

STATE OF NEW YORK

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2023-2024 Regular Sessions

IN SENATE

January 26, 2023

Introduced by Sens. KAVANAGH, CLEARE, FERNANDEZ, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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:

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

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

7 a. Notwithstanding the provisions of any general, special or local
8 law, an agency is hereby authorized to make or contract to make grants
9 or loans to the owner of any property that is part of an urban develop-
10 ment action area project for the purpose of (i) rehabilitation of an
11 existing private or multiple dwelling or construction of a new private
12 or multiple dwelling, (ii) providing site improvements, incidental or
13 appurtenant to such rehabilitation or such construction, within the
14 urban development action area in which the urban development action area
15 project is located, including, but not limited to, water and sewer
16 facilities, sidewalks, landscaping, parks and open space, social, recre-
17 ational, communal and other non-residential facilities and the outfit-
18 ting thereof, the curing of problems caused by abnormal site conditions,
19 excavation and construction of footings and foundations and other

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

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1 improvements associated with the provision of infrastructure, or (iii)
2 providing for other costs of construction for the development of private
3 and multiple dwelling housing accommodations.

4 c. Any loan made in accordance with this section shall be secured by a
5 note and mortgage upon the property improved, other than any such prop-
6 erty title to which is held by the municipality or, in the case of a
7 condominium, a note and mortgage upon each of the [~~housing accommo-~~
8 ~~dations~~] condominium units aided by such loan, or in the case of a coop-
9 erative housing corporation, a note and mortgage upon the economic
10 interest in such corporation of each tenant-shareholder aided by such
11 loan, or upon the property improved, other than any such property title
12 to which is held by the municipality, or upon both such economic inter-
13 est or property; provided, however, that all or part of any such loan
14 may be unsecured if necessary to satisfy the requirements of any partic-
15 ipating lender, and, provided further, that the lien created by the note
16 and mortgage may be recorded in an equal or subordinate position, or
17 subsequently made equal or subordinate, to a lien recorded by any
18 participating lender against such property. Such loan shall be repaid
19 over such period as the agency shall determine.

20 g. For purposes of this [~~section~~] article, (i) the term "mortgage"
21 shall include any pledge or assignment of shares or assignment of a
22 proprietary lease in a cooperative housing corporation where such pledge
23 or assignment is intended as security for the performance of an obli-
24 gation and which imposes a lien on or affects title to such shares or
25 such proprietary lease; and (ii) the term "owner" shall mean an individ-
26 ual, partnership, corporation or other entity, including a non-profit
27 company, a mutual company, or a housing development fund company, having
28 record or beneficial title in fee simple to real property or the lessee
29 thereof under a lease having a term of at least forty-nine years.

30 § 3. Section 696-a of the general municipal law, as amended by chapter
31 465 of the laws of 1993, is amended to read as follows:

32 § 696-a. Loans. Notwithstanding the provisions of any general, special
33 or local law, an agency is hereby authorized to make or contract to make
34 grants or loans[~~+(i)~~] to the owner of any property that is part of an
35 urban development action area project for the purpose of: (i) rehabili-
36 tation of an existing private or multiple dwelling or construction of a
37 new private or multiple dwelling, (ii) [~~for the purpose of~~] providing
38 site improvements, incidental or appurtenant to such rehabilitation or
39 such construction, within the urban development action area in which the
40 urban development action area project is located, including, but not
41 limited to, water and sewer facilities, sidewalks, landscaping, parks
42 and open space, social, recreational, communal and other non-residential
43 facilities and the outfitting thereof, the curing of problems caused by
44 abnormal site conditions, excavation and construction of footings and
45 foundations and other improvements associated with the provision of
46 infrastructure, or (iii) [~~for the purpose of~~] providing for other costs
47 of construction for the development of private and multiple dwelling
48 housing accommodations. In the case of a grant made under this section
49 for the rehabilitation of an existing multiple dwelling intended to be
50 converted to a condominium or cooperative form of ownership or for the
51 development of one to four unit housing accommodations or a condominium
52 or cooperative housing corporation, such grant shall require a regulato-
53 ry agreement with the agency limiting profits. Any loan made in accord-
54 ance with this section shall be secured by a note and mortgage upon the
55 property improved, other than any such property title to which is held
56 by the municipality, or, in the case of a condominium, a note and mort-

1 gage upon each of the [~~housing accommodations~~] condominium units aided
2 by such loan, or in the case of a cooperative housing corporation, a
3 note and mortgage upon the economic interest in such corporation of each
4 tenant-shareholder aided by such loan, or upon the property improved,
5 other than any such property title to which is held by the municipality,
6 or upon both such economic interest or property; provided, however, that
7 all or part of any such loan may be unsecured if necessary to satisfy
8 the requirements of any participating lender. Such loan shall be repaid
9 over such period as the agency shall determine. In the case of a loan
10 for rehabilitation of an existing multiple dwelling intended to be
11 converted to a condominium or cooperative form of ownership or a loan
12 for the provision of infrastructure or for the provision of other costs
13 of construction for the development of one to four unit housing accommo-
14 dations or a condominium or cooperative housing corporation, such note
15 and mortgage may provide that the loan shall automatically be reduced to
16 zero over a period of owner-occupancy of the housing accommodations
17 assisted by such loan. In the case of a grant or loan made under this
18 section for the purpose of providing rental housing for persons of low
19 income as defined in section two of the private housing finance law,
20 such loan or grant shall require a regulatory agreement with the agency
21 limiting profits and rentals charged. In the case of a loan made under
22 this section for the purpose of providing rental housing for persons of
23 low income as defined in section two of the private housing finance law,
24 such note and mortgage may provide that the loan shall automatically be
25 reduced to zero over a period of up to thirty years of compliance by the
26 owner with a regulatory agreement with the agency limiting profits and
27 rentals charged. The repayment of any loan made in accordance with this
28 section shall be made in such manner as may be provided in such note and
29 mortgage in connection with such loan, and may authorize the owner, with
30 the consent of the agency, to prepay the principal of the loan subject
31 to such terms and conditions as therein provided. Such note and mortgage
32 may contain such other terms and conditions not inconsistent with the
33 provisions of this article as the agency may deem necessary or desirable
34 to carrying out the purposes and provisions of this article including,
35 but not limited to, provisions concerning the repayment of the loan, the
36 interest, if any, thereon, and other charges in connection therewith.
37 For purposes of this [~~section~~] article, (1) the term "mortgage" shall
38 include any pledge or assignment of shares or assignment of a proprie-
39 tary lease in a cooperative housing corporation where such pledge or
40 assignment is intended as security for the performance of an obligation
41 and which imposes a lien on or affects title to such shares or such
42 proprietary lease; and (2) the term "owner" shall mean an individual,
43 partnership, corporation or other entity, including a non-profit compa-
44 ny, a mutual company, or a housing development fund company, having
45 record or beneficial title in fee simple to real property or the lessee
46 thereof under a lease having a term of at least forty-nine years.

