

# SONYMA

## Supporting Materials

# SONYMA

Board Meetings and  
Attendees



ANDREW M. CUOMO  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

December 3, 2020

**FROM:** Secretary to the Boards

**TO:** Members and Directors

**SUBJECT:** Adoption of Board meeting transcript.

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As a result of the COVID crisis, and in accordance with the Governor's Executive Order amending Article 7 of the Public Officers Law, the regularly scheduled Board meetings of the Agencies was held on November 12, 2020 via telephone conference, with the public having access to a telephone number through which they could listen to the meetings.

The Executive Order provided that the public have the ability to listen to the meeting, and that the meetings be transcribed.

In lieu of the usual Board minutes, attached is the transcript of the meetings, which include all the materials normally included in the minutes. The transcript is presented for your review. If there are no corrections, the transcript stands approved as read, and will be used as the Agencies' records of proceeding.

TRANSCRIPT OF THE NOVEMBER 12, 2020 BOARD MEETINGS OF THE NEW YORK STATE HOUSING FINANCE AGENCY, THE STATE OF NEW YORK MORTGAGE AGENCY, THE AFFORDABLE HOUSING CORPORATION, THE STATE OF NEW YORK MORTGAGE AGENCY MORTGAGE INSURANCE COMMITTEE, AND THE NEW YORK STATE HOUSING FINANCE AGENCY FINANCE AND PROGRAM COMMITTEE.

Linda Manley, Senior Vice President and Counsel to the Agencies, stated that she will now open the November 12, 2020 meeting of the Boards of the New York State Housing Finance Agency, the State of New York Mortgage Agency, the Affordable Housing Corporation, the State of New York Mortgage Agency Mortgage Insurance Committee, and the New York State Housing Finance Agency Finance and Program Committee, and noted that because of the novel corona virus emergency in the State, and Federal bans on large meetings or gathering and pursuant to Governor Cuomo's executive order 220.1 issued on March 12, 2020, which order was extended on November 3, 2020 certain provision of the open meetings law have been suspended.

Ms. Manley also stated that the Board meeting would be held by conference call instead of as a public meeting open for the public to attend in person, and that a call-in number was made public for the public to listen to the proceedings.

Ms. Manley noted that because of these special features a change in voting procedures would be put in place for this meeting and she would be asking each Board member to record their votes individually.

Ms. Manley asked for a motion to call the meeting of the HFA and AHC Boards to order. Chairman Adams made the motion and Mr. Curtis seconded. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for HFA and AHC.

Ms. Manley asked for a motion to call the meeting of the HFA Finance and Program Committee to order. Chairman Adams made the motion and Mr. Olczak seconded the motion. Ms. Visnauskas voted aye. Ms. Manley noted the presence of a quorum for the HFA Finance and Program Committee.

Ms. Manley asked for a motion to call the meeting of the SONYMA Board to order. Chairman Adams made the motion and Mr. Kapell seconded. Ms. Visnauskas voted aye, Mr. Olczak voted aye; Ms. Gonzalez voted aye; and Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for SONYMA.

Ms. Manley asked for a motion to call the meeting of the SONYMA Mortgage Insurance Committee to order. Chairman Adams made the motion and Mr. Kapell seconded the motion. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Ms. Miller voted aye. Mr. Ballan voted aye. Ms. Manley noted the presence of a quorum for the MIF.

Chairman Adams stated that Ms. Visnauskas would make her monthly President's report.





ANDREW M. CUOMO  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

January 21, 2021

**FROM:** Secretary to the Boards

**TO:** Members and Directors

**SUBJECT:** Adoption of Transcript and of Committee minutes.

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As a result of the COVID crisis, and in accordance with the Governor's Executive Order amending Article 7 of the Public Officers Law, the regularly scheduled Board meetings of the Agencies was held on December 10, 2020 via telephone conference, with the public having access to a telephone number through which they could listen to the meetings.

The Executive Order provided that the public have the ability to listen to the meeting, and that the meetings be transcribed.

In lieu of the usual Board minutes, attached is the transcript of the meetings, which include all the materials normally included in the minutes. The transcript is presented for your review. If there are no corrections, the transcript stands approved as read, and will be used as the Agencies' records of proceeding.

In addition, attached are the minutes of the SONYMA Finance and Program Committee meetings held on January 30, 2020, for your approval.

TRANSCRIPT OF THE DECEMBER 10, 2020 BOARD MEETINGS OF THE NEW YORK STATE HOUSING FINANCE AGENCY, THE STATE OF NEW YORK MORTGAGE AGENCY, THE AFFORDABLE HOUSING CORPORATION, THE STATE OF NEW YORK MORTGAGE AGENCY MORTGAGE INSURANCE COMMITTEE, THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY AND THE TOBACCO SETTLEMENT FINANCING CORPORATION

Linda Manley, Senior Vice President and Counsel to the Agencies, stated that she will now open the December 10, 2020 meeting of the Boards of the New York State Housing Finance Agency, the State of New York Mortgage Agency, the Affordable Housing Corporation, the State of New York Mortgage Agency Mortgage Insurance Committee, the State of New York Municipal Bond Bank Agency and the Tobacco Settlement Financing Corporation and noted that because of the novel corona virus emergency in the State, and Federal bans on large meetings or gathering and pursuant to Governor Cuomo's executive order 220.1 issued on March 12, 2020, which order was extended on January 2, 2021 certain provision of the open meetings law have been suspended.

Ms. Manley also stated that the Board meeting would be held by conference call instead of as a public meeting open for the public to attend in person, and that a call-in number was made public for the public to listen to the proceedings.

Ms. Manley noted that because of these special features a change in voting procedures would be put in place for this meeting and she would be asking each Board member to record their votes individually.

Ms. Manley asked for a motion to call the meeting of the HFA and AHC Boards to order. Chairman Adams made the motion and Mr. Curtis seconded. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for HFA and AHC.

Ms. Manley asked for a motion to call the meeting of the SONYMA Board to order. Chairman Adams made the motion and Mr. Kapell seconded. Mr. Ballan voted aye; Ms. Visnauskas voted aye, Mr. Olczak voted aye; Ms. Gonzalez voted aye; and Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for SONYMA.

Ms. Manley asked for a motion to call the meeting of the SONYMA Mortgage Insurance Committee to order. Chairman Adams made the motion and Mr. Ballan seconded the motion. Mr. Kapell voted aye; Mr. Olczak voted aye; Ms. Visnauskas voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MIF.

Ms. Manley asked for a motion to call the meeting of the MBBA and TSFC Boards to order. Chairman Adams made the motion and Mr. Olczak seconded the motion. Ms. Baldwin voted aye; Mr. SanFilippo voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MBBA and TSFC.

Chairman Adams noted the appointment to the SONYMA Board of a new member and asked if staff had contacted her. Ms. Manley noted that introductory materials were being prepared for the new member, and that she would be invited to attend the January meeting.

Chairman Adams then stated that Ms. Visnauskas would make her monthly President's report. Ms. Visnauskas thanked everyone for participating by telephone at this Board meeting and summarized the list of items to be considered by the Boards.



ANDREW M. CUOMO  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

February 4, 2021

**FROM:** Secretary to the Boards

**TO:** Members and Directors

**SUBJECT:** Adoption of Board meeting transcript.

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As a result of the COVID crisis, and in accordance with the Governor's Executive Order amending Article 7 of the Public Officers Law, the regularly scheduled Board meetings of the Agencies was held on January 28, 2021 via telephone conference, with the public having access to a telephone number through which they could listen to the meetings.

The Executive Order provided that the public have the ability to listen to the meeting, and that the meetings be transcribed.

In lieu of the usual Board minutes, attached is the transcript of the meetings, which include all the materials normally included in the minutes. The transcript is presented for your review. If there are no corrections, the transcript stands approved as read, and will be used as the Agencies' records of proceeding.

TRANSCRIPT OF THE JANUARY 28, 2021 BOARD MEETINGS OF THE NEW YORK STATE HOUSING FINANCE AGENCY, THE STATE OF NEW YORK MORTGAGE AGENCY, THE AFFORDABLE HOUSING CORPORATION, THE STATE OF NEW YORK MORTGAGE AGENCY MORTGAGE INSURANCE COMMITTEE, THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY AND THE TOBACCO SETTLEMENT FINANCING CORPORATION

Linda Manley, Senior Vice President and Counsel to the Agencies, stated that she will now open the January 28, 2021 meeting of the Boards of the New York State Housing Finance Agency, the State of New York Mortgage Agency, the Affordable Housing Corporation, the State of New York Mortgage Agency Mortgage Insurance Committee, the State of New York Municipal Bond Bank Agency and the Tobacco Settlement Financing Corporation and noted that because of the novel corona virus emergency in the State, and Federal bans on large meetings or gathering and pursuant to Governor Cuomo's executive order 220.1 issued on March 12, 2020, which order was extended on January 2, 2021 certain provision of the open meetings law have been suspended.

Ms. Manley also stated that the Board meeting would be held by conference call instead of as a public meeting open for the public to attend in person, and that a call-in number was made public for the public to listen to the proceedings.

Ms. Manley noted that because of these special features a change in voting procedures would be put in place for this meeting and she would be asking each Board member to record their votes individually.

Ms. Manley asked for a motion to call the meeting of the HFA and AHC Boards to order. Chairman Adams made the motion and Mr. Curtis seconded. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for HFA and AHC.

Ms. Manley asked for a motion to call the meeting of the SONYMA Board to order. Chairman Adams made the motion and Mr. Ballan seconded. Ms. Visnauskas voted aye, Mr. Olczak voted aye; Ms. Gonzalez voted aye; and Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for SONYMA.

Ms. Manley asked for a motion to call the meeting of the SONYMA Mortgage Insurance Committee to order. Chairman Adams made the motion and Mr. Ballan seconded the motion. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MIF.

Ms. Manley asked for a motion to call the meeting of the MBBA and TSFC Boards to order. Chairman Adams made the motion and Mr. Olczak seconded the motion. Ms. Baldwin voted aye; Mr. SanFilippo voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MBBA and TSFC.

Chairman Adams noted the appointment to the SONYMA Board of a new member and noted that Ms. Gross had informed the Agency that because of illness she could not attend this meeting. Ms. Manley noted that introductory materials had been sent to the new member.

Chairman Adams then stated that Ms. Visnauskas would make her monthly President's report. Ms. Visnauskas thanked everyone for participating by telephone at this Board meeting and summarized the list of items to be considered by the Boards.



ANDREW M. CUOMO  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

March 4, 2021

**FROM:** Secretary to the Boards

**TO:** Members and Directors

**SUBJECT:** Adoption of Board meeting transcript.

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As a result of the COVID crisis, and in accordance with the Governor's Executive Order amending Article 7 of the Public Officers Law, the regularly scheduled Board meetings of the Agencies was held on February 11, 2021 via telephone conference, with the public having access to a telephone number through which they could listen to the meetings.

The Executive Order provided that the public have the ability to listen to the meeting, and that the meetings be transcribed.

In lieu of the usual Board minutes, attached is the transcript of the meetings, which include all the materials normally included in the minutes. The transcript is presented for your review. If there are no corrections, the transcript stands approved as read, and will be used as the Agencies' records of proceeding.

TRANSCRIPT OF THE FEBRUARY 11, 2021 BOARD MEETINGS OF THE NEW YORK STATE HOUSING FINANCE AGENCY, THE STATE OF NEW YORK MORTGAGE AGENCY, THE AFFORDABLE HOUSING CORPORATION, THE STATE OF NEW YORK MORTGAGE AGENCY MORTGAGE INSURANCE COMMITTEE.

Linda Manley, Senior Vice President and Counsel to the Agencies, stated that she will now open the February 11, 2021 meeting of the Boards of the New York State Housing Finance Agency, the State of New York Mortgage Agency, the Affordable Housing Corporation, the State of New York Mortgage Agency Mortgage Insurance Committee and the New York State Housing Finance Agency Finance and Program Committee and noted that because of the novel corona virus emergency in the State, and Federal bans on large meetings or gathering and pursuant to Governor Cuomo's executive order 220.1 issued on March 12, 2020, which order was extended on January 27, 2021 certain provision of the open meetings law have been suspended.

Ms. Manley also stated that the Board meeting would be held by conference call instead of as a public meeting open for the public to attend in person, and that a call-in number was made public for the public to listen to the proceedings.

Ms. Manley noted that because of these special features a change in voting procedures would be put in place for this meeting and she would be asking each Board member to record their votes individually.

Ms. Manley noted that Chairman Adams had a scheduling conflict and would not be able to attend this meeting. Commissioner Visnauskas would chair the meetings in his place.

Ms. Manley asked for a motion to call the meeting of the HFA and AHC Boards to order. Mr. Curtis made the motion and Ms. Miller seconded. Mr. Olczak voted aye; Ms. Visnauskas voted aye. Ms. Manley noted the presence of a quorum for HFA and AHC.

Ms. Manley asked for a motion to call the meeting of the SONYMA Board to order. Mr. Kapell made the motion and Mr. Ballan seconded. Ms. Visnauskas voted aye, Mr. Olczak voted aye; Ms. Gonzalez voted aye; and Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for SONYMA.

Ms. Manley asked for a motion to call the meeting of the SONYMA Mortgage Insurance Committee to order. Mr. Kapell made the motion and Mr. Ballan seconded the motion. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MIF.

Ms. Manley asked for a motion to call the meeting of the HFA Finance and Program Committee to order. Ms. Visnauskas made the motion and Mr. Olczak seconded the motion. Ms. Manley noted the presence of a quorum for the HFA Finance and Program Committee.

Ms. Visnauskas then made her monthly President's report. Ms. Visnauskas thanked everyone for participating by telephone at this Board meeting.

Ms. Visnauskas started by noting that Elaine Gross had been added as a Director of SONYMA. She noted that Ms. Gross had contacted staff to note that she would not be able to attend this meeting, but that she was looking forward to the March meeting. Ms. Visnauskas noted that Ms. Vullo had resigned from her Director position at SONYMA due to time constraints and thanked her for her contributions.

Ms. Visnauskas then summarized the items that would be before the Boards:



ANDREW M. CUOMO  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

April 8, 2021

**FROM:** Secretary to the Boards

**TO:** Members and Directors

**SUBJECT:** Adoption of Board meeting transcript.

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As a result of the COVID crisis, and in accordance with the Governor's Executive Order amending Article 7 of the Public Officers Law, the regularly scheduled Board meetings of the Agencies was held on March 11, 2021 via telephone conference, with the public having access to a telephone number through which they could listen to the meetings.

The Executive Order provided that the public have the ability to listen to the meeting, and that the meetings be transcribed.

In lieu of the usual Board minutes, attached is the transcript of the meetings, which include all the materials normally included in the minutes. The transcript is presented for your review. If there are no corrections, the transcript stands approved as read, and will be used as the Agencies' records of proceeding.

**TRANSCRIPT OF THE MARCH 11, 2021 BOARD MEETINGS OF THE NEW YORK STATE HOUSING FINANCE AGENCY, THE STATE OF NEW YORK MORTGAGE AGENCY, THE AFFORDABLE HOUSING CORPORATION, THE STATE OF NEW YORK MORTGAGE AGENCY MORTGAGE INSURANCE COMMITTEE, THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY, THE TOBACCO SETTLEMENT CORPORATION AND THE NEW YORK STATE HOUSING FINANCE AGENCY FINANCE AND PROGRAM COMMITTEE.**

Linda Manley, Senior Vice President and Counsel to the Agencies, stated that she will now open the March 11, 2021 meeting of the Boards of the New York State Housing Finance Agency, the State of New York Mortgage Agency, the Affordable Housing Corporation, the State of New York Mortgage Agency Mortgage Insurance Committee, the State of New York Municipal Bond Bank Agency, the Tobacco Settlement Financing Corporation and the New York State Housing Finance Agency Finance and Program Committee and noted that because of the novel corona virus emergency in the State, and Federal bans on large meetings or gathering and pursuant to Governor Cuomo's executive order 220.1 issued on March 12, 2020, which order was extended on February 14, 2021 certain provision of the open meetings law have been suspended.

Ms. Manley also stated that the Board meeting would be held by conference call instead of as a public meeting open for the public to attend in person, and that a call-in number was made public for the public to listen to the proceedings.

Ms. Manley noted that because of these special features a change in voting procedures would be put in place for this meeting and she would be asking each Board member to record their votes individually.

Ms. Manley asked for a motion to call the meeting of the HFA and AHC Boards to order. Chairman Adams made the motion and Mr. Curtis seconded. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Ms. Miller voted aye; Justice Sconiers voted aye. Ms. Manley noted the presence of a quorum for HFA and AHC.

Ms. Manley asked for a motion to call the meeting of the SONYMA Board to order. Chairman Adams made the motion and Mr. Ballan seconded. Ms. Visnauskas voted aye; Mr. Kapell voted aye; Mr. Olczak voted aye; Ms. Miller voted aye. Ms. Gross voted aye. Ms. Manley noted the presence of a quorum for SONYMA.

Ms. Manley asked for a motion to call the meeting of the SONYMA Mortgage Insurance Committee to order. Chairman Adams made the motion and Mr. Ballan seconded the motion. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Mr. Kapell voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MIF.

Ms. Manley asked for a motion to call the meeting of the MBBA and TSFC Boards to order. Chairman Adams made the motion and Mr. Olczak seconded the motion. Ms. Baldwin voted aye; Mr. SanFilippo voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MBBA and TSFC.





ANDREW M. CUOMO  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

May 6, 2021

**FROM:** Secretary to the Boards

**TO:** Members and Directors

**SUBJECT:** Adoption of Board meeting transcript.

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As a result of the COVID crisis, and in accordance with the Governor's Executive Order amending Article 7 of the Public Officers Law, the regularly scheduled Board meetings of the Agencies was held on April 15, 2021 via telephone conference, with the public having access to a telephone number through which they could listen to the meetings.

The Executive Order provided that the public have the ability to listen to the meeting, and that the meetings be transcribed.

In lieu of the usual Board minutes, attached is the transcript of the meetings, which include all the materials normally included in the minutes. The transcript is presented for your review. If there are no corrections, the transcript stands approved as read, and will be used as the Agencies' records of proceeding.

**TRANSCRIPT OF THE APRIL 15, 2021 BOARD MEETINGS OF THE NEW YORK STATE HOUSING FINANCE AGENCY, THE STATE OF NEW YORK MORTGAGE AGENCY, THE AFFORDABLE HOUSING CORPORATION, THE STATE OF NEW YORK MORTGAGE AGENCY MORTGAGE INSURANCE COMMITTEE AND THE NEW YORK STATE HOUSING FINANCE AGENCY FINANCE AND PROGRAM COMMITTEE.**

Linda Manley, Senior Vice President and Counsel to the Agencies, stated that she will now open the April 15, 2021 meeting of the Boards of the New York State Housing Finance Agency, the State of New York Mortgage Agency, the Affordable Housing Corporation, the State of New York Mortgage Agency Mortgage Insurance Committee and the New York State Housing Finance Agency Finance and Program Committee and noted that because of the novel corona virus emergency in the State, and Federal bans on large meetings or gathering and pursuant to Governor Cuomo's executive order 220.1 issued on March 12, 2020, which order was extended on March 21, 2021 certain provision of the open meetings law have been suspended.

Ms. Manley also stated that the Board meeting would be held by conference call instead of as a public meeting open for the public to attend in person, and that a call-in number was made public for the public to listen to the proceedings.

Ms. Manley noted that because of these special features voting procedures in prior meetings were put in place so that she asked each Board member to record their votes individually. For this meeting, and going forward, in order to expedite the meetings, she would follow the procedure used prior to the telephonic meetings, where individual votes were taken at the outset of the meetings and those votes were used going forward, unless Board members chose to vote differently on a particular item.

Ms. Manley asked for a motion to call the meeting of the HFA and AHC Boards to order. Chairman Adams made the motion and Ms. Miller seconded. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Mr. Curtis voted aye; Justice Sconiers voted aye. Ms. Manley noted the presence of a quorum for HFA and AHC.

Ms. Manley asked for a motion to call the meeting of the SONYMA Board to order. Ms. Gonzalez made the motion and Mr. Ballan seconded. Ms. Visnauskas voted aye; Mr. Kapell voted aye; Mr. Olczak voted aye; Chairman Adams voted aye; Ms. Miller voted aye. Ms. Gross voted aye. Ms. Manley noted the presence of a quorum for SONYMA.

Ms. Manley asked for a motion to call the meeting of the SONYMA Mortgage Insurance Committee to order. Mr. Kapell made the motion and Mr. Ballan seconded the motion. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Chairman Adams voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MIF.

Ms. Manley asked for a motion to call the meeting of the HFA Finance and Program Committee to order. Mr. Olczak made the motion and Mr. Adams seconded the motion. Ms. Visnauskas voted aye. Ms. Manley noted the presence of a quorum for the HFA Finance and Program Committee.



ANDREW M. CUOMO  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

June 17, 2021

**FROM:** Secretary to the Boards

**TO:** Directors

**SUBJECT:** Adoption of Board meeting transcript.

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As a result of the COVID crisis, and in accordance with the Governor's Executive Order amending Article 7 of the Public Officers Law, the regularly scheduled Board meetings of the Agencies was held on May 13, 2021 via telephone conference, with the public having access to a telephone number through which they could listen to the meetings.

The Executive Order provided that the public have the ability to listen to the meeting, and that the meetings be transcribed.

In lieu of the usual Board minutes, attached is the transcript of the meetings, which include all the materials normally included in the minutes. The transcript is presented for your review. If there are no corrections, the transcript stands approved as read, and will be used as the Agencies' records of proceeding.

