling**, (ii) providing site improvements**, incidental or appurtenant to such rehabilitation or such construction, within the urban development action area in which the urban development action area project is located**, 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, or (iii) providing for other costs of construction for the development of private and multiple dwelling housing accommodations.

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

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c. Any loan made in accordance with this section shall be secured by a note and mortgage upon the property improved**, other than any such property title to which is held by the municipality** or, in the case of a condominium, a note and mortgage upon each of the [~~housing accommodations~~] **condominium units** aided by such loan, or in the case of a cooperative housing corporation, a note and mortgage upon the economic interest in such corporation of each tenant-shareholder aided by such loan, or upon the property improved**, other than any such property title to which is held by the municipality**, or upon both such economic interest or property; provided, however, that all or part of any such loan may be unsecured if necessary to satisfy the requirements of any participating lender**, and, provided further, that the lien created by the note and mortgage may be recorded in an equal or subordinate position, or subsequently made equal or subordinate, to a lien recorded by any participating lender against such property**. Such loan shall be repaid over such period as the agency shall determine.

g. For purposes of this [~~section~~] **article**, **(i)** 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 (ii) 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. Section 696-a of the general municipal law, as amended by chapter 465 of the laws of 1993, is amended to read as follows:

§ 696-a. Loans. Notwithstanding the provisions of any general, special or local law, an agency is hereby authorized to make or contract to make grants or loans[~~: (i)~~] to the owner of any property that is part of an urban development action area project for the purpose of**: (i)** rehabilitation of an existing private or multiple dwelling **or construction of a new private or multiple dwelling**, (ii) [~~for the purpose of~~] providing site improvements**, incidental or appurtenant to such rehabilitation or such construction, within the urban development action area in which the urban development action area project is located**, 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, or (iii) [~~for the purpose of~~] providing for other costs of construction for the development of private and multiple dwelling housing accommodations. In the case of a grant made under this section for the rehabilitation of an existing multiple dwelling intended to be converted to a condominium or cooperative form of ownership or for the development of one to four unit housing accommodations or a condominium or cooperative housing corporation, such grant shall require a regulatory agreement with the agency limiting profits. Any loan made in accordance with this section shall be secured by a note and mortgage upon the property improved**, other than any such property title to which is held by the municipality,** or, in the case of a condominium, a note and mortgage upon each of the [~~housing accommodations~~] **condominium units** aided by such loan, or in the case of a cooperative housing corporation, a note and mortgage upon the economic interest in such corporation of each

tenant-shareholder aided by such loan, or upon the property improved, **other than any such property title to which is held by the municipality,** or upon both such economic interest or property**; provided, however, that all or part of any such loan may be unsecured if necessary to satisfy the requirements of any participating lender**. Such loan shall be repaid over such period as the agency shall determine. In the case of a loan for rehabilitation of an existing multiple dwelling intended to be converted to a condominium or cooperative form of ownership or a loan for the provision of infrastructure or for the provision of other costs of construction for the development of one to four unit housing accommodations or a condominium or cooperative housing corporation, such note and mortgage may provide that the loan shall automatically 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~~] **article**, **(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**.

§ 4. The general municipal law is amended by adding two new sections 696-e and 696-f to read as follows:

§ 696-e. Charges. A municipality, or an agency, making a loan or grant pursuant to this article, may require the payment of charges by an owner in consideration for the financing, regulation, supervision and audit of such loan, or for regulation, supervision and audit of such grant. Such charges shall be paid into the treasury of the municipality requiring the charges and shall be paid and deposited in the general fund of any such municipality.

§ 696-f. Servicing. An agency may make provision in a note and loan agreement or by separate agreement 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 may pay a reasonable and customary fee to such financial institution or other qualified entity appointed by such agency, or to whose appointment such agency provided consent, for the performance of such loan or grant servicing functions.

§ 5. 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 this chapter, three years, in addition to the foregoing period of fifty years for the temporary financing of a project prior to the permanent financing thereof; loans to limited profit housing companies pursuant to article two of the private housing finance law, fifty-five years; loans or grants to owners of existing private or multiple dwellings, non-residential property, or vacant land pursuant to the provisions of article eight, article eight-A, article eight-B, article eleven or article fifteen of the private housing finance law, or loans for the construction of multiple dwellings pursuant to article eleven of the private housing finance law, or loans or grants for the pre-development costs or construction of private or multiple dwellings pursuant to article twenty-two of the private housing finance law, thirty years.

