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:

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

It is further found and determined that there is a shortage of adequate funds to assist in the new construction of modular and manufactured housing**, and to assist in the purchase of existing modular and manufactured housing**.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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