**TRANSCRIPT OF THE MAY 13, 2021 BOARD MEETINGS OF THE NEW YORK STATE HOUSING FINANCE AGENCY, THE STATE OF NEW YORK MORTGAGE AGENCY, THE AFFORDABLE HOUSING CORPORATION, THE STATE OF NEW YORK MORTGAGE AGENCY MORTGAGE INSURANCE COMMITTEE AND THE NEW YORK STATE HOUSING FINANCE AGENCY FINANCE AND PROGRAM COMMITTEE.**

Linda Manley, Senior Vice President and Counsel to the Agencies, stated that she will now open the May 13, 2021 meeting of the Boards of the New York State Housing Finance Agency, the State of New York Mortgage Agency, the Affordable Housing Corporation, the State of New York Mortgage Agency Mortgage Insurance Committee and the New York State Housing Finance Agency Finance and Program Committee and noted that because of the novel corona virus emergency in the State, and Federal bans on large meetings or gathering and pursuant to Governor Cuomo's executive order 220.1 issued on March 12, 2020, which order was extended on April 19, 2021 certain provision of the open meetings law have been suspended.

Ms. Manley also stated that the Board meeting would be held by conference call instead of as a public meeting open for the public to attend in person, and that a call-in number was made public for the public to listen to the proceedings.

Ms. Manley noted that because of these special features voting procedures in prior meetings were put in place so that she asked each Board member to record their votes individually. For this meeting, and going forward, in order to expedite the meetings, she would follow the procedure used prior to the telephonic meetings, where individual votes were taken at the outset of the meetings and those votes were used going forward, unless Board members chose to vote differently on a particular item.

Ms. Manley asked for a motion to call the meeting of the HFA and AHC Boards to order. Chairman Adams made the motion and Mr. Olczak seconded. Ms. Miller voted aye; Ms. Visnauskas voted aye; Mr. Curtis voted aye; Justice Sconiers voted aye. Ms. Manley noted the presence of a quorum for HFA and AHC.

Ms. Manley asked for a motion to call the meeting of the SONYMA Board to order. Chairman Adams made the motion and Ms. Gonzalez seconded. Ms. Visnauskas voted aye; Mr. Kapell voted aye; Mr. Olczak voted aye; Mr. Ballan voted aye; Ms. Miller voted aye. Ms. Gross voted aye. Ms. Manley noted the presence of a quorum for SONYMA.

Ms. Manley asked for a motion to call the meeting of the SONYMA Mortgage Insurance Committee to order. Chairman Adams made the motion and Mr. Kapell seconded the motion. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Mr. Ballan voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MIF.

Ms. Manley asked for a motion to call the meeting of the HFA Finance and Program Committee to order. Mr. Olczak made the motion and Mr. Adams seconded the motion. Ms. Visnauskas voted aye. Ms. Manley noted the presence of a quorum for the HFA Finance and Program Committee.



ANDREW M. CUOMO  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

July 8, 2021

**FROM:** Secretary to the Boards

**TO:** Members and Directors

**SUBJECT:** Adoption of Board meeting transcript.

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As a result of the COVID crisis, and in accordance with the Governor's Executive Order amending Article 7 of the Public Officers Law, the regularly scheduled Board meetings of the Agencies held on June 10, 2021 and on June 24, 2021 via telephone conference, with the public having access to a telephone number through which they could listen to the meetings.

The Executive Order provided that the public have the ability to listen to the meeting, and that the meetings be transcribed.

In lieu of the usual Board minutes, attached are the transcripts of the meetings, which include all the materials normally included in the minutes. The transcripts are presented for your review. If there are no corrections, the transcripts stand approved as read, and will be used as the Agencies' records of proceeding.

**TRANSCRIPT OF THE JUNE 10, 2021 BOARD MEETINGS OF THE STATE OF NEW YORK  
MORTGAGE AGENCY AND OF THE STATE OF NEW YORK MORTGAGE AGENCY MORTGAGE  
INSURANCE COMMITTEE**

Linda Manley, Senior Vice President and Counsel to the Agencies, stated that she will now open the June 10, 2021 meeting of the State of New York Mortgage Agency and the State of New York Mortgage Agency Mortgage Insurance Committee and noted that because of the novel corona virus emergency in the State, and Federal bans on large meetings or gathering and pursuant to Governor Cuomo's executive order 220.1 issued on March 12, 2020, which order was extended on May 26, 2021 certain provision of the open meetings law have been suspended.

Ms. Manley also stated that the Board meeting would be held by conference call instead of as a public meeting open for the public to attend in person, and that a call-in number was made public for the public to listen to the proceedings.

Ms. Manley noted that because of these special features voting procedures in prior meetings were put in place so that she asked each Board member to record their votes individually. For this meeting, and going forward, in order to expedite the meetings, she would follow the procedure used prior to the telephonic meetings, where individual votes were taken at the outset of the meetings and those votes were used going forward, unless Board members chose to vote differently on a particular item.

Ms. Manley asked for a motion to call the meeting of the SONYMA Board to order. Ms. Miller made the motion and Mr. Kapell seconded. Ms. Visnauskas voted aye; Mr. Adams voted aye; Mr. Olczak voted aye; Mr. Ballan voted aye; Ms. Gonzalez voted aye. Ms. Gross voted aye. Ms. Manley noted the presence of a quorum for SONYMA.

Ms. Manley asked for a motion to call the meeting of the SONYMA Mortgage Insurance Committee to order. Chairman Adams made the motion and Mr. Olczak seconded the motion. Mr. Kapell voted aye; Ms. Visnauskas voted aye; Mr. Ballan voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MIF.

Ms. Manley stated that as items were presented to each Board throughout the meetings, these motions and seconds would be used, unless specific items called for a different vote, or unless any Board Director wished to record his or her vote differently.

Ms. Visnauskas then made her monthly President's report. Ms. Visnauskas thanked everyone for participating by telephone at this Board meeting. Ms. Visnauskas reported on recent developments concerning the Agencies' legislative program at the State level. She noted that the Legislature had approved key Agency legislation that would permit SONYMA to expand its programs and better assist distressed borrowers. She summarized for the Board the applicable amendments which will permit new lender participation, allow SONYMA to purchase new construction mortgage loans for mobile and manufactured homes, and would give SONYMA more flexibility in approving mortgage modifications for borrowers impacted by financial problems. Ms. Visnauskas also summarized for the Directors new program initiatives, such as



KATHY HOCHUL  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

September 2, 2021

**FROM:** Secretary to the Boards

**TO:** Members and Directors

**SUBJECT:** Adoption of Board meeting minutes and transcripts.

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The following minutes and transcripts (prepared in lieu of minutes during the COVID-19 virtual meetings) are presented for your review. If there are no corrections, the minutes stand approved as read.

- a. HFA – July 15, 2021
- b. SONYMA – August 18, 2021; July 15, 2021
- c. AHC – July 15, 2021
- d. MBBA and TSFC transcript --March 11, 2021
- e. HFA Finance and Program Committee—July 15, 2021

**MINUTES OF THE DIRECTORS MEETINGS OF THE  
STATE OF NEW YORK MORTGAGE AGENCY**

**HELD ON TUESDAY, JULY 15, 2021 AT 9:00 A.M.  
AT ITS OFFICES AT 641 LEXINGTON AVENUE  
NEW YORK, NEW YORK 10022**

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**DIRECTORS AND DESIGNEES**

**PRESENT:**

Kenneth G. Adams	Chairman
Jonathan Ballan	Director
Joyce Miller	Director
Bethaida Gonzalez	Director (via video conference)
Jesse Olczak	New York State Division of the Budget, representing Robert Mujica, Budget Director (via video conference)

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Chairman Kenneth G. Adams presided over the meeting. Ms. Linda Manley, Senior Vice President and Counsel to HCR, formally opened the meetings and acted as secretary.

Ms. Manley noted that Mr. Jesse Olczak, representing Mr. Robert Mujica, Director of the Division of the Budget and Mr. Christopher Curtis, representing the Commissioner of Taxation and Finance are participating in the meeting via video conference from the New York State Division of Budget conference center at the Capitol Building Room 131 in Albany; and that Bethaida Gonzalez and Sadie McKeown are participating from the Syracuse Regional Office, 620 Erie Boulevard, Suite 312.

Ms. Manley further noted that Commissioner Visnauskas will be participating in the meeting remotely but her participation will not be counted for quorum or voting purposes.

A public notice was given of the times and locations of the venues in accordance with the New York State Open Meetings Law.

Ms. Manley asked for motions and seconds to call to order the Members' and Directors' meetings of the New York State Housing Finance Agency ("HFA"), the New York State Affordable Housing Corporation ("AHC"), the New York State Housing Trust Fund Corporation (the "HTFC"), the State of New York Mortgage Agency ("SONYMA"), the State of New York Mortgage Agency Mortgage Insurance Committee ("MIC"), and the New York State Housing Finance Agency Finance and Program Committee ("HFA FINANCE"). Chairman Adams



moved to call the HFA, HTFC and AHC meetings to order and Mr. Olczak seconded the motion. Mr. David Kapell moved to call the SONYMA meeting to order and Chairman Adams seconded the motion. Mr. David Kapell moved to call the MIC meeting to order and Chairman Adams seconded the motion. Chairman Adams moved to call the HFA Finance meeting to order, and Mr. Olczak seconded the motion.

Ms. Manley stated that as items were presented to each Board throughout the meetings, these motions and seconds would be used, unless specific items called for a different vote, or unless any Board Director wished to record his or her vote differently.

These minutes reflect only those items being considered by the HFA Board. A record of items considered by the other Agencies is contained in the minutes of each of the Agencies.

Ms. Visnauskas, participating via telephone, noted that she would forego her President's report this month. She noted that this was the first in-person meeting of the Agencies since the beginning of the COVID-19 crisis and stated how pleased she was to see the various Board and staff members once again taking up important matters in person. She thanked staff and the Board for all their efforts during the last year in making sure that the Board continued to function and carry out its statutory role, and that the Agencies continued to carry out their missions.

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**The first item on the Agenda was the adoption of the transcript of the SONYMA meeting held on June 10, 2021.** There being no objections or corrections from the SONYMA Board, Ms. Manley deemed the minutes approved.

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**The next item on the Agenda was authorization to amend HFA's Hosting Technology Agreement with ProLink and to extend the contract with Amazon Inc.** Ms. Mallow presented this item.

She noted that this was an extension of existing contracts that involve the BAM project. In response to questions from the Board she noted that these were extensions. The term of HFA's contract with ProLink ends on August 8, 2021. The Agency is requesting to extend its contract with ProLink for a two-year period with annual hosting technology services costs up to \$330,900.

She added that on September 5, 2019, the web hosting services agreement with Amazon was approved by the Boards for a multi-year period. The contract is before the Members and Directors for annual review. Chairman Adams asked staff to provide an update on the BAM implementation at a future meeting.



KATHY HOCHUL  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

September 2, 2021

**FROM:** Secretary to the Boards

**TO:** Members and Directors

**SUBJECT:** Adoption of Board meeting minutes and transcripts.

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The following minutes and transcripts (prepared in lieu of minutes during the COVID-19 virtual meetings) are presented for your review. If there are no corrections, the minutes stand approved as read.

- a. HFA – July 15, 2021
- b. SONYMA – August 18, 2021; July 15, 2021
- c. AHC – July 15, 2021
- d. MBBA and TSFC transcript --March 11, 2021
- e. HFA Finance and Program Committee—July 15, 2021

**MINUTES OF THE DIRECTORS MEETINGS OF THE  
STATE OF NEW YORK MORTGAGE AGENCY**

**HELD ON AUGUST 17, 2021 AT 9:00 A.M.  
AT ITS OFFICES AT 641 LEXINGTON AVENUE  
NEW YORK, NEW YORK 10022**

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**DIRECTORS AND DESIGNEES**

**PRESENT:**

Kenneth G. Adams	Chairman
RuthAnne Visnauskas	Commissioner of the New York State Division of Housing and Community Renewal
David Kapell	Director (via video conference)
Bethaida Gonzalez	Director (via video conference)
Erica Levendosky	New York State Division of the Budget, representing Robert Mujica, Budget Director (via video conference)

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Chairman Kenneth G. Adams presided over the meeting. Ms. Linda Manley, Senior Vice President and Counsel to HCR, formally opened the meetings and acted as secretary.

Ms. Manley noted that Erica Levendosky, representing Mr. Robert Mujica, Director of the Division of the Budget was participating in the meeting via video conference from the New York State Division of Budget conference center at the Capitol Building Room 131 in Albany; that Bethaida Gonzalez was participating from the Syracuse Regional Office, 620 Erie Boulevard, Suite 312 and that David Kapell was participating from the Governor's Office of Storm Recovery, 500 Bi-County Blvd., Suite #300.

A public notice was given of the times and locations of the venues in accordance with the New York State Open Meetings Law.

Ms. Manley noted that Sadie McKewon and Jonathan Ballan were attending the meeting as guests.

Ms. Manley asked for motions and seconds to call to order the Directors' meetings of the State of New York Mortgage Agency. Chairman Adams moved to call the meeting to order and Mr. Kapell seconded the motion.

Ms. Manley stated that the purpose of this meeting was to provide the Board, and

particularly the new Board members of SONYMA, HFA and HTFC with a session that would focus on presentations by various Agency departments going into deeper detail as to what the various Agencies do. She noted that even though the only Agency comprising HCR that was officially meeting was SONYMA, the materials had been sent to all the SONYMA, HFA and HTFC and AHC Board members so that those Board members who could not be present at this meeting had them. She noted that every attempt was made to get quorums for all the Agencies but that despite the presence of Board members from HFA, AHC and HTFC at this meeting in person or by phone, a quorum is available only for SONYMA.

She added that as a result of the educational nature of this meeting there would be no votes, other than to open and close the meeting. She noted that staff determined to provide these presentations in the context of a public meeting so that the meeting was open to the public, and so that discussion was not circumscribed.

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There followed presentations from various staff members which focused on Agency operations, the HFA program, including bonding activities and the 4% program, the SONYMA program, the HTFC program, including 9% program issues, the MIF program and the AHC program. There were also presentations on Fair Housing activities, the Office of Community Renewal, Section 8, Sustainability activities, Asset Management, the Office of Economic Opportunity as relates to MWBE matters, and GOSR activities.

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At the end of presentations, Chairman Adams asked for a motion to adjourn the SONYMA meeting. Considering the first and second motions previously entered, the motions were carried and the meeting was adjourned.

Ms. Manley informed the Directors that the next Board meeting is scheduled for Thursday, September 9, 2021 at 9:00 a.m.

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Linda S. Manley, Secretary



KATHY HOCHUL  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

October 7, 2021

**FROM:** Secretary to the Boards

**TO:** Members and Directors

**SUBJECT:** Adoption of Board meeting transcript.

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Legislation signed by the Governor into law on September 2<sup>nd</sup> in response to the continuing impact of COVID-19 extends until January 2022 the exemption to the Open Meetings law that provides that public bodies may meet to take actions without permitting in public in-person access to such meetings and authorizes meetings to be held remotely by conference call, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.

In lieu of the usual Board minutes, attached is the transcript of the Board meetings held on September 9, 2021, which include all the materials normally included in the minutes. The transcript is presented for your review. If there are no corrections, the transcript stands approved as read, and will be used as the Agencies' records of proceeding.

**TRANSCRIPT OF THE SEPTEMBER 9, 2021 BOARD MEETINGS OF THE NEW YORK STATE HOUSING FINANCE AGENCY, THE STATE OF NEW YORK MORTGAGE AGENCY, THE AFFORDABLE HOUSING CORPORATION, THE STATE OF NEW YORK MORTGAGE AGENCY MORTGAGE INSURANCE COMMITTEE, THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY, THE TOBACCO SETTLEMENT CORPORATION AND THE NEW YORK STATE HOUSING FINANCE AGENCY FINANCE AND PROGRAM COMMITTEE.**

Linda Manley, Senior Vice President and Counsel to the Agencies, stated that she will now open the September 9, 2021 meeting of the Boards of the New York State Housing Finance Agency, the State of New York Mortgage Agency, the Affordable Housing Corporation, the State of New York Mortgage Agency Mortgage Insurance Committee, the State of New York Municipal Bond Bank Agency, the Tobacco Settlement Financing Corporation and the New York State Housing Finance Agency Finance and Program Committee and noted that Legislation signed by the new Governor into law on September 2<sup>nd</sup> in response to the continuing impact of COVID-19 extends until January 2022 the exemption to the Open Meetings law that provides that public bodies may meet to take actions without permitting in public in-person access to such meetings and authorizes meetings to be held remotely by conference call, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.

Ms. Manley also stated that the Board meeting would be held by conference call instead of as a public meeting open for the public to attend in person, and that a call-in number was made public for the public to listen to the proceedings.

Ms. Manley asked for a motion to call the meeting of the HFA and AHC Boards to order. Chairman Adams made the motion and Mr. Curtis seconded. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Ms. Gonzalez voted aye; Ms. Miller voted aye; Ms. McKeown voted aye. Ms. Manley noted the presence of a quorum for HFA and AHC.

Ms. Manley asked for a motion to call the meeting of the SONYMA Board to order. Chairman Adams made the motion and Mr. Kapell seconded. Ms. Visnauskas voted aye; Ms. Gonzalez voted aye; Mr. Rodriguez voted aye; Mr. Ballan voted aye; Mr. Olczak voted aye; Ms. Miller voted aye. Ms. Gross voted aye. Ms. Manley noted the presence of a quorum for SONYMA.

Ms. Manley asked for a motion to call the meeting of the SONYMA Mortgage Insurance Committee to order. Chairman Adams made the motion and Mr. Kapell seconded the motion. Mr. Olczak voted aye; Ms. Visnauskas voted aye; Mr. Ballan voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MIF.

Ms. Manley asked for a motion to call the meeting of the MBBA and TSFC Boards to order. Chairman Adams made the motion and Mr. Olczak seconded the motion. Mr. SanFilippo voted aye; Ms. Miller voted aye. Ms. Manley noted the presence of a quorum for the MBBA and TSFC.



KATHY HOCHUL  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

November 3, 2021

**FROM:** Secretary to the Boards

**TO:** Members and Directors

**SUBJECT:** Adoption of Board meeting transcript.

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Legislation signed by the Governor into law on September 2<sup>nd</sup> in response to the continuing impact of COVID-19 extends until January 2022 the exemption to the Open Meetings law that provides that public bodies may meet to take actions without permitting in public in-person access to such meetings and authorizes meetings to be held remotely by conference call, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.

In lieu of the usual Board minutes, attached is the transcript of the Board meetings held on October 14, 2021, which include all the materials normally included in the minutes. The transcript is presented for your review. If there are no corrections, the transcript stands approved as read, and will be used as the Agencies' records of proceeding.

TRANSCRIPT OF THE OCTOBER 14, 2021 BOARD MEETINGS OF THE NEW YORK STATE HOUSING FINANCE AGENCY, THE STATE OF NEW YORK MORTGAGE AGENCY, THE AFFORDABLE HOUSING CORPORATION AND THE STATE OF NEW YORK MORTGAGE AGENCY MORTGAGE INSURANCE COMMITTEE

Linda Manley, Senior Vice President and Counsel to the Agencies, stated that she will now open the October 14, 2021 meeting of the Boards of the New York State Housing Finance Agency, the State of New York Mortgage Agency, the Affordable Housing Corporation and the State of New York Mortgage Agency Mortgage Insurance Committee, and noted that Legislation signed by the Governor into law on September 2<sup>nd</sup> in response to the continuing impact of COVID-19 extends until January 2022 the exemption to the Open Meetings law that provides that public bodies may meet to take actions without permitting in public in-person access to such meetings and authorizes meetings to be held remotely by conference call, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed. As a result, participation in today's Board meeting is being carried out both via public meeting and via conference call. A call-in number has been made public, so that any interested members of the public can listen to the proceedings. A public notice of the meeting has been posted.

Ms. Manley noted that because of these special features a change in voting procedures would be put in place for this meeting and she would be asking each Board member to record their votes individually.

Ms. Manley asked for a motion to call the meeting of the HFA and AHC Boards to order. Chairman Adams made the motion and Mr. Olczak seconded. Mr. Mostert voted aye; Ms. Visnauskas voted aye; Ms. Sconiers voted aye; Ms. McKeown voted aye. Ms. Manley noted the presence of a quorum for HFA and AHC.

Ms. Manley asked for a motion to call the meeting of the SONYMA Board to order. Mr. Kapell made the motion and Chairman Adams seconded. Mr. Ballan voted aye; Ms. Visnauskas voted aye, Mr. Olczak voted aye; Ms. Gross voted aye; Mr. Rodriguez voted aye. Ms. Manley noted the presence of a quorum for SONYMA.

Ms. Manley asked for a motion to call the meeting of the SONYMA Mortgage Insurance Committee to order. Chairman Adams made the motion and Mr. Ballan seconded the motion. Mr. Kapell voted aye; Mr. Olczak voted aye; Ms. Visnauskas voted aye; Ms. Manley noted the presence of a quorum for the MIF.

Chairman Adams stated that Ms. Visnauskas would make her monthly President's report.

Ms. Visnauskas welcomed Board members and noted at today's meeting they would be presented with projects for approval that provide Mortgage Insurance for 217 units of affordable housing in Montgomery, Dutchess and New York Counties, as well as an AHC consent item for of just over \$1.7 million for 62-units of affordable housing located across the State. She noted that since our September meeting, HCR staff have participated in the following HCR project events, that the Boards have seen before as part of the Board approval process. Ms. Visnauskas then provided an update on a SONYMA initiative. She noted that in the Spring of 2021, SONYMA launched a \$5 Million pilot program called DPAL Plus aimed at increasing



# SONYMA

Biographical Information for  
Directors

## **Kenneth Adams**

Since October 2016, Kenneth Adams has served as the Dean of Workforce and Economic Development at Bronx Community College/City University of New York. Prior to joining CUNY, Kenneth led a variety of government, civic and non-profit organizations in New York.