§ 6. Section 2 of the private housing finance law is amended by adding two new subdivisions 30 and 31 to read as follows:

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

31. "Private lender." One or more banking organizations, foundations, labor unions, credit unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees or fiduciaries, trustees of pensions and retirement funds and systems, corporations, partnerships, individuals or other entities or any combination of the foregoing, and shall include any public benefit corporation and the United States of America and any of its agencies and departments. As used in this definition, the terms "trustees" and "fiduciaries" shall include any fiduciary or fiduciaries holding funds for investment and the term "banking organizations" shall have the same meaning as in subdivision eleven of section two of the banking law.

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

§ 400. Policy and purposes of article. It is hereby declared that there exists in municipalities in this state a seriously inadequate supply of safe and sanitary dwelling accommodations for persons and families of low income; that such shortage constitutes an emergency and a grave menace to the health, safety, morals, welfare and comfort of citizens of this state; that there exists in such municipalities a large number of multiple dwellings which are inadequate, unsafe or insanitary by reason of the absence of proper heating facilities or by reason of the necessity for elimination of conditions dangerous to human life or detrimental to health, including nuisances as defined[~~,~~] in section three hundred nine of the multiple dwelling law, or for other rehabilitation or improvement and which can be made adequate, safe and sanitary, by the installation of proper heating facilities or by other rehabilitation**, preservation** or improvement or by the elimination of such conditions; that such installation, rehabilitation**, preservation** or improvement cannot readily be provided by the ordinary unaided operation of private enterprise for occupancy by persons or families of low income without public aid in the form of low interest loans **or grants** to owners of such multiple dwellings for the purpose of such installation, rehabilitation**, preservation** or improvement; that the installation of proper heating facilities in such multiple dwellings or other rehabilitation**,** **preservation** or improvement thereof for occupancy by persons of low income as defined in this article is a public use and a public purpose for which public money may be loaned **or granted**; that such conditions require the provisions hereinafter enacted; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

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

3. a. The term "persons or families of low income" shall mean "persons of low income" or "families of low income" as defined in section two of this chapter[~~, whose probable aggregate annual income during the period of occupancy does not exceed six times the rental (including the value or cost to them of heat, light, water and cooking fuel) of dwelling units occupied by such persons or families in existing multiple dwellings aided by a loan pursuant to this article, except that in the case of persons or families with three or more dependents, such ratio shall not exceed seven to one, and except further that the income limitations prescribed by this paragraph shall be subject to the provisions of subdivision two of section four hundred three of this article.~~

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

b. Notwithstanding the provisions of paragraph a of this subdivision, [~~and subject to the provisions of subdivision three of section four~~

~~hundred three of this article~~] the term "persons or families of low income" shall also mean any person or family who, immediately prior to the date on which a contract for a loan with respect to an existing multiple dwelling is entered into pursuant to the provisions of this article, occupies any dwelling unit in such multiple dwelling and who continuously occupies such unit during and after completion of central heating or other rehabilitation or improvement performed pursuant to such contract provided, however, that any person or family required to remove from any such dwelling unit because of such installation, rehabilitation or improvement shall, for the purpose of this section, be deemed to have continuously occupied such unit and shall have preference in re-entering such multiple dwelling upon completion of the aforesaid work.

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

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

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

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

(a) to make or contract to make loans to the owners of existing multiple dwellings within its territorial limits, subject to the limitations in subdivision two of this section, in such amounts as may be required for the installation of proper heating facilities, **the incorporation of climate resiliency improvements,** or elimination of conditions dangerous to human life or detrimental to health, including nuisances as defined in section three hundred nine of the multiple dwelling law, or other rehabilitation**, preservation** or improvement of such multiple dwellings, and if such owner acquires the multiple dwelling for the purposes of such rehabilitation**, preservation** or improvement or owns the multiple dwelling 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, and may make temporary loans or advances to such owners in anticipation of the permanent municipal loans for such purposes[~~.~~]**; and**

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

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

§ 11. Subdivisions 2-a, 2-b, 2-c and 4 of section 402 of the private housing finance law, subdivision 2-a as added by chapter 213 of the laws of 1975, subdivision 2-b as amended by chapter 362 of the laws of 2000, and subdivision 2-c as amended by chapter 101 of the laws of 1994, are amended to read as follows:

2-a. [~~As used in this section the term "value" shall mean the "as is" value of the multiple dwelling and the land upon which it is situated prior to such installation, elimination, other rehabilitation or~~

~~improvement referred to in subdivision one of this section plus the total of all costs of such installation, elimination, rehabilitation or improvement including, but not limited to, the costs of any or all undertakings necessary for the planning, financing, tenant relocation, acquisition, construction, equipment and development in connection therewith.~~

~~2-b.~~] (a) Each permanent loan shall be secured by a bond and mortgage or note and mortgage upon the multiple dwelling and the land upon which it is situated**, provided that where the multiple dwelling is held in the condominium form of ownership, such loan shall be secured by a bond and mortgage or note and mortgage upon the condominium units rehabilitated or improved with such loan**; where the loan is made to an owner who is a lessee, such loan shall be secured by [~~a first lien on such property~~] **a leasehold interest in such property**.

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

~~(c) The amount of any such loan, together with the amount of all prior liens and encumbrances, shall not exceed, except in the case of a loan made to a non-profit company, a mutual company, or a housing development fund company, ninety per centum of the value of the property, after completion of the installation of proper heating facilities, or elimination of such conditions 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 ten 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 ninety-five per centum of the value of the property, after completion of the installation of proper heating facilities, or elimination of such conditions 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~~] forty years, provided that such period may be extended as the agency may determine necessary to ensure the continued affordability or economic viability of the multiple dwelling, 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~~], including, but not limited to, providing that the lien created by such bond and mortgage or note and mortgage, and, if applicable, any regulatory agreement executed by the owner and the agency or restrictive covenant approved by such agency, may be recorded in an equal or subordinate position, or subsequently made equal or subordinate, to a lien recorded by any private lender against such multiple dwelling.

[~~2-c.~~] 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.

4. The agency may [~~charge the~~] require the payment of charges by an owner of such multiple dwelling [~~reasonable fees~~] in consideration for the financing, regulation, supervision and audit of such loan. Such fees shall be [~~kept by the municipality in a separate fund to be known as the housing rehabilitation fund and shall be used to pay for the expenses of the municipality in administering and carrying out the provisions of this article~~] paid into the treasury of the municipality requiring the charges and shall be paid and deposited in the general fund of any such municipality.

§ 12. 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.

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

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

No such loan shall be made by a municipality to an owner of an existing multiple dwelling unless the owner of such multiple dwelling [~~and~~

~~all persons holding a lien prior to that of the municipality~~] shall covenant in writing that so long as any part of such loan remains unpaid, any exemption and abatement from taxation on the property resulting from the installations, alterations or improvements made with such loan remains in effect or for a period of at least ten years from the occupancy date, whichever is the later:

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

§ 450. Policy and purposes of article. It is hereby declared that there exists in municipalities in this state a seriously inadequate supply of safe and sanitary dwelling accommodations; that such shortage constitutes an emergency and a grave menace to the health, safety, morals, welfare and comfort of citizens of this state; that existing conditions of deterioration of housing marked by noncompliance with the multiple dwelling law or local housing codes threaten a further decrease in such supply; that rehabilitation and improvement of dwellings to prolong the useful life of such dwellings may be necessary to arrest such conditions of deterioration; that the elimination of such conditions by rehabilitation or other improvement cannot readily be provided by the ordinary unaided operation of private enterprise without public aid in the form of low interest loans **or grants** to owners of such multiple dwellings; that such rehabilitation or other improvement of such dwellings to bring them into conformance with the multiple dwelling law and local housing codes is a public use, a public purpose and a city purpose for which public money may be loaned **or granted** by a municipality and for which indebtedness may be contracted by a municipality; that such conditions require the provisions hereinafter enacted, and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

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

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

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

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

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

(a) to make or contract to make loans to the owners of existing multiple dwellings within its territorial limits, subject to the limitations in subdivision two of this section, for the elimination of any substandard or insanitary condition or conditions in violation of the multiple dwelling law or local housing code, **for the incorporation of climate**

resiliency improvements or for such replacement and rehabilitation of the heating, plumbing, electrical and related systems or other improvements as shall be reasonably necessary to prolong the useful life of such dwellings, and may make temporary loans to such owners in anticipation of the permanent municipal loans for such purposes; and

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

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

§ 17. Subdivisions 2 and 5 of section 452 of the private housing finance law, subdivision 2 as amended by chapter 408 of the laws of 2009 and subdivision 5 as amended by chapter 273 of the laws of 1975, are amended to read as follows:

