§ 2428 Insurance of mortgages. 1. The agency is authorized, subject to the provisions of this article, to make commitments to insure and to contract to insure mortgage loans eligible for insurance hereunder.

* 1-a. The agency may issue commitments to provide and may provide pool insurance in an amount not in excess of twenty-five percent of the outstanding principal indebtedness at the time of commitment of any aggregate of mortgage loans or with respect to mortgage loans acquired pursuant to section twenty-four hundred five-b of this title, twenty-five percent of the initial principal indebtedness of any aggregate of mortgage loans.

* NB Repealed July 23, 2027

2. The agency shall limit its insurance on a rehabilitation or preservation loan to an amount not in excess of fifty per centum of the outstanding principal indebtedness, provided, however, that the agency may insure an amount not in excess of seventy-five per centum of the outstanding principal indebtedness of a rehabilitation loan if it shall find, pursuant to rules or regulations which it shall establish that the extent of rehabilitation is sufficient to justify such additional insurance, provided further, however, that the agency may insure an amount equal to the full outstanding principal indebtedness when the loan has been made by a public benefit corporation of the state of New York which public benefit corporation has issued or will issue bonds or notes, some or all of the proceeds of which bonds or notes were used or will be used to make such loan, or when the loan has been made by a public employee pension fund.

However, the sum of the percentage of any mortgage loan insured by the agency and the percentage of such loan insured or to be insured by any other party shall not exceed one hundred per centum of the outstanding principal indebtedness.

* 2-a. The agency may issue a commitment to provide and may insure a preservation loan in an amount equal to the full outstanding principal indebtedness of such preservation loan if: (a) the existing indebtedness shall have been originated during the period from January first, two thousand four through December thirty-first, two thousand eight; (b) the amount of each insured preservation loan shall not exceed one hundred

fifty million dollars; (c) such preservation loan shall preserve or create affordable housing accommodations; and (d) the preservation loan shall have been made by a public benefit corporation of the state of New York which public benefit corporation has issued or will issue bonds or notes, some or all of the proceeds of which bonds or notes shall have been, or will be, used to make such preservation loan, or the preservation loan shall have been made by a public employee pension fund.

* NB Repealed July 23, 2027

* 3. Except for pool insurance, and except as otherwise provided in subdivision three-a of this section, the agency shall not issue a commitment to insure nor shall it insure any loan unless it shall first find (a) that the property which is the security for such loan is located in a neighborhood characterized by a deficiency of available mortgage financing; (b) that such deficiency has caused or threatens to cause undermaintained and deteriorating housing accommodations and substandard and insanitary neighborhoods; (c) that the granting of such loan will aid in the preservation or rehabilitation of the neighborhood in which such property is located; (d) if the property which is the security for such loan is not a housing accommodation, that the granting of such loan will assist in preventing the deterioration of housing accommodations in the neighborhood in which such property is located; (e) that the sum of (i) twenty percentum or such percentum as may be established by the board of the agency pursuant to subdivision seven of this section, of the amount of such loan which is to be insured, plus (ii) the amount of the mortgage insurance fund requirement for the category of loan does not exceed the amount available in the special account; and (f) that the property which is the security for such loan meets such other requirements as the agency may from time to time establish by guidelines adopted by the agency.

The agency shall not issue a commitment to provide pool insurance nor shall it provide such insurance unless it shall first find (a) that the sum of (i) twenty per centum, or such per centum as may be established by the board of the agency pursuant to subdivision seven of this section, of the amount of such loans or aggregate of loans which is to be insured, plus (ii) the amount of the mortgage insurance fund

requirement for the category of loan does not exceed the amount available in the pool insurance account; and (b) that the property which is the security for such loan or loans meets such other requirements as the agency may from time to time establish by guidelines adopted by the agency.

The agency may issue a commitment to insure and may insure an existing loan, first when an application for such mortgage insurance is pending prior to the making of a loan, when significant circumstances beyond the reasonable control of the mortgagor and mortgagee necessitate the making of the loan prior to the issuance of the commitment to insure and when it is determined by the agency that such loan would not have been made except for the reasonable expectation that the agency would insure the loan, or second, as part of a transaction in which the financial institution requesting insurance makes additional loan or loans which qualify for insurance by the agency, in accordance with provisions of this section and requirements established by the agency, in a total amount such that the uninsured portion of such additional loan or loans equals or exceeds the insured portion of such existing loan or loans.