Most recently, Kenneth served as the Acting Commissioner of the New York State Department of Taxation and Finance. Responsible for \$95 billion in annual revenue, the Tax Department has more than 5,000 employees and an annual operating budget of \$460 million. Operations under Kenneth's supervision included Tax Processing, Real Property Tax Administration, Treasury, Desk and Field Audit, Collections and Civil Enforcement, and Criminal Investigations. Kenneth led efforts to improve agency communications, enhance assistance to low-income filers, and build support for the governor's property tax relief proposals.

In 2011, Kenneth was appointed by Governor Andrew M. Cuomo as President and CEO of the Empire State Development Corporation (ESDC) and Commissioner of the NYS Department of Economic Development. ESDC employs more than 450 people, has an annual operating budget of approximately \$80 million, and allocates more than \$1 billion per year in economic development resources. The agency oversees major real estate development projects, the "I Love NY" tourism marketing campaign, the State's Minority and Women Business Enterprise (MWBE) initiative, small business assistance, and the Governor's Office for Motion Picture and Television Development. Under Kenneth's leadership ESDC improved results in all lines of business and secured commitments by employers to retain or create 300,000 jobs and invest \$15 billion in New York.

Prior to joining the Cuomo administration, Kenneth led The Business Council of NYS, the state's premier business trade association, in its advocacy to improve the state's business climate and meet the needs of its 2,500 member companies. He increased corporate membership and dues revenue, improved the effectiveness of lobbying and public affairs services, led a re-branding of the organization and dramatically increased its visibility and influence.

From 1995-2006, as President of the Brooklyn Chamber of Commerce, Kenneth led the resurgence of Brooklyn's leading business and economic development organization. He restructured staff and operations, increased annual revenue from \$800,000 to \$6 million, doubled membership, and launched ten economic development programs, including promotional initiatives to put Brooklyn on the map.

Before joining the Brooklyn Chamber, Kenneth led the MetroTech Area Business Improvement District in Downtown Brooklyn. From 1988 – 1994, he was the founding Executive Director of New York Cares. He led the organization's expansion from 500 to 6,000 volunteers, raised over \$6 million, and created the New York Cares Coat Drive and New York Cares Day, city-wide events that continue to this day.

Kenneth has MA and BA degrees from Middlebury College. He has served on the boards of directors of numerous nonprofit organizations, government agencies and public authorities, and on multiple government commissions, councils and advisory groups on behalf of four governors and two mayors. He is fluent in Spanish and lives with his family in his native Brooklyn.

## **RuthAnne Visnauskas**

In February 2017, Governor Cuomo appointed RuthAnne Visnauskas, Commissioner of the New York State Division of Housing and Community Renewal. In March, 2017, Ms. Visnauskas was appointed as the President/CEO of the New York State Housing Finance Agency, the State of New York Mortgage Agency and the New York State Affordable Housing Corporation, the State agencies that comprise New York State Homes and Community Renewal ("HCR").



RuthAnne previously served as HCR's Executive Deputy Commissioner for Housing Development, where she was responsible for strategic leadership and oversight of multi-family housing finance programs, the State of New York Mortgage Agency (SONYMA), the Mortgage Insurance Fund (MIF), the Office of Community Renewal and the Office of Faith-Based Community Development Services.

Prior to joining HCR, RuthAnne was Managing Director of the Housing Advisory Board for the Robin Hood Foundation, New York's largest poverty-fighting organization. The Housing Advisory Board was established to fund initiatives to advance the quantity and quality of affordable housing for low-income New Yorkers.

RuthAnne held also several key positions at the New York City Department of Housing Preservation and Development (HPD), including the role of Commissioner from September 2014 to February 2015. HPD is the nation's largest municipal housing agency, in charge of the development and preservation of affordable housing and the enforcement of the City's Housing Maintenance Code.

Prior to taking the helm at HPD, RuthAnne served as Deputy Commissioner for Development, spearheading innovative development programs, including the Preserving City Neighborhoods (PCN) initiative, designed to purchase the notes of overleveraged buildings, and stabilize them by ultimately transferring them to responsible not-for-profit owners.

She received her Bachelor degree in Urban Studies from the University of Pennsylvania and holds a Master's degree in Urban Planning from the Robert F. Wagner School of Public Service at New York University.

Ms. Visnauskas lives in Manhattan with her husband and three children.

## David Kapell



David Kapell served the Village of Greenport on the North Fork of Long Island, NY for twenty-seven years in the positions of Community Development Director, Village Trustee, Planning Board Chairman and Mayor from 1994 until his retirement in 2007. He is widely credited with leading the successful revitalization of a small severely depressed 19th century seaport through the abolishment of the village police department, resulting in dramatic property tax reduction; creation and retention of affordable housing opportunities; local regulatory reform; and the development of a regionally significant waterfront park in the heart of the village business district.

Mr. Kapell is president of Stirling Public Policy, Ltd, a consultancy with clients including Rauch Foundation of Garden City, NY, where he works on regional transportation, transit-oriented development, and environmental issues; the Long Island Association, as Executive Director of the Right Track for Long Island Coalition, a civic advocacy group formed to support governor Andrew Cuomo's \$2 billion LIRR Expansion Project; and Cross Sound Ferry Services, Inc., providers of ferry service between Orient Point, NY and New London, CT.

He holds a Master in Public Administration degree from the Harvard Kennedy School of Government.

Mr Kapell is also president of Kapell Real Estate, Inc., a boutique family-run brokerage in Greenport that he founded in 1981.

He has three grown children and lives in Greenport and on Roosevelt Island with his wife, Eileen Kapell.

## **Robert F. Mujica Jr.**

### **NYS Director of the Budget**

Robert F. Mujica Jr. was appointed Director of the Budget by Governor Andrew Cuomo and began serving on January 14, 2016. He is responsible for the overall development and management of the State's fiscal policy, including overseeing the preparation of budget recommendations for all State agencies and programs, economic and revenue forecasting, tax policy, fiscal planning, capital financing and management of the State's debt portfolio.



Prior to his appointment, Mr. Mujica was Chief of Staff to the Temporary President and Majority Leader of the Senate and concurrently served as the Secretary to the Senate Finance Committee. For two decades, Mr. Mujica advised various elected and other government officials in New York on State budget, fiscal and policy issues.

Robert received his B.A. degree in Sociology from Brooklyn College at the City University of New York. He received his Master's degree in Government Administration (M.G.A.) from the University of Pennsylvania and holds a Juris Doctorate (J.D.) from Albany Law School.

## **Mary Beth Labate**

### **NYS Director of the Budget**

Mary Beth Labate was appointed Director of the Budget in January 2015. She is responsible for the overall development and management of the State's fiscal policy, including overseeing the preparation of budget recommendations for all State agencies and programs, economic and revenue forecasting, tax policy, fiscal planning, capital financing and management of the State's debt portfolio.



Ms. Labate has over 25 years of fiscal and public policy experience. Prior to her appointment as Budget Director, she was First Deputy Budget Director, responsible for managing the day to day operations of DOB and playing a lead role in negotiating, establishing and executing the State Budget. Prior to that, Ms. Labate held leadership positions at DOB, the New York State Office of Parks Recreation and Historic Preservation, and the New York State Division of Housing & Community Renewal.

Ms. Labate holds a B.A. from the University of Notre Dame and an M.A. in Public Administration from the Rockefeller School of Public Affairs. She began her public service career as a Public Management Fellow.

## **Joyce L. Miller**

### **Member, HFA and AHC Boards**



Joyce L. Miller is the founder and CEO of Tier One Public Strategies, a consulting firm founded in 2007 which provides in-depth public policy analysis. At Tier One Public Strategies, Ms. Miller advises early-stage and middle-market companies in the energy and environmental fields, including a privately held independent power company that generates one-fourth of New York City's electric power; the Service Employees International Union capital stewardship program; and the America-Israel Chamber of Commerce. Prior to founding Tier One Public Strategies, Ms. Miller worked at the Office of the New York City Comptroller, where she served as the Director of Economically Targeted Investments and the Director of Real Estate Investment in the Bureau of Asset Management, and at the City of New York Department of Housing Preservation and Development. She is active in many civic organizations; among other positions, she is a trustee of the Citizens Budget Commission and serves on the New York City Board of Directors of the National Jewish Democratic Council.

Ms. Miller completed her undergraduate education at the City College of New York. She holds a master's degree in political science from Columbia University and an MBA from the New York University Stern School of Business Administration.

## Jonathan A. Ballan

### Overview

Jon Ballan's practice involves municipal and infrastructure finance, public authority finance, stadium finance, economic development, housing finance, project finance, government relations, and privatization and securitization of public assets. He is the head of the New York Public Finance group.



Jon has broad experience developing innovative legal structures for numerous state and local bond issuers and investment bankers. He has served as bond counsel, disclosure counsel, underwriter's counsel, borrower's counsel, developer's counsel, and trustee counsel for tax-exempt and taxable transactions in various areas, including economic development, housing, transportation, education, sports facilities, nonprofit, pilot bond, loan securitization, solid waste, water and wastewater. Jon was named a Law360 MVP of the Year for Project Finance in 2016. He has also been named one of New York's leading lawyers in Bonds/Government Finance by New York Super Lawyers for each of the past seven years.

Since the early 1990s, Jon has served in numerous high level governmental capacities in New York State and New York City, including as Chairman of two state entities and over five years as a Board Member for the Metropolitan Transportation Authority. This experience provides Jon with a unique perspective on financing governmental projects.

From 2001 to 2013, Jon led and developed the New York municipal bond practice at another well-known firm. He also has worked as an investment banker in the public finance department of a major investment bank.

### Experience

- New York Yankees: Special bond counsel to the New York Yankees in connection with the financing by the New York City Industrial Development Agency of the new Yankee Stadium, which was honored in 2006 by The Bond Buyer as its "Deal of the Year." Federal tax law revisions were required to undertake the financing. This transaction, and two subsequent related deals, involved the issuance of more than \$1.2 billion of tax-exempt PILOT Revenue Bonds and \$125 million of federally taxable Rental Revenue Bonds.
  - Retained as special bond counsel for refunding transactions.
- Empire State Development Corporation: Special counsel to the Empire State Development Corporation. Led legal team that created the New York Liberty Development Corporation (NYLDC) for the primary purpose of issuing New York Liberty Bonds for commercial projects to assist New York City following the terrorist attacks on September 11, 2001.



- New York Transportation Development Corporation: Lead disclosure counsel for \$2.4 billion of special facilities bonds for the LaGuardia Airport Terminal B Reconstruction Project. The transaction was the 2016 Bond Buyer Deal of the Year for the Northeast Region.
  - New York Liberty Development Corporation (NYLDC): Led bond counsel team on NYLDC's issuance of \$1.9 billion of revenue bonds to finance the construction of the new world headquarters of Goldman Sachs near Ground Zero.
  - Barclays Arena, Brooklyn, NY: Led bond counsel team for the Empire State Development Corporation on the financing of a new arena for the New Jersey Nets to be constructed in the Atlantic Yards area of downtown Brooklyn. Numerous novel legal issues relating to the finance structure, securities, and real estate and tax laws needed to be solved prior to the closing.
  - City of Buffalo and Nassau County, New York: Bond counsel or underwriter's counsel for state fiscal oversight boards in the City of Buffalo and Nassau County, New York.
  - New York State Thruway Authority and the Metropolitan Transportation Authority: Served as underwriters' counsel on many significant financings to major New York public authorities.
  - Dormitory Authority of the State of New York (DASNY): Served as underwriter's counsel or bond counsel on numerous financings of educational facilities through DASNY and a number of industrial development agencies.
  - Northwell Health Systems: Served as underwriter's counsel on nearly \$1 billion of financings and refinancings of DASNY debt on behalf of the North Shore-Long Island Jewish Health System.
  - New York State Tobacco Settlement Financing Corporation: Served as underwriter's counsel on more than \$2 billion New York State Tobacco Settlement Financing Corporation Asset-Backed Revenue Bonds.
  - New York State Housing Finance Agency and New York State Environmental Facilities Corporation: Served as bond counsel for the New York State Housing Finance Agency and New York State Environmental Facilities Corporation.
  - National Development Council: Special Counsel for this nationally renowned not-for-profit corporation in connection with innovative P3 transactions for parking, water, wastewater and other governmental functions.
  - Served as bond counsel, borrower's counsel and underwriter's counsel on innovative governmental infrastructure finance transactions for urban redevelopments, libraries, water systems, solid waste facilities, and cultural centers for various cities and counties.
- Activities and Affiliations

## Memberships

- National Association of Bond Lawyers, Member
- New York Municipal Forum, Chairman of Audit Committee
- Panelist - 2017 P3 Summit Puerto Rico in San Juan, PR
- Career Governmental Appointments:
  - Director of the State of New York Mortgage Agency (SONYMA), 2018 - Present. Appointed by NYS Senate; Member of Mortgage Insurance Fund and Corporate Governance Committees.
  - Board Member of the Metropolitan Transportation Authority of New York (MTA) and member of the Finance, Metro North, Long Island Railroad, NYC Transit, Bridges & Tunnels, Audit and Corporate Governance Committees, 2011—2016. Extensive participation in oversight of financial transactions and procurements. Appointed by Westchester County Executive; Approved by Governor of NYS and Confirmed by NYS Senate.
- Chairman of the Municipal Assistance Corporation for the City of New York, 2001—2008. Appointed by Governor of NYS; Confirmed by NYS Senate.

- Chairman of the NYS Public Asset Fund, 2005—2008. Appointed by NYS Governor; Confirmed by NYS Senate.
- Board Member of the NYC Health and Hospitals Corporation, 1996—1997. Appointed by Mayor of NYC; Confirmed by NYC Council.
- Member of the NYS Watershed Protection and Partnership Council, 2000—2007. Appointed by NYS Governor.
- Board Member of the NYC Environmental Control Board, 1992—2003. Appointed by Mayor of NYC; Confirmed by NYC Council.

## **Bethaida González**

### **Director, SONYMA Board**

Bethaida “Bea” González, born in Cayey, Puerto Rico, and a long-time resident of Syracuse, New York, has more than 30 years of experience in continuing education as well as a distinguished record of public service.

Ms. González joined University College (UC) in 1984 as an academic advisor. After serving as associate dean at UC, she was appointed Interim Dean in 2004 and Dean 2007. In 2014 she was appointed Special Assistant to the Chancellor.



In addition to being recognized with numerous awards and honors for outstanding leadership in public and community service, Ms. González has been elected to public office three times. In fall 2001, she was the first Latina to be elected president of the Common Council for the City of Syracuse.

As dean of the University’s college of continuing education and summer sessions, Ms. González directly supervises the maintenance of program quality in continuing education and summer programs.

She has served on and is a member of several professional organizations. Ms. Gonzales earned a Master of Arts from Syracuse University’s Maxwell School of Citizenship and Public Affairs, and a Certificate in Public Administration also from SU’s Maxwell School. She received a Bachelor of Science degree in Political Science from the State University of New York at Binghamton, N.Y.

Among her many honors, Ms. González has been recognized as an Hispanic American of Distinction in New York State, and as an Unsung Heroine by the Central New York National Organization of Women. In 2013, she was given the Latino American of Central New York award; and in 2014 she received the NAACP Community Service Award and the CNY American Institute of Architects Award. In 2015 she was given special recognition for her Multicultural Diversity Achievements by the Syracuse Business Women, and for her commitment and accomplishment in the CNY region by New York State Comptroller, Thomas P. DiNapoli.



CARL E. HEASTIE  
Speaker

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY



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July 29, 2020

Honorable Andrew M. Cuomo  
Governor of the State of New York  
Executive Chamber  
State Capitol  
Albany, New York 12224

Dear Governor Cuomo:

Please be advised that pursuant to Section 2403 of the Public Authorities Law, I am hereby appointing V. Elaine Gross, of Huntington, New York, as a director of the State of New York Mortgage Agency (SONYMA), effective immediately.

A copy of Ms. Gross's resume is enclosed.

Sincerely,

CARL E. HEASTIE  
SPEAKER

CEH:bh  
Enclosure  
cc: V. Elaine Gross

# V. Elaine Gross

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## Education

Boston University School of Social Work, Macro Practice, MSW, 1983  
Boston College, Business Administration, BA, Cum Laude, 1978

## Professional experience

June 2001-Present      ERASE Racism      Syosset, NY  
**President**

- Founding president of regional civil rights organization that exposes and addresses the devastating impact of historical and ongoing structural racism, particularly in public school education and housing; the organization became an independent entity in 2004 and, prior to that, was a project of the Long Island Community Foundation.
- Responsible for all aspects of operations, including program design, fund-raising, staff supervision, and communications.
- Oversee the organization's research, policy advocacy, legal action, and activities to educate and mobilize the public – driving policy change at local, regional, and statewide levels and as part of related national coalitions.
- Oversaw successful litigation in Nassau and Suffolk counties against property owners and management companies that discriminated in showing rental apartments; when African American individuals and couples inquired about apartments, they were told that nothing was available; when whites inquired, they were shown available apartments and encouraged to apply.
- Developed and published an authoritative analysis revealing that segregation in Long Island's public schools is still growing.
- Organized the Statewide Source of Income Coalition, which advocates amending the New York State Human Rights Law to ban housing discrimination against people who depend for their rent on legal non-wage sources of income, including Section 8 housing choice vouchers and Social Security; the coalition has grown to be co-led by four entities – Enterprise Community Partners, ERASE Racism, Fair Housing Justice Center, and New York Housing Conference – and now includes 114 organizations.
- Recently launched a regionwide public discussion called "How Do We Build a Just Long Island?" that has received extensive media coverage throughout the Greater New York City tri-state area.
- Serve as primary spokesperson for ERASE Racism, delivering addresses, writing opinion articles, and providing expertise on a range of related issues; recent media appearances include regional newspapers, television and radio stations, and digital outlets; public television stations serving the tri-state area (THIRTEEN, WLIW, NJTV), public radio stations in the tri-state area (WNYC, WSHU), and a national online discussion hosted by the NYU Furman Center on segregation and local control.

Also serve on the Long Island Regional Economic Development Council, appointed by Governor Andrew Cuomo.

Recipient of the Lifetime Achievement Award of *Long Island Business News*.

March 2001                      Long Island Community Foundation                      Jericho, NY

**Consultant**

- Conceptualized and implemented a research project (a) to investigate the feasibility of launching a new anti-racism initiative, which became ERASE Racism, and (b) to formulate recommendations for the initiative; the findings were presented at a forum for potential funders.
- Assessed the characteristics, manifestations, prevalence and impact of racism on Long Island, and utilized data pertaining to the historical patterns of institutionalized racism in the United States as a contextual framework.
- Surveyed and evaluated the experiences of foundations addressing racism (nationally) and the efforts of NGOs responding to racism (locally).
- Utilized the following skills: written and oral communication; research, including literature review, Internet search, interviewing, data gathering (e.g., census data); evaluation and analysis.

1995 - 2000                      Sustainable America NY                      New York, NY

**Executive Director**

- Founding director of national NGO promoting sustainable development.
- Oversaw board development, fundraising and office operations.
- Coordinated programs, conferences, publications and member education (e.g., in preferential procurement policies, sustainable business and environment-friendly taxes).

1991 – 1995                      U.U. Veatch Program                      Manhasset, NY

**Program Officer**

- Devised funding strategies and made grant award recommendations in the areas of economic renewal, and civil and constitutional rights.
- Initiated new grantmaking programs.

1988 – 1991                      Boston Housing Partnership                      Boston, MA

**Deputy Director**

- Held several positions of increasing authority that expanded focus of housing intermediary agency beyond bricks and mortar.
- Launched and directed new programmatic and grantmaking initiatives focused on tenant empowerment and services.

1987 – 1988                      Urban League                      Boston, MA

**Vice President for Programs**

- Coordinated special committee reviewing public school education plans.
- Managed programs: youth, elderly and job training.

1983 – 1986                      Boston Housing Authority                      Boston, MA

**Human Services Director**

- Held positions of increasing responsibility; developed and managed human services delivery system for childcare, tenant organizing, employment/training and elderly services.
- Instituted new systems for vendor selection, monitoring and evaluation.

## Havidán Rodríguez

President  
Executive Council

### CONTACT

University Hall 302  
[518-956-8010](tel:518-956-8010)  
[presmail@albany.edu](mailto:presmail@albany.edu)

### ABOUT

Dr. Havidán Rodríguez was appointed by the SUNY Board of Trustees as the 20th president of the University at Albany in June 2017. He took office in September 2017 after more than 25 years as a leader in higher education.

Dr. Rodríguez served as the Founding Provost & Executive Vice President for Academic Affairs at the University of Texas Rio Grande Valley (UTRGV). He also served as President, Ad Interim, and Provost and Vice President for Academic Affairs at the University of Texas - Pan American (UTPA). Dr. Rodríguez played a key leadership role in the creation of UTRGV - which resulted from the consolidation of UTPA and the University of Texas Brownsville - and the creation, from the ground up, of UTRGV's School of Medicine.

Prior to arriving at UTPA, Dr. Rodríguez served as the Deputy Provost, Vice Provost for Academic Affairs and International Programs, and Professor in the Department of Sociology and Criminal Justice at the University of Delaware. He was also a core faculty member and director of the Disaster Research Center (DRC), the oldest and one of the leading social science disaster research centers in the world.

