

# STATE OF NEW YORK

7503

2023-2024 Regular Sessions

## IN ASSEMBLY

May 25, 2023

Introduced by M. of A. CUNNINGHAM -- read once and referred to the  
Committee on Housing

AN ACT to amend the private housing finance law, in relation to estab-  
lishing an affordable housing program

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

1 Section 1. The private housing finance law is amended by adding a new  
2 article 32 to read as follows:

### ARTICLE XXXII

#### AFFORDABILITY PROGRAM

#### Section 1300. Definitions.

6 1301. Loans and grants.

7 1302. Rules; enforcement.

8 1303. Severability.

9 § 1300. Definitions. For the purposes of this article, the following  
10 terms shall have the following meanings:

11 1. "Agency" shall mean the division of homes and community renewal.

12 2. "Housing accommodations" shall mean: (a) a private or multiple  
13 dwelling, or any other structure containing dwelling units, rooming  
14 units or sleeping accommodations, together with the land on which such  
15 structure is situated; (b) any real property to be converted to such  
16 user; or (c) all or a portion of the dwelling units, rooming units or  
17 sleeping accommodations therein.

18 3. "Owner" shall mean a person having record or beneficial ownership  
19 of real property or a lessee of real property having an unexpired term  
20 of at least thirty years.

21 4. "Regulatory agreement" shall mean a written agreement with the  
22 agency that requires the provision of housing accommodations for indi-  
23 viduals and families at a rent that is thirty-three percent of the  
24 tenant's income, is entered into on or after the effective date of this  
25 article, specifically provides that it is entered into pursuant to this

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

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1 article, is recorded against one or more parcels of real property, and  
2 binds the owner of such real property and its successors and assigns. A  
3 regulatory agreement may include such other terms and conditions as such  
4 agency shall determine.

5 § 1301. Loans and grants. 1. Notwithstanding the provisions of any  
6 general, special or local law, the agency is authorized to make loans or  
7 grants to the owner of any real property for the purpose of: (a)  
8 construction, rehabilitation, conversion, acquisition or refinancing of  
9 housing accommodations; (b) providing site improvements, including, but  
10 not limited to, water and sewer facilities, sidewalks, landscaping, the  
11 curing of problems caused by abnormal site conditions, excavation and  
12 construction of footings and foundations and other improvements associ-  
13 ated with the provision of infrastructure for housing accommodations; or  
14 (c) providing for other costs of developing housing accommodations.

15 2. Any loan made in accordance with this section shall be evidenced by  
16 a note and may be secured by: (a) a mortgage upon the interest of the  
17 owner in the real property assisted; (b) in the case of a condominium, a  
18 mortgage upon each of the housing accommodations assisted by such loan  
19 or; (c) in the case of a cooperative housing corporation, a lien upon  
20 the economic interest in such corporation of each tenant-shareholder  
21 assisted by such loan, or a mortgage upon the real property assisted, or  
22 both such lien and such mortgage. Any such mortgage may be consolidated  
23 with a municipally-aided mortgage that encumbers the real property at  
24 the time of the making of the loan pursuant to this section. For  
25 purposes of this article, the term "mortgage" shall include any pledge  
26 or assignment of shares, or assignment of a proprietary lease, in a  
27 cooperative housing corporation where such pledge or assignment is  
28 intended as security for the performance of an obligation and imposes a  
29 lien on or affects title to such shares or such proprietary lease.

30 3. The repayment of any loan made in accordance with this section  
31 shall be made in such manner as may be provided in the note and any  
32 mortgage in connection with such loan. Such note and mortgage may  
33 contain such terms and conditions as the agency may deem necessary or  
34 desirable to effectuate the purposes and provisions of this article.  
35 Such terms and conditions may include, but shall not be limited to,  
36 provisions concerning: (a) the repayment of the loan; (b) the interest,  
37 if any, thereon; (c) the charges, if any, in connection therewith; and  
38 (d) the prepayment of the principal of the loan. Such note and mortgage  
39 may provide that all or a portion of the principal of the loan shall  
40 automatically be reduced to zero over a period of continuous compliance  
41 by the owner with a regulatory agreement and upon the satisfaction of  
42 any additional conditions specified therein. Notwithstanding such  
43 provision as contained in the note and mortgage, all or a portion of the  
44 principal of the loan shall be reduced to zero only if, prior to or  
45 simultaneously with delivery of such note and mortgage, the agency made  
46 a written determination that such reduction would be necessary to ensure  
47 the continued affordability or economic viability of the housing accom-  
48 modations assisted by such loan. Such written determination shall docu-  
49 ment the basis upon which the loan was determined to be eligible for  
50 evaporation.

51 4. The agency shall require the owner of any real property that is the  
52 subject of a loan or grant pursuant to this section to execute and  
53 record a regulatory agreement having a term commencing not later than  
54 the date of such loan or grant. The regulatory agreement shall provide  
55 that the owner shall rent all housing accommodations at rental prices  
56 that do not exceed thirty-three percent of the tenant's income.

1     5. The agency shall not make any loan or grant pursuant to this  
2     section unless the agency has made a written determination, which shall  
3     be stated or referenced in the regulatory agreement, that such loan or  
4     grant is necessary to ensure the affordability or economic viability of  
5     the housing accommodations in accordance with the terms of the regula-  
6     tory agreement.

7     6. The agency may make provision, either in the mortgage or by sepa-  
8     rate agreement, for the performance of such loan servicing functions,  
9     including functions related to construction lending, as may generally be  
10    performed by an institutional lender. The agency may act in such capaci-  
11    ty or appoint or consent to the appointment of a financial institution  
12    to act in such capacity on behalf of the agency. The agency is author-  
13    ized to pay a reasonable and customary fee to such financial institution  
14    for the performance of such services.

15    § 1302. Rules; enforcement. 1. The agency may promulgate rules to  
16    carry out the provisions of this article, and may require a filing fee  
17    in an amount equal to one thousand dollars per dwelling unit, or such  
18    lesser amount as may be provided by such rules, in connection with any  
19    application for a loan or grant pursuant to this article.

20    2. The agency shall have the power to: (a) subpoena, require the  
21    attendance of and examine and take testimony under oath of such persons  
22    as it may deem necessary in order to monitor and enforce compliance with  
23    the regulatory agreement; and (b) subpoena and require the production of  
24    books, accounts, papers, documents and other evidence related to such  
25    monitoring and enforcement.

26    § 1303. Severability. If any clause, sentence, paragraph, section or  
27    part of this article shall be adjudged by any court of competent juris-  
28    isdiction to be invalid, such judgment shall not affect, impair or invali-  
29    date the remainder thereof, but shall be confined in its operation to  
30    the clause, sentence, paragraph, section or part thereof directly  
31    involved in the controversy in which such judgment shall have been  
32    rendered.

33    § 2. This act shall take effect immediately.