47 § 4. The general municipal law is amended by adding two new sections
48 696-e and 696-f to read as follows:

49 § 696-e. Charges. A municipality, or an agency, making a loan or grant
50 pursuant to this article, may require the payment of charges by an owner
51 in consideration for the financing, regulation, supervision and audit of
52 such loan, or for regulation, supervision and audit of such grant. Such
53 charges shall be paid into the treasury of the municipality requiring
54 the charges and shall be paid and deposited in the general fund of any
55 such municipality.

1 § 696-f. Servicing. An agency may make provision in a note and loan
2 agreement or by separate agreement for the performance of loan or grant
3 servicing functions, including, but not limited to, functions related to
4 lending or providing a grant for construction, as may generally be
5 performed by an institutional lender. Such agency may act in such capac-
6 ity or appoint or consent to the appointment of a financial institution
7 or other qualified entity, as determined by such agency, to act in such
8 capacity on behalf of such agency. Such agency may pay a reasonable and
9 customary fee to such financial institution or other qualified entity
10 appointed by such agency, or to whose appointment such agency provided
11 consent, for the performance of such loan or grant servicing functions.

12 § 5. Subdivision 41 of paragraph a of section 11.00 of the local
13 finance law, as amended by chapter 400 of the laws of 1994, is amended
14 to read as follows:

15 41. Housing. The effectuating of any of the purposes of the public
16 housing law, other than making loans to limited profit housing companies
17 pursuant to article two of the private housing finance law, and other
18 than making loans to owners of existing multiple dwellings, fifty years;
19 bonds issued by a housing authority pursuant to section forty-one of the
20 public housing law and guaranteed by a municipality pursuant to section
21 ninety-five of the public housing law, five years, in addition to the
22 foregoing period of fifty years, for the temporary financing of a
23 project prior to the permanent financing thereof; evidences of indebt-
24 edness issued to the state pursuant to paragraph c of section 20.00 of
25 this chapter, three years, in addition to the foregoing period of fifty
26 years for the temporary financing of a project prior to the permanent
27 financing thereof; loans to limited profit housing companies pursuant to
28 article two of the private housing finance law, fifty-five years; loans
29 or grants to owners of existing private or multiple dwellings, non-resi-
30 dential property, or vacant land pursuant to the provisions of article
31 eight, article eight-A, article eight-B, article eleven or article
32 fifteen of the private housing finance law, or loans for the
33 construction of multiple dwellings pursuant to article eleven of the
34 private housing finance law, or loans or grants for the pre-development
35 costs or construction of private or multiple dwellings pursuant to arti-
36 cle twenty-two of the private housing finance law, thirty years.

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

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

46 31. "Private lender." One or more banking organizations, foundations,
47 labor unions, credit unions, employers' associations, veterans' organ-
48 izations, colleges, universities, educational institutions, child care
49 institutions, hospitals, medical research institutes, insurance compa-
50 nies, trustees or fiduciaries, trustees of pensions and retirement funds
51 and systems, corporations, partnerships, individuals or other entities
52 or any combination of the foregoing, and shall include any public bene-
53 fit corporation and the United States of America and any of its agencies
54 and departments. As used in this definition, the terms "trustees" and
55 "fiduciaries" shall include any fiduciary or fiduciaries holding funds

1 for investment and the term "banking organizations" shall have the same
2 meaning as in subdivision eleven of section two of the banking law.

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

5 § 400. Policy and purposes of article. It is hereby declared that
6 there exists in municipalities in this state a seriously inadequate
7 supply of safe and sanitary dwelling accommodations for persons and
8 families of low income; that such shortage constitutes an emergency and
9 a grave menace to the health, safety, morals, welfare and comfort of
10 citizens of this state; that there exists in such municipalities a large
11 number of multiple dwellings which are inadequate, unsafe or insanitary
12 by reason of the absence of proper heating facilities or by reason of
13 the necessity for elimination of conditions dangerous to human life or
14 detrimental to health, including nuisances as defined[~~7~~] in section
15 three hundred nine of the multiple dwelling law, or for other rehabili-
16 tation or improvement and which can be made adequate, safe and sanitary,
17 by the installation of proper heating facilities or by other rehabili-
18 tation, preservation or improvement or by the elimination of such condi-
19 tions; that such installation, rehabilitation, preservation or improve-
20 ment cannot readily be provided by the ordinary unaided operation of
21 private enterprise for occupancy by persons or families of low income
22 without public aid in the form of low interest loans or grants to owners
23 of such multiple dwellings for the purpose of such installation, reha-
24 bilitation, preservation or improvement; that the installation of proper
25 heating facilities in such multiple dwellings or other rehabilitation,
26 preservation or improvement thereof for occupancy by persons of low
27 income as defined in this article is a public use and a public purpose
28 for which public money may be loaned or granted; that such conditions
29 require the provisions hereinafter enacted; and the necessity in the
30 public interest for the provisions hereinafter enacted is hereby
31 declared as a matter of legislative determination.