Dr. Rodríguez held a faculty position and several administrative positions at the University of Puerto Rico-Mayagüez (UPRM) for over a decade, and served as Director of the Minority Affairs Program for the American Sociological Association (1995-1998). He has also been a visiting professor at the University of Michigan's Population Fellow's Program (Summers, 2001-2003).

Dr. Rodríguez has received numerous recognitions and awards, including the Frey Foundation Distinguished Visiting Professor at the University of North Carolina-Chapel Hill (2002); the Federal Emergency Management Agency (FEMA) National Disaster Medical System (NDMS) Outstanding Achievement Award (2004); was recognized as one of the Hispanics of the Year in the State of Delaware for which he received the Professional Achievement Award (2007); the Alfredo G. de los Santos, Jr. Distinguished Leadership Award from the American Association of Hispanics in Higher Education (2015); was the featured cover story of the national publication, The Hispanic Outlook in Higher Education

Magazine (2015); was highlighted in the Bright Spots in Hispanic Education by the White House Initiative on Educational Excellence for Hispanics (September 2015); received the American Association for Access, Equity and Diversity Cesar Estrada Chavez Award (2016); was selected as a 2017 Top Latino Leader by the Council for Latino Workplace Equity; received the 2017 Inspiring Leaders in STEM Award by the INSIGHT Into Diversity Magazine; and was awarded the Presidential Medallion by the University of Texas Rio Grande Valley.

Dr. Rodríguez has served on a number of committees for the National Academy of Sciences and on review panels for the National Science Foundation (NSF) and the Ford Foundation, and was the Chair of the Latina/o Sociology Section of the American Sociological Association.

Dr. Rodríguez has received funding from NSF, the Ford Foundation, the National Institute of Mental Health, FEMA, the U.S. Army Corps of Engineers, and the UPRM Sea Grant Program, among others, for a number of research projects focusing on the social science aspects of disasters and for projects aimed at providing hands-on research training and mentoring to undergraduate and graduate students. He was also the principal investigator for the NSF Research Experience for Undergraduates (REU) Program: Training the Next Generation of Disaster Researchers. Dr. Rodríguez was the principal investigator for an NSF ADVANCE Institutional Transformation grant aimed at increasing the representation, participation, and leadership of women faculty in STEM fields. In addition, he was the Project Leader (with Kristin Croyle) for the AASCU Frontier Set Project, which focuses on student success, funded by the Bill & Melinda Gates Foundation.

Dr. Rodríguez has led and participated in a number of field research projects, including trips to Honduras, following Hurricane Mitch; India and Sri Lanka, following the Indian Ocean Tsunami; and the Gulf Coast, following Hurricane Katrina. Dr. Rodríguez has a significant number of publications in the area of disasters, as well as Latinos/as in the United States. He is the co-editor (with Donner and Trainor) of the Handbook of Disaster Research (2018) and co-author (with Mora and Dávila) of Population, Migration, and Socioeconomic Outcomes Among Island and Mainland Puerto Ricans: La Crisis Boricua (2018), among other book publications. He is also a co-author of a book currently under contract focusing on implementing effective warning systems.

His role in community engagement and service to the community, at the local, regional, and national level has been extensive. Dr. Rodríguez has served on numerous community, professional, and university boards, organizations, and committees.

Dr. Rodríguez obtained his PhD in Sociology from the University of Wisconsin-Madison.



# SONYMA

Biographical Information for  
Senior Staff

## **RuthAnne Visnauskas**

In February 2017, Governor Cuomo appointed RuthAnne Visnauskas, Commissioner of the New York State Division of Housing and Community Renewal. In March, 2017, Ms. Visnauskas was appointed as the President/CEO of the New York State Housing Finance Agency, the State of New York Mortgage Agency and the New York State Affordable Housing Corporation, the State agencies that comprise New York State Homes and Community Renewal ("HCR").



RuthAnne previously served as HCR's Executive Deputy Commissioner for Housing Development, where she was responsible for strategic leadership and oversight of multi-family housing finance programs, the State of New York Mortgage Agency (SONYMA), the Mortgage Insurance Fund (MIF), the Office of Community Renewal and the Office of Faith-Based Community Development Services.

Prior to joining HCR, RuthAnne was Managing Director of the Housing Advisory Board for the Robin Hood Foundation, New York's largest poverty-fighting organization. The Housing Advisory Board was established to fund initiatives to advance the quantity and quality of affordable housing for low-income New Yorkers.

RuthAnne held also several key positions at the New York City Department of Housing Preservation and Development (HPD), including the role of Commissioner from September 2014 to February 2015. HPD is the nation's largest municipal housing agency, in charge of the development and preservation of affordable housing and the enforcement of the City's Housing Maintenance Code.

Prior to taking the helm at HPD, RuthAnne served as Deputy Commissioner for Development, spearheading innovative development programs, including the Preserving City Neighborhoods (PCN) initiative, designed to purchase the notes of overleveraged buildings, and stabilize them by ultimately transferring them to responsible not-for-profit owners.

She received her Bachelor degree in Urban Studies from the University of Pennsylvania and holds a Master's degree in Urban Planning from the Robert F. Wagner School of Public Service at New York University.

Ms. Visnauskas lives in Manhattan with her husband and three children.

## **Linda Manley, HCR Sr. Vice President and Counsel**

Linda Manley is General Counsel for New York State Homes and Community Renewal (HCR) where she is responsible for the HCR Legal Division, the Tenant Protection Unit and Fair and Equitable Housing Office.

Previously, Linda served as Acting General Counsel since May 2016.

Prior to joining HCR in January 2016, as Deputy General Counsel, Linda was Legal Director at Lawyers Alliance for New York, providing legal services to nonprofit organizations focused on affordable housing, economic development and social services.

Linda previously practiced law at the firms Jones, Day, Reavis & Pogue and Weil, Gotschal & Manges and served as a law clerk to Hon. Loretta A. Preska in the Southern District of New York.

She received her J.D. from Fordham University School of Law and B.A. magna cum laude from State University of New York at Albany.

**GABRIELLA GREEN, CHIEF OF STAFF**

Gabriella Green is Chief of Staff and oversees Intergovernmental Affairs and the Office of Public Information. Previously she was Downstate Development Director in HCR's Office of Finance and Development.

She joined HCR from the U.S. Department of Housing and Urban Development (HUD) where she served as Senior Regional Planner, managing the agency's Superstorm Sandy appropriation grants for New York State.

Prior to joining HUD, Gabriella held several key positions at the NYC Department of Housing Preservation and Development, including Assistant Commissioner for the Division of Planning, Marketing, and Sustainability.

Gabriella holds a Bachelor of Arts degree from the University of Michigan and a Master degree in Urban Planning from New York University.

**DINA LEVY, SENIOR VICE PRESIDENT OF SINGLE FAMILY AND COMMUNITY DEVELOPMENT**

Dina Levy is Senior Vice President of Single Family and Community Development responsible for the State of New York Mortgage Agency (SONYMA), Office of Community Renewal, and Faith-Based Initiatives.

Prior to joining HCR, Dina served as Director of Community Impact and Innovation for Attorney General Eric T. Schneiderman where she was senior advisor to the Attorney General on negotiations of multi-billion-dollar bank settlements and oversaw relationships with state and national stakeholders. Prior to that, she was Special Assistant to the Attorney General.

Before joining the AG's Office, Dina worked for the Urban Homesteading Assistance Board (UHAB) where she served as Director of Organizing, building strategic coalitions to preserve, expand and improve the quality of affordable housing across New York City.

## **Betsy Mallow, Senior Vice President and Executive Deputy Commissioner and Chief Operating Officer (COO)**

Betsy Mallow is Executive Deputy Commissioner and Chief Operating Officer (COO) for NY State Homes and Community Renewal (HCR). In her role, Betsy oversees the Office of Rent Administration, Office of Housing Preservation, Office of Professional Services, and the Governor's Office of Storm Recovery and Policy.

Betsy joined HCR from the Governor's Office of Storm Recovery (GOSR) where she served as the Deputy Executive Director overseeing New York State's recovery from Hurricane Sandy, Hurricane Irene, and Tropical Storm Lee. Prior to GOSR, she served as Deputy Director of the New York Office for the White House Task Force on Sandy Rebuilding.

Previously, Betsy was a consultant at the Boston Consulting Group (BCG). Betsy began her career in the nonprofit sector building an international platform for Paul Newman's Hole in the Wall Camps and spent one year in Argentina working with a nonprofit in support of their mission to find sustainable solutions to poverty. While there, she also volunteered documenting human rights violations in Argentine prisons.

She holds an MBA from Harvard University and an undergraduate degree from Brown University. After completing her MBA in 2009, Betsy earned a fellowship to spend a year at the Ford Foundation working on issues of impact assessment.

## **Michael Friedman, Senior Vice President and Director of the Mortgage Insurance Fund**

Michael Friedman joined the State of New York Mortgage Agency in December 1996 as director of finance for the Mortgage Insurance Fund (MIF). Mr. Friedman became Senior Vice President and Director of the MIF on June 12, 2003. Mr. Friedman previously served as a vice president of Asset Guaranty Insurance Company, where he was responsible for the insurance of multifamily housing revenue bonds nationwide. Prior to that, he covered homebuilders, mortgage bankers and thrift institutions for New York City-based banks and investment banks. Mr. Friedman graduated from the City College of New York and Harvard Business School.

## **Becky Koepnick, Senior Vice President and Chief Strategy Officer for Portfolio Preservation**

### **Becky Koepnick**

Prior to joining HCR Becky gained extensive experience in the housing and community development field at the local, state and national levels. Most recently Becky was Director of Neighborhoods and Housing at the Boston Foundation overseeing TBF's grantmaking related to housing and community development as well as program-related investments. She also ran the Moelis Institute for Affordable Housing Policy at New York University's Furman Center for Real Estate and Urban Policy where she led all aspects of the Institute's operations and policy work, as well as worked with New York's affordable housing community on key issues facing the city and the housing sector.

Previous to that, Becky was Advisor to the Secretary at the U.S. Department of Housing and Urban Development in DC, where she coordinated and led HUD and the Administration's housing and economic development priorities. Becky holds a BA in Government from Smith College and a Masters of Urban Planning from New York University.



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### PROFESSIONAL EXPERIENCE

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#### GOVERNOR'S OFFICE OF STORM RECOVERY (GOSR)

Executive Director, Housing, Buyout and Acquisition - Nov 2017 to Present

- Develop and execute GOSR's strategic plan and implement initiatives spanning all program areas.
- Collaborate with NYS Homes and Community Renewal, Executive Chamber, Dept. of Housing and Urban Development, and State and local partners on strategies to achieve GOSR's core mission.
- Implement the Living with the Bay project, a \$125 million initiative that increases resiliency through green and gray infrastructure projects in communities along the Mill River in Long Island. Successfully led projects from initial design to construction.
- Advance the housing, buyout, and acquisition programs and develop long term plans to achieve program closeout.
- Develop long and short-term financial plans in coordination with the CFO and the executive team.

Deputy Executive Director and Managing Director, Housing - Nov 2015 to Oct 2017

- Administered \$3 Billion in CDBG-DR funds to serve approximately 13,000 housing applicants, construction of affordable housing, rehabilitation of public housing, and incentive programs.
- Managed and led a team of over 300 consultants and staff.
- Set housing department strategic vision and plan and developed new initiatives to respond to applicant needs.
- Realigned organizational structure to streamline functions and optimize productivity.
- Reduced housing program delivery costs by 25-30% and achieved program savings. Managed \$350 Million in vendor contracts and renegotiated task orders to align with program goals.
- Standardized all housing program reporting systems to optimize program budgeting and projections to achieve program closeout.
- Initiated the development of a comprehensive monthly budget report for all housing programs.

Senior Advisor - June 2015 to Oct 2015

- Directed a \$100 Million multi-family portfolio including the rental properties and condo/coop programs.
- Reorganized multi-family team and implemented policy changes to increase award disbursements.
- Outperformed award projections resulting in a 100% increase in disbursements to applicants.

#### NYC DEPARTMENT OF HOUSING PRESERVATION & DEVELOPMENT (HPD)

Director, Manhattan Planning - Feb 2011 to May 2015

- Led high priority, time sensitive planning initiatives for the development of affordable housing.
- Identified potential development sites and analyzed development proposals.
- Negotiated development offers and made recommendations for the selection of development teams.
- Provided neighborhood specific land use and program strategies to maximize HPD investments and leverage public and private investments to achieve agency goals and broader community objectives.
- Developed and maintained positive and productive relationships with government partners, community groups, residents, and elected official offices.
- Represented HPD at community boards, city planning commission, and various external meetings with elected officials and/or community groups to convey and advance the agency's position on projects and policies.
- Drafted and reviewed land use approval documents and coordinated land use approval process, in consultation with city agencies and external stakeholders.

Director, External Affairs - Aug 2009 to Jan 2011

- Managed the HPD external relations strategy, focusing on Mayoral and agency priorities.
- Identified and cultivated relationships with external partners and the affordable housing community to improve and expand relationships with the HPD Communications Division.
- Responded to and coordinated City Hall requests for background information and fact checking for Mayoral and Deputy Mayoral events and speeches. Drafted and edited speeches and talking points.

Chief of Staff, Office of Development - May 2008 to Jul 2009

- Represented the Office of Development in agency-wide strategic planning initiatives and implemented policies.
- Managed day-to-day issues and workflow, including information requests from the Commissioner's Office and City Hall.
- Planned, organized, and prepared materials for internal and external presentations.

Senior Policy Analyst - Sept 2007 to Apr 2008

- Project managed large-scale affordable housing initiatives from creation of Request for Proposals through the planning and pre-construction phases.
- Worked closely with community boards and local stakeholders to develop revitalization policies and plans.
- Participated in interagency teams related to affordable housing and economic development projects.

City Planner/Project Manager, Brooklyn Planning Unit - Sept 2005 to Aug 2007

- Provided policy-driven recommendations and assisted in development of agency strategy to develop approximately 1,300 affordable housing units as a result of the Greenpoint-Williamsburg (GW) rezoning.
- Managed all aspects of project analysis that included zoning compliance, design review, affordability and overall project feasibility.
- Represented HPD at community taskforce meetings; presented to local community boards on related projects.

**NEW HAVEN SAVINGS BANK (NHSB)**

Community Development Officer - Dec 1999 to Aug 2003

- Managed and monitored NHSB Community Development Corporation investment initiatives; Officer NHSB CDC.
- Reviewed grant applications and provided technical assistance for the NHSB Foundation.
- Expanded employee volunteer program and increased participation.

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**EDUCATION**

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NEW YORK UNIVERSITY

Master of Urban Planning

- Brodsky Scholar
- Robert F. Wagner Award for Public Service Recipient
- American Planning Association Scholarship Recipient

SOUTHERN CONNECTICUT STATE UNIVERSITY

Bachelor of Arts in Liberal Studies, Concentrations: Urban Studies and Sociology

# SONYMA

Enabling Legislation



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Public Authorities Law  
Article 8 Miscellaneous Authorities  
Title 17 State of New York Mortgage Agency Act

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*NY CLS Pub A, Art. 8, Title 17 Notes (2015)*

**Title 17 State of New York Mortgage Agency Act Notes**

**HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970.



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Title 17 State of New York Mortgage Agency Act  
Part I [General Provisions]

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*NY CLS Pub A, Art. 8, Title 17, Pt. I Notes (2015)*

**Part I [General Provisions] Notes**

**HISTORY:**

Add, L 1978, ch 788, § 7, eff Dec 8, 1978.



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*NY CLS Pub A § 2400 (2016)*

**§ 2400. Short title**

This title shall be known and may be cited as the "state of New York mortgage agency act."

**HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970.

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.



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*NY CLS Pub A § 2401 (2015)*

**§ 2401. Legislative findings**

[Until July 23, 2017] It is hereby found and declared that there continues to exist throughout the state a seriously inadequate supply of safe and sanitary dwelling accommodations, including accommodations for persons and families of low income, and a seriously inadequate supply of credit available for new residential improvement loans at carrying charges within the financial means of persons and families of low or moderate income. This condition is contrary to the public interest and threatens the health, safety, welfare, comfort and security of the people of the state. It is found and declared that one major cause of this condition has been recurrent, cyclical shortages of funds in private banking channels available for residential mortgages. Such shortages have contributed to drastic reductions in construction starts of new residential units. In addition, they have made the sale and purchase of existing residential units a virtual impossibility in many parts of the state. The ordinary operations of private enterprise have not in the past corrected these conditions.

[Eff July 23, 2017] It is hereby found and declared that there continues to exist throughout the state a seriously inadequate supply of safe and sanitary dwelling accommodations, including accommodations for persons and families of low income. This condition is contrary to the public interest and threatens the health, safety, welfare, comfort and security of the people of the state. It is found and declared that one major cause of this condition has been recurrent, cyclical shortages of funds in private banking channels available for residential mortgages. Such shortages have contributed to drastic reductions in construction starts of new residential units. In addition, they have made the sale and purchase of existing residential units a virtual impossibility in many parts of the state. The ordinary operations of private enterprise have not in the past corrected these conditions.

It is further found and declared that the drastic reduction in residential construction starts associated with such shortages have caused a condition of substantial unemployment and underemployment in the construction industry which results in hardships to many individuals and families, wastes vital human resources, increases the public assistance burdens of the state and municipalities, impairs the security of family life, impedes the economic and

physical development of municipalities and adversely affects the welfare and prosperity of all the people of the state. A stable supply of adequate funds for residential mortgages is required to spur new housing starts in an orderly and sustained manner and thereby to reduce the hazards of unemployment and underemployment in the construction industry. The unaided operations of private enterprise have not met and cannot meet the need for a stable supply of adequate funds for residential mortgage financing.

It is further found and declared that these conditions associated with such recurrent shortages of residential mortgage funds contribute to the persistence of slums and blight and to the deterioration of the quality of the environment and living conditions of a large number of persons residing in the state of New York, have adversely affected the economy of the state as a whole and are contrary to the declared policy of the state to promote a vigorous and growing economy, to prevent economic stagnation, to increase revenues to the state and to its municipalities and to achieve stable local economies.

[Until July 23, 2017] Based upon the experience of the past, most recently during the periods of illiquidity which occurred in nineteen hundred sixty-six and again in nineteen hundred sixty-nine, shortages of funds for residential mortgages in the private banking system can be expected to recur from time to time in varying degrees of severity with the adverse consequences described above. To avoid or minimize such consequences, to bring greater stability to the residential construction industry and related industries, and thus to assure a steady flow of production of new housing units, there should be created a corporate governmental agency to be known as the "state of New York mortgage agency" which, through issuance of bonds and notes to the private investing public during periods when there is an inadequate supply of credit available for new loans for residential housing and housing improvement purposes, may (i) purchase existing mortgages from banks and direct an amount equal to the proceeds from the liquidated mortgage investments into new mortgages on residential family dwelling units, (ii) purchase new mortgages on residential family dwelling units, (iii) purchase new housing loans for the rehabilitation or improvement of residential family dwelling units, and (iv) purchase lease-to-own mortgage loans.

[Eff July 23, 2017] Based upon the experience of the past, most recently during the periods of illiquidity which occurred in nineteen hundred sixty-six and again in nineteen hundred sixty-nine, shortages of funds for residential mortgages in the private banking system can be expected to recur from time to time in varying degrees of severity with the adverse consequences described above. To avoid or minimize such consequences, to bring greater stability to the residential construction industry and related industries, and thus to assure a steady flow of production of new housing units, there should be created a corporate governmental agency to be known as the "state of New York mortgage agency" which, through issuance of bonds and notes to the private investing public, may purchase existing mortgages from banks within the state during periods when there is an inadequate supply of credit available for new residential mortgage loans and direct an amount equal to the proceeds from the liquidated mortgage investments into new mortgages on residential real property for family units.

It is further found and declared that in addition to issuance of bonds and notes for such purposes, the accessibility of credit available for new loans for residential housing and housing improvement purposes will also be increased by making available to the people of the state to the fullest extent possible the benefit of federal programs providing credits against income tax for a portion of interest paid on residential mortgage and housing loans.

The secondary mortgage market provided by the corporate governmental agency created by this title is hereby found and determined to be an appropriate and effective means of making residential mortgages a more attractive investment for the private banking system, of reducing the volatility of mortgage flows over the business cycle, and of providing greater stability for the economies of the state and its municipalities.

It is further found and determined that it has long been the public policy of the state to encourage every student who has the desire and capacity to pursue a post-secondary education. To this end, the state has developed one of the foremost systems of public higher education in the nation, as well as a substantial program of grants and loans to help finance the education of students attending both public and private post-secondary educational institutions.



Nevertheless, the rising costs to students of post-secondary education are placing the goal of such study beyond the financial reach of a growing proportion of our potential student population, particularly those young men and women coming from families of low- and middle-income. To effectively meet this fiscal crisis in post-secondary education, which is contrary to the general welfare of our citizens, it is hereby found and determined that the student loan programs in the state should be restructured to make available to every student financial assistance in the attainment of his college or career education and that the state of New York mortgage agency should be authorized to issue its bonds and notes for the purpose of making available funds with which to make available such student loans.