2. Each loan shall be evidenced by a note executed by the owner of the existing multiple dwelling. The supervising agency in its discretion may require one or more of the shareholders of a corporate owner to co-sign such note or to otherwise guarantee or pledge security for the repayment of the loan. [~~The amount of any such loan shall not exceed the sum of thirty-five thousand dollars ($35,000) per dwelling unit, or the cost of eliminating such substandard or insanitary condition or conditions, or effecting such rehabilitation or improvement, whichever is less.~~] Each such note shall be repaid within a period [~~of the probable life of the existing multiple dwelling which is hereby determined to be thirty years, or such shorter period as the supervising agency shall determine~~] of forty years, provided that such period may be extended as the supervising agency may determine necessary to ensure the continued affordability or economic viability of the existing multiple dwelling. The repayment shall be made in such manner as may be provided in such note and contract, if any, in connection with such loan and may authorize such owner, with the consent of the supervising agency, to prepay the principal of the loan subject to such terms and conditions as therein provided. Such note and contract may contain such other terms and provisions not inconsistent with the provisions of this article as the local legislative body or supervising 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, including but not limited to provisions ensuring availability of rents for such repayment and provisions permitting the lien created by such note and mortgage, and, if applicable, a regulatory agreement executed by such owner and supervising agency, be recorded in an equal and subordinate position, or subsequently made equal or subordinate, to a lien recorded by any private lender against such multiple dwelling.

5. The supervising agency may [~~charge~~] require the payment of charges by the owner of such existing multiple dwelling [~~reasonable fees~~] in consideration for the financing, regulation, supervision and audit of such loan. Such [~~fees~~] charges shall be [~~kept by the municipality in a separate fund to be known as the article VIII-A housing rehabilitation fund and shall be used to help meet the expenses of the municipality in administering and carrying out the provisions of this article~~] paid into the treasury of the municipality requiring the charges and shall be paid and deposited in the general fund of any such municipality.

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

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

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

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

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

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

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

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

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

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

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

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

It further is found that there exists in such municipalities a seriously inadequate supply of safe and sanitary [~~owner-occupied~~] one to four unit private and multiple dwellings, particularly for persons of low and moderate income, that existing non-compliance with local housing codes and with the multiple dwelling law and the multiple residence law threatens to decrease such supply, and that the rehabilitation**, preservation** and improvement of such dwellings is necessary to arrest such conditions of deterioration.

It further is found that the elimination of such conditions by rehabilitation or other improvements **in one to four unit private and multiple dwellings** cannot be readily provided without public aid in the form of low interest loans **or grants** to [~~low and moderate income owner-occupants~~] **owners** of such one to four unit dwellings.

The rehabilitation**, preservation** or other [~~improvements~~] **improvement** of such **private and multiple** dwellings [~~owned and occupied by low and moderate income persons or families,~~] is hereby declared a public purpose and a municipal purpose for which public monies may be loaned **or granted**.

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

The necessity in the public interest for the provisions of this article is hereby declared as a matter of legislative determination.

§ 21. Subdivisions 8 and 9 of section 471 of the private housing finance law, as amended by chapter 200 of the laws of 1997, are amended to read as follows:

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

9. [~~"Owner-occupant" shall mean an owner who occupies at least one of the units in a one to four unit dwelling as his or her principal residence. In the case of a partnership, joint tenancy, tenancy in common or tenancy by the entirety, at least one partner or tenant must be an owner-occupant. In the case of a cooperative or condominium a majority of the units must be owner-occupied. The term "owner-occupant" shall include an owner of a vacant one to four unit dwelling who demonstrates an intention to move into one of the units after the rehabilitation of the property~~] **Reserved**.

