

STATE OF NEW YORK

7403--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 19, 2023

Introduced by M. of A. McMAHON -- (at request of the New York State Homes and Community Renewal) -- read once and referred to the Committee on Housing -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT to amend the public authorities law, in relation to facilitating the purchase by the state of New York mortgage agency of mortgages on manufactured homes

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

1 Section 1. The tenth undesignated paragraph of section 2401 of the
2 public authorities law, as added by chapter 628 of the laws of 2021, is
3 amended to read as follows:

4 It is further found and determined that there is a shortage of
5 adequate funds to assist in the new construction of modular and manufac-
6 tured housing, and to assist in the purchase of existing modular and
7 manufactured housing.

8 § 2. Subdivision 5 of section 2402 of the public authorities law, as
9 amended by chapter 65 of the laws of 2022, is amended to read as
10 follows:

11 (5) "Mortgage". A loan owed to a bank secured by a first lien on (i) a
12 fee simple or leasehold estate in real property, or (ii) any other
13 instrument which shall constitute or create a security interest in
14 tangible personal property constituting modular or manufactured housing,
15 located in the state and improved by a residential structure or, on
16 which a residential structure for use as single-family modular or manu-
17 factured housing purchased and sited on land shall be constructed using
18 the proceeds of such loan, whether or not insured or guaranteed by the
19 United States of America or any agency thereof. The term "mortgage"
20 shall also include a loan owed to a bank secured by a second lien on (i)
21 a fee simple or leasehold estate in real property, or (ii) any other

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

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1 instrument which shall constitute or create a security interest in
2 tangible personal property constituting modular or manufactured housing,
3 located in the state and improved by a residential structure or on which
4 a residential structure for use as single-family modular or manufactured
5 housing purchased and sited on land shall be constructed using the
6 proceeds of the related loan described in paragraph (a) or (b) of this
7 subdivision, whether or not insured or guaranteed by the United States
8 of America or any agency thereof, provided, however, that such second
9 lien: (a) secures a loan purchased by the agency, and (b) is made at the
10 same time as a first lien securing a loan purchased by the agency pursu-
11 ant to its programs or by a government sponsored enterprise or is made
12 at the same time as a new housing loan purchased by the agency pursuant
13 to section twenty-four hundred five-c of this part. The term "mortgage"
14 shall also include loans made by the agency and secured by a second lien
15 on (i) a fee simple or leasehold estate in real property, or (ii) any
16 other instrument which shall constitute or create a security interest in
17 tangible personal property constituting modular or manufactured housing,
18 located in the state and improved by a residential structure or on which
19 a residential structure for use as single-family modular or manufactured
20 housing purchased and sited on land shall be constructed using the
21 proceeds of such loan, whether or not insured or guaranteed by the
22 United States of America or any agency thereof, provided however, that
23 the loan made by the agency and secured by such second lien is made at
24 the same time as a first lien securing a mortgage loan purchased by the
25 agency pursuant to its programs or by a government sponsored enterprise.
26 In the case of any second lien purchased or made hereunder, the mortga-
27 gor shall be obligated to contribute from his or her own verifiable
28 funds an amount not less than such percentage as the agency shall deter-
29 mine, of the lower of the purchase price or appraised value of the prop-
30 erty subject to the first lien. "Real property" as used in this subdivi-
31 sion shall include air rights.

32 For the purposes of this title and subdivision ten of section two
33 hundred ten-B of the tax law, "mortgage" shall include housing loans as
34 defined below. Except for the purposes of subdivision seven of section
35 twenty-four hundred five and subdivision eight of section twenty-four
36 hundred five-b of this part, "mortgage" shall also include a loan owed
37 to a bank by an individual borrower incurred for the purpose of financ-
38 ing the purchase of certificates of stock or other evidence of ownership
39 of an interest in, and a proprietary lease from, a cooperative housing
40 corporation formed for the purpose of the cooperative ownership of resi-
41 dential real estate in the state, secured by an assignment or transfer
42 of the benefits of such cooperative ownership, and containing such terms
43 and conditions as the agency may approve.

