*** § 2405-c. Purchase of new housing loans.** (1) The agency is hereby directed, to the extent it finds it practicable, to establish a program whereby it purchases new housing loans from banks within the state during periods when there is an inadequate supply of credit available for new residential improvement loans or available for such loans at carrying charges within the financial means of persons and families of low or moderate income.

It is hereby found and declared that such activities by the agency will alleviate a condition in this state which is contrary to the public health, safety and general welfare and which has constituted in the past and from time to time in the future can be expected to constitute a public emergency. It is further found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the agency shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

(2) The agency shall purchase new housing loans from banks at such prices and upon such terms and conditions as it shall determine; provided, however, that each borrower receiving a housing loan purchased by the agency shall be a person of low or moderate income and provided further that the total purchase price, exclusive of any amounts representing a refund of commitment or other fees paid by a bank to the agency, for all housing loans which the agency commits to purchase from a bank at any one time shall in no event be more than the total of the unpaid principal balances thereof, plus accrued interest thereon.

(3) In conducting its program of purchasing new housing loans, the agency shall not be governed or limited by the provisions of clause (i), (ii) or (iii) of paragraph (b) of subdivision three of section twenty-four hundred five of this title.

(4) The agency shall require as a condition of purchase of new housing loans from banks that each such bank certify that each such new housing loan is to an individual borrower and is in addition to the housing loans such certifying bank otherwise would have made.

(5) Notwithstanding the maximum interest rate, if any, fixed by section 5-501 of the general obligations law or any other law not specifically amending or applicable to this section, the agency may set

the interest rate to be borne by new housing loans purchased by the agency from banks at a rate or rates which the agency from time to time shall determine to be at least sufficient, together with any other available monies, to provide for the payment of its bonds and notes, and new housing loans bearing such interest rate shall not be deemed to violate any such law or to be unenforceable if originated by a bank in good faith pursuant to an undertaking with the agency with respect to the sale thereof notwithstanding any subsequent failure of the agency to purchase the housing loan or any subsequent sale or disposition of the housing loan by the agency to such bank or any other person.

(6) The agency shall require the submission to it by each bank from which the agency has purchased new housing loans evidence satisfactory to the agency of the making, and if applicable, the servicing, of such new housing loans in conformity with such bank's undertaking with the agency and in connection therewith may, through its employees or agents or those of the department of financial services, inspect the books and records of any such bank.

(7) Compliance by any bank with the terms of its agreement with or undertaking to the agency with respect to the sale, and if applicable, the servicing, of new housing loans may be enforced by decree of the supreme court. The agency may require as a condition of purchase of new housing loans from any national bank the consent of such bank to the jurisdiction of the supreme court over any such proceeding. The agency may also require agreement by any bank, as a condition of the agency's purchase of new housing loans from such bank, to the payment of penalties to the agency for violation by the bank of its undertakings to the agency, and such penalties shall be recoverable at the suit of the agency.

(8) The agency shall require as a condition of purchase of any new housing loan from a bank that the bank represent and warrant to the agency that:

(a) the unpaid principal balance of the housing loan and the interest rate thereon have been accurately stated to the agency;

(b) the amount of the unpaid principal balance is justly due and owing;

(c) the bank has no notice of the existence of any counterclaim, offset or defense asserted by the mortgagor or any successor in

interest;

(d) the housing loan is evidenced and secured in the manner specified in the bank's undertaking to the agency and all required loan documents have been properly recorded with any appropriate public official;

(e) the housing loan is secured by the security described to the agency subject only to liens, security interests and encumbrances described to the agency;

(f) the borrower is not now in default in the payment of any installment of principal or interest, escrow funds, real property taxes or otherwise in the performance of his obligations under the loan documents and has not to the knowledge of the bank been in default in the performance of any such obligation for a period of longer than sixty days during the life of the housing loan;

(g) the residential family dwelling unit improved, rehabilitated, reconstructed or redeveloped with the proceeds of the housing loan is covered by a valid and subsisting policy of insurance issued by a company authorized by the superintendent of financial services to issue such policies in the state of New York and providing fire and extended coverage to the extent specified in the bank's undertaking to the agency; and

(h) the housing loan is 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.

(9) Each bank shall be liable to the agency for any damages suffered by the agency by reason of the untruth of any representation or the breach of any warranty and, in the event that any representation shall prove to be untrue when made or in the event of any breach of warranty, the bank shall, at the option of the agency, repurchase the housing loan for the original purchase price adjusted for amounts subsequently paid thereon, as the agency shall determine.

(10) The agency need not require the recording or filing of an assignment of any new housing loan purchased by it from a bank pursuant to this section and shall not be required to notify the borrower of its purchase of the housing loan. The agency shall not be required to inspect or take possession of the loan documents if the bank from which the new housing loan is purchased by the agency shall enter a contract

to service such housing loan and account to the agency therefor.

(11) Notwithstanding any other provision of law, the agency is authorized to require, as a condition to the purchase from banks of new housing loans, such restrictions upon assumability of the loan, default provisions, rights to accelerate, and other terms applicable to new housing loans made by banks pursuant to undertakings with the agency with respect to the sale thereof as the agency may determine to be necessary or desirable to assure the repayment of its bonds and notes and the exemption from federal income taxes of the interest payable on its bonds and notes. All such terms shall be enforceable by the originating bank, the agency, and any successor holder of the housing loan unless expressly waived in writing by or on behalf of the agency.

(12) In conducting its program of purchasing new housing loans, the agency shall use its best efforts to work in conjunction with and maximize the participation of programs operated by not-for-profit corporations or charitable organizations for the improvement, rehabilitation, reconstruction or redevelopment of one to four unit residences.

* NB Repealed July 23, 2027