* NB Effective until July 23, 2027

* 3. The agency shall not issue a commitment to insure nor shall it insure any loan unless it shall first find (a) that the property which is the security for such loan is located in a neighborhood characterized by a deficiency of available mortgage financing; (b) that such deficiency has caused or threatens to cause undermaintained and deteriorating housing accommodations and substandard and insanitary neighborhoods; (c) that the granting of such loan will aid in the preservation or rehabilitation of the neighborhood in which such property is located; (d) if the property which is the security for such loan is not a housing accommodation, that the granting of such loan will assist in preventing the deterioration of housing accommodations in the neighborhood in which such property is located; (e) that the sum of (i) twenty percentum or such percentum as may be established by the board of the agency pursuant to subdivision seven of this section, of the amount of such loan which is to be insured, plus (ii) the amount of the mortgage insurance fund requirement for the category of loan does not exceed the amount available in the special account; and (f) that the

property which is the security for such loan meets such other requirements as the agency may from time to time establish by rules and regulations.

The agency may issue a commitment to insure and may insure an existing loan, first when an application for such mortgage insurance is pending prior to the making of a loan, when significant circumstances beyond the reasonable control of the mortgagor and mortgagee necessitate the making of the loan prior to the issuance of the commitment to insure and when it is determined by the agency that such loan would not have been made except for the reasonable expectation that the agency would insure the loan, or second, as part of a transaction in which the financial institution requesting insurance makes additional loan or loans which qualify for insurance by the agency, in accordance with provisions of this section and requirements established by the agency, in a total amount such that the uninsured portion of such additional loan or loans equals or exceeds the insured portion of such existing loan or loans.

* NB Effective July 23, 2027

* 3-a. The agency may issue a commitment to insure and may insure any loans or aggregate of loans and may issue a commitment to provide and may provide mortgage pool insurance on any loans or aggregate of loans, notwithstanding the criteria set forth in subparagraph (a), (b), (c) or (d) of the opening paragraph of subdivision three of this section provided that it shall find that the property which is the security for such loan or loans is either: (a) located within an empire zone designated pursuant to article eighteen-B of the general municipal law, or (b) will provide affordable housing, or (c) the entity providing the project's mortgage financing was or is created by local, state or federal legislation and certifies to the agency that the project meets the program criteria applicable to such entity, or (d) providing a retail or community service facility that would not otherwise be provided.

* NB Repealed July 23, 2027

3-b. Notwithstanding any other provision of law to the contrary, when such insurance is not available through the private market the agency may insure reverse mortgage loans which meet the following conditions:

(a) the authorized lender requires primary mortgage insurance on the real property and the applicant is unable to procure such mortgage insurance in the private market;

(b) the reverse mortgage loan is issued pursuant to section two hundred eighty or two hundred eighty-a of the real property law;

(c) the reverse mortgage loan amount shall not exceed the loan to value ratio as may be determined by the superintendent of financial services; and

(d) the real property which is the security for such reverse mortgage loan meets such other requirements as the agency may from time to time establish.

* 4. To be eligible for insurance under this article, a mortgage loan shall (a) (i) be a first lien of the kind which is commonly given to secure advances on, or the unpaid purchase price of, real property, or tangible personal property constituting modular or manufactured housing in the case of mortgage loans purchased by the agency under its forward commitment program, under the laws of the state together with any credit instrument secured thereby, provided, however, that a mortgage loan may be a second lien if such mortgage loan was purchased by the agency or (ii) be secured by an assignment or transfer of stock certificates or other evidence of ownership interest of the borrower in, and a proprietary lease from, a corporation formed for the purpose of the cooperative ownership of residential real estate in the state; (b) secure a rehabilitation or preservation loan on real property held in fee simple or on a leasehold under a proprietary lease or a lease having a period of years to run at the time the mortgage is insured under this article of at least twenty per centum greater duration than the remaining term of the mortgage; (c) contain terms with respect to prepayment, insurance, repairs, alterations, payment of taxes, special assessments, service charges, default reserves, delinquency charges, foreclosure proceedings, additional and secondary liens, and such other matters as the agency may in its discretion prescribe; (d) be accompanied by certificates, issued by such officers of the mortgage financial institutions, independent appraisers or other persons as the agency may require, certifying that (i) where appropriate, the annual income to be derived from the property equals not less than one hundred and five per centum of the annual charges and expenses, including