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

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

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

make temporary loans or advances to such [~~owner-occupants~~] owners in anticipation of permanent loans for such purposes; and

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

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

2. Each loan shall be evidenced by a note executed by the [~~owner-occupant~~] owner of the existing dwelling. Repayment of each such note shall be within a period of [~~the probable life of the existing dwelling which is hereby determined to be thirty years, or such shorter period as the agency shall determine~~] forty years, provided that such period may be extended as the agency may determine necessary to ensure the continued affordability or economic viability of the existing dwelling. The repayment shall be made in such manner as may be provided in such note and contract, if any, in connection with such loan, and may authorize such [~~owner-occupant~~] owner, with the consent of the agency, to prepay the principal of the loan subject to such terms and conditions as therein provided. In order to make any such loan affordable to the [~~owner-occupant~~] owner, the agency may provide in such note and contract that all of the outstanding principal of said loan may be self-liquidated over a [~~fifteen year~~] period of [~~owner-occupancy~~] not less than fifteen years of continuous compliance by the owner with a regulatory agreement or other restrictive covenant with or approved by the agency and upon the satisfaction of any additional conditions specified therein. Such note and contract may contain such other terms and provisions not inconsistent with the provisions of this article as the agency may deem necessary or desirable to secure repayment of the loan, the interest thereon, if any, and other charges in connection therewith, and to carry out the purposes and provisions of this article, including, but not limited to, providing that the lien created by the note and mortgage, and, if applicable, any regulatory agreement executed by such owner and agency, or restrictive covenant approved by such agency, may be recorded in an equal or subordinate position, or subsequently made equal or subordinate, to a lien recorded by any private lender against such existing dwelling.

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

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

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

6. The agency may [~~charge~~] require the [~~owner-occupant~~] payment of charges by the owner of such existing private or multiple dwelling [~~reasonable fees~~] in consideration for [~~administration,~~] the financing, regulation, supervision and audit of such loan. Such charges shall be paid into the treasury of the municipality requiring the charges and shall be paid and deposited in the general fund of any such municipality.

7. In making a loan under this article, an agency shall have the power to participate in a loan made by any private investor[~~, provided that the portion of the loan funded by the agency shall not exceed an amount equal to seventy-five percent of the total loan.~~] The agency may enter into an agreement with a private investor to deposit funds with such private investor to cover the agency's participation in loans to [~~owner-occupants~~] owners of one to four unit existing private and multiple dwellings with such funds advanced by such private investor to [~~owner-occupants~~] owners of existing dwellings. 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 investor and the note and contract may contain such terms with respect to interest rate, if any, and time of payment of principal and interest 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 investor 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. In order to make the loan affordable to the [~~owner-occupant~~] owner, the agency may provide an interest reduction subsidy pursuant to section four hundred seventy-five of this article, or may provide that all or part of the agency's portion of the outstanding principal of any such participation loan may be self-liquidated over a [~~fifteen-year~~] period of [~~owner-occupancy~~] not less than fifteen years of continuous compliance by the owner with a regulatory agreement or other restrictive covenant with or approved by the agency and upon the satisfaction of any additional conditions specified therein.

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

1. No such loan shall be made to an [~~owner-occupant~~] owner of an existing private or multiple dwelling unless the [~~owner-occupant~~] owner of such private or multiple dwelling shall covenant in writing that so long as any part of such loan shall remain unpaid or any requirement imposed as a condition for making such loan that survives the repayment of such loan, including, but not limited to, in a regulatory agreement executed by such owner and the agency or a restrictive covenant approved

by such agency, remains in effect: (i) the [~~owner-occupant~~] owner or managing agent or operator of such dwelling shall permit the duly authorized officers, employees, agents or inspectors of the agency to enter in or upon and inspect such private or multiple dwelling at all reasonable hours; (ii) the agency by such duly authorized representatives as aforesaid shall have full power to investigate into and order the [~~owner-occupant~~] owner of such dwelling to furnish such reports and information as it may require concerning such rehabilitation or improvement and shall have full power to audit the books of said owner with respect to such matters; and (iii) if the property to be rehabilitated is a multiple dwelling, the [~~owner-occupant~~] owner will submit to the agency annually a statement of income and expenses of such dwelling, in such form as shall be approved by the agency.

2. A municipality shall neither make nor participate in a loan to an [~~owner-occupant~~] owner of an existing private or multiple dwelling pursuant to this article unless the agency finds that (i) the area in which such dwelling is situated is a blighted, deteriorated or deteriorating area or has a blighting influence on the surrounding area, or is in danger of becoming a slum or a blighted area because of the existence of substandard, unsanitary, deteriorating or deteriorated conditions, an aged housing stock, or other factors indicating an inability of the private sector to cause such rehabilitation to be made; or (ii) the owner of such private or multiple dwelling is a person or family of low income.

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

2. The agency is authorized to make provision in the note and loan agreement or by separate agreement for the servicing of such loans by a loan servicing company or other qualified entity, as determined by the agency, and such services may include, but not be limited to, the collection of the debt services on such loans and the establishment, administration, and distribution of an escrow account for the payment of the [~~owner-occupant's~~] owner's real estate taxes, sewer and water rents and fire insurance.

