

STATE OF NEW YORK

7523

2025-2026 Regular Sessions

IN ASSEMBLY

April 1, 2025

Introduced by M. of A. FITZPATRICK, TAGUE -- Multi-Sponsored by -- M. of A. MANKTELOW -- read once and referred to the Committee on Housing

AN ACT to amend the private housing finance law, in relation to extending provisions relating to affordable housing development loans to all municipalities of the state of New York

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

1 Section 1. Section 1150 of the private housing finance law, as added
2 by chapter 639 of the laws of 1989, is amended to read as follows:

3 § 1150. Statement of legislative findings and purposes. It is hereby
4 found and declared that there exists in [~~the city of~~] New York state a
5 seriously inadequate supply of safe, sanitary and affordable dwelling
6 accommodations for persons and families for whom the ordinary operations
7 of private enterprise cannot provide such accommodations. The legisla-
8 ture further finds and declares that [~~the city of New York~~] any munici-
9 pality should be permitted to assist the private sector in the develop-
10 ment of dwelling accommodations affordable to such persons through
11 establishment of a program to provide monies to make the construction of
12 dwelling accommodations more affordable. It is recognized that currently
13 [~~the city of New York assists~~] municipalities assist the development of
14 such housing accommodations through the provisions of articles fifteen
15 and sixteen of the general municipal law which permit such assistance on
16 [~~city-owned~~] municipally-owned sites which are sold to private develop-
17 ers or non-profit groups for construction of housing. It is intended
18 that [~~the city of New York~~] any municipality also be authorized to
19 expend monies to assist housing development on sites which are not
20 [~~city-owned~~] municipally-owned. Accordingly, the legislature enacts
21 this article to provide such authorization and to encourage the develop-
22 ment of additional affordable dwelling accommodations.

23 § 2. Subdivisions 1, 6 and 9 of section 1151 of the private housing
24 finance law, subdivisions 1 and 9 as added by chapter 639 of the laws of

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

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1 1989 and subdivision 6 as amended by chapter 535 of the laws of 2023,
2 are amended to read as follows:

3 1. "Eligible site" shall mean any real property [~~in the city of New~~
4 ~~York~~] within a municipality which the supervising agency determines to
5 be located in an area which is blighted or deteriorated or has a blight-
6 ing influence on the surrounding area or is in danger of becoming a slum
7 or blighted area because of neighborhood conditions indicating an
8 inability or unwillingness of the private sector to invest in housing in
9 such area.

10 6. "Loan" shall mean a mortgage loan made by a private lender in
11 participation with [~~the city of New York~~] a municipality to a sponsor
12 for the purpose of construction of an eligible project including a loan
13 in which the portion of the loan funded by the supervising agency is
14 represented by a separate note and mortgage.

15 9. [~~"Agency"~~] "Supervising agency" shall mean [~~the department of hous-~~
16 ~~ing preservation and development of the city of New York or any succes-~~
17 ~~sor thereto~~] any officer, board, commission, department, or other agency
18 of the municipality, or the authority or any other public authority,
19 designated by the local legislative body to carry out the functions
20 vested in the agency under this article or delegated to the agency by
21 the local legislative body in order to carry out the purposes and
22 provisions of this article; except that in the city of New York shall be
23 the department of housing preservation and development.

24 § 3. Section 1152 of the private housing finance law, as amended by
25 chapter 535 of the laws of 2023, is amended to read as follows:

26 § 1152. Affordable housing development loans. 1. (a) Notwithstanding
27 the provisions of any general, special or local law, one or more private
28 lenders and [~~the city of New York~~] a municipality, acting through [~~the~~]
29 its supervising agency, shall have the power to participate and invest
30 in making loans to sponsors for the construction of eligible projects.
31 Such loans may be made exclusively for or may include such amounts as
32 may be required for site acquisition or the refinancing of eligible
33 projects. Each such participation loan shall be secured by a bond or
34 note and single participating mortgage or by separate bonds or notes and
35 mortgages upon the eligible project. Such bond or note and mortgage or
36 bonds or notes or mortgages may contain such other terms and provisions
37 not inconsistent with the provisions of this article as the supervising
38 agency may deem necessary or desirable, including, but not limited to,
39 terms providing that the lien created by such note and mortgage, and, if
40 applicable, any regulatory agreement executed by the sponsor and such
41 supervising agency or restrictive covenant approved by such supervising
42 agency, may be recorded in an equal or subordinate position, or subse-
43 quently made equal or subordinate, to the lien created by any private
44 lender against such eligible project.

