§ 2402. Definitions. As used in this title, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

(1) "Agency". The state of New York mortgage agency, the corporate governmental agency created by section two thousand four hundred three of this title.

* (2) "Bank". Any bank or trust company, savings bank, savings and loan association, industrial bank, credit union, national banking association, federal savings and loan association, federal savings bank or federal credit union which is located in the state. The term "bank" shall also include a New York state licensed mortgage banker, or a domestic not-for-profit corporation whose public purposes include combatting community deterioration and which is an exempt organization as defined in paragraph (e) of subdivision one of section five hundred ninety of the banking law, or an entity exempt from licensing provisions in accordance with paragraph (a) of subdivision two of such section, which in any such case is approved as a mortgage lender by the Federal National Mortgage Association or by the Federal Home Loan Mortgage Corporation, or domestic not-for-profit corporations that are certified by the United States department of treasury as community development financial institutions or licensed by the New York state department of financial services.

* NB Effective until July 23, 2027

* (2) "Bank". Any bank or trust company, savings bank, savings and loan association, industrial bank, credit union, national banking association, federal savings and loan association or federal credit union which is located in the state.

* NB Effective July 23, 2027

(3) "Bonds" and "Notes". The bonds and notes respectively issued by the agency pursuant to this title.

(4) "Comptroller". The comptroller of the state.

* (5) "Mortgage". A loan owed to a bank secured by a first lien on (i) a fee simple or leasehold estate in real property, or (ii) any other instrument which shall constitute or create a security interest in tangible personal property constituting modular or manufactured housing, located in the state and improved by a residential structure or, on which a residential structure for use as single-family modular or

manufactured housing purchased and sited on land shall be constructed using the proceeds of such loan, whether or not insured or guaranteed by the United States of America or any agency thereof. The term "mortgage" shall also include a loan owed to a bank secured by a second lien on (i) a fee simple or leasehold estate in real property, or (ii) any other instrument which shall constitute or create a security interest in tangible personal property constituting modular or manufactured housing, located in the state and improved by a residential structure or on which a residential structure for use as single-family modular or manufactured housing purchased and sited on land shall be constructed using the proceeds of the related loan described in paragraph (a) or (b) of this subdivision, whether or not insured or guaranteed by the United States of America or any agency thereof, provided, however, that such second lien: (a) secures a loan purchased by the agency, and (b) is made at the same time as a first lien securing a loan purchased by the agency pursuant to its programs or by a government sponsored enterprise or is made at the same time as a new housing loan purchased by the agency pursuant to section twenty-four hundred five-c of this part. The term "mortgage" shall also include loans made by the agency and secured by a second lien on (i) a fee simple or leasehold estate in real property, or (ii) any other instrument which shall constitute or create a security interest in tangible personal property constituting modular or manufactured housing, located in the state and improved by a residential structure or on which a residential structure for use as single-family modular or manufactured housing purchased and sited on land shall be constructed using the proceeds of such loan, whether or not insured or guaranteed by the United States of America or any agency thereof, provided however, that the loan made by the agency and secured by such second lien is made at the same time as a first lien securing a mortgage loan purchased by the agency pursuant to its programs or by a government sponsored enterprise. In the case of any second lien purchased or made hereunder, the mortgagor shall be obligated to contribute from his or her own verifiable funds an amount not less than such percentage as the agency shall determine, of the lower of the purchase price or appraised value of the property subject to the first lien. "Real property" as used in this subdivision shall include air rights.

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

* NB Effective until July 23, 2027

* (5) "Mortgage". A loan owed to a bank secured by a first lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof. The term "mortgage" shall also include a loan owed to a bank secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof, provided, however, that such second lien: (a) secures a loan purchased by the agency, and (b) is made at the same time as a first lien securing a loan purchased by the agency pursuant to its programs or by a government sponsored enterprise or is made at the same time as a new housing loan purchased by the agency pursuant to section twenty-four hundred five-c of this part. The term "mortgage" shall also include loans made by the agency and secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof, provided however, that the loan made by the agency and secured by such second lien is made at the same time as a first lien securing a mortgage loan purchased by the agency pursuant to its programs or by a government sponsored enterprise. In the case of any second lien purchased or made hereunder, the mortgagor shall be obligated to contribute from his or her own verifiable funds an amount not less than such percentage as the agency

shall determine, of the lower of the purchase price or appraised value of the property subject to the first lien. "Real property" as used in this subdivision shall include air rights.

Except for the purposes of subdivision seven of section two thousand four hundred five of this part, "mortgage" shall also include a loan owed to a bank by an individual borrower incurred for the purpose of financing the purchase of certificates of stock or other evidence of ownership of an interest in, and a proprietary lease from, a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state, secured by an assignment or transfer of the benefits of such cooperative ownership, and containing such terms and conditions as the agency may approve.