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

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

§ 26. Subdivision 1 of section 576-c of the private housing finance law, as amended by section 1 of chapter 254 of the laws of 1998, is amended to read as follows:

1. In addition to the powers granted to municipalities pursuant to this article, a municipality, acting by its supervising agency, may make loans for the purposes of acquisition, rehabilitation or construction of dwelling accommodations to a non-profit housing development fund company, a wholly-owned subsidiary of such company, a partnership the controlling interest of which is held by such company and which has agreed to limit profits or rate of return of investors in accordance

with a formula established or approved by the company, or a private developer which has agreed to limit profits or rate of return of investors in accordance with a formula established or approved by the 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 a municipality and have prior to their initial occupancy in such accommodations resided in emergency shelter facilities operated by or on behalf of the municipality or who are otherwise in need of emergency shelter as determined by the municipality, providing, however, that in the case of a building acquired by such a company, subsidiary, partnership, or developer the obligation to provide housing accommodations for such persons shall be applicable only to dwelling accommodations which are or become vacant after the date of acquisition. Such loans may be made for such period of time and pursuant to such terms and conditions as may be required by the municipality, **including, but not limited to, terms and conditions providing that the lien created by the note and mortgage, and, if applicable, any regulatory agreement executed by the owner and such municipality or restrictive covenant approved by a supervising agency, may be recorded in an equal or subordinate position, or subsequently made equal or subordinate, to a lien recorded by any private lender against the dwelling aided by the loan made pursuant to this article,** and the supervising agency of such municipality may provide that the amount of the note and mortgage shall automatically be reduced to zero in five equal decrements commencing on the tenth year after the initial occupancy date, provided that, as of the date of such reduction, such accommodations have been and continue to be 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. Notwithstanding such provision as contained in the note and mortgage, the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such note and mortgage, the supervising agency made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of such housing project. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation.

§ 27. Section 576-c of the private housing finance law, as amended by section 2 of chapter 254 of the laws of 1998, is amended to read as follows:

§ 576-c. Loans to housing development companies by a municipality. In addition to the powers granted to municipalities pursuant to this article, a municipality, acting by its supervising agency, may make loans for the purposes of acquisition, rehabilitation or construction of dwelling accommodations to a non-profit housing development fund company, a wholly-owned subsidiary of such company, a partnership the controlling interest of which is held by such company and which has agreed to limit profits or rate of return of investors in accordance with a formula established or approved by the company, or a private developer which has agreed to limit profits or rate of return of investors in accordance with a formula established or approved by the 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 a municipality and have prior to their initial occupancy in such accommodations resided in emergency shelter facilities operated by or on behalf of the municipality or who are otherwise in need of emergency shelter as determined by the municipality, providing, however, that in the case of a building acquired by such a company,

subsidiary, partnership, or developer the obligation to provide housing accommodations for such persons shall be applicable only to dwelling accommodations which are or become vacant after the date of acquisition. Such loans may be made for such period of time and pursuant to such terms and conditions as may be required by the municipality, **including, but not limited to, terms and conditions providing that the lien created by the note and mortgage, and, as applicable, any regulatory agreement executed by the owner and such municipality, may be recorded in an equal or subordinate position, or subsequently made equal or subordinate, to the lien recorded by any private lender against the dwelling aided by the loan made pursuant to this article,** and the supervising agency of such municipality may provide that the amount of the note and mortgage shall automatically be reduced to zero in five equal decrements commencing on the tenth year after the initial occupancy date, provided that, as of the date of such reduction, such accommodations have been and [~~continues~~] **continue** to be 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. Notwithstanding such provision as contained in the note and mortgage, the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such note and mortgage, the supervising agency made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of such housing project. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation.

§ 28. The private housing finance law is amended by adding four new sections 611, 612, 613 and 614 to read as follows:

§ 611. Rent stabilization and regulatory agreements. 1. Notwithstanding any other provision of law, including the provisions of, or any regulation promulgated pursuant to, the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine, the state division of housing and community renewal, when supervising housing accommodations under provisions of law other than the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine, the New York city department of housing preservation and development, the New York state urban development corporation, the New York state housing finance agency, the New York state housing trust fund, and the New York city housing development corporation, or such other state or municipal agency, political subdivision, public benefit corporation, or instrumentality as the state division of housing and community renewal shall identify, may, by agreement with an owner of a multiple dwelling, subject any housing accommodation in such multiple dwelling to the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine, or both, if applicable to the municipality. The requirements of such agreement shall supplement any requirements imposed on such housing accommodation pursuant to any other provisions of law.