*It is further found and determined that there is a need to establish a program to assist homeowners in the state of New York who have been affected by the national mortgage crisis who are either delinquent on their mortgage payments or are in danger of going into default because of economic hardship, as such term is defined under the agency's guidelines, in consultation with the advisory council established in subdivision three of section twenty-four hundred five-f of this part, who may lose their homes to foreclosure, or who may have abandoned their homes due to economic hardship and who may benefit from assistance. In addition, the existence of vacant, abandoned, distressed, dilapidated or reasonably beyond repair properties may contribute to the persistence of conditions that increase blight and add to the deterioration of the quality of the environment and living conditions of a large number of persons residing in the state. To address these conditions, it is hereby found and determined that the state of New York mortgage agency shall be authorized to create and manage a fund to acquire residences and to purchase mortgages and mortgage notes, or to provide monies to eligible institutions to acquire residences and to purchase mortgages and mortgage notes and to carry out such other functions in connection with such acquisitions as are necessary to accomplish the purposes of this paragraph. In connection therewith, the state of New York mortgage agency shall be authorized to create a subsidiary corporation to carry out the program authorized under this paragraph.*

#### **HISTORY:**

Add, L 1970, ch 612, § 1; amd, L 1971, ch 1023, § 1, eff July 2, 1971; L 1972, ch 234, § 1, eff May 8, 1972; L 1982, ch 915, § 1; L 1984, ch 353, § 1, eff July 10, 1984; L 1986, ch 897, § 2, eff Aug 5, 1986; L 1990, ch 190, § 356, eff May 25, 1990 and repealed March 31, 1991; L 1992, ch 782, § 1, eff Aug 7, 1992; L 1996, ch 301, § 14, eff July 10, 1996; L 2016, ch 72, § 1, eff June 23, 2016.

#### **NOTES:**

##### Editor's Notes

See 1970 note under Title 17.

**Laws 1982, ch 915, § 16**, provides as follows:

§ 16. This act shall take effect immediately except that the amendments to law effected by sections one through ten of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect. (Amd, L 1984, ch 353, § 11; L 1984, ch 1004, § 1; L 1985, ch 36, § 1; L 1985, ch 668, § 31; L 1986, ch 897, § 1; L 1987, ch 60, § 1; L 1988, ch 414, § 1; L 1989, ch 555, § 1; L 1992, ch 7, § 1; L 1993, ch 25, § 1; L 1994, ch 284, § 1; L 1996, ch 308, § 1; L 1997, ch 196, § 1, eff July 10, 1997; L 1998, ch 142, § 1, eff June 30, 1998; L 1999, ch 226, § 1, eff July 13, 1999; L 2000, ch 132, § 1, eff July 11, 2000; L 2001, ch 111, § 1, eff July 25, 2001; L 2002, ch 103, § 1, eff June 28, 2002; L 2003, ch 141, § 1, eff July 22, 2003; L 2004, ch 147, § 1, eff July 13, 2004; L 2005, ch 121, § 1, eff June 30, 2005; L 2006, ch 138, § 1, eff July 5, 2006; L 2007, ch 229, § 1, eff July 9, 2007; L 2008, ch 148, § 1, eff June 30, 2008; L 2009, ch 177, § 1, eff July 11, 2009; L 2010, ch 218, § 1, eff July 15, 2010; L 2011, ch 100, § 4, eff June 28, 2011; L 2013, ch 152, § 3, eff July 12, 2013; L 2015, ch 85, § 4, eff July 23, 2015.)

**Laws 1984, ch 353, § 12**, provides as follows:

§ 12. This act shall take effect immediately provided however that sections one through three and five through seven of this act shall cease to be of force and effect at such time as sections one through ten of chapter nine hundred fifteen of the laws of nineteen hundred eighty-two cease to be of force and effect and thereafter the provisions of the public authorities law shall consist of those without the amendments effected by sections one through three and five through

seven of this act. (Amd, L 1987, ch 60, § 7).

**Laws 1990, ch 190, § 385(y)**, eff May 25, 1990, provides as follows:

(y) the closing paragraph of *section 2401 of the public authorities law*, as added by section three hundred fifty-six of this act, shall be of no further force and effect after March 31, 1991 and on such date shall be deemed repealed;

**Laws 1992, ch 782, § 15**, eff Aug 7, 1992, provides as follows:

§ 15. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 1996, ch 301, § 1**, eff July 10, 1996, provides as follows:

Section 1. Legislative findings. The legislature hereby finds and declares that the terms "occupational" and "vocational" education unjustifiably carry a negative connotation thereby diminishing the attractiveness of such learning activity to students and parents. The legislature further finds that such terms historically have been associated with a set of educational options for youth lacking the ability to pursue academic goals and have been commonly understood to describe an educational process that ends with the acquisition of a set of discrete, specific, job-related skills.

The legislature further finds and declares that students, parents, educators, and businesses have begun to recognize the value of generic competencies such as communications skills, critical thinking, and teaming. Such skills need to be learned by all students and are used throughout every individual's work experience. Such competencies, as well as academic and occupational skills, are aspects of career preparation. Further career development continues to build on the successful acquisition of generic competencies and may require post-secondary education, advanced technical instruction and apprenticeships, among other options.

Therefore the legislature declares that the concept of "career education" better describes the educational activities appropriate to preparing individuals for participation in the workforce, and that statutory language referring to "occupational" and "vocational" education should be changed to "career" education to appropriately characterize the learning activities currently taking place.

#### Amendment Notes

**The 2016 amendment by ch 72, § 1**, added the last paragraph.

#### Jurisprudences:

#### Law Reviews:

Mortgage lenders and the housing supply. 57 *Cornell L. Rev.* 149.



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\*\*\* Current through 2016 released chapters 1-503 \*\*\*

Public Authorities Law  
Article 8 Miscellaneous Authorities  
Title 17 State of New York Mortgage Agency Act  
Part I [General Provisions]

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*NY CLS Pub A § 2402 (2016)*

## **§ 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) [Expires July 23, 2017] "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 section five hundred ninety of such law, 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.

(2) [Eff July 23, 2017] "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.

(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) [Expires July 23, 2017] "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.

For the purposes of this title and of section one hundred ninety and subsection (a) of section one thousand four hundred fifty-six of the tax law, "mortgage" shall include housing loans as defined below. Except for the purposes of subdivision seven of section two thousand four hundred five and subdivision eight of section two thousand 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.

(5) [Eff July 23, 2017 and until July 23, 2017] "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.

(5) [Eff July 23, 2017] "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.

(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) [Expires July 23, 2017] "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.

(12) [Expires July 23, 2017] "Forward commitment mortgage". A mortgage 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 title is not a forward commitment mortgage.

(13) [Expires July 23, 2017] "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.

(14) [Expires July 23 2017] "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.

(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) [Expires and repealed July 23, 2017] "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.*

#### HISTORY:

Add, L 1970, ch 612, § 1, eff May 12, 1970; amd, L 1971, ch 376, § 7; L 1971, ch 1023, § 2; L 1982, ch 915, § 2; L 1984, ch 353, § 2, eff July 10, 1984; L 1985, ch 668, § 26; L 1990, ch 806, § 1, eff July 25, 1990; L 2009, ch 432, §§ 1, 2, eff Sept 16, 2009; L 2010, ch 208, §§ 1-3, eff July 15, 2010; L 2011, ch 62, § 104 (Part A), eff Oct 3, 2011; L 2013, ch 151, §§ 1-4, eff July 12, 2013; L 2014, ch 280, § 1, eff Aug 11, 2014.

#### NOTES:

##### Editor's Notes:

See 1970 note under Title 17.

**Laws 1982, ch 915, § 16**, provides as follows:

§ 16. This act shall take effect immediately except that the amendments to law effected by sections one through ten of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect. (Amd, L 1984, ch 353, § 11; L 1984, ch 1004, § 1; L 1985, ch 36, § 1; L 1985, ch 668, § 31; L 1986, ch 897, § 1; L 1987, ch 60, § 1; L 1988, ch 414, § 1; L 1989, ch 555, § 1; L 1992, ch 7, § 1; L 1993, ch 25, § 1; L 1994, ch 284, § 1; L 1996, ch 308, § 1; L 1997, ch 196, § 1, eff July 10, 1997; L 1998, ch 142, § 1, eff June 30, 1998; L 1999, ch 226, § 1, eff July 13, 1999; L 2000, ch 132, § 1, eff July 11, 2000; L 2001, ch 111, § 1, eff July 25, 2001; L 2002, ch 103, § 1, eff June 28, 2002; L 2003, ch 141, § 1, eff July 22, 2003; L 2004, ch 147, § 1, eff July 13, 2004; L 2005, ch 121, § 1, eff June 30, 2005; L 2006, ch 138, § 1, eff July 5, 2006; L 2007, ch 229, § 1, eff July 9, 2007; L 2008, ch 148, § 1, eff June 30, 2008; L 2009, ch 177, § 1, eff July 11, 2009; L 2010, ch 218, § 1, eff July 15, 2010; L 2011, ch 100, § 4, eff June 28, 2011; L 2013, ch 152, § 3, eff July 12, 2013; L 2015, ch 85, § 4, eff July 23, 2015.).

**Laws 1984, ch 353, § 12**, provides as follows:

§ 12. This act shall take effect immediately provided however that sections one through three and five through seven of this act shall cease to be of force and effect at such time as sections one through ten of chapter nine hundred fifteen of the laws of nineteen hundred eighty-two cease to be of force and effect and thereafter the provisions of the public authorities law shall consist of those without the amendments effected by sections one through three and five through seven of this act. (Amd, L 1987, ch 60, § 7.).

**Laws 1990, ch 806, § 2**, eff July 25, 1990, provides as follows:

§ 2. This act shall take effect immediately, provided, however, that the amendment to subdivision 2 of *section 2402 of the public authorities law* by this act shall not affect the reversion of such subdivision as provided by chapter 915 of the laws of 1982, as amended.

**Laws 1996, ch 301, § 1**, eff July 10, 1996, provides as follows:

Section 1. Legislative findings. The legislature hereby finds and declares that the terms "occupational" and "vocational" education unjustifiably carry a negative connotation thereby diminishing the attractiveness of such learning activity to students and parents. The legislature further finds that such terms historically have been associated with a set of educational options for youth lacking the ability to pursue academic goals and have been commonly understood to describe an educational process that ends with the acquisition of a set of discrete, specific, job-related skills.

The legislature further finds and declares that students, parents, educators, and businesses have begun to recognize the value of generic competencies such as communications skills, critical thinking, and teaming. Such skills need to be learned by all students and are used throughout every individual's work experience. Such competencies, as well as academic and occupational skills, are aspects of career preparation. Further career development continues to build on the successful acquisition of generic competencies and may require post-secondary education, advanced technical instruction and apprenticeships, among other options.

Therefore the legislature declares that the concept of "career education" better describes the educational activities appropriate to preparing individuals for participation in the workforce, and that statutory language referring to "occupational" and "vocational" education should be changed to "career" education to appropriately characterize the learning activities currently taking place.

**Laws 2009, ch 432, § 8(a)**, eff Sept 16, 2009, provides as follows:

§ 8. This act shall take effect immediately, provided that:

(a) the amendments to subdivision 5 of *section 2402 of the public authorities law* made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 16 of chapter 915 of the laws of 1982, as amended, when upon such date the provisions of section two of this act shall take effect;

**Laws 2010, ch 208, § 4**, eff July 15, 2010, provides as follows:

§ 4. This act shall take effect immediately, provided that the amendments to subdivision 5 of *section 2402 of the public authorities law* made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 16 of chapter 915 of the laws of 1982, as amended, when upon such date the provisions of section two of this act shall take effect; further provided that this act shall expire and be deemed repealed July 23, 2017. (Amd, L 2012, ch 327, § 1, eff Aug 1, 2012; L 2014, ch 280, § 2, eff Aug 11, 2014; L 2015, ch 85, § 8, eff July 23, 2015.).

**Laws 2013, ch 151, § 6**, eff July 12, 2013, provides as follows:

§ 6. This act shall take effect immediately, provided that the amendments to subdivision 5 of *section 2402 of the public authorities law* made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 16 of chapter 915 of the laws of 1982, as amended, when upon such date the provisions of section two of this act shall take effect; provided further, that the amendments to subdivision 5 of *section 2402 of the public authorities law* made by section two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 4 of chapter 208 of the laws of 2010 as amended, when upon such date the provisions of section three of this act shall take effect; provided further, that the amendments to subdivision 17 of section 2402 made by section four of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

**Laws 2014, ch 280, § 3**, eff Aug 11, 2014, provides as follows:

§ 3. This act shall take effect immediately; provided, however, that the amendments to subdivision 17 of *section 2402 of the public authorities law* made by section one of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith.

Amendment Notes:

**2013.** Chapter 151, § 1 amended:

Sub (5) [first setout], first undesignated par by deleting at fig 1 ", provided that, in" and adding the matter in italics.

**2013.** Chapter 152, § 2 amended:

Sub (5) [second setout], first undesignated par by deleting at fig 1 ", provided that, in" adding the matter in italics.

**2013.** Chapter 152, § 3 amended:

Sub (5) [third setout], first undesignated par by deleting at fig 1 ", provided that, in" adding the matter in italics.

**2013.** Chapter 152, § 4 amended:

Sub (17) by adding the matter in italics.

**2011.** Chapter 62, § 104 (Part A) amended:

Sub (13) by substituting at fig 1 "superintendent of financial services" for "superintendent of insurance".

**The 2014 amendment by ch 280, § 1** added "and any successor entity or entities created by Congress to continue to serve said purposes" at the end of (17).

Repeal Notes:

[1981, ch 721] Former subdivisions eleven, twelve and thirteen of section twenty-four hundred two of the public authorities law defined gross income, targeted area and newly constructed residence.





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Title 17 State of New York Mortgage Agency Act  
Part I [General Provisions]

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*NY CLS Pub A § 2403 (2016)*

**§ 2403. State of New York mortgage agency**

(1) There is hereby created the state of New York mortgage agency. The agency shall be a corporate governmental agency of the state, constituting a political subdivision and public benefit corporation. Its membership shall consist of nine directors as follows: the comptroller or a member appointed by the comptroller who shall serve until his or her successor is appointed, the director of the budget of the state of New York, the commissioner of housing and community renewal, one director appointed by the temporary president of the senate, one director appointed by the speaker of the assembly, and four directors to be appointed by the governor with the advice and consent of the senate. *The director first appointed by the governor pursuant to chapter three hundred fifty-six of the laws of two thousand four, which amended this subdivision, shall serve for a term ending four years from January first next succeeding his or her appointment.* The other directors first appointed by the governor shall be appointed within ten days of the effective date of this title and shall serve for terms ending two, three and four years, respectively, from January first next succeeding their appointment. Their successors shall serve for terms of four years each. The directors appointed by the governor shall continue in office until their successors have been appointed and qualified. The directors appointed by the temporary president of the senate and the speaker of the assembly shall serve at the pleasure of the temporary president of the senate and the speaker of the assembly respectively. In the event of a vacancy occurring in the office of a director by death, resignation or otherwise, such vacancy shall be filled, for the unexpired term, if applicable, in the same manner as the original appointment. From the four directors appointed by him or her, the governor shall designate the chair of the agency. The governor shall designate the first chair within ten days of the effective date of this title.

(2) The directors, including the chairman, shall serve without salary or other compensation, but each director shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

(3) Such directors other than <1> the comptroller, the budget director, and the commissioner of housing and community renewal may engage in private employment, or in a profession or business. The agency, its directors, officers and employees shall be subject to the provisions of sections seventy-three and seventy-four of the public

officers law.

(4) Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state or of any civil division thereof shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the agency created by this section; provided, however, a director who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

(5) The governor may remove any director appointed by him for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel, in his defense, upon not less than ten days' notice. If any such director shall be removed, the governor shall file in the office of the department of state a complete statement of charges made against such director and his findings thereon, together with a complete record of the proceeding.

(6) The agency and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the agency shall have bonds, notes and other obligations outstanding, unless adequate provision has been made for the payment thereof. Upon termination of the existence of the agency, all its rights and properties shall pass to and be vested in the state.

(7) A majority of the directors of the agency then in office shall constitute a quorum for the transaction of any business or the exercise of any power or function of the agency. The agency may delegate to one or more of its directors, or its officers, agents or employees, such powers and duties as it may deem proper. The executive director appointed by the agency shall be the chief executive officer of the agency.

(8) The <1> commissioner of housing and community renewal and the director of the budget each may appoint a person from their respective division to represent such member, respectively, at all meetings of the agency from which such member may be absent. Any such representative so designated shall have the power to attend and to vote at any meeting of the agency from which the member so designating him as a representative is absent with the same force and effect as if the member designating him were present and voting. Such designation shall be by written notice filed with the chairman of the agency by each of the said members. The designation of such persons shall continue until revoked at any time by written notice to the chairman by the respective member making the designation. Such designation shall not be deemed to limit the power of the appointing member to attend and vote at any meeting of the agency.

#### **HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970; amd, L 1970, ch 613, § 1; L 1970, ch 614, § 1; L 1971, ch 1023, § 3; L 1981, ch 103, §§ 180, 181; L 1981, ch 721, § 2; L 1982, ch 54, § 8, eff April 12, 1982; L 1984, ch 152, § 1, eff May 25, 1984; L 1992, ch 55, § 208, eff May 10, 1992; L 1992, ch 782, § 2, eff Aug 7, 1992 (see 1992 note below); L 2004, ch 356, § 3, eff Aug 10, 2004; L 2005, ch 102, §§ 1-3, eff June 14, 2005.

#### **NOTES:**

Editor's Notes:

See 1970 note under Title 17.

**Laws 1992, ch 782, § 15**, eff Aug 7, 1992, provides as follows:

§ 15. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

Amendment Notes:

**2005.** Chapter 102, § 1 amended:

Sub (1) by adding the matter in itslics.

**2005.** Chapter 102, § 2 amended:

Sub (3) by deleting at fig 1 "the superintendent of banks".

**2005.** Chapter 102, § 3 amended:

Sub (8) by deleting at fig 1 "superintendent of banks, the".

**Cross References:**

This section referred to in §§ 2402, 2405.

**Jurisprudences:**

*2 Am Jur 2d, Administrative Law §§ 37- 43, 45, 47-49, 51.*

*63C Am Jur 2d, Public Officers and Employees §§ 5, 43, 91, 170, 271, 272.*

**Agency Opinions**

State Housing Finance Agency (HFA) and State of New York Mortgage Agency (SONYMA) may not pay for health insurance for current or retired board members since such members serve without salary or other compensation. *2007 N.Y. Op. Att'y Gen. No. 1, 2007 N.Y. AG LEXIS 3.*

Contracts signed by state Housing Finance Agency (HFA) and State of New York Mortgage Agency (SONYMA) with their board members to provide post-retirement health insurance benefits were void since there is no statutory authorization for such contracts. *2007 N.Y. Op. Att'y Gen. No. 1, 2007 N.Y. AG LEXIS 3.*

Based on language of CLS Civ S § 167(2), and in accord with generally accepted meaning of term "compensation," reference to "other compensation" in public agencies' enabling acts (CLS Priv Hous Fin § 43 and CLS Pub A § 2403) includes employer contributions toward health insurance premiums. *2007 N.Y. Op. Att'y Gen. No. 1, 2007 N.Y. AG LEXIS 3.*



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\*\*\* Current through 2016 released chapters 1-503 \*\*\*

Public Authorities Law  
Article 8 Miscellaneous Authorities  
Title 17 State of New York Mortgage Agency Act  
Part I [General Provisions]

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*NY CLS Pub A § 2404 (2015)*

**§ 2404. Powers of the agency**

Except as otherwise limited by this title, the agency shall have power:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at pleasure;
- (3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this title;
- (4) To make and alter by-laws for its organization and internal management;
- (5) To acquire, hold and dispose of real and personal property for its corporate purposes;
- (6) To appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;
- (7) [Expires July 23, 2017] To (a) acquire, and contract to acquire, existing mortgages owned by banks and to enter into advance commitments to banks for the purchase of said mortgages, all subject to the provisions of section two thousand four hundred five of this title, (b) acquire, and contract to acquire, forward commitment mortgages made by banks and to enter into advance commitments to banks for the purchase of said mortgages, all subject to the provisions of section two thousand four hundred five-b of this title, (c) acquire, and contract to acquire, new housing loans made by banks and to enter into advance commitments to banks for the purchase of said housing loans, all subject to the provisions of section two thousand four hundred five-c of this title, and (d) to acquire and contract to acquire mortgages pursuant to section twenty-four hundred five-d of this title;

(7) [Eff July 23, 2017] To acquire, and contract to acquire, mortgages owned by banks and to enter into advance commitments to banks for the purchase of said mortgages, all subject to the provisions of section two thousand four hundred five of this title;

(8) Subject to any agreement with bondholders or noteholders, to invest moneys of the agency not required for immediate use, including proceeds from the sale of any bonds or notes, in obligations of the state or the United States of America or obligations the principal and interest of which are guaranteed by the state or the United States of America or in certificates of deposit or time deposits secured in such manner as the agency shall determine, or in obligations of any agency of the state or the United States of America which may from time to time be legally purchased by savings banks within the state as an investment of funds belonging to them or in their control, or in obligations of the Federal National Mortgage Association.