45 (b) Notwithstanding the provisions of any general, special or local
46 law, and in addition to the power to make or contract to make partic-
47 ipation loans granted by paragraph (a) of this subdivision, [~~the city of~~
48 ~~New York~~] a municipality, acting through [~~the~~] its supervising agency,
49 shall have the power to make or contract to make loans or grants to any
50 owner described in paragraph (a) of this subdivision without the partic-
51 ipation of a private lender, on the same terms as permitted under such
52 paragraph for a participation loan.

53 2. The supervising agency may enter into an agreement with a private
54 lender to deposit its share of a loan with the private lender to be
55 advanced by the private lender. The portion of the loan funded by the
56 supervising agency may be equal to or subordinate in lien to the portion

1 of the loan funded by the private lender and may contain such terms with
2 respect to interest rate, if any, rate of amortization of principal, if
3 any, and time of payment of interest and principal as determined by the
4 supervising agency. The supervising agency may make provision either in
5 the mortgage or mortgages or by separate agreement for the performance
6 by the private lender of such services as are generally performed by a
7 banking institution which itself holds a mortgage, including, without
8 limitation, construction loan advances, construction supervision, initi-
9 ation of foreclosure proceedings, procurement of insurance, and all
10 other matters in connection with the financing, supervision, regulation
11 and audit of any such loan to any such eligible project.

12 3. If the eligible project is to consist of one to four unit dwelling
13 accommodations or cooperative or condominium units, the supervising
14 agency's share of the loan may be converted after completion of
15 construction into mortgages on such dwelling accommodations or condomin-
16 ium units or financing statements filed with respect to such cooperative
17 shares, provided such units or such cooperative shares are purchased by
18 persons of low income. Such mortgages and any blanket mortgage that the
19 supervising agency retains on any portion of, or on all of, the eligible
20 project may provide that such mortgages and such blanket mortgage will
21 automatically be reduced to zero over a period of continuous compliance
22 by the mortgagor with a regulatory agreement or restrictive covenant
23 with or approved by the supervising agency and upon the satisfaction of
24 any additional conditions specified therein. Notwithstanding such
25 provision as contained in such mortgage, the loan shall be reduced to
26 zero only if, prior to or simultaneously with delivery of such mortgage,
27 the supervising agency made a written determination that such reduction
28 would be necessary to ensure the continued affordability or economic
29 viability of the eligible project. Such written determination shall
30 document the basis upon which the loan was determined to be eligible for
31 evaporation. Such period of continuous compliance with such regulatory
32 agreement or restrictive covenant shall not be less than fifteen years.

33 4. If the eligible project is to consist of one to four unit dwelling
34 accommodations or cooperative or condominium units, the supervising
35 agency shall require that the dwelling units be offered only to bona
36 fide purchasers who intend to occupy a unit as their principal place of
37 residence; provided, however, that in the case of two to four unit
38 dwelling accommodations the bona fide purchaser may occupy only a single
39 unit as a principal place of residence. If the purchaser ceases to occu-
40 py the unit as a principal place of residence, the supervising agency
41 may provide for recapture of all or a portion of the supervising agen-
42 cy's share of the loan.

43 5. If the eligible project is a rental project, the supervising agen-
44 cy's share of the loan may be converted after completion of construction
45 into a permanent loan with a term of forty years, provided that such
46 period may be extended as the supervising agency may determine is neces-
47 sary to ensure the continued affordability or economic viability of the
48 eligible project, payable in such manner as may be provided in the note
49 and any mortgage in connection with such loan. Such note and mortgage
50 may contain such terms and conditions as the supervising agency may deem
51 necessary or desirable to effectuate the purposes and provisions of this
52 article. The sponsor or any subsequent owner or owners of such a project
53 shall agree to rent such units only to persons of low income for such
54 period as the supervising agency may determine. All such units located
55 in the city of New York shall be subject to the emergency tenant
56 protection act of nineteen seventy-four and the rent stabilization law

1 of nineteen hundred sixty-nine, as amended, unless converted to a coop-
2 erative or condominium pursuant to subdivision seven of this section.
3 Initial rentals for all rental units shall be set by the supervising
4 agency.

5 6. [~~If~~] In the city of New York, if the eligible project is a rental
6 project annual profits shall be limited to an amount set by the super-
7 vising agency for as long as the loan is outstanding. Excess profits
8 shall be used to establish project reserves, provide capital improve-
9 ments or reduce the principal amount of the supervising agency's loan,
10 as determined by the supervising agency.

11 7. If the eligible project is a rental project, no conversion to a
12 cooperative or condominium shall be permitted for a period of twenty
13 years after initial occupancy, and unless (i) the supervising agency's
14 share of the loan is prepaid upon such conversion, (ii) the conversion
15 shall be done pursuant to section three hundred fifty-two-eeee of the
16 general business law as a non-eviction plan, and (iii) apartments occu-
17 pied by non-purchasing tenants continue to be subject to the rent
18 stabilization law of nineteen hundred sixty-nine as amended, until the
19 occurrence of a vacancy.