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

§ 612. Compliance monitoring. 1. Any supervising agency and any corporate governmental agency that constitutes a public benefit corporation

created pursuant to this chapter shall have the power to: (a) subpoena, require the attendance of and examine and take testimony under oath of such persons as it deems necessary to monitor, and enforce compliance with, a note, mortgage, other financing agreement, regulatory agreement, deed, land disposition agreement, or restrictive covenant with or approved by such agency or corporation and entered into in connection with an action taken pursuant to this chapter, the general municipal law, the real property tax law, or the New York city zoning resolution; and (b) subpoena and require the production of books, accounts, papers, documents and other evidence related to such 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.

§ 613. Charges. A municipality, or a supervising agency thereunder, may require the payment of charges by an owner in consideration for financing, regulation, supervision and audit of loans and grants made pursuant to the provisions of this chapter. Such charges shall be paid into the treasury of the municipality requiring the charges and shall be paid and deposited in the general fund of any such municipality.

§ 614. Servicing loans. An agency may make provision in a note and loan agreement or by separate agreement 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 may pay a reasonable and customary fee to such financial institution or other qualified entity appointed by such agency, or to whose appointment such agency provided consent, for the performance of such loan or grant servicing functions.

§ 29. 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 municipality,** to effect the required construction, rehabilitation or conversion.

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

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

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

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

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

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

6. "Private investor" shall mean one or more banking organizations, foundations, labor unions, credit unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees or fiduciaries, trustees of pension and retirement funds and systems, corporations, partnerships, individuals or other entities or any combination of the foregoing, and shall include the United States of America and **the state of New York and** any [~~**of its agencies acting as a lender under the loan program pursuant to section three hundred twelve of the housing act of nineteen hundred sixty four and any amendments thereto or any similar program**~~] **agency, office or public benefit corporation thereof**. As used in this subdivision, the terms "trustees" and "fiduciaries" shall include any fiduciary or fiduciaries holding funds for investment, and the term "banking organizations" shall have the same meaning as in subdivision eleven of section two of the banking law.

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

1. **(a)** Notwithstanding the provisions of any general, special or local law, one or more private investors and a municipality, acting through its agency, shall have the power to participate and invest in making loans to the owners of existing multiple dwellings or to the owners of non-residential property or to the owners of vacant land subject to the limitations of subdivisions two through seven of this section, in such amounts as shall be required for **(i)** the rehabilitation of such existing multiple dwellings or for the conversion of such non-residential property or for the construction of [~~**a**~~] new multiple [~~**dwelling**~~] **dwellings** 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, incidental or appurtenant to such rehabilitation, conversion or construction, 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 devel-

opment 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 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 the vacant land and the multiple dwelling to be constructed, or, in the case of a multiple dwelling held in the condominium form of ownership, a note and mortgage upon the condominium units rehabilitated with such participation loan, provided that a participation loan to an owner who is a lessee shall be secured by a leasehold interest in such property, and provided, further, 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 with delivery of such bond or note and mortgage, the agency made a written determination that such reduction would be necessary to ensure the continued affordability or economic viability of the multiple dwelling. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation.

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

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

4. Each such bond or note and mortgage or bonds or notes and mortgages shall be repaid over or within a period of [~~thirty~~] **forty** years**, provided that such period may be extended as the agency may determine necessary to ensure the continued affordability or economic viability of the multiple dwelling,** in such manner as may be provided in such bond or note and mortgage or bonds or notes and mortgages [~~but in no case shall the term of such loan exceed the probable life of the multiple dwelling which is hereby determined to be thirty years~~]. Such bond or note and mortgage or bonds or notes and mortgages and any 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.

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

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

§ 35. 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 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, including, but not limited to, terms providing that the lien created by such note and mortgage, and, if applicable, any regulatory agreement executed by the sponsor and such agency or restrictive covenant approved by such agency, may be recorded in an equal or subordinate position, or subsequently made equal or subordinate, to the lien created by any private lender against such eligible project.