44 § 3. Paragraphs (e), (f) and (h) of subdivision 8 of section 2405-b of
45 the public authorities law, paragraph (e) as added by chapter 915 of the
46 laws of 1982, paragraph (f) as amended by chapter 432 of the laws of
47 2009 and paragraph (h) as amended by chapter 628 of the laws of 2021,
48 are amended to read as follows:

49 (e) the mortgage is evidenced by a bond or promissory note and a mort-
50 gage document which has been properly recorded with the appropriate
51 public official or by an instrument which shall constitute or create a
52 security interest in tangible personal property constituting modular or
53 manufactured housing purchased by the agency;

54 (f) the mortgage constitutes a valid first lien, or second lien on the
55 real property or tangible personal property constituting modular or
56 manufactured housing, described to the agency in accordance with subdivi-

1 vision five of section twenty-four hundred two of this part subject only
2 to real property taxes or other taxes not yet due, installments of
3 assessments not yet due, and easements and restrictions of record which
4 do not adversely affect, to a material degree, the use or value of the
5 real property, tangible personal property constituting modular or manu-
6 factured housing or improvements thereon;

7 (h) the improvements to, or new construction of single-family modular
8 or manufactured housing purchased and sited on land, the mortgaged real
9 property or tangible personal property constituting modular or manufac-
10 tured housing, are covered by a valid and subsisting policy of insurance
11 issued by a company authorized by the superintendent of financial
12 services to issue such policies in the state of New York and providing
13 fire and extended coverage to an amount not less than eighty percent of
14 the insurable value of the improvements to, or new construction of, the
15 mortgaged real property or tangible personal property constituting
16 modular or manufactured housing.

17 § 4. Subdivision 4 of section 2428 of the public authorities law, as
18 amended by section 6 of chapter 432 of the laws of 2009, is amended to
19 read as follows:

20 4. To be eligible for insurance under this article, a mortgage loan
21 shall (a) (i) be a first lien of the kind which is commonly given to
22 secure advances on, or the unpaid purchase price of, real property, or
23 tangible personal property constituting modular or manufactured housing
24 in the case of mortgage loans purchased by the agency under its forward
25 commitment program, under the laws of the state together with any credit
26 instrument secured thereby, provided, however, that a mortgage loan may
27 be a second lien if such mortgage loan was purchased by the agency or
28 (ii) be secured by an assignment or transfer of stock certificates or
29 other evidence of ownership interest of the borrower in, and a proprie-
30 tary lease from, a corporation formed for the purpose of the cooperative
31 ownership of residential real estate in the state; (b) secure a rehabil-
32 itation or preservation loan on real property held in fee simple or on a
33 leasehold under a proprietary lease or a lease having a period of years
34 to run at the time the mortgage is insured under this article of at
35 least twenty per centum greater duration than the remaining term of the
36 mortgage; (c) contain terms with respect to prepayment, insurance,
37 repairs, alterations, payment of taxes, special assessments, service
38 charges, default reserves, delinquency charges, foreclosure proceedings,
39 additional and secondary liens, and such other matters as the agency may
40 in its discretion prescribe; (d) be accompanied by certificates, issued
41 by such officers of the mortgage financial institutions, independent
42 appraisers or other persons as the agency may require, certifying that
43 (i) where appropriate, the annual income to be derived from the property
44 equals not less than one hundred and five per centum of the annual
45 charges and expenses, including provision for reserves, satisfactory to
46 the agency, for the amortization of subordinate mortgage loans over the
47 remaining terms of such loans notwithstanding the provisions thereof;
48 (ii) the remaining useful life of the property is greater than the term
49 of the mortgage; and (iii) the property does not contain any substantial
50 violations of local building maintenance and construction codes, except
51 that in the case of a loan made to the owner of a property containing
52 any such violations, the agency may insure or commit to insure such loan
53 if the mortgagee and the owner have submitted a plan, satisfactory to
54 the agency to eliminate such violations and the issuance of such insur-
55 ance shall be conditioned on removal of such violations to the satisfac-
56 tion of the local code enforcement agency; and (e) satisfy such addi-

1 tional terms and conditions as the agency may prescribe. For pool
2 insurance, the requirements of paragraph (b) of this subdivision shall
3 not be applicable.

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

5 a. the amendments to subdivision 5 of section 2402 of the public
6 authorities law made by section two of this act shall not affect the
7 expiration of such subdivision and shall expire and be deemed repealed
8 therewith;

9 b. the amendments to section 2405-b of the public authorities law made
10 by section three of this act shall not affect the repeal of such section
11 and shall be deemed repealed therewith; and

12 c. the amendments to subdivision 4 of section 2428 of the public
13 authorities law made by section four of this act shall not affect the
14 expiration of such subdivision and shall expire and be deemed repealed
15 therewith.