provision for reserves, satisfactory to the agency, for the amortization of subordinate mortgage loans over the remaining terms of such loans notwithstanding the provisions thereof; (ii) the remaining useful life of the property is greater than the term of the mortgage; and (iii) the property does not contain any substantial violations of local building maintenance and construction codes, except that in the case of a loan made to the owner of a property containing any such violations, the agency may insure or commit to insure such loan if the mortgagee and the owner have submitted a plan, satisfactory to the agency to eliminate such violations and the issuance of such insurance shall be conditioned on removal of such violations to the satisfaction of the local code enforcement agency; and (e) satisfy such additional terms and conditions as the agency may prescribe. For pool insurance, the requirements of paragraph (b) of this subdivision shall not be applicable.

* NB Effective until July 23, 2027

* 4. To be eligible for insurance under this article, a mortgage loan shall (a) (i) be a first lien of the kind which is commonly given to secure advances on, or the unpaid purchase price of, real property under the laws of the state together with any credit instrument secured thereby, provided, however, that a mortgage loan may be a second lien if such mortgage loan was purchased by the agency or (ii) be secured by an assignment or transfer of stock certificates or other evidence of ownership interest of the borrower in, and a proprietary lease from, a corporation formed for the purpose of the cooperative ownership of residential real estate in the state; (b) secure a rehabilitation or preservation loan on real property held in fee simple or on a leasehold under a proprietary lease or a lease having a period of years to run at the time the mortgage is insured under this article of at least twenty per centum greater duration than the remaining term of the mortgage; (c) contain terms with respect to prepayment, insurance, repairs, alterations, payment of taxes, special assessments, service charges, default reserves, delinquency charges, foreclosure proceedings, additional and secondary liens, and such other matters as the agency may in its discretion prescribe; (d) be accompanied by certificates, issued by such officers of the mortgage financial institutions, independent appraisers or other persons as the agency may require, certifying that (i) where appropriate, the annual income to be derived from the property

equals not less than one hundred and five per centum of the annual charges and expenses, including provision for reserves, satisfactory to the agency, for the amortization of subordinate mortgage loans over the remaining terms of such loans notwithstanding the provisions thereof; (ii) the remaining useful life of the property is greater than the term of the mortgage; and (iii) the property does not contain any substantial violations of local building maintenance and construction codes, except that in the case of a loan made to the owner of a property containing any such violations, the agency may insure or commit to insure such loan if the mortgagee and the owner have submitted a plan, satisfactory to the agency to eliminate such violations and the issuance of such insurance shall be conditioned on removal of such violations to the satisfaction of the local code enforcement agency; and (e) satisfy such additional terms and conditions as the agency may prescribe.

* NB Effective July 23, 2027

5. In addition to the conditions set forth in subdivisions three and four of this section, the agency shall not insure nor issue a commitment to insure any rehabilitation loan unless it shall first find that rehabilitation is necessary to upgrade the property and that rehabilitation will not necessitate more than a minimum amount of relocation of the residents of any housing accommodation.

6. A financial institution may request insurance by written application to the agency in such form and manner, together with such information and documents, as the agency may prescribe. No application shall be complete unless and until the financial institution has paid such processing fees and other charges as the agency may impose in connection therewith. The agency shall signify its acceptance of such application for insurance by issuance of a commitment to insure or a contract of insurance.

7. * (a) The board of directors of the agency may, from time to time, by vote of a majority of all of its members, establish a percentage greater than the per centum set in subdivision five of section twenty-four hundred twenty-six of this title for any or all of the following categories of loans insurable by the agency or for one or more

loans within such categories: one to four family dwellings one unit of which is owner-occupied; one to four family dwellings which are not owner-occupied; five or more family dwellings; proprietary leases; condominiums; loans secured by other real property; loans purchased or to be purchased by the agency with proceeds of bonds or notes issued by the agency; loans securing bonds or notes issued by the agency; loans covered by pool insurance; or, combinations thereof. The board shall specify such percentage and shall specify the date on which the establishment of such percentage shall take effect as to (i) commitments issued on or after such date and (ii) nothing contained in this section shall be construed to prohibit the board of directors of the agency from reducing the per centum used in calculating the mortgage insurance fund requirement, provided such new per centum is not less than that set in subdivision five of section twenty-four hundred twenty-six of this title.