(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, whichever 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 auto-

matically be reduced to zero over a period of continuous [~~owner-occupancy of the housing accommodations assisted by such loan~~] compliance by the mortgagor with a regulatory agreement or 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 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 forty years, provided that such period may be extended as the agency may determine is necessary to ensure the continued affordability or economic viability of the eligible project, 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 pursuant to subdivision [~~eight~~] seven of this section. [~~At the end of such period each unit shall continue to be subject to such law thereafter until the first vacancy occurs at which time the unit shall be decontrolled.~~] Initial rentals for all rental units shall be set by the agency.

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

[~~8.~~] 7. If the eligible project is a rental project, no conversion to a cooperative or condominium shall be permitted for a period of twenty years after initial occupancy, and unless (i) the agency's share of the loan is prepaid upon such conversion, (ii) the conversion shall be done pursuant to section three hundred fifty-two-eeee of the general business

law as a non-eviction plan, and (iii) apartments occupied by non-purchasing tenants continue to be subject to the rent stabilization law of nineteen hundred sixty-nine as amended, until the occurrence of a vacancy.

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

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

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

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

b. No such advances shall be made unless the agency finds that: (i) the sponsor proposes to finance the eligible project in whole or in part by a loan granted pursuant to this article or that the project, if otherwise financed, will provide housing for persons or families of low income, and that such project is otherwise consistent with the purposes of this article; (ii) the project site is suitable, there is a need for the housing type proposed in the area to be served and the project is feasible; and (iii) it is reasonable to anticipate that financing will be obtained and the agency makes a finding to that effect.

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

d. An advance granted pursuant to this section shall be used only to defray the pre-development costs of eligible projects. For purposes of this subdivision, the term pre-development costs shall include, but shall not be limited to: the reasonable and necessary costs for plan-

ning, site preparation, developing architectural drawings and conducting engineering and environmental studies, but shall not include acquisition of land or buildings, drainage and landscaping of vacant land, construction of new buildings or the reconstruction or rehabilitation of existing buildings.

e. Each such advance shall be repaid in full to the agency by the sponsor. Such repayment shall be made upon receipt by the sponsor or its successor in interest of the proceeds of its mortgage or construction loan for the eligible project, unless the agency extends the period for the repayment of such advances. In no event shall the time of repayment be extended to a date later than the date of final advance of funds pursuant to such mortgage or construction loan. Notwithstanding this paragraph, the agency may reduce such advance to zero over a period of continued compliance with the agency's agreement with the sponsor pursuant to paragraph c of this subdivision if the agency has 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 agency's non-interest bearing advance was determined eligible for evaporation.

f. If the agency, in its discretion, determines at any time that mortgage or construction financing for the eligible project may not be obtained, then all advances made to the sponsor pursuant to this subdivision shall become immediately due and payable upon the demand of the agency.

[~~13.~~] **12.** If the eligible project is a rental project, the bond or note and mortgage or bonds or notes or mortgages issued by the sponsor of any eligible project to secure a participation loan may provide that the city's portion of such loan shall be reduced to zero commencing on the fifteenth year after the execution of such bond or note and mortgage or bonds or notes or mortgages, provided that, as of the date of any such reduction, the eligible project has been and continues to be owned and operated in a manner consistent with a regulatory agreement with the city. Notwithstanding such provision as contained in the bond or note and mortgage or bonds or notes or mortgages, the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such bond or note and mortgage or bonds or notes or mortgages, 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.

§ 36. Paragraph (g) of subdivision 6 of section 1802 of the New York city charter, as amended by vote of the people of the city of New York at the general election held in November of 1989, is amended to read as follows:

(g) [~~impose and collect~~] **require the payment of** charges [~~and fees~~] **in consideration** for the financing, regulation, supervision and audit of municipally-aided projects and loan programs administered by the commissioner, which charges [~~and fees~~] shall be [~~set aside in a special account for administrative expenses of the department~~] **paid into the treasury of the city and shall be paid and deposited in the general fund of the city**;

§ 37. This act shall take effect immediately, provided that: (i) the amendments to subdivision 1 of section 696-a of the general municipal law made by section two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 2 of chapter 613

of the laws of 1996, as amended, when upon such date the provisions of section three of this act shall take effect; and (ii) the amendments to subdivision 1 of section 576-c of the private housing finance law made by section twenty-six of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 2 of chapter 84 of the laws of 1993, as amended, when upon such date the provisions of section twenty-seven of this act shall take effect.