(9) Subject to any agreement with bondholders or noteholders, to sell any mortgages or other personal property acquired by the agency at public or private sale and at such price or prices as it shall determine, provided, however, that a private sale shall be limited to an agency of the federal government, the federal national mortgage association, or a sale of a mortgage to a bank from which it was originally purchased. If the agency determines to sell mortgages at public sale, a notice of such sale shall be published at least once at least five days prior to the date of such sale in a financial newspaper or journal published in the city of New York;

(10) Subject to any agreement with bondholders or noteholders, to purchase bonds or notes of the agency, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds or notes are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the bonds or notes are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption at the option of the agency plus accrued interest to said date;

(11) To borrow money and to issue negotiable bonds and notes and to provide for the rights of the holders thereof;

(12) To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;

(13) To make and execute contracts for the servicing of mortgages acquired by the agency pursuant to this title, and to pay the reasonable value of services rendered to the agency pursuant to those contracts;

(14) To renegotiate, refinance or foreclose, or contract for the foreclosure of, any mortgage in default; to waive any default or consent to the modification of the terms of any mortgage; to commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract or other agreement, and to bid for and purchase such property at any foreclosure or at any other sale, or acquire or take possession of any such property; to operate, manage, lease, dispose of, and otherwise deal with such property, in such manner as may be necessary to protect the interests of the agency and the holders of its bonds and notes;

(15) To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source and to comply, subject to the provisions of this title, with the terms and conditions thereof;

(16) To enter into agreements, in its discretion, to pay annual sums in lieu of taxes to any municipality or taxing district of the state in respect of any real property which is owned by the agency and located in such municipality or taxing district, provided, however, that the amount so paid for any year upon such property shall not exceed the sum last paid as taxes on such property to such municipality or taxing district prior to the time of its acquisition by the agency;

(17) Make and contract to make loans and purchase and contract to purchase loans made by banks, pension

funds, credit unions, colleges or vocational institutions, all subject to the provisions of section twenty-four hundred five-a of this title;

(18) Procure or require the procurement of a policy or policies of group life insurance to insure repayment of loans made or acquired by the agency in event of the death of the borrower;

(19) Subject to provisions of section two thousand four hundred five-a and any agreement with bondholders or noteholders, renegotiate or refinance any loan in default; waive any default or consent to the modification of the terms of any loan; forgive all or part of any indebtedness; and commence any action or proceeding to protect or enforce any right conferred upon it by law, loan agreement, contract or other agreement;

(20) Prescribe standards and criteria for the granting of applications for loans and loan purchases, insofar as such standards and criteria are not inconsistent with this title;

(21) Make and execute contracts for the administration or servicing of any loan made or acquired by the agency and pay the reasonable value of services rendered to the agency pursuant to such contracts;

(22) Subject to any agreement with bondholders or noteholders, sell any loans made or acquired by the agency at public or private sale and at such price or prices and on such terms as the agency shall determine;

(23) Establish, revise from time to time, charge and collect such premiums or fees in connection with loans and purchases, as the agency shall determine.

(23-a) To and shall develop, promote and ensure that, where possible, minority groups which traditionally have been disadvantaged, and women are afforded equal opportunity for contracts in connection with development and construction contracts for developments, facilities and projects financed by the issuance of bonds, notes and other obligations of the agency.

(24) To establish and administer a mortgage credit certificate program, as defined in the internal revenue code of the United States, in conformity with that and other applicable provisions of such code and any regulations issued thereunder by the United States department of the treasury, to issue mortgage credit certificates pursuant to such program, and to make all elections and determinations relating to such program, including without limitation, an election not to issue all or any portion of the private activity bond volume allocated to the agency.

(25) In connection with the issuance of bonds for the purpose of furthering forward commitment mortgage programs described in section twenty-four hundred five-b of this title, where the mortgagor is to receive mortgage credit certificates issued by the agency, to covenant and consent that the interest on any of its bonds shall be includible, under the United States Internal Revenue Code of nineteen hundred eighty-six, as amended or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includible in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law.

(26) Participation in housing programs. Subject to any agreement with bondholders and noteholders, the agency is hereby authorized, at the direction of the director of the budget, to transfer to the state comptroller for deposit in the New York state infrastructure trust fund to the credit of the housing reserve account established by section eighty-eight of the state finance law, as an expense of the agency, any payment, less applicable expenses, received on account of interest and principal on any mortgages owned by the agency pursuant to the agency additional mortgage loan fund established pursuant to the homeowner mortgage revenue bonds general resolution and not pledged (i) to pay principal of and interest on bonds and notes pursuant to any resolution or trust indenture under which bonds or notes of the agency are authorized to be issued, (ii) to the payment of losses upon the foreclosure, default or delinquency of mortgage loans pledged under any resolution or trust indenture under which bonds or notes of the agency are authorized to be issued and (iii) to pay the reimbursement obligation of the agency to any providers of credit enhancement with

respect to (i) or (ii) above in connection with any resolution. Such transfer shall be made in such amounts and at such times as specified in an agreement executed between the agency and the director of the budget, provided, however, that no further transfers for deposit shall be made to such housing reserve account from the agency after the sum of (i) the cumulative total of such deposits and (ii) the payments of the aggregate reserve amount of the agency made pursuant to section seven of the chapter of the laws of nineteen hundred eighty-eight adding this subdivision, equals eighty million dollars.

**(27) Additional participation in housing or other state programs.**

**(a)** Subject to any agreement with bondholders and noteholders, the agency is hereby authorized, at the direction of the director of the budget, to transfer to the state comptroller for deposit in such fund or account as provided in such direction as an expense of the agency, an amount not to exceed twenty-two million dollars, provided that such amount is made available to the agency directly or indirectly pursuant to (i) the agency's defeasance of its home mortgage revenue bonds, series one through four and/or (ii) the issuance of bonds or notes, proceeds of which will be transferred to the state and used for the purpose of state programs, which bonds or notes shall be payable in whole or in part from assets made available to the agency pursuant to such defeasance. Such transfer shall be made in such amounts and at such times as specified in an agreement or agreements executed between the agency and the director of the budget, with copies to be provided to the chairman of the assembly ways and means committee and the chairman of the senate finance committee.

**(b)** The provisions of section seventeen of the public officers law shall apply to members of the board of directors, officers, employees and agents of the agency in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against any of them arising out of any determinations made or actions taken or omitted to be taken in compliance with any undertakings under or pursuant to the terms of this subdivision. The provisions of this paragraph shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon members of the board of directors, officers, employees and agents of the agency, by action of such agency or otherwise.

**(c)** The state shall and hereby agrees to and does indemnify and save harmless the agency from and against any and all liability, loss, damage, interest, judgments and liens growing out of, and any and all costs and expenses (including, but not limited to, counsel fees and disbursements) arising out of or incurred in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against it arising out of any determinations made or actions taken or omitted to be taken or compliance with any obligations under or pursuant to the terms of this subdivision; except for fraudulent acts, actions taken in bad faith, gross negligence or willful misconduct.

**(28)** To establish and administer a lease-purchase program or programs in accordance with section twenty-four hundred five-d of this title.

**(29)** To pay or reimburse any federal recapture income tax payable by a borrower in connection with a mortgage loan;

**(30)** To make loans secured by mortgages 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.

**(31)** *To administer the fund and operate the program set forth in section twenty-four hundred five-f of this part.*

**(32)** *To form a subsidiary to be known as "the state of New York mortgage agency community restoration fund" for the purpose of using funds available to the agency under the program set forth in section twenty-four hundred five-f of this part and of owning and holding any residences, mortgages and mortgage notes acquired by the agency, and to*

*otherwise carry out the purposes of section twenty-four hundred five-f of this part. Such subsidiary created pursuant to this subdivision may exercise and perform one or more of the purposes, powers, duties, functions, rights and responsibilities of the agency, other than the issuance of indebtedness, in connection with real and personal property with respect to which the agency holds or held a mortgage, security interest or other collateral. Such subsidiary shall have the power to own, acquire and dispose of real property, and to acquire, own and hold, service and dispose of mortgages and mortgage notes. It shall have the right to foreclose or contract to foreclose on any mortgage acquired by such subsidiary, under the laws of the state, to commence any action to protect or to enforce the rights conveyed to it by law, contract or any agreement and to dispose of any such property and to otherwise proceed with any action as may be necessary to protect the interests of said subsidiary. Notwithstanding any other provision of law to the contrary, the transfer of title to such subsidiary or any other actions taken by the agency or such subsidiary to enforce the agency's rights under the mortgage, security interest or other collateral interest or to protect, acquire, own, manage or dispose of the property shall be deemed to be a corporate purpose of the agency granted to it to carry out the purposes of section twenty-four hundred five-f of this part. Such subsidiary shall be established in the form of a public benefit corporation by executing and filing with the secretary of state a certificate of incorporation which shall identify the agency as the entity organizing such subsidiary and set forth the name of such subsidiary public benefit corporation, its duration, the location of its principal office and its corporate purposes as provided in this subdivision and which certificate may be amended from time to time by the filing of amendments thereto with the secretary of state, provided that the subsidiary created hereunder shall cease to exist at such time as the program authorized under section twenty-four hundred five-f of this part is no longer in existence. Such subsidiary shall be organized as a public benefit corporation, shall be a body politic and corporate, and shall have all the privileges, immunities, tax exemptions and other exemptions of the agency. The members of such subsidiary shall be the same as the members of the agency.*

<1>(33) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this title.

#### **HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970; amd, L 1970, ch 614, § 2; L 1971, ch 1023 §§ 4, 5, 21; L 1972, ch 234, § 3, eff May 8, 1972; L 1982, ch 915, § 4; L 1985, ch 668, §§ 27, 28, eff July 30, 1985 and deemed to have been in full force and effect on and after June 19, 1985; L 1986, ch 897, § 3; L 1988, ch 261, § 5, eff July 19, 1988; L 1989, ch 555, § 3, eff July 16, 1989 and deemed eff June 15, 1989; L 1990, ch 190, § 357, eff May 25, 1990; L 1992, ch 782, §§ 3-5, eff Aug 7, 1992; L 2007, ch 229, § 2, eff July 9, 2007; L 2013, ch 151, § 5, eff July 12, 2013; L 2016, ch 72, § 2, eff June 23, 2016.

#### **NOTES:**

##### **Editor's Notes:**

See 1970 note under Title 17.

[1971, ch 1023] This provision was amended as § 2404 of the tax law by ch 1023.

**Laws 1982, ch 915, § 16**, provides as follows:

§ 16. This act shall take effect immediately except that the amendments to law effected by sections one through ten of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect. (Amd, L 1988, ch 414, § 1, L 1989, ch 555, § 1, L 1992, ch 7, § 1, L 1993, ch 25, § 1, L 1994, ch 284, § 1, L 1996, ch 308, § 1, L 1997, ch 196, § 1, eff July 10, 1997, L 1998, ch 142, § 1, eff June 30, 1998, L 1999, ch 226, § 1, eff July 13, 1999, L 2000, ch 132, § 1, eff July 11, 2000, L 2001, ch 111, § 1, eff July 25, 2001, L 2002, ch 103, § 1, eff June 28, 2002, L 2003, ch 141, § 1, eff July 22, 2003, L 2004, ch 147, § 1, eff July 13, 2004, L 2005, ch 121, § 1, eff June 30, 2005, L 2006, ch 138, § 1, eff July 5, 2006, L 2007, ch 229, § 1, eff July 9, 2007, L 2008, ch 148, § 1, eff June 30, 2008, L 2009, ch 177, § 1, eff July 11, 2009, L 2010, ch 218, § 1, eff July 15, 2010, L 2011, ch 100, § 4, eff June 28, 2011, L 2013, ch 152, § 3, eff July 12, 2013, L 2015, ch 85, § 4, eff July 23, 2015.).

**Laws 1987, ch 13, § 20-a**, eff March 31, 1987, provides as follows:



§ 20-a. 1. Notwithstanding any other provision of law, the board of directors of the state of New York mortgage agency, after consulting with the board of directors of the metropolitan transportation authority, shall annually, not earlier than November fifteenth, nor later than December first in each year, submit to the director of the budget the agency's request on behalf of the mortgage insurance fund for an appropriation in an amount equal to the aggregate amount of special additional taxes imposed pursuant to subdivision one-a of section two hundred fifty-three of the tax law, collected by the recording officers of the counties comprising the metropolitan commuter transportation district, as defined by section one thousand two hundred sixty-two of the public authorities law, and paid over for deposit, pursuant to subdivision two of section two hundred sixty-one of the tax law, in the corporate transportation account of the metropolitan transportation special assistance fund established by section one thousand two hundred seventy-a of the public authorities law as of the close of the preceding twelve month period ending on the first day of November immediately preceding such December first date. The governor shall include such appropriation in a budget bill for the next state fiscal year. The state comptroller shall encumber the amount so appropriated before the end of the fiscal year for which any such appropriation is made. If for any fiscal year commencing on or after April first, nineteen hundred eighty-eight, the governor fails to submit a budget bill containing an appropriation in the amount requested by the fund or the legislature fails to appropriate the amount in a budget bill submitted by the governor for such fiscal year, the amount appropriated for and encumbered during the preceding fiscal year shall be payable forthwith to the fund on the first day of July of such year in the manner prescribed by law, provided, however, that such amount shall not exceed the amount of moneys deposited into such corporate transportation account pursuant to the provisions of subdivision two of section two hundred sixty-one of the tax law during the applicable twelve month period referred to hereinabove ending prior to the appropriation and encumbrance made for such preceding fiscal year.

2. Such appropriation shall only be made available, upon certification by the director of the budget, to the state of New York mortgage agency if the aggregate amount in the special account of the mortgage insurance fund on December thirty-first of any given year is less than the mortgage insurance fund requirement. Such deficiency shall be paid to the state of New York mortgage agency for deposit in the special account of the mortgage insurance fund only to the extent that other moneys of the agency are unavailable and shall not exceed an amount equal to the mortgage recording tax paid for the year ended such December thirty-first by the counties within the region covered by such special account to the metropolitan transportation authority pursuant to subdivision two of section two hundred sixty-one of the tax law. Copies of such certification shall be filed with the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

**Laws 1992, ch 782, § 15**, eff Aug 7, 1992, provides as follows:

§ 15. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

#### Amendment Notes:

**2013.** Chapter 151, § 5 amended:

By redesignating former sub (30) as sub 31.

By adding sub (30).

**2007.** Chapter 229, § 2 amended:

By adding sub (29).

**The 2016 amendment by ch 72, § 2**, added (31) and (32) and redesignated former (31) as (33).

#### Cross References:

This section referred to in § 2406.

Rule making procedure, CLS St Adm P Act § 202.

Codes, Rules and Regulations:

Accounting and reporting for statewide public authorities, generally. *2 NYCRR §§ 201.1 et seq.*

Federal Aspects:

Federal home loan mortgage corporation, *12 USCS §§ 1451 et seq.*

National home ownership foundation, *12 USCS § 1701y.*

Mortgage insurance, generally, *12 USCS §§ 1707 et seq.*

National mortgage associations, *12 USCS §§ 1716 et seq.*

Jurisprudences:

*2 Am Jur 2d, Administrative Law §§ 52-55, 57-59, 62, 63, 65, 67, 68, 70.*

Law Reviews:

Short constitutional history of entities known as authorities. *56 Cornell L. Rev. 521.*

Agency Opinions

Mortgages which arise directly from operation of State of New York Mortgage Agency's Forward Commitment Program are exempt from mortgage recording taxes imposed by CLS Tax Law Art 11. NY Adv Op Comm T & F TSB-A-84-(1)M.



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*NY CLS Pub A § 2405 (2016)*

**First of two versions of this section.**

**§ 2405. [Expires July 23, 2017] Purchase of existing mortgages**

(1) A purpose of the agency shall be to purchase existing mortgages from banks within the state during periods when there is an inadequate supply of credit available for new residential mortgages and to require such banks to invest an amount equal to the proceeds thereof as rapidly as possible in new mortgages on residential real property for family units within the state.

It is hereby found and declared that such activities by the agency will alleviate a condition of affairs 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 existing mortgages from banks at such prices and upon such terms and conditions as it shall determine; provided, however, that the total purchase price for all existing mortgages 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) (a) The agency shall require as a condition of purchase of existing mortgages from banks that such banks shall, within such period as may be approved by the agency not in excess of ninety days of receipt of the purchase price, enter into written commitments to loan and shall, within such period as may be approved by the agency, loan an amount equal to the entire purchase price of such existing mortgages on new mortgages within the state having such terms as the agency may prescribe.

(b) (i) The proportionate dollar amount of commitments from each agency issue of bonds or notes used to purchase mortgages from banks in each region of the state, as such regions are set forth in subdivision nine of section twenty-four hundred twenty-six of this title shall, subject to subparagraph (ii) hereof, reflect the proportion that the number of families in each region bears to the number of families in the state as a whole.

(ii) To the extent that the reasonable demand by banks in any region is insufficient to accommodate the proportion of an agency issue of bonds or notes determined pursuant to subparagraph (i) hereof for such region, the agency shall use reasonable efforts to purchase mortgages such that the excess funds from such region are distributed among the other regions in proportion to the relative reasonable demand. In determining reasonable demand, the agency shall consider, among other things, historical demand for mortgages in such regions, the dollar amount of offers by banks to sell mortgages to the agency and the reasonableness of such offers, considering the size, mortgage history, total assets, liquidity and financial ability of the bank to conform to the contract of sale and the bank's record of compliance with agency requirements.

(iii) The agency shall use its best efforts to the end that not less than one-sixth in dollar amount of new mortgages resulting from its program of purchasing mortgages shall be on newly constructed residences. A newly constructed residence is defined as a one to four family dwelling not previously occupied.

(iv) During the time that the agency is accepting offers to sell mortgages from banks, the agency shall advertise, in newspapers of general circulation within the state, the fact that it is accepting offers from banks, and such other information as the agency determines to be helpful in generating maximum participation by banks and potential mortgagors. All banks within each such region shall be invited by the agency to participate in the agency's purchase of mortgages from the proceeds of the sale of each issue by the agency of its bonds and notes. The allocation of the proceeds of each such agency issue among the banks requesting participation within each region shall, to the extent practicable, maximize the number of banks which participate. Any commitment between the agency and a bank shall require that the bank provide the agency with such information, as may be deemed necessary by the agency, for the agency to assure that the requirements of this title or any other requirements imposed by the agency with respect to the purchase of mortgages with the proceeds of any agency issue of bonds or notes has been fulfilled.

(c) No commitment to loan or loan on a mortgage secured or to be secured by a multiple dwelling shall satisfy the requirement of paragraph (a) of this subdivision unless the prior written approval of such commitment shall have been obtained from the agency. The agency may refuse to approve any commitment to lend on such a multiple dwelling mortgage if so required by the terms of any bonding resolution and shall not approve any commitment to lend on such a multiple dwelling mortgage if the approval thereof would increase the total dollar amount of such commitments on multiple dwelling mortgages approved by the agency to an amount in excess of forty percent of the total purchase price of all mortgages theretofor [theretofore] \* \* purchased by the agency pursuant to this section.

(4) In the case of individual borrowers, new mortgages made by banks that sell existing mortgages to the agency shall bear interest computed in accordance with *section 5-501 of the general obligations law* (whether or not insured or guaranteed by the United States of America or any agency thereof) at a rate which does not exceed the maximum interest rate, if any, set by the agency for such mortgages. The agency may set such a maximum interest rate chargeable to individual borrowers on such new mortgages, 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, at the rate that the existing mortgages purchased by the agency were discounted to yield plus an interest differential, not in excess of one percent per annum, which the agency from time to time shall determine to be adequate consideration to induce such banks to sell existing mortgages to the agency and to loan an amount equal to the proceeds on new mortgages in furtherance of the purposes of and subject to the conditions of this title. In the case of corporate borrowers, such new mortgages shall bear interest at a rate not substantially lower than the rate of interest that banks are charging at the time of commitment on comparable new mortgages. Each such bank that sells existing mortgages to the agency shall annually account and pay over to the agency or to the New York state housing finance agency for deposit in and for the purposes of the low rent lease account as set forth in paragraphs (a) and (b) of subdivision four of section forty-four-a of

the private housing finance law or any successor entity as the agency may direct, or to both the agency and the New York state housing finance agency for such deposit and purposes in such proportions as the agency may direct, an amount equal to the difference between (a) the total amount of interest (which shall include all charges to individual and corporate borrowers that would be treated as interest under *section 5-501 of the general obligations law* and any regulations of the <1> superintendent of financial services pursuant to section fourteen-a of the banking law) received by it during the preceding year on all such new mortgages and (b) the total amount of interest which such new mortgages would have yielded if the interest thereon had been at the maximum rate chargeable to individual borrowers on such new mortgages plus an additional interest differential, not in excess of one percent per annum, determined by the agency to be adequate consideration to induce participating banks to make new loans on multiple dwellings.

(5) The agency shall require the submission to it by each bank from which the agency has purchased existing mortgages evidence satisfactory to the agency of the making of new mortgage loans and of paying over to the low rent lease account as required by this section and in connection therewith may, through its employees or agents or those of the <1> department of financial services, inspect the books and records of any such bank.

(6) Compliance by any bank with the terms of its agreement with or undertaking to the agency with respect to the making of any new mortgages in connection with the sale of existing mortgages and of paying over to the low rent lease account may be enforced by decree of the supreme court. The agency may require as a condition of purchase of existing mortgages from any national banking association the consent of such association 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 existing mortgages 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.

(7) The agency shall require as a condition of purchase of any existing mortgage from a bank that the bank represent and warrant to the agency that

(a) the unpaid principal balance of the mortgage 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 mortgage is evidenced by a bond or promissory note and a mortgage document which has been properly recorded with the appropriate public official;

(e) the mortgage constitutes a valid first lien or *second lien* on the real property described to the agency in accordance with subdivision five of section twenty-four hundred two of this part subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value of the real property or improvements thereon;

(f) the mortgage when made was lawful under the banking law or federal law, whichever governs the affairs of the bank, and would be lawful on the date of purchase by the agency if made by the bank on that date in the amount of the then unpaid principal balance;

(g) the mortgagor 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 mortgage 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 mortgage; and

(h) the improvements to the mortgaged real property are covered by a valid and subsisting policy of insurance

issued by a company authorized by the <1> superintendent of financial services to issue such policies in the state of New York and providing fire and extended coverage to an amount not less than eighty percent of the insurable value of the improvements to the mortgaged real property.