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

36 3. a. The term "persons or families of low income" shall mean "persons
37 of low income" or "families of low income" as defined in section two of
38 this chapter[~~7 whose probable aggregate annual income during the period~~
39 ~~of occupancy does not exceed six times the rental (including the value~~
40 ~~or cost to them of heat, light, water and cooking fuel) of dwelling~~
41 ~~units occupied by such persons or families in existing multiple dwell-~~
42 ~~ings aided by a loan pursuant to this article, except that in the case~~
43 ~~of persons or families with three or more dependents, such ratio shall~~
44 ~~not exceed seven to one, and except further that the income limitations~~
45 ~~prescribed by this paragraph shall be subject to the provisions of~~
46 ~~subdivision two of section four hundred three of this article.~~

47 ~~In calculating annual income, social security payments and income~~
48 ~~received from private pension funds by any person sixty two years of age~~
49 ~~or more shall be excluded up to a total maximum amount of seventy-five~~
50 ~~dollars per month. The term "probable aggregate annual income" means the~~
51 ~~annual income of the chief wage earner of the family, plus all other~~
52 ~~income of other members of the family over the age of twenty one years,~~
53 ~~plus a proportion of income of gainfully employed members under the age~~
54 ~~of twenty one years, the proportion to be determined by the agency. The~~
55 ~~agency may exclude a proportion of the income of other members of the~~
56 ~~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,

1 and subdivision 2-c as amended by chapter 101 of the laws of 1994, are
2 amended to read as follows:

3 2-a. ~~[As used in this section the term "value" shall mean the "as is"~~
4 ~~value of the multiple dwelling and the land upon which it is situated~~
5 ~~prior to such installation, elimination, other rehabilitation or~~
6 ~~improvement referred to in subdivision one of this section plus the~~
7 ~~total of all costs of such installation, elimination, rehabilitation or~~
8 ~~improvement including, but not limited to, the costs of any or all~~
9 ~~undertakings necessary for the planning, financing, tenant relocation,~~
10 ~~acquisition, construction, equipment and development in connection ther-~~
11 ~~ewith.~~

12 ~~2-b.]~~ (a) Each permanent loan shall be secured by a bond and mortgage
13 or note and mortgage upon the multiple dwelling and the land upon which
14 it is situated, provided that where the multiple dwelling is held in the
15 condominium form of ownership, such loan shall be secured by a bond and
16 mortgage or note and mortgage upon the condominium units rehabilitated
17 or improved with such loan; where the loan is made to an owner who is a
18 lessee, such loan shall be secured by ~~[a first lien on such property]~~ a
19 leasehold interest in such property.

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

29 ~~(c) The amount of any such loan, together with the amount of all prior~~
30 ~~liens and encumbrances, shall not exceed, except in the case of a loan~~
31 ~~made to a non-profit company, a mutual company, or a housing development~~
32 ~~fund company, ninety per centum of the value of the property, after~~
33 ~~completion of the installation of proper heating facilities, or elimi-~~
34 ~~nation of such conditions or other rehabilitation or improvement, as~~
35 ~~estimated by the agency, unless the agency makes a written determination~~
36 ~~that the owner has insufficient resources to pay for the remaining ten~~
37 ~~per centum of the value of the property, after completion of such~~
38 ~~installation, elimination, or other rehabilitation or improvement, as~~
39 ~~estimated by the agency, in which case such loan shall not exceed nine-~~
40 ~~ty-five per centum of the value of the property, after completion of the~~
41 ~~installation of proper heating facilities, or elimination of such condi-~~
42 ~~tions or other rehabilitation or improvement, as estimated by the agen-~~
43 ~~cy. The amount of any such loan, together with the amount of all prior~~
44 ~~liens and encumbrances, made to a non-profit company, a mutual company,~~
45 ~~or a housing development fund company shall not exceed the value of the~~
46 ~~property after completion of such installation, elimination, or other~~
47 ~~rehabilitation or improvement, as estimated by the agency provided that~~
48 ~~when after completion of such installation, elimination or other reha-~~
49 ~~bilitation or improvement, such project is, or is to be operated exclu-~~
50 ~~sively for the benefit of persons or families who are entitled to occu-~~
51 ~~pancy by reason of ownership of stock in the corporate owners, such loan~~
52 ~~shall not exceed ninety eight percentum of the value of the property,~~
53 ~~after completion of such installation, elimination, or other rehabili-~~
54 ~~tation or improvement, as estimated by the agency, unless the agency~~
55 ~~makes a written determination that the owner has insufficient resources~~
56 ~~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-e.]~~ 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.

~~1 [5. Any person or family whose removal is required by any provision of~~
~~2 this article shall be subject to removal by summary proceedings.]~~

3 § 13. The opening paragraph of subdivision 1 of section 404 of the
4 private housing finance law, as added by chapter 904 of the laws of
5 1962, is amended to read as follows:

6 No such loan shall be made by a municipality to an owner of an exist-
7 ing multiple dwelling unless the owner of such multiple dwelling ~~[and~~
8 ~~all persons holding a lien prior to that of the municipality]~~ shall
9 covenant in writing that so long as any part of such loan remains
10 unpaid, any exemption and abatement from taxation on the property
11 resulting from the installations, alterations or improvements made with
12 such loan remains in effect or for a period of at least ten years from
13 the occupancy date, whichever is the later:

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

16 § 450. Policy and purposes of article. It is hereby declared that
17 there exists in municipalities in this state a seriously inadequate
18 supply of safe and sanitary dwelling accommodations; that such shortage
19 constitutes an emergency and a grave menace to the health, safety,
20 morals, welfare and comfort of citizens of this state; that existing
21 conditions of deterioration of housing marked by noncompliance with the
22 multiple dwelling law or local housing codes threaten a further decrease
23 in such supply; that rehabilitation and improvement of dwellings to
24 prolong the useful life of such dwellings may be necessary to arrest
25 such conditions of deterioration; that the elimination of such condi-
26 tions by rehabilitation or other improvement cannot readily be provided
27 by the ordinary unaided operation of private enterprise without public
28 aid in the form of low interest loans or grants to owners of such multi-
29 ple dwellings; that such rehabilitation or other improvement of such
30 dwellings to bring them into conformance with the multiple dwelling law
31 and local housing codes is a public use, a public purpose and a city
32 purpose for which public money may be loaned or granted by a munici-
33 pality and for which indebtedness may be contracted by a municipality;
34 that such conditions require the provisions hereinafter enacted, and the
35 necessity in the public interest for the provisions hereinafter enacted
36 is hereby declared as a matter of legislative determination.

