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 establishing an affordable housing program

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

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

ARTICLE XXXII

AFFORDABILITY PROGRAM

Section 1300. Definitions.
1301. Loans and grants.
1302. Rules; enforcement.
1303. Severability.

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

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

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

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

4. "Regulatory agreement" shall mean a written agreement with the agency that requires the provision of housing accommodations for individuals and families at a rent that is thirty-three percent of the tenant's income, is entered into on or after the effective date of this 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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article, is recorded against one or more parcels of real property, and binds the owner of such real property and its successors and assigns. A regulatory agreement may include such other terms and conditions as such agency shall determine.

§ 1301. Loans and grants. 1. Notwithstanding the provisions of any general, special or local law, the agency is authorized to make loans or grants to the owner of any real property for the purpose of: (a) construction, rehabilitation, conversion, acquisition or refinancing of housing accommodations; (b) providing site improvements, including, but not limited to, water and sewer facilities, sidewalks, landscaping, 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 (c) providing for other costs of developing housing accommodations.

2. Any loan made in accordance with this section shall be evidenced by a note and may be secured by: (a) a mortgage upon the interest of the owner in the real property assisted; (b) in the case of a condominium, a mortgage upon each of the housing accommodations assisted by such loan or; (c) in the case of a cooperative housing corporation, a lien upon the economic interest in such corporation of each tenant-shareholder assisted by such loan, or a mortgage upon the real property assisted, or both such lien and such mortgage. Any such mortgage may be consolidated with a municipally-aided mortgage that encumbers the real property at the time of the making of the loan pursuant to this section. For purposes of this article, 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 imposes a lien on or affects title to such shares or such proprietary lease.

3. The repayment of any loan made in accordance with this section shall be made 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. Such terms and conditions may include, but shall not be limited to, provisions concerning: (a) the repayment of the loan; (b) the interest, if any, thereon; (c) the charges, if any, in connection therewith; and (d) the prepayment of the principal of the loan. Such note and mortgage may provide that all or a portion of the principal of the loan shall automatically be reduced to zero over a period of continuous compliance by the owner with a regulatory agreement and upon the satisfaction of any additional conditions specified therein. Notwithstanding such provision as contained in the note and mortgage, all or a portion of the principal of the loan shall be reduced to zero only if, prior to or simultaneously with delivery of such 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 housing accommodations assisted by such loan. Such written determination shall document the basis upon which the loan was determined to be eligible for evaporation.

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

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

6. The agency may make provision, either in the mortgage or by separate agreement, for the performance of such loan servicing functions, including functions related to construction lending, as may generally be performed by an institutional lender. The agency may act in such capacity or appoint or consent to the appointment of a financial institution to act in such capacity on behalf of the agency. The agency is authorized to pay a reasonable and customary fee to such financial institution for the performance of such services.

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

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

§ 1303. Severability. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 2. This act shall take effect immediately.