* NB Effective until July 23, 2027

* (a) The board of directors of the agency may, from time to time, by vote of a majority of all of its members, establish a percentage other than the percentum set in subdivision five of section twenty-four hundred twenty-six of this chapter for any or all of the following categories of loans insurable by the agency: single family residences which are owner-occupied; single family residences which are not owner-occupied; multi-family residences; proprietary leases; condominiums and loans secured by other real property; or, combinations thereof. The board shall specify such percentage in multiples of five and shall specify the date on which the establishment of such percentage shall take effect as to commitments issued on or after such date.

* NB Effective July 23, 2027

(b) No change in the amount of moneys which must be held in or credited to the mortgage insurance fund pursuant to paragraph (a) of this subdivision shall have force or effect until the governor of the state of New York shall have an opportunity to approve or veto it. For the purpose of procuring such approval or veto, the secretary of the board shall transmit to the governor at the executive chamber in Albany a certified copy of that portion of the minutes of the meeting of the board in which such change was discussed and voted upon as soon after the holding of such meeting as the minutes can be prepared. The governor

shall, within thirty days, Saturdays, Sundays and public holidays excepted, after such minutes shall have been delivered at the executive chamber as aforesaid, cause the same to be returned to the board either with his approval or with his veto, provided, however, that if the governor shall not return such minutes within such period then at the expiration thereof the change therein authorized will have full force and effect according to the wording thereof. If the governor within such period returns such minutes with a veto against the change, then such change shall be null and void.

* 8. Notwithstanding any contrary provisions of this article or of any other law, rule or regulation, on and after the effective date of this subdivision;

(a) Except for pool insurance, the agency shall not issue a commitment to insure nor shall it provide loan insurance for any loan if twenty percent (or such other percentage as may be established pursuant to subdivision seven of this section) of the amount to be insured exceeds ten percent of the mortgage insurance fund requirement for all loans insured and loans for which commitments to insure have been issued at that time.

(b) If less than fifty percent, or none of the space of the project is or is to be used for residential purposes, the amount of such loan insurance shall not exceed five million dollars and no such loan insurance may be issued unless the agency finds that the space which is to be used for other than residential purposes is to be used to provide the residents of the neighborhood with retail and community service facilities which would not otherwise be provided. The provisions of this paragraph shall not apply to loan insurance for projects which provide temporary shelter for homeless persons or community health facilities.

(c) The agency shall not issue a commitment to insure nor shall it provide loan insurance for a preservation loan unless: (i) such loan is made with respect to a one to four family dwelling; or (ii) such loan is made with respect to a building, which on the effective date of this subparagraph, is owned by a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state where such refinancing is not otherwise available and such loan will facilitate or accommodate affordable homeownership opportunities; or (iii) such loan is made with respect to the real

property and improvements owned by a cooperative housing corporation formed for the purpose of the cooperative ownership of residential manufactured homes in the state where such refinancing is not otherwise available and such loan will facilitate or accommodate affordable homeownership opportunities; or (iv) such loan is made with respect to multi-family residential buildings with existing indebtedness originated during the period from January first, two thousand four through December thirty-first, two thousand eight, where such loan will facilitate or accommodate the preservation of affordable housing accommodations.

* NB Effective until July 23, 2027

* 8. Notwithstanding any contrary provisions of this article or of any other law, rule or regulation, on and after the effective date of this subdivision;

(a) The agency shall not issue a commitment to insure nor shall it provide loan insurance for an amount in excess of the lesser of ten million dollars or forty percent of the amount of money on deposit in the mortgage insurance fund at that time.

(b) If less than fifty percent, or none of the space of the project is or is to be used for residential purposes, the amount of such loan insurance shall not exceed five million dollars and no such loan insurance may be issued unless the agency finds that the space which is to be used for other than residential purposes is to be used to provide the residents of the neighborhood with retail and community service facilities which would not otherwise be provided.

(c) The agency shall not issue a commitment to insure nor shall it provide loan insurance for a preservation loan unless (i) such loan is made with respect to a one to four family dwelling; or (ii) such loan is made with respect to a building, which on the effective date of this subparagraph, is owned by a cooperative housing corporation formed for the purpose of the cooperative ownership of residential real estate in the state where such refinancing is not otherwise available and such loan will facilitate or accommodate affordable homeownership opportunities; or (iii) such loan is made with respect to the real property and improvements owned by a cooperative housing corporation formed for the purpose of the cooperative ownership of residential manufactured homes in the state where such refinancing is not otherwise available and such loan will facilitate or accommodate affordable

homeownership opportunities.

* NB Effective July 23, 2027