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

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

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

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

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

3 (a) to make or contract to make loans to the owners of existing multi-
4 ple dwellings within its territorial limits, subject to the limitations
5 in subdivision two of this section, for the elimination of any substand-
6 ard or insanitary condition or conditions in violation of the multiple
7 dwelling law or local housing code, for the incorporation of climate
8 resiliency improvements or for such replacement and rehabilitation of
9 the heating, plumbing, electrical and related systems or other improve-
10 ments as shall be reasonably necessary to prolong the useful life of
11 such dwellings, and may make temporary loans to such owners in antic-
12 ipation of the permanent municipal loans for such purposes; and

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

16 1-a. As used in this article, the term "loan" shall include any grant
17 made by a municipality pursuant to this article, provided, however, that
18 provisions of this article concerning the repayment or forgiveness of,
19 or security for, a loan shall not apply to any grant made pursuant to
20 this article.

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

25 2. Each loan shall be evidenced by a note executed by the owner of the
26 existing multiple dwelling. The supervising agency in its discretion may
27 require one or more of the shareholders of a corporate owner to co-sign
28 such note or to otherwise guarantee or pledge security for the repayment
29 of the loan. ~~[The amount of any such loan shall not exceed the sum of~~
30 ~~thirty-five thousand dollars (\$35,000) per dwelling unit, or the cost of~~
31 ~~eliminating such substandard or insanitary condition or conditions, or~~
32 ~~effecting such rehabilitation or improvement, whichever is less.]~~ Each
33 such note shall be repaid within a period ~~[of the probable life of the~~
34 ~~existing multiple dwelling which is hereby determined to be thirty~~
35 ~~years, or such shorter period as the supervising agency shall determine]~~
36 of forty years, provided that such period may be extended as the super-
37 vising agency may determine necessary to ensure the continued afforda-
38 bility or economic viability of the existing multiple dwelling. The
39 repayment shall be made in such manner as may be provided in such note
40 and contract, if any, in connection with such loan and may authorize
41 such owner, with the consent of the supervising agency, to prepay the
42 principal of the loan subject to such terms and conditions as therein
43 provided. Such note and contract may contain such other terms and
44 provisions not inconsistent with the provisions of this article as the
45 local legislative body or supervising agency may deem necessary or
46 desirable to secure repayment of the loan, the interest thereon and
47 other charges in connection therewith and to carry out the purposes and
48 provisions of this article, including but not limited to provisions
49 ensuring availability of rents for such repayment and provisions permit-
50 ting the lien created by such note and mortgage, and, if applicable, a
51 regulatory agreement executed by such owner and supervising agency, be
52 recorded in an equal and subordinate position, or subsequently made
53 equal or subordinate, to a lien recorded by any private lender against
54 such multiple dwelling.

55 5. The supervising agency may ~~[charge]~~ require the payment of charges
56 by the owner of such existing multiple dwelling ~~[reasonable fees]~~ in

1 consideration for the financing, regulation, supervision and audit of
 2 such loan. Such [~~fees~~] charges shall be [~~kept by the municipality in a~~
 3 ~~separate fund to be known as the article VIII A housing rehabilitation~~
 4 ~~fund and shall be used to help meet the expenses of the municipality in~~
 5 ~~administering and carrying out the provisions of this article~~] paid into
 6 the treasury of the municipality requiring the charges and shall be paid
 7 and deposited in the general fund of any such municipality.

8 § 18. Section 453 of the private housing finance law, as added by
 9 chapter 924 of the laws of 1970, paragraphs (c) and (d) as amended and
 10 paragraph (e) of subdivision 1 as added by chapter 273 of the laws of
 11 1975, is amended to read as follows:

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

18 [~~(a)~~] 1. Each dwelling unit in such multiple dwelling shall be avail-
 19 able solely for occupancy by persons of low income;

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

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

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

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

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

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

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

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

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

1 It further is found that there exists in such municipalities a seri-
2 ously inadequate supply of safe and sanitary ~~[owner-occupied]~~ one to
3 four unit private and multiple dwellings, particularly for persons of
4 low and moderate income, that existing non-compliance with local housing
5 codes and with the multiple dwelling law and the multiple residence law
6 threatens to decrease such supply, and that the rehabilitation, preser-
7 vation and improvement of such dwellings is necessary to arrest such
8 conditions of deterioration.

9 It further is found that the elimination of such conditions by reha-
10 bilitation or other improvements in one to four unit private and multi-
11 ple dwellings cannot be readily provided without public aid in the form
12 of low interest loans or grants to ~~[low and moderate income owner occu-~~
13 ~~pants]~~ owners of such one to four unit dwellings.

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

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

23 The necessity in the public interest for the provisions of this arti-
24 cle is hereby declared as a matter of legislative determination.

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

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

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

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

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

54 (a) to make, or contract to make, loans to ~~[low and moderate income~~
55 ~~owner-occupants]~~ owners of one to four unit existing private or multiple
56 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

1 together with the interest thereon. Upon payment of all sums advanced by
2 the municipality and interest thereon, and upon demand of the then
3 record owner of the real property, the agency shall deliver a copy of
4 the financing statement with an endorsement thereon that the lien is
5 satisfied. Upon filing of such copy in the office where the financing
6 statement was filed and upon payment of the proper fee therefor, the
7 lien of such financing statement shall be discharged.