(8) 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 existing mortgage for the original purchase price adjusted for amounts subsequently paid thereon, as the agency may determine.

(9) The agency need not require the recording of an assignment of any existing mortgage purchased by it from a bank pursuant to this section and shall not be required to notify the mortgagor of its purchase of the mortgage. The agency shall not be required to inspect or take possession of the mortgage documents if the bank from which the existing mortgage is purchased by the agency shall enter a contract to service such mortgage and account to the agency therefor.

(10) Notwithstanding any other provision of law, the agency is authorized to require, as a condition to the purchase from banks of existing mortgages, such restrictions upon assumability of each new mortgage as the agency may determine to be necessary or desirable to assure the exemption from federal income taxes of the interest payable on its bonds and notes. Such restrictions shall be enforceable by the originating bank, the agency, and any successor holder of the mortgage unless expressly waived in writing by or on behalf of the agency.

(11) The agency shall maintain a continuous review of the availability of funds in regular banking channels for mortgages. Except as stated herein with respect to forward commitment mortgages and housing loans, in the event that the agency shall determine that an adequate supply of funds exists in regular banking channels for mortgages the agency shall not authorize the issuance of bonds for the purchase of mortgages except refunding bonds, until such time as the agency shall determine that the supply of funds available for mortgages is again inadequate. The agency shall notify the governor, the temporary president of the senate, and the speaker of the assembly of any determination that there is an inadequate supply of funds available for mortgages made by it under this subdivision. Discontinuance by the agency of the purchase of mortgages pursuant to a determination that an adequate supply of funds exists in regular banking channels shall not constitute, or in any way effect, termination of the agency as provided in subdivision six of section two thousand four hundred three of this title. Notwithstanding the foregoing, the agency may issue bonds or notes for the purpose of furthering forward commitment mortgage programs described in section twenty-four hundred five-b of this title and housing loan programs described in section twenty-four hundred five-c of this title if the agency shall determine that such programs will increase the supply of credit available for new residential mortgages and new residential improvement loans at carrying charges within the financial means of persons and families of low or moderate income.

#### **HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970; amd, L 1970, ch 613, § 2; L 1970, ch 614, § 3; L 1971, ch 1023, §§ 6-10; L 1972, ch 234, § 4, eff May 8, 1972; L 1980; L 1980, ch 883, § 92, eff Dec 1, 1980; L 1981, ch 721, § 3, eff July 21, 1981; L 1982, ch 915, §§ 5-9, eff Dec 19, 1982; L 1986, ch 897, § 4, eff Aug 5, 1986; L 2009, ch 432, §§ 3, 4, eff Sept 16, 2009; L 2011, ch 62, § 104 (Part A), eff Oct 3, 2011.

#### **NOTES:**

##### **Editor's Notes:**

See 1970 note under Title 17.

**Laws 1982, ch 915, § 16,** provides as follows:

§ 16. This act shall take effect immediately except that the amendments to law effected by sections one through ten of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act

taking effect. (Amd, L 1984, ch 353, § 11; L 1984, ch 1004, § 1; L 1985, ch 36, § 1; L 1985, ch 668, § 31; L 1986, ch 897, § 1; L 1987, ch 60, § 1; L 1988, ch 414, § 1; L 1989, ch 555, § 1; L 1992, ch 7, § 1; L 1993, ch 25, § 1; L 1994, ch 284, § 1; L 1996, ch 308, § 1; L 1997, ch 196, § 1, eff July 10, 1997; L 1998, ch 142, § 1, eff June 30, 1998; L 1999, ch 226, § 1, eff July 13, 1999; L 2000, ch 132, § 1, eff July 11, 2000; L 2001, ch 111, § 1, eff July 25, 2001; L 2002, ch 103, § 1, eff June 28, 2002; L 2003, ch 141, § 1, eff July 22, 2003; L 2004, ch 147, § 1, eff July 13, 2004; L 2005, ch 121, § 1, eff June 30, 2005; L 2006, ch 138, § 1, eff July 5, 2006; L 2007, ch 229, § 1, eff July 9, 2007; L 2008, ch 148, § 1, eff June 30, 2008; L 2009, ch 177, § 1, eff July 11, 2009; L 2010, ch 218, § 1, eff July 15, 2010; L 2011, ch 100, § 4, eff June 28, 2011; L 2013, ch 152, § 3, eff July 12, 2013; L 2015, ch 85, § 4, eff July 23, 2015.).

**Laws 1984, ch 353, § 12**, provides as follows:

§ 12. This act shall take effect immediately provided however that sections one through three and five through seven of this act shall cease to be of force and effect at such time as sections one through ten of chapter nine hundred fifteen of the laws of nineteen hundred eighty-two cease to be of force and effect and thereafter the provisions of the public authorities law shall consist of those without the amendments effected by sections one through three and five through seven of this act. (Amd, L 1987, ch 60, § 7).

**Laws 2009, ch 432, § 8(b)**, eff Sept 16, 2009, provides as follows:

§ 8. This act shall take effect immediately, provided that:

(b) the amendments to paragraph (e) of subdivision 7 of *section 2405 of the public authorities law* made by section three of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 16 of chapter 915 of the laws of 1982, as amended, when upon such date the provisions of section four of this act shall take effect;.

#### Amendment Notes:

**2011.** Chapter 62, § 104 (Part A) amended:

Sub (4) [first setout] by substituting at fig 1 "superintendent of financial services" for "banking board".

Sub (5) [first setout] by substituting at fig 1 "superintendent of financial services" for "banking department".

Sub (7), par (h) [first setout] by substituting at fig 1 "superintendent of financial services" for "superintendent of insurance".

Sub 4 [second setout] by substituting at fig 1 "superintendent of financial services" for "banking board".

Sub (5) [second setout] by substituting at fig 1 "superintendent of financial services" for "banking department".

Sub (7), par (h) [second setout] by substituting at fig 1 "superintendent of financial services" for "superintendent of insurance".

**2009.** Chapter 432, § 3 amended:

Sub (7), par (e) [first setout] by adding the matter in italics.

**2009.** Chapter 432, § 4 amended:

Sub (7), par (e) [second setout] by adding the matter in italics.

#### Cross References:

This section referred to in §§ 2402, 2404, 2505-b, 2405-c, 2419-a.

Power of the banking board to prescribe rate of interest, *CLS Bank § 14-a*.

Rate of interest; usury forbidden, *CLS Gen Oblig § 5-501*.

Low rent dwelling accommodations, *CLS Priv Hous Fin § 44-a*.

#### Jurisprudences:

#### Law Reviews:

Some antitrust problems in government insured/guaranteed mortgage lending. *23 Buff. L. Rev. 119*.

Mortgage lenders and the housing supply. *57 Cornell L. Rev. 149.*

Agency Opinions

Mortgages which arise directly from operation of State of New York Mortgage Agency's Forward Commitment Program are exempt from mortgage recording taxes imposed by CLS Tax Law Art 11. NY Adv Op Comm T & F TSB-A-84-(1)M.

**FOOTNOTES:**

\* \* The bracketed word has been inserted by the Publisher.





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\*\*\* Current through 2016 released chapters 1-503 \*\*\*

Public Authorities Law  
Article 8 Miscellaneous Authorities  
Title 17 State of New York Mortgage Agency Act  
Part I [General Provisions]

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*NY CLS Pub A § 2405 (2016)*

**Second of two versions of this section.**

**§ 2405. Purchase of mortgages [Effective July 23, 2017]**

(1) The purpose of the agency shall be to purchase mortgages from banks within the state during periods when there is an inadequate supply of credit available for new residential mortgage loans and to require such banks to invest an amount equal to the proceeds thereof as rapidly as possible in new mortgages on residential real property for family units within the state.

It is hereby found and declared that such activities by the agency will alleviate a condition of affairs 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 mortgages from banks at such prices and upon such terms and conditions as it shall determine; provided, however, that the total purchase price for all mortgages 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.

(3) (a) The agency shall require as a condition of purchase of mortgages from banks that such banks shall, within such period as may be approved by the agency not in excess of ninety days of receipt of the purchase price, enter into written commitments to loan and shall, within such period as may be approved by the agency, loan an amount equal to the entire purchase price of such mortgages on new mortgages within the state having such terms as the agency may prescribe.

(b) (i) The proportionate dollar amount of commitments from each agency issue of bonds or notes used to

purchase mortgages from banks in each region of the state, as such regions are set forth in subdivision nine of section twenty-four hundred twenty-six of this title shall, subject to subparagraph (ii) hereof, reflect the proportion that the number of families in each region bears to the number of families in the state as a whole.

(ii) To the extent that the reasonable demand by banks in any region is insufficient to accommodate the proportion of an agency issue of bonds or notes determined pursuant to subparagraph (i) hereof for such region, the agency shall use reasonable efforts to purchase mortgages such that the excess funds from such region are distributed among the other regions in proportion to the relative reasonable demand. In determining reasonable demand, the agency shall consider, among other things, historical demand for mortgages in such regions, the dollar amount of offers by banks to sell mortgages to the agency and the reasonableness of such offers, considering the size, mortgage history, total assets, liquidity and financial ability of the bank to conform to the contract of sale and the bank's record of compliance with agency requirements.

(iii) The agency shall use its best efforts to the end that not less than one-sixth in dollar amount of new mortgages resulting from its program of purchasing mortgages shall be on newly constructed residences. A newly constructed residence is defined as a one to four family dwelling not previously occupied.

(iv) During the time that the agency is accepting offers to sell mortgages from banks, the agency shall advertise, in newspapers of general circulation within the state, the fact that it is accepting offers from banks, and such other information as the agency determines to be helpful in generating maximum participation by banks and potential mortgagors. All banks within each such region shall be invited by the agency to participate in the agency's purchase of mortgages from the proceeds of the sale of each issue by the agency of its bonds and notes. The allocation of the proceeds of each such agency issue among the banks requesting participation within each region shall, to the extent practicable, maximize the number of banks which participate. Any commitment between the agency and a bank shall require that the bank provide the agency with such information, as may be deemed necessary by the agency, for the agency to assure that the requirements of this title or any other requirements imposed by the agency with respect to the purchase of mortgages with the proceeds of any agency issue of bonds or notes has been fulfilled.

(c) No commitment to loan or loan on a mortgage secured or to be secured by a multiple dwelling shall satisfy the requirement of paragraph (a) of this subdivision unless the prior written approval of such commitment shall have been obtained from the agency. The agency may refuse to approve any commitment to lend on such a multiple dwelling mortgage if so required by the terms of any bonding resolution and shall not approve any commitment to lend on such a multiple dwelling mortgage if the approval thereof would increase the total dollar amount of such commitments on multiple dwelling mortgages approved by the agency to an amount in excess of forty percent of the total purchase price of all mortgages theretofor purchased by the agency pursuant to this section.

(4) In the case of individual borrowers, such new mortgages shall bear interest computed in accordance with *section 5-501 of the general obligations law* (whether or not insured or guaranteed by the United States of America or any agency thereof) at a rate which does not exceed the maximum interest rate, if any, set by the agency for such mortgages. The agency may set such a maximum interest rate chargeable individual borrowers on such new loans, notwithstanding the maximum interest rate fixed by *section 5-501 of the general obligations law*, at the rate that the mortgages purchased by the agency were discounted to yield plus an interest differential, not in excess of one percent per annum, which the agency from time to time shall determine to be adequate consideration to induce such banks to sell existing mortgages to the agency and to loan an amount equal to the proceeds on new mortgages in furtherance of the purposes of and subject to the conditions of this title. In the case of corporate borrowers, such new mortgages shall bear interest at a rate not substantially lower than the rate of interest that banks are charging at the time of commitment on comparable new mortgage loans. Each such bank shall annually account and pay over to the agency or to the New York state housing finance agency for deposit in and for the purposes of the low rent lease account as set forth in paragraphs (a) and (b) of subdivision four of section forty-four-a of the private housing finance law or any successor entity as the agency may direct, or to both the agency and the New York state housing finance agency for such deposit and purposes in such proportions as the agency may direct, an amount equal to the difference between (a) the total amount of interest

(which shall include all charges to individual and corporate borrowers that would be treated as interest under *section 5-501 of the general obligations law* and any regulations of the <1> superintendent of financial services pursuant to section fourteen-a of the banking law) received by it during the preceding year on all such new mortgages and (b) the total amount of interest which such mortgages would have yielded if the interest thereon had been at the maximum rate chargeable individual borrowers on such new loans plus an additional interest differential, not in excess of one percent per annum, determined by the agency to be adequate consideration to induce participating banks to make new loans on multiple dwellings.

(5) The agency shall require the submission to it by each bank from which the agency has purchased mortgages evidence satisfactory to the agency of the making of new mortgage loans and of paying over to the low rent lease account as required by this section and in connection therewith may, through its employees or agents or those of the <1> department of financial services, inspect the books and records of any such bank.

(6) Compliance by any bank with the terms of its agreement with or undertaking to the agency with respect to the making of any mortgage loans and of paying over to the low rent lease account may be enforced by decree of the supreme court. The agency may require as a condition of purchase of mortgages from any national banking association the consent of such association 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 mortgages 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.

(7) The agency shall require as a condition of purchase of any mortgage from a bank that the bank represent and warrant to the agency that

(a) the unpaid principal balance of the mortgage 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 his successor in interest;

(d) the mortgage is evidenced by a bond or promissory note and a mortgage document which has been properly recorded with the appropriate public official;

(e) the mortgage constitutes a valid first lien or *second lien* on the real property described to the agency in accordance with subdivision five of section twenty-four hundred two of this part subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value of the real property or improvements thereon;

(f) the mortgage loan when made was lawful under the banking law or federal law, whichever governs the affairs of the bank, and would be lawful on the date of purchase by the agency if made by the bank on that date in the amount of the then unpaid principal balance;

(g) the mortgagor 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 mortgage 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 mortgage, and

(h) the improvements to the mortgaged real property are covered by a valid and subsisting policy of insurance issued by a company authorized by the <1> superintendent of financial services to issue such policies in the state of New York and providing fire and extended coverage to an amount not less than eighty percent of the insurable value of

the improvements to the mortgaged real property.

(8) 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 mortgage for the original purchase price adjusted for amounts subsequently paid thereon, as the agency may determine.

(9) The agency need not require the recording of an assignment of any mortgage purchased by it from a bank pursuant to this section and shall not be required to notify the mortgagor of its purchase of the mortgage. The agency shall not be required to inspect or take possession of the mortgage documents if the bank from which the mortgage is purchased by the agency shall enter a contract to service such mortgage and account to the agency therefor.

(10) The agency shall maintain a continuous review of the availability of funds in regular banking channels for new mortgage loans. In the event that the agency shall determine that an adequate supply of funds exists in regular banking channels for new mortgage loans the agency shall not authorize the issuance of bonds for the purchase of mortgages except refunding bonds, until such time as the agency shall determine that the supply of funds available for mortgages is again inadequate. The agency shall notify the governor, the temporary president of the senate, and the speaker of the assembly of any determination that there is an inadequate supply of funds available for mortgages made by it under this subdivision. Discontinuance by the agency of the purchase of mortgages pursuant to a determination that an adequate supply of funds exists in regular banking channels shall not constitute, or in any way effect, termination of the agency as provided in subdivision six of section two thousand four hundred three of this title.

#### **HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970; amd, L 1970, ch 613, § 2; L 1970, ch 614, § 3; L 1971, ch 1023, §§ 6-10; L 1972, ch 234, § 4, eff May 8, 1972; L 1980, ch 883, § 92, eff Dec 1, 1980; L 1981, ch 721, § 3, eff July 21, 1981; L 1982, ch 915, §§ 5-9, eff Dec 19, 1982; L 1986, ch 897, § 4, eff Aug 5, 1986; L 2009, ch 432, §§ 3, 4, eff Sept 16, 2009; L 2011, ch 62, § 104 (Part A), eff Oct 3, 2011.

#### **NOTES:**

##### **Editor's Notes:**

See 1970 note under Title 17.

**Laws 1982, ch 915, § 16**, provides as follows:

§ 16. This act shall take effect immediately except that the amendments to law effected by sections one through ten of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect. (Amd, L 1984, ch 353, § 11; L 1984, ch 1004, § 1; L 1985, ch 36, § 1; L 1985, ch 668, § 31; L 1986, ch 897, § 1; L 1987, ch 60, § 1; L 1988, ch 414, § 1; L 1989, ch 555, § 1; L 1992, ch 7, § 1; L 1993, ch 25, § 1; L 1994, ch 284, § 1; L 1996, ch 308, § 1; L 1997, ch 196, § 1, eff July 10, 1997; L 1998, ch 142, § 1, eff June 30, 1998; L 1999, ch 226, § 1, eff July 13, 1999; L 2000, ch 132, § 1, eff July 11, 2000; L 2001, ch 111, § 1, eff July 25, 2001; L 2002, ch 103, § 1, eff June 28, 2002; L 2003, ch 141, § 1, eff July 22, 2003; L 2004, ch 147, § 1, eff July 13, 2004; L 2005, ch 121, § 1, eff June 30, 2005; L 2006, ch 138, § 1, eff July 5, 2006; L 2007, ch 229, § 1, eff July 9, 2007; L 2008, ch 148, § 1, eff June 30, 2008; L 2009, ch 177, § 1, eff July 11, 2009; L 2010, ch 218, § 1, eff July 15, 2010; L 2011, ch 100, § 4, eff June 28, 2011; L 2013, ch 152, § 3, eff July 12, 2013; L 2015, ch 85, § 4, eff July 23, 2015.).

**Laws 1984, ch 353, § 12**, provides as follows:

§ 12. This act shall take effect immediately provided however that sections one through three and five through seven of this act shall cease to be of force and effect at such time as sections one through ten of chapter nine hundred fifteen of the laws of nineteen hundred eighty-two cease to be of force and effect and thereafter the provisions of the public authorities law shall consist of those without the amendments effected by sections one through three and five through seven of this act. (Amd, L 1987, ch 60, § 7).

**Laws 2009, ch 432, § 8(b)**, eff Sept 16, 2009, provides as follows:

§ 8. This act shall take effect immediately, provided that:

(b) the amendments to paragraph (e) of subdivision 7 of *section 2405 of the public authorities law* made by section three of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 16 of chapter 915 of the laws of 1982, as amended, when upon such date the provisions of section four of this act shall take effect;.

Amendment Notes:

**2011.** Chapter 62, § 104 (Part A) amended:

Sub (4) [first setout] by substituting at fig 1 "superintendent of financial services" for "banking board".

Sub (5) [first setout] by substituting at fig 1 "superintendent of financial services" for "banking department".

Sub (7), par (h) [first setout] by substituting at fig 1 "superintendent of financial services" for "superintendent of insurance".

Sub 4 [second setout] by substituting at fig 1 "superintendent of financial services" for "banking board".

Sub (5) [second setout] by substituting at fig 1 "superintendent of financial services" for "banking department".

Sub (7), par (h) [second setout] by substituting at fig 1 "superintendent of financial services" for "superintendent of insurance".

**2009.** Chapter 432, § 3 amended:

Sub (7), par (e) [first setout] by adding the matter in italics.

**2009.** Chapter 432, § 4 amended:

Sub (7), par (e) [second setout] by adding the matter in italics.

Cross References:

This section referred to in §§ 2402, 2404, 2505-b, 2405-c, 2419-a.

Power of the banking board to prescribe rate of interest, *CLS Bank § 14-a*.

Rate of interest; usury forbidden, *CLS Gen Oblig § 5-501*.

Low rent dwelling accommodations, *CLS Priv Hous Fin § 44-a*.

Jurisprudences:

Law Reviews:

Some antitrust problems in government insured/guaranteed mortgage lending. *23 Buff. L. Rev. 119*.

Mortgage lenders and the housing supply. *57 Cornell L. Rev. 149*.

Agency Opinions

Mortgages which arise directly from operation of State of New York Mortgage Agency's Forward Commitment Program are exempt from mortgage recording taxes imposed by CLS Tax Law Art 11. NY Adv Op Comm T & F TSB-A-84-(1)M.



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Public Authorities Law  
Article 8 Miscellaneous Authorities  
Title 17 State of New York Mortgage Agency Act  
Part I [General Provisions]

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*NY CLS Pub A § 2405-a (2016)*

**§ 2405-a. Education loans**

(1) For purposes of this section, the following words and terms shall have the following meaning unless the context shall indicate another or different meaning or intent:

(a) "Corporation" shall mean the New York state higher education services corporation.

(b) "Education Loan" shall mean: (i) a New York higher education loan program loan made pursuant to part v [part V] \* \* of article fourteen of the education law; or (ii) a loan under Part B of Title IV of the Higher Education Act of nineteen hundred sixty-five, as amended, including but not limited to a loan described in subdivision ten of section twenty-four hundred two of this part; provided, that the borrower shall be required to apply the net proceeds of such loans to pay the student's costs of post-secondary education or to repay one or more such loans incurred for such purpose.