20 8. A loan made pursuant to this article shall be exempt from the mort-
21 gage recording taxes imposed by article eleven of the tax law.

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

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

51 11. a. The supervising agency may make non-interest bearing advances
52 to sponsors to defray the pre-development costs of eligible projects in
53 accordance with the provisions of this chapter.

54 b. No such advances shall be made unless the supervising agency finds
55 that: (i) the sponsor proposes to finance the eligible project in whole
56 or in part by a loan granted pursuant to this article or that the

1 project, if otherwise financed, will provide housing for persons or
2 families of low income, and that such project is otherwise consistent
3 with the purposes of this article; (ii) the project site is suitable,
4 there is a need for the housing type proposed in the area to be served
5 and the project is feasible; and (iii) it is reasonable to anticipate
6 that financing will be obtained and the supervising agency makes a find-
7 ing to that effect.

8 c. No such advances may be made to a sponsor unless such sponsor
9 enters into an agreement with the supervising agency which provides that
10 such sponsor shall be regulated with respect to rents, profits, divi-
11 dends and disposition of its property or franchise, in accordance with
12 the provisions of this article.

13 d. An advance granted pursuant to this section shall be used only to
14 defray the pre-development costs of eligible projects. For purposes of
15 this subdivision, the term pre-development costs shall include, but
16 shall not be limited to: the reasonable and necessary costs for plan-
17 ning, site preparation, developing architectural drawings and conducting
18 engineering and environmental studies, but shall not include acquisition
19 of land or buildings, drainage and landscaping of vacant land,
20 construction of new buildings or the reconstruction or rehabilitation of
21 existing buildings.

22 e. Each such advance shall be repaid in full to the supervising agency
23 by the sponsor. Such repayment shall be made upon receipt by the sponsor
24 or its successor in interest of the proceeds of its mortgage or
25 construction loan for the eligible project, unless the supervising agen-
26 cy extends the period for the repayment of such advances. In no event
27 shall the time of repayment be extended to a date later than the date of
28 final advance of funds pursuant to such mortgage or construction loan.
29 Notwithstanding this paragraph, the supervising agency may reduce such
30 advance to zero over a period of continued compliance with the supervis-
31 ing agency's agreement with the sponsor pursuant to paragraph c of this
32 subdivision if the supervising agency has made a written determination
33 that such reduction would be necessary to ensure the continued afford-
34 ability or economic viability of the eligible project. Such written
35 determination shall document the basis upon which the supervising agen-
36 cy's non-interest bearing advance was determined eligible for evapo-
37 ration.

38 f. If the supervising agency, in its discretion, determines at any
39 time that mortgage or construction financing for the eligible project
40 may not be obtained, then all advances made to the sponsor pursuant to
41 this subdivision shall become immediately due and payable upon the
42 demand of the supervising agency.

43 12. If the eligible project is a rental project, the bond or note and
44 mortgage or bonds or notes or mortgages issued by the sponsor of any
45 eligible project to secure a participation loan may provide that the
46 city's portion of such loan shall be reduced to zero commencing on the
47 fifteenth year after the execution of such bond or note and mortgage or
48 bonds or notes or mortgages, provided that, as of the date of any such
49 reduction, the eligible project has been and continues to be owned and
50 operated in a manner consistent with a regulatory agreement with the
51 city. Notwithstanding such provision as contained in the bond or note
52 and mortgage or bonds or notes or mortgages, the loan shall be reduced
53 to zero only if, prior to or simultaneously with delivery of such bond
54 or note and mortgage or bonds or notes or mortgages, the supervising
55 agency made a written determination that such reduction would be neces-
56 sary to ensure the continued affordability or economic viability of the

1 eligible project. Such written determination shall document the basis
2 upon which the loan was determined to be eligible for evaporation.

3 § 4. Section 1153 of the private housing finance law, as added by
4 chapter 639 of the laws of 1989, is amended to read as follows:

5 § 1153. General provisions. 1. The supervising agency shall issue and
6 promulgate rules and regulations for the administration of this article.

7 2. If any clause, sentence, paragraph, section or part of this [~~act~~]
8 article shall be adjudged by any court of competent jurisdiction to be
9 invalid, such [~~judgement~~] judgment shall not affect, impair or invali-
10 date the remainder thereof, but shall be confined in its operation to
11 the clause, sentence, paragraph, section or part thereof directly
12 involved in the controversy in which such judgment shall have been
13 rendered.

14 § 5. This act shall take effect on the ninetieth day after it shall
15 have become a law.