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

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

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

25 7. In making a loan under this article, an agency shall have the power
26 to participate in a loan made by any private investor[~~, provided that~~
27 ~~the portion of the loan funded by the agency shall not exceed an amount~~
28 ~~equal to seventy five percent of the total loan.~~] The agency may enter
29 into an agreement with a private investor to deposit funds with such
30 private investor to cover the agency's participation in loans to
31 [~~owner-occupants~~] owners of one to four unit existing private and multi-
32 ple dwellings with such funds advanced by such private investor to
33 [~~owner-occupants~~] owners of existing dwellings. The portion of the loan
34 funded by the agency may be equal to or subordinate in lien to the
35 portion of the loan funded by the private investor and the note and
36 contract may contain such terms with respect to interest rate, if any,
37 and time of payment of principal and interest as determined by the agen-
38 cy. The agency may make provision, either in the mortgage or mortgages
39 or by separate agreement, for the performance by the private investor of
40 such services as are generally performed by a banking institution which
41 itself holds a mortgage, including, without limitation, construction
42 loan advances, construction supervision, initiation of foreclosure
43 proceedings, procurement of insurance, and all other matters in
44 connection with the financing, supervision, regulation and audit of any
45 such loan. In order to make the loan affordable to the [~~owner-occupant~~]
46 owner, the agency may provide an interest reduction subsidy pursuant to
47 section four hundred seventy-five of this article, or may provide that
48 all or part of the agency's portion of the outstanding principal of any
49 such participation loan may be self-liquidated over a [~~fifteen-year~~]
50 period of [~~owner-occupancy~~] not less than fifteen years of continuous
51 compliance by the owner with a regulatory agreement or other restrictive
52 covenant with or approved by the agency and upon the satisfaction of any
53 additional conditions specified therein.

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

1 1. No such loan shall be made to an [~~owner-occupant~~] owner of an
2 existing private or multiple dwelling unless the [~~owner-occupant~~] owner
3 of such private or multiple dwelling shall covenant in writing that so
4 long as any part of such loan shall remain unpaid or any requirement
5 imposed as a condition for making such loan that survives the repayment
6 of such loan, including, but not limited to, in a regulatory agreement
7 executed by such owner and the agency or a restrictive covenant approved
8 by such agency, remains in effect: (i) the [~~owner-occupant~~] owner or
9 managing agent or operator of such dwelling shall permit the duly
10 authorized officers, employees, agents or inspectors of the agency to
11 enter in or upon and inspect such private or multiple dwelling at all
12 reasonable hours; (ii) the agency by such duly authorized represen-
13 tatives as aforesaid shall have full power to investigate into and order
14 the [~~owner-occupant~~] owner of such dwelling to furnish such reports and
15 information as it may require concerning such rehabilitation or improve-
16 ment and shall have full power to audit the books of said owner with
17 respect to such matters; and (iii) if the property to be rehabilitated
18 is a multiple dwelling, the [~~owner-occupant~~] owner will submit to the
19 agency annually a statement of income and expenses of such dwelling, in
20 such form as shall be approved by the agency.

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

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

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

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

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

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

1 1. In addition to the powers granted to municipalities pursuant to
2 this article, a municipality, acting by its supervising agency, may make
3 loans for the purposes of acquisition, rehabilitation or construction of
4 dwelling accommodations to a non-profit housing development fund compa-
5 ny, a wholly-owned subsidiary of such company, a partnership the
6 controlling interest of which is held by such company and which has
7 agreed to limit profits or rate of return of investors in accordance
8 with a formula established or approved by the company, or a private
9 developer which has agreed to limit profits or rate of return of inves-
10 tors in accordance with a formula established or approved by the compa-
11 ny, which agrees to provide housing accommodations exclusively for
12 persons and families of low income, at least thirty percent of whom are
13 referred to it by a municipality and have prior to their initial occu-
14 pancy in such accommodations resided in emergency shelter facilities
15 operated by or on behalf of the municipality or who are otherwise in
16 need of emergency shelter as determined by the municipality, providing,
17 however, that in the case of a building acquired by such a company,
18 subsidiary, partnership, or developer the obligation to provide housing
19 accommodations for such persons shall be applicable only to dwelling
20 accommodations which are or become vacant after the date of acquisition.
21 Such loans may be made for such period of time and pursuant to such
22 terms and conditions as may be required by the municipality, including,
23 but not limited to, terms and conditions providing that the lien created
24 by the note and mortgage, and, if applicable, any regulatory agreement
25 executed by the owner and such municipality or restrictive covenant
26 approved by a supervising agency, may be recorded in an equal or subor-
27 dinate position, or subsequently made equal or subordinate, to a lien
28 recorded by any private lender against the dwelling aided by the loan
29 made pursuant to this article, and the supervising agency of such muni-
30 cipality may provide that the amount of the note and mortgage shall
31 automatically be reduced to zero in five equal decrements commencing on
32 the tenth year after the initial occupancy date, provided that, as of
33 the date of such reduction, such accommodations have been and continue
34 to be owned and operated in a manner consistent with an agreement with
35 the municipality contained in such note and mortgage to provide housing
36 for such persons. Notwithstanding such provision as contained in the
37 note and mortgage, the loan shall be reduced to zero only if, prior to
38 or simultaneously with delivery of such note and mortgage, the supervis-
39 ing agency made a written determination that such reduction would be
40 necessary to ensure the continued affordability or economic viability of
41 such housing project. Such written determination shall document the
42 basis upon which the loan was determined to be eligible for evaporation.

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

46 § 576-c. Loans to housing development companies by a municipality. In
47 addition to the powers granted to municipalities pursuant to this arti-
48 cle, a municipality, acting by its supervising agency, may make loans
49 for the purposes of acquisition, rehabilitation or construction of
50 dwelling accommodations to a non-profit housing development fund compa-
51 ny, a wholly-owned subsidiary of such company, a partnership the
52 controlling interest of which is held by such company and which has
53 agreed to limit profits or rate of return of investors in accordance
54 with a formula established or approved by the company, or a private
55 developer which has agreed to limit profits or rate of return of inves-
56 tors in accordance with a formula established or approved by the compa-

ny, 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.

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

7 § 612. Compliance monitoring. 1. Any supervising agency and any corpo-
8 rate governmental agency that constitutes a public benefit corporation
9 created pursuant to this chapter shall have the power to: (a) subpoena,
10 require the attendance of and examine and take testimony under oath of
11 such persons as it deems necessary to monitor, and enforce compliance
12 with, a note, mortgage, other financing agreement, regulatory agreement,
13 deed, land disposition agreement, or restrictive covenant with or
14 approved by such agency or corporation and entered into in connection
15 with an action taken pursuant to this chapter, the general municipal
16 law, the real property tax law, or the New York city zoning resolution;
17 and (b) subpoena and require the production of books, accounts, papers,
18 documents and other evidence related to such monitoring and enforcement.

