

STATE OF NEW YORK

7541

2023-2024 Regular Sessions

IN SENATE

June 5, 2023

Introduced by Sen. COMRIE -- (at request of the New York State Homes and Community Renewal) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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

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

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

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

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

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

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

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

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

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

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

52 (f) the mortgage constitutes a valid first lien, or second lien on the
53 real property or tangible personal property constituting modular or
54 manufactured housing, described to the agency in accordance with subdivi-
55 sion five of section twenty-four hundred two of this part subject only
56 to real property taxes or other taxes not yet due, installments of

1 assessments not yet due, and easements and restrictions of record which
2 do not adversely affect, to a material degree, the use or value of the
3 real property, tangible personal property constituting modular or manu-
4 factured housing or improvements thereon;

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

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

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

1 insurance, the requirements of paragraph (b) of this subdivision shall
2 not be applicable.

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

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

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

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