* NB Effective July 23, 2027 until July 23, 2027

* (5) "Mortgage". A loan owed to a bank secured by a first lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof. The term "mortgage" shall also include a loan owed to a bank secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof, provided, however, that such second lien: (a) secures a loan purchased by the agency, and (b) is made at the same time as a first lien securing a loan purchased by the agency pursuant to its programs or is made at the same time as a new housing loan purchased by the agency pursuant to section twenty-four hundred five-c of this part. The term "mortgage" shall also include loans made by the agency and secured by a second lien on a fee simple or leasehold estate in real property located in the state and improved by a residential structure, whether or not insured or guaranteed by the United States of America or any agency thereof, provided however, that the loan made by the agency and secured by such second lien is made at the same time as a first lien securing a mortgage loan purchased by the agency pursuant to its programs or by a government sponsored enterprise. In the case of any second lien, the mortgagor shall be obligated to contribute from his or her own verifiable funds an amount not less than such percentage as the agency

shall determine, of the lower of the purchase price or appraised value of the property subject to the first lien. "Real property" as used in this subdivision shall include air rights.

Except for the purposes of subdivision seven of section two thousand four hundred five of this part, "mortgage" shall also include a loan owed to a bank by an individual borrower incurred for the purpose of financing the purchase of certificates of stock or other evidence of ownership of an interest in, and a proprietary lease from, a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state, secured by an assignment or transfer of the benefits of such cooperative ownership, and containing such terms and conditions as the agency may approve.

* NB Effective July 23, 2027

(6) "State". The state of New York.

(7) "State agency". Any office, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state.

(8) "College". Any institution of higher education recognized and approved as such by the regents of the university of the state which provides a course of study leading to the granting of a post-secondary degree or diploma.

(9) "Career institution". A business, trade, technical or other occupational school approved as such by the regents of the university of the state or accredited by a nationally recognized accrediting agency or association accepted as such by the regents of the university of the state.

(10) "Loan". A loan which the New York higher education assistance corporation has guaranteed or agreed to guarantee pursuant to article fourteen of the education law to a person who is attending or plans to attend, on a full-time or part-time basis, a college or career institution, for the purpose of assisting such person to meet his expenses of higher or career education; provided, however, in no event shall the amount of any such loan for any school year exceed the total amount of (i) the borrower's tuition and educational fees payable to the college or career institution he is attending or is planning to attend, and (ii) sums actually expended or incurred for room and board during such period, reduced by the total amount of (i) all General and Special

Purpose Awards (as provided in article thirteen of the education law), and (ii) all other forms of direct financial aid received by the borrower during such period, however denominated and from whatever source (other than the borrower's family), which by its terms is not repayable by the borrower.

* (11) "Existing mortgage". A mortgage for which funds were advanced prior to the date of the most recent invitation of the agency to banks to sell mortgages to the agency.

* NB Repealed July 23, 2027

* (12) "Forward commitment mortgage". A mortgage, which includes construction loans for single-family modular or manufactured housing purchased and sited on land, for which a commitment to advance funds is made not earlier than the date the agency issues an invitation to purchase mortgages or such later date as specified in the invitation. A mortgage made in satisfaction of the obligation of a bank under section twenty-four hundred five of this part is not a forward commitment mortgage.

* NB Repealed July 23, 2027

* (13) "Housing loan". A loan owed to a bank, secured in a manner satisfactory to the agency, to improve, rehabilitate, reconstruct or redevelop one to four unit residences located in the state. The loan shall be insured or guaranteed by the United States of America or any agency thereof, or by a firm which is authorized by the superintendent of financial services of the state of New York to issue such policies in the state.

* NB Repealed July 23, 2027

* (14) "Persons and families of low or moderate income". Persons and families within the state who are determined by the agency to lack sufficient income to pay enough to cause an adequate supply of credit to be made available for new residential improvement loans at carrying charges within the financial means of such persons and families and whose incomes are below the income levels determined by the agency to be in need of the assistance made available by this title, taking into consideration, without limitation, such factors as the following: (i) the amount of the total income of such persons and families, (ii) the size of the family unit, (iii) the cost to improve, rehabilitate, reconstruct or redevelop residential family dwelling units, (iv) the

ability of such persons and families to pay the amounts charged in regular banking channels for credit for such improvement, rehabilitation, reconstruction, or redevelopment work, and (v) standards established by various programs of the federal government for determining eligibility based on income of such persons and families.

* NB Repealed July 23, 2027

(15) "Blending". The financing of a single mortgage loan partly with the proceeds of bonds issued pursuant to subdivision one of section twenty-four hundred seven of this title and partly with the proceeds of bonds issued pursuant to subdivision two of such section.

(16) "Employer". Any corporation, partnership, or sole proprietorship which maintains an office in the state.

* (17) "Government sponsored enterprises". Privately owned, publicly chartered entities, and wholly-owned corporate instrumentalities of the United States within the department of housing and urban development, created pursuant to 12 USC 1717(a)(2)(A), all created by Congress to encourage lending and reduce costs primarily in the housing sector of the economy, and any successor entity or entities created by Congress to continue to serve said purposes.

* NB Repealed July 23, 2027