19 2. Any person who has been issued a subpoena, or any other require-
20 ment to testify or produce books and records, pursuant to subdivision
21 one of this section, shall be required to comply with such subpoena or
22 other requirement within a reasonable period of time established by the
23 supervising agency or public benefit corporation that issued such
24 subpoena. Each day in which a person fails to comply with such subpoena,
25 or with any other such requirement to testify or produce books and
26 records, shall constitute a separate violation of this section. The
27 civil penalty for each such violation shall be not more than two hundred
28 fifty dollars, provided that such penalty shall not apply to any period
29 during which such subpoena or other requirement to testify or produce
30 books and records is the subject of a pending judicial proceeding
31 commenced prior to the expiration of the period of time established by
32 such supervising agency or public benefit corporation for compliance
33 with such subpoena or other requirement to testify or produce books and
34 records.

35 3. Any such supervising agency or public benefit corporation may
36 promulgate rules and regulations to carry out the provisions of this
37 section.

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

44 § 614. Servicing loans. An agency may make provision in a note and
45 loan agreement or by separate agreement for the performance of loan or
46 grant servicing functions, including, but not limited to, functions
47 related to lending or providing a grant for construction, as may gener-
48 ally be performed by an institutional lender. Such agency may act in
49 such capacity or appoint or consent to the appointment of a financial
50 institution or other qualified entity, as determined by such agency, to
51 act in such capacity on behalf of such agency. Such agency may pay a
52 reasonable and customary fee to such financial institution or other
53 qualified entity appointed by such agency, or to whose appointment such
54 agency provided consent, for the performance of such loan or grant
55 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,

1 shall mean any loan or grant made by the municipality or the New York
2 city housing development corporation pursuant to this article either
3 with or without a private investor, provided, however, that provisions
4 of this article concerning the repayment or forgiveness of, or security
5 for, a loan shall not apply to any grant made pursuant to this article.

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

9 6. "Private investor" shall mean one or more banking organizations,
10 foundations, labor unions, credit unions, employers' associations,
11 veterans' organizations, colleges, universities, educational insti-
12 tutions, child care institutions, hospitals, medical research insti-
13 tutes, insurance companies, trustees or fiduciaries, trustees of pension
14 and retirement funds and systems, corporations, partnerships, individ-
15 uals or other entities or any combination of the foregoing, and shall
16 include the United States of America and the state of New York and any
17 ~~[of its agencies acting as a lender under the loan program pursuant to~~
18 ~~section three hundred twelve of the housing act of nineteen hundred~~
19 ~~sixty-four and any amendments thereto or any similar program]~~ agency,
20 office or public benefit corporation thereof. As used in this subdivi-
21 sion, the terms "trustees" and "fiduciaries" shall include any fiduciary
22 or fiduciaries holding funds for investment, and the term "banking
23 organizations" shall have the same meaning as in subdivision eleven of
24 section two of the banking law.

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

29 1. (a) Notwithstanding the provisions of any general, special or local
30 law, one or more private investors and a municipality, acting through
31 its agency, shall have the power to participate and invest in making
32 loans to the owners of existing multiple dwellings or to the owners of
33 non-residential property or to the owners of vacant land subject to the
34 limitations of subdivisions two through seven of this section, in such
35 amounts as shall be required for (i) the rehabilitation of such existing
36 multiple dwellings or for the conversion of such non-residential proper-
37 ty or for the construction of [a] new multiple ~~[dwelling]~~ dwellings on
38 such vacant land, provided that such rehabilitation, conversion or
39 construction may include climate resiliency improvements, and if any
40 such owner acquires the existing multiple dwelling or the non-residen-
41 tial property or the vacant land for the purpose of such rehabilitation,
42 conversion or construction or owns the existing multiple dwelling or the
43 non-residential property or the vacant land subject to an outstanding
44 indebtedness, such loans may be made exclusively for or may include such
45 amounts as may be required for the cost of such acquisition or for the
46 refinancing of such outstanding indebtedness, (ii) providing site
47 improvements located on the property on which such existing multiple
48 dwellings are located or on such non-residential property or vacant land
49 or in a public right-of-way, incidental or appurtenant to such rehabili-
50 tation, conversion or construction, including, but not limited to, water
51 and sewer facilities, sidewalks, landscaping, parks and open space,
52 social, recreational, communal and other non-residential facilities and
53 the outfitting thereof, the curing of problems caused by abnormal site
54 conditions, excavation and construction of footings and foundations and
55 other improvements associated with the provision of infrastructure for
56 housing accommodations, or (iii) providing for other costs of developing

1 housing accommodations, and such private investors and a municipality
2 may jointly participate or invest in the making of temporary loans or
3 advances to such owners in anticipation of the permanent participation
4 loans for such purposes.

5 (b) Notwithstanding the provisions of any general, special or local
6 law, and in addition to the power to make or contract to make partic-
7 ipation loans granted by paragraph (a) of this subdivision, the munici-
8 pality, acting through its agency, and the New York city housing devel-
9 opment corporation shall each have the power to make or contract to make
10 loans or grants to any owner described in paragraph (a) of this subdivi-
11 sion without the participation of a private investor, on the same terms
12 as permitted under such paragraph for a participation loan.

13 3. [~~(a)~~] Each participation loan shall be secured by a bond or note
14 and single participating mortgage or by separate bonds or notes and
15 mortgages upon the existing multiple dwelling or the non-residential
16 property and the land upon which it is situated or, in the case of the
17 construction of a new multiple dwelling, upon the vacant land and the
18 multiple dwelling to be constructed, or, in the case of a multiple
19 dwelling held in the condominium form of ownership, a note and mortgage
20 upon the condominium units rehabilitated with such participation loan,
21 provided that a participation loan to an owner who is a lessee shall be
22 secured by a leasehold interest in such property, and provided, further,
23 that each such loan shall be made upon such terms and conditions as may
24 be approved by the agency, including but not limited to, provisions that
25 [~~(i)~~] (a) priority may be given to the payment of the principal of and
26 interest on that portion of the mortgage indebtedness attributable to
27 participation in the loan by one or more private investors, [~~(ii)~~] (b)
28 the interest of the municipality created as a result of making such a
29 mortgage loan may be subordinated to the interest that one or more of
30 such private investors may have upon such participation, [~~(iii)~~] (c) the
31 interest of each upon such participation need not be of equal priority
32 as to lien nor be equal as to interest rate, time or rate of amorti-
33 zation of principal or time of payment of interest, or otherwise, [~~(iv)~~]
34 (d) the bond or note and mortgage may provide that the municipality's
35 portion of a participation loan made to an owner shall be reduced to
36 zero commencing in the fifteenth year after the execution of the bond or
37 note and mortgage, provided that, as of the date of any such reduction,
38 such multiple dwelling has been and continues to be owned and operated
39 in a manner consistent with a regulatory agreement with the munici-
40 pality. Notwithstanding such provision as contained in the bond or note
41 and mortgage, the municipality's portion of the loan shall be reduced to
42 zero only if, prior to or simultaneously with delivery of such bond or
43 note and mortgage, the agency made a written determination that such
44 reduction would be necessary to ensure the continued affordability or
45 economic viability of the multiple dwelling. Such written determination
46 shall document the basis upon which the loan was determined to be eligi-
47 ble for evaporation.

48 ~~[(b) The aggregate amount of each such participation loan shall not~~
49 ~~exceed the cost of the rehabilitation, conversion or construction, plus~~
50 ~~the costs of any or all undertakings necessary for the planning, financ-~~
51 ~~ing, acquisition, satisfaction of tax liens and other municipal liens~~
52 ~~and encumbrances, construction, equipment and development in connection~~
53 ~~therewith, provided that, if any portion of such loan is used for the~~
54 ~~cost of acquisition or for refinancing, the amount of a municipality's~~
55 ~~portion of such loan shall not exceed one and one-half times the cost of~~
56 ~~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

1 portion of the loan funded by the agency is represented by a separate
2 note and mortgage.

3 § 35. Section 1152 of the private housing finance law, as added by
4 chapter 639 of the laws of 1989, subdivision 4 as amended and subdivi-
5 sion 13 as added by chapter 241 of the laws of 1998, subdivision 12 as
6 added by chapter 400 of the laws of 1994 and paragraph e of subdivision
7 12 as amended by chapter 118 of the laws of 2003, is amended to read as
8 follows:

9 § 1152. Affordable housing development loans. 1. (a) Notwithstanding
10 the provisions of any general, special or local law, one or more private
11 lenders and the city of New York, acting through the agency, shall have
12 the power to participate and invest in making loans to sponsors for the
13 construction of eligible projects. Such loans may be made exclusively
14 for or may include such amounts as may be required for site acquisition
15 or the refinancing of eligible projects. Each such participation loan
16 shall be secured by a bond or note and single participating mortgage or
17 by separate bonds or notes and mortgages upon the eligible project. Such
18 bond or note and mortgage or bonds or notes or mortgages may contain
19 such other terms and provisions not inconsistent with the provisions of
20 this article as the agency may deem necessary or desirable, including,
21 but not limited to, terms providing that the lien created by such note
22 and mortgage, and, if applicable, any regulatory agreement executed by
23 the sponsor and such agency or restrictive covenant approved by such
24 agency, may be recorded in an equal or subordinate position, or subse-
25 quently made equal or subordinate, to the lien created by any private
26 lender against such eligible project.

27 (b) Notwithstanding the provisions of any general, special or local
28 law, and in addition to the power to make or contract to make partic-
29 ipation loans granted by paragraph (a) of this subdivision, the city of
30 New York, acting through the agency, shall have the power to make or
31 contract to make loans or grants to any owner described in paragraph (a)
32 of this subdivision without the participation of a private lender, on
33 the same terms as permitted under such paragraph for a participation
34 loan.

35 2. ~~[The portion of such loan funded by the agency shall not exceed an~~
36 ~~amount equal to sixty percent of the actual total development cost of an~~
37 ~~eligible project.]~~ The agency may enter into an agreement with a private
38 lender to deposit its share of a loan with the private lender to be
39 advanced by the private lender. The portion of the loan funded by the
40 agency may be equal to or subordinate in lien to the portion of the loan
41 funded by the private lender and may contain such terms with respect to
42 interest rate, if any, rate of amortization of principal, if any, and
43 time of payment of interest and principal as determined by the agency.
44 The agency may make provision either in the mortgage or mortgages or by
45 separate agreement for the performance by the private lender of such
46 services as are generally performed by a banking institution which
47 itself holds a mortgage, including, without limitation, construction
48 loan advances, construction supervision, initiation of foreclosure
49 proceedings, procurement of insurance, and all other matters in
50 connection with the financing, supervision, regulation and audit of any
51 such loan to any such eligible project.

52 3. ~~[If a portion of the loan is to be utilized for acquisition of an~~
53 ~~eligible site such portion shall in no event exceed fifteen percent of~~
54 ~~the total amount of such loan or the appraised value of the site, which~~
55 ~~ever is the lesser.~~

1 ~~4.~~ If the eligible project is to consist of one to four unit dwelling
2 accommodations or cooperative or condominium units, the agency's share
3 of the loan may be converted after completion of construction into mort-
4 gages on such dwelling accommodations or condominium units or financing
5 statements filed with respect to such cooperative shares, provided such
6 units or such cooperative shares are purchased by persons of ~~[eligible]~~
7 low income. Such mortgages and any blanket mortgage that the agency
8 retains on any portion of, or on all of, the eligible project may
9 provide that ~~[they]~~ such mortgages and such blanket mortgage will auto-
10 matically be reduced to zero over a period of continuous ~~[owner-occupan-~~
11 ~~cy of the housing accommodations assisted by such loan]~~ compliance by
12 the mortgagor with a regulatory agreement or restrictive covenant with
13 or approved by the agency and upon the satisfaction of any additional
14 conditions specified therein. Notwithstanding such provision as
15 contained in such mortgage, the loan shall be reduced to zero only if,
16 prior to or simultaneously with delivery of such mortgage, the agency
17 made a written determination that such reduction would be necessary to
18 ensure the continued affordability or economic viability of the eligible
19 project. Such written determination shall document the basis upon which
20 the loan was determined to be eligible for evaporation. Such period of
21 continuous ~~[owner-occupancy]~~ compliance with such regulatory agreement
22 or restrictive covenant shall not be less than fifteen years.

23 ~~[5.]~~ 4. If the eligible project is to consist of one to four unit
24 dwelling accommodations or cooperative or condominium units, the agency
25 shall require that the dwelling units be offered only to bona fide
26 purchasers who intend to occupy a unit as their principal place of resi-
27 dence; provided, however, that in the case of two to four unit dwelling
28 accommodations the bona fide purchaser may occupy only a single unit as
29 a principal place of residence. If the purchaser ceases to occupy the
30 unit as a principal place of residence, the agency may provide for
31 recapture of all or a portion of the agency's share of the loan.

32 ~~[6.]~~ 5. If the eligible project is a rental project, the agency's
33 share of the loan may be converted after completion of construction into
34 a ~~[non-interest bearing, non-amortizing thirty year loan]~~ permanent loan
35 with a term of forty years, provided that such period may be extended as
36 the agency may determine is necessary to ensure the continued affor-
37 ability or economic viability of the eligible project, payable ~~[at the~~
38 ~~end of its term, provided that such loan shall be also payable out of~~
39 ~~profits upon any sale or refinancing of the project prior to the end of~~
40 ~~such thirty year period]~~ in such manner as may be provided in the note
41 and any mortgage in connection with such loan. Such note and mortgage
42 may contain such terms and conditions as the agency may deem necessary
43 or desirable to effectuate the purposes and provisions of this article.
44 The sponsor or any subsequent owner or owners of such a project shall
45 agree to rent such units only to persons of ~~[eligible]~~ low income for
46 such ~~[thirty year]~~ period ~~[and shall agree that all]~~ as the agency may
47 determine. All such units shall be subject to the emergency tenant
48 protection act of nineteen seventy-four and the rent stabilization law
49 of nineteen hundred sixty-nine, as amended ~~[for a period of thirty years~~
50 ~~after initial occupancy]~~, unless converted to a cooperative or condomin-
51 ium pursuant to subdivision ~~[eight]~~ seven of this section. ~~[At the end~~
52 ~~of such period each unit shall continue to be subject to such law there-~~
53 ~~after until the first vacancy occurs at which time the unit shall be~~
54 ~~decontrolled.]~~ Initial rentals for all rental units shall be set by the
55 agency.

1 ~~[7.]~~ 6. If the eligible project is a rental project annual profits
2 shall be limited to an amount set by the agency for as long as the loan
3 is outstanding. Excess profits shall be used to establish project
4 reserves, provide capital improvements or reduce the principal amount of
5 the agency's loan, as determined by the agency.

6 ~~[8.]~~ 7. If the eligible project is a rental project, no conversion to
7 a cooperative or condominium shall be permitted for a period of twenty
8 years after initial occupancy, and unless (i) the agency's share of the
9 loan is prepaid upon such conversion, (ii) the conversion shall be done
10 pursuant to section three hundred fifty-two-eeee of the general business
11 law as a non-eviction plan, and (iii) apartments occupied by non-pur-
12 chasing tenants continue to be subject to the rent stabilization law of
13 nineteen hundred sixty-nine as amended, until the occurrence of a vacan-
14 cy.

15 ~~[9.]~~ 8. A loan made pursuant to this article shall be exempt from the
16 mortgage recording taxes imposed by article eleven of the tax law.

17 ~~[10.]~~ 9. Notwithstanding the provisions of any general, special or
18 local law or charter, the agency shall have power, without soliciting
19 competing bids, to contract with any sponsor or to make provision in a
20 loan for the construction or reconstruction of any site improvements
21 located in the public right-of-way or on the eligible site which are
22 necessary for the development of an eligible project. Such site improve-
23 ments may include, but shall not be limited to, streets, sidewalks,
24 landscaping, parks and open space, social, recreational, communal and
25 other non-residential facilities and the outfitting thereof, lighting
26 fixtures, and water and sewer lines, incidental or appurtenant to the
27 construction of such eligible projects.

28 ~~[11.]~~ 10. No loan shall be made pursuant to the provisions of this
29 article unless the agency finds that: (a) the construction of the eligi-
30 ble project does not directly displace current low and moderate income
31 residents of the eligible site; (b) the eligible project leverages
32 private and other public investment, if any, so as to reduce the amount
33 of assistance provided pursuant to this article to the minimal amount
34 which is necessary for construction of the eligible project; (c) the
35 eligible project will be built by a private developer/builder who has
36 agreed to limit its profit in accordance with a formula satisfactory to
37 the agency; (d) the eligible project will provide assistance to an area
38 which is blighted or deteriorated or has a blighting influence on the
39 surrounding area, or is in danger of becoming a slum or a blighted area
40 because of neighborhood conditions indicating an inability or unwilling-
41 ness of the private sector to cause the type of construction for which a
42 loan is to be provided; and (e) the eligible project will make home
43 ownership or rental housing affordable to persons who cannot presently
44 afford the housing available based upon the ordinary unaided operation
45 of private enterprise.

46 ~~[12.]~~ 11. a. The agency may make non-interest bearing advances to
47 sponsors to defray the pre-development costs of eligible projects in
48 accordance with the provisions of this chapter.

49 b. No such advances shall be made unless the agency finds that: (i)
50 the sponsor proposes to finance the eligible project in whole or in part
51 by a loan granted pursuant to this article or that the project, if
52 otherwise financed, will provide housing for persons or families of low
53 income, and that such project is otherwise consistent with the purposes
54 of this article; (ii) the project site is suitable, there is a need for
55 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 planning, 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 charter of the city of New York, 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.