(2) In addition to the powers of the agency pursuant to the other sections of this title, the agency shall have power:

(a) To enter into one or more agreements with the corporation and to perform or contract for the performance of its obligations under any such agreement;

(b) To make and contract to make and to acquire and contract to acquire education loans and to enter into advance commitments for the purchase of said education loans;

(c) Subject to any agreement with bondholders or noteholders, to invest moneys of the agency not required for immediate use, including proceeds from the sale of any bonds or notes, in education loans;

(d) To make and execute contracts for the marketing, origination, servicing, collection, administration, guarantee, securing, and financing of education loans originated or acquired by the agency pursuant to this title, and to

pay the reasonable value of services rendered to the agency pursuant to those contracts;

(e) Subject to any agreement with bondholders or noteholders, to renegotiate or refinance any education loan that has been acquired by the agency or which the agency has committed to purchase that is in default; to waive any default or consent to the modification of the terms or any such education loan; to forgive all or part of any indebtedness; and to commence any action or proceeding to protect or enforce any right conferred upon it with respect to any such education loan by law, loan agreement, contract or other agreement;

(f) To prescribe standards and criteria for the origination of education loans to be eligible for acquisition by the agency and for education loans purchased by the agency;

(g) Subject to any agreement with bondholders or noteholders, to sell any education loans made or acquired by the agency at public or private sale and at such price or prices and on such terms as the agency shall determine;

(h) To establish, revise from time to time, charge and collect such premiums or fees in connection with education loans and its participation in the New York higher education loan program as the agency shall determine; and

(i) Subject to any agreement with bondholders or noteholders, to invest moneys pledged to secure bonds issued for the corporate purposes authorized by this section not required for immediate use in investments authorized for investment of state funds under section ninety-eight or ninety-eight-a of the state finance law.

(3) The agency shall have the power and is hereby authorized from time to time to issue its bonds and notes pursuant to section two thousand four hundred six of this title for the corporate purposes authorized by this section, including without limitation for the purposes of financing and refinancing education loans and of refunding any bonds or notes issued for such purpose.

(4) Each lender or service provider who makes a representation or warranty to the agency with respect to an education loan shall be liable to the agency for any damages suffered by the agency by reason of the untruth of such representation or the breach of such warranty and, in the event that any representation shall prove to be untrue when made or in the event of any breach of warranty, such person shall, at the option of the agency, repurchase the education loan for the price provided in the applicable financing agreement, as the agency may determine.

(5) It is the intent of the legislature that any pledge by the agency of education loans or of earnings, revenues or other moneys receivable from any source, including without limitation default payments by the New York higher education loan program variable rate default reserve fund, the New York higher education loan program fixed rate default reserve fund, or the state of New York mortgage agency New York higher education loan program default reserve fund, as applicable, with respect to education loans financed by the agency, shall be valid and binding from the time when the pledge is made. The education loans, earnings, revenues or other moneys so pledged and thereafter received by the agency or its agent, including without limitation the higher education services corporation or any education loan servicer, shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency or its agent, including without limitation the higher education services corporation or any education loan servicer, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(6) The state of New York mortgage agency New York higher education loan program default reserve fund.

(a) There is hereby created and established in the sole custody of the state of New York mortgage agency a special fund to be known as the state of New York mortgage agency New York higher education loan program default reserve fund which shall be for the exclusive benefit of the holders of education loans that the agency has acquired, or agreed to acquire, under the New York higher education loan program, codified in part V of article fourteen of the education law.

(b) Amounts held in this fund shall not be, or be deemed, funds of the state or funds under the management of the state, the agency, or the corporation. The obligations of such fund shall not be, or be deemed, the debts or obligations of the state and the state shall not be, or be deemed, in any way obligated to: any holder of any such education loan; any holder of bonds issued pursuant to section two thousand four hundred six of this part for the corporate purposes authorized in section two thousand five-a of this article; any fiduciary or provider of any credit facility, liquidity facility or interest rate exchange agreement with respect to such bonds; or any other creditor of this fund.

(c) Such fund shall consist of: (i) all moneys received by the higher education services corporation pursuant to paragraph (b) of subdivision seven of section six hundred ninety-two of the education law, in connection with education loans that the agency has acquired or agreed to acquire under the New York higher education loan program education loans; (ii) any transfers from the New York higher education loan program variable rate default reserve fund created by section seventy-eight-a of the state finance law or from the New York higher education loan program fixed rate default reserve fund created by section seventy-eight-b of the state finance law; and (iii) any appropriation payment or transfer to the agency for such purpose.

(d) The agency shall establish accounts within the fund and priorities of payment from such accounts and shall invest the fund in investments authorized for investment of state funds under section ninety-eight or ninety-eight-a of the state finance law.

(e) This fund, including all sub-accounts thereof, shall be segregated from all other funds kept by the agency and shall not be used for any other purpose beyond those set forth in part V of article fourteen of the education law or in this section. The agency shall utilize monies in the fund solely to pay the outstanding principal, capitalized and unpaid accrued interest on defaulted education loans described in paragraph a of this subdivision.

(f) Nothing contained in this section shall prevent the agency, or the corporation, from receiving grants, gifts or bequests for the purposes of this fund and depositing them into the fund according to law, rules, or regulations.

(g) The agency shall make payments from the monies in this fund in amounts and at times required pursuant to part V of article fourteen of the education law.

#### **HISTORY:**

Add, L 2009, ch 57, § 9 (Part J), eff July 1, 2009.

#### **NOTES:**

##### **Prior Law:**

Former § 2405-a, add, L 1972, ch 234, § 5, eff May 8, 1972; amd, L 1996, ch 301, § 16, eff July 10, 1996; repealed, L 2009, ch 57, § 9 (Part J), eff July 1, 2009.

##### **Editor's Notes:**

**Laws 1996, ch 301, § 1**, eff July 10, 1996, provides as follows:

Section 1. Legislative findings. The legislature hereby finds and declares that the terms "occupational" and "vocational" education unjustifiably carry a negative connotation thereby diminishing the attractiveness of such learning activity to students and parents. The legislature further finds that such terms historically have been associated with a set of educational options for youth lacking the ability to pursue academic goals and have been commonly understood to describe an educational process that ends with the acquisition of a set of discrete, specific, job-related skills.

The legislature further finds and declares that students, parents, educators, and businesses have begun to recognize the value of generic competencies such as communications skills, critical thinking, and teaming. Such skills need to be learned by all students and are used throughout every individual's work experience. Such competencies, as well as academic and occupational skills, are aspects of career preparation. Further career development continues to build on



the successful acquisition of generic competencies and may require post-secondary education, advanced technical instruction and apprenticeships, among other options.

Therefore the legislature declares that the concept of "career education" better describes the educational activities appropriate to preparing individuals for participation in the workforce, and that statutory language referring to "occupational" and "vocational" education should be changed to "career" education to appropriately characterize the learning activities currently taking place.

The legislature further finds and declares that students, parents, educators, and businesses have begun to recognize the value of generic competencies such as communications skills, critical thinking, and teaming. Such skills need to be learned by all students and are used throughout every individual's work experience. Such competencies, as well as academic and occupational skills, are aspects of career preparation. Further career development continues to build on the successful acquisition of generic competencies and may require post-secondary education, advanced technical instruction and apprenticeships, among other options.

Therefore the legislature declares that the concept of "career education" better describes the educational activities appropriate to preparing individuals for participation in the workforce, and that statutory language referring to "occupational" and "vocational" education should be changed to "career" education to appropriately characterize the learning activities currently taking place.

#### Cross References:

This section referred to in § 2404.

#### Federal Aspects:

The Higher Education Act of 1965, cited in statutory text, appears generally as *20 USCS §§ 1001 et seq.*

Educational opportunity grants, *20 USCS §§ 1061 et seq.*

Federal, state, and private programs of low-interest insured loans to students in institutions of higher education, *20 USCS §§ 1071 et seq.*

Cooperative education programs, *20 USCS §§ 1087a et seq.*

Part B of Title IV of the Higher Education Act of 1965, cited in statutory text, appears as *20 USCS 1071 et seq.*

#### FOOTNOTES:

\* \* The bracketed words has been inserted by the Publisher.



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Part I [General Provisions]

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*NY CLS Pub A § 2405-b (2016)*

**§ 2405-b. [Expires July 23, 2017] Purchase of forward commitment mortgages**

(1) A purpose of the agency shall be to purchase forward commitment mortgages from banks within the state during periods when there is an inadequate supply of credit available for new residential mortgages or available for such loans at carrying charges within the financial means of persons and families of low and 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 forward commitment mortgages from banks at such prices and upon such terms and conditions as it shall determine; provided, however, 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 mortgages 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 forward commitment mortgages, the agency shall be governed by the provisions 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 forward commitment mortgages from banks that each such bank certify that each such forward commitment mortgage is to an individual borrower and is in addition to the mortgages 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 forward commitment mortgages 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 forward commitment mortgages 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 mortgage or any subsequent sale or disposition of the mortgage 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 forward commitment mortgages evidence satisfactory to the agency of the making, and if applicable, the servicing, of such forward commitment mortgages in conformity with such bank's undertaking with the agency and in connection therewith may, through its employees or agents or those of the <1> 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 forward commitment mortgages may be enforced by decree of the supreme court. The agency may require as a condition of purchase of forward commitment mortgages from any 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 forward commitment mortgages 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 forward commitment mortgage from a bank that the bank represent and warrant to the agency that:

(a) the mortgage was not made in satisfaction of an obligation of the bank under section twenty-four hundred five of this title;

(b) the unpaid principal balance of the mortgage and the interest rate thereon have been accurately stated to the agency;

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

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

(e) the mortgage is evidenced by a bond or promissory note and a mortgage document which has been properly recorded with the appropriate public official;

(f) the mortgage constitutes a valid first lien or second lien on the real property described to the agency in accordance with subdivision five of section twenty-four hundred two of this part subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value <1> of the real property or improvements thereon;

(g) the mortgagor 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 mortgage 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 mortgage; and

(h) the improvements to the mortgaged real property are covered by a valid and subsisting policy of insurance issued by a company authorized by the <1> superintendent of financial services to issue such policies in the state of New York and providing fire and extended coverage to an amount not less than eighty percent of the insurable value of

the improvements to the mortgaged real property.

(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 mortgage for the original purchase price adjusted for amounts subsequently paid thereon, as the agency shall determine.

(10) The agency need not require the recording of an assignment of any forward commitment mortgage purchased by it from a bank pursuant to this section and shall not be required to notify the mortgagor of its purchase of the mortgage. The agency shall not be required to inspect or take possession of the mortgage documents if the bank from which the forward commitment mortgage is purchased by the agency shall enter a contract to service such mortgage 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 any forward commitment mortgage, such restrictions upon assumability of the mortgage, default provisions, rights to accelerate, and other terms applicable to such forward commitment mortgages made by the bank 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 mortgage unless expressly waived in writing by or on behalf of the agency.

#### **HISTORY:**

Add, L 1982, ch 915, § 10, eff Dec 19, 1982; amd, L 1986, ch 897, § 5, eff Aug 5, 1986; L 2009, ch 432, § 5, eff Sept 16, 2009; L 2011, ch 62, § 104 (Part A), eff Oct 3, 2011.

#### **NOTES:**

##### **Editor's Notes:**

**Laws 1982, ch 915, § 16**, provides as follows:

§ 16. This act shall take effect immediately except that the amendments to law effected by sections one through ten of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect. (Amd, L 1984, ch 353, § 11; L 1984, ch 1004, § 1; L 1985, ch 36, § 1; L 1985, ch 668, § 31; L 1986, ch 897, § 1; L 1987, ch 60, § 1; L 1988, ch 414, § 1; L 1989, ch 555, § 1; L 1992, ch 7, § 1; L 1993, ch 25, § 1; L 1994, ch 284, § 1; L 1996, ch 308, § 1; L 1997, ch 196, § 1, eff July 10, 1997; L 1998, ch 142, § 1, eff June 30, 1998; L 1999, ch 226, § 1, eff July 13, 1999; L 2000, ch 132, § 1, eff July 11, 2000; L 2001, ch 111, § 1, eff July 25, 2001; L 2002, ch 103, § 1, eff June 28, 2002; L 2003, ch 141, § 1, eff July 22, 2003; L 2004, ch 147, § 1, eff July 13, 2004; L 2005, ch 121, § 1, eff June 30, 2005; L 2006, ch 138, § 1, eff July 5, 2006; L 2007, ch 229, § 1, eff July 9, 2007; L 2008, ch 148, § 1, eff June 30, 2008; L 2009, ch 177, § 1, eff July 11, 2009; L 2010, ch 218, § 1, eff July 15, 2010; L 2011, ch 100, § 4, eff June 28, 2011; L 2013, ch 152, § 3, eff July 12, 2013; L 2015, ch 85, § 4, eff July 23, 2015.)

**Laws 1984, ch 353, § 12**, provides as follows:

§ 12. This act shall take effect immediately provided however that sections one through three and five through seven of this act shall cease to be of force and effect at such time as sections one through ten of chapter nine hundred fifteen of the laws of nineteen hundred eighty-two cease to be of force and effect and thereafter the provisions of the public authorities law shall consist of those without the amendments effected by sections one through three and five through seven of this act. (Amd, L 1987, ch 60, § 7).

**Laws 2009, ch 432, § 8(c)**, eff Sept 16, 2009, provides as follows:

§ 8. This act shall take effect immediately, provided that:

(c) the amendments to paragraph (f) of subdivision 8 of *section 2405-b of the public authorities law* made by section five of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and.

Amendment Notes:

**2011.** Chapter 62, § 104 (Part A) amended:

Sub (6) by substituting at fig 1 "department of financial services" for "banking department".

Sub (8), par (h) by substituting at fig 1 "superintendent of financial services" for "superintendent of insurance".

**2009.** Chapter 432, § 5 amended:

Sub (8), par (f) by deleting at fig 1 "or" and adding the matter in italics.



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Part I [General Provisions]

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*NY CLS Pub A § 2405-c (2016)*

**§ 2405-c. [Expires July 23, 2017] 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 <1> 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 <1> 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 <1> 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.

#### **HISTORY:**

Add, L 1982, ch 915, § 10, eff Dec 19, 1982; amd, L 1984, ch 353, §§ 5-7; L 1987, ch 60, § 2, eff April 22, 1987, and deemed eff March 31, 1987; L 2011, ch 62, § 104 (Part A), eff Oct 3, 2011.

#### **NOTES:**

##### **Editor's Notes:**

**Laws 1982, ch 915, § 16**, provides as follows:

§ 16. This act shall take effect immediately except that the amendments to law effected by sections one through ten of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect. (Amd, L 1984, ch 353, § 11; L 1984, ch 1004, § 1; L 1985, ch 36, § 1; L 1985, ch 668, § 31; L 1986, ch 897, § 1; L 1987, ch 60, § 1; L 1988, ch 414, § 1; L 1989, ch 555, § 1; L 1992, ch 7, § 1; L 1993, ch 25, § 1; L 1994, ch 284, § 1; L 1996, ch 308, § 1; L 1997, ch 196, § 1, eff July 10, 1997; L 1998, ch 142, § 1, eff June 30, 1998; L 1999, ch 226, § 1, eff July 13, 1999; L 2000, ch 132, § 1, eff July 11, 2000; L 2001, ch 111, § 1, eff July 25, 2001; L 2002, ch 103, § 1, eff June 28, 2002; L 2003, ch 141, § 1, eff July 22, 2003; L 2004, ch 147, § 1, eff July 13, 2004; L 2005, ch 121, § 1, eff June 30, 2005; L 2006, ch 138, § 1, eff July 5, 2006; L 2007, ch 229, § 1, eff July 9, 2007; L 2008, ch 148, § 1, eff June 30, 2008; L 2009, ch 177, § 1, eff July 11, 2009; L 2010, ch 218, § 1, eff July 15, 2010; L 2011, ch 100, § 4, eff June 28, 2011; L 2013, ch 152, § 3, eff July 12, 2013; L 2015, ch 85, § 4, eff July 23, 2015.)

**Laws 1984, ch 353, § 12**, provides as follows:

§ 12. This act shall take effect immediately provided however that sections one through three and five through seven of this act shall cease to be of force and effect at such time as sections one through ten of chapter nine hundred fifteen of the laws of nineteen hundred eighty-two cease to be of force and effect and thereafter the provisions of the public authorities law shall consist of those without the amendments effected by sections one through three and five through seven of this act. (Amd, L 1987, ch 60, § 7).

##### **Amendment Notes:**

**2011.** Chapter 62, § 104 (Part A) amended:



Sub (6) by substituting at fig 1 "department of financial services" for "banking department".

Sub (8), par (g) by substituting at fig 1 "superintendent of financial services" for "superintendent of insurance".

Sub (8), par (h) by substituting at fig 1 "superintendent of financial services" for "superintendent of insurance".



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*NY CLS Pub A § 2405-d (2016)*

**§ 2405-d. Lease-to-own program**

(1) The agency is authorized to participate in lease-to-own programs as described in this section. The purpose of a lease-to-own program is to provide mortgage financing for a residence occupied as a primary residence by a prospective mortgagor pursuant to a lease-to-own contract with the owner of such property. The lease-to-own contract shall provide for the eventual purchase by the resident of the residence and an interim lease of the residence prior to the closing of the purchase thereof. The party to the lease-to-own contract who is the seller of the residence is referred to in this section as the "seller". The prospective purchaser who is a party to the lease-to-own contract is referred to in this section as the "tenant-purchaser". A "residence" for the purpose of this section is a single-family home, a condominium housing unit or a housing unit owned by a cooperative housing corporation.

(2) The agency may contract to acquire and may acquire a mortgage loan or loans made by a bank to a seller who has entered a lease-to-own contract with an eligible tenant-purchaser for the property which is the subject of and security for such mortgage loan.

(3) (a) The lease-to-own contract shall contain:

(i) a lease of the residence, or in the case of cooperative housing units a sublease, for a term not to exceed five years.

(ii) provision for a rental payment not less than the sum of (A) an amount sufficient to pay the estimated real property taxes and insurance on the residence, or in the case of a cooperative unit, the maintenance charges; (B) the cost of routine maintenance of the residence unless the lease-to-own contract requires the tenant-purchaser to perform such maintenance at his own expense; (C) an amount sufficient to pay the interest on the mortgage loan held by the agency on the residence less the estimated earnings on the escrow fund provided for in subdivision four of this section which is allocable to such mortgage held by the agency; (D) an amount to be held in escrow, referred to as the "tenant-purchaser

escrow", which, when accumulated over the period of the lease-to-own contract, will amount to a sum sufficient to pay the tenant-purchaser's required down payment under the lease-to-own contract plus the estimated closing costs of purchase which will be allocable to the tenant-purchaser, including the seller's closing costs at the initial closing of the mortgage to the seller; and (E) in the case of a condominium unit, common charges.

(iii) provisions obligating the tenant-purchaser to buy and the seller to sell the residence at the end of the lease term.

(iv) a provision under which the seller waives specific performance with respect to the tenant-purchaser's obligation to purchase.

(v) a provision that default by the tenant-purchaser under the provisions of the lease-to-own contract shall result in the forfeiture to the seller of all amounts in the tenant-purchaser escrow.

(vi) a provision that the tenant-purchaser shall have the option upon reasonable notice to the seller and the agency to elect to close the purchase of the residence at an earlier date than that specified in the lease-to-own contract.

(vii) a provision that the rent shall be adjusted under the lease-to-own contract periodically to take account of changes in taxes, insurance, escrow earnings and other variables intended to be covered by the tenant's rental payment.

(viii) a provision governing the consequences of default by each of the parties.

(b) The provisions of the emergency housing rent control law, the local emergency housing rent control act, the city rent and rehabilitation law, the emergency tenant protection act of nineteen seventy-four and the New York city rent stabilization law of nineteen hundred sixty-nine shall not apply to a residence subject to a lease-to-own mortgage, provided that the mortgage is purchased by the agency. Such exemption shall begin at the commencement of the lease term and shall endure for so long thereafter as the agency holds the mortgage loan. The agency shall not sell the mortgage loan prior to the closing of the transfer of title to the tenant-purchaser or default by the tenant-purchaser under the lease-to-own contract.

(c) The agency shall adopt procedures to ensure that the payments contemplated by subparagraph (ii) of paragraph (a) of this subdivision are in fact applied to those purposes.

(4) (a) The mortgage loan documents with respect to a mortgage loan acquired by the agency pursuant to this section shall provide that there shall be retained as additional security for the mortgage loan an amount not less than fifteen percent of the purchase price stated in the lease-to-own contract. The amount retained shall be disbursed in cash at the mortgage closing to an escrow fund held by the owner of the mortgage. When the agency becomes the owner of the mortgage loan, the agency shall receive the escrow amount to be held by the agency in escrow. The escrowed funds may be invested by the agency in securities in which the agency is authorized to invest its own funds. All banks and trust companies are authorized to give such security for deposits by the agency of escrowed funds as determined by the agency. The escrow amounts pertaining to various lease-to-own mortgage loans may be commingled for investment purposes, but the agency shall keep books of account showing the amount to the credit of each individual escrow account. The investment earnings on each individual escrow account shall be credited to the interest payment on the applicable mortgage loan.

(b) The agency shall advise the seller at periodic convenient intervals of the amount of such earnings with respect to each mortgage loan.

(5) With the agency's approval, the lease-to-own contract may provide that, so long as the seller is not in default, in lieu of the establishment of a tenant-purchaser escrow account, that the portion of the tenant-purchaser's rental payments allocable to such an account may be received by the seller first as reimbursement of the seller's costs of closing of the initial mortgage to the seller and, second, to be credited to the purchase price of the premises.

(6) (a) At the closing of the transfer of title to the residence to the tenant-purchaser pursuant to the lease-to-own contract, the agency shall disburse the escrow amount to or for the account of the tenant-purchaser.

(b) At such closing, the agency shall require the tenant-purchaser to furnish private mortgage insurance if such insurance is required in the case of other mortgage loans under this title. If such insurance is not obtainable in the private market at the time of such closing, the agency is authorized to issue such insurance.

(7) The agency shall establish such requirements with regard to lease-to-own contracts, lease-to-own residences, the qualifications of tenant-purchasers, and the agency's participation in any lease-to-own program, as may be deemed appropriate by the agency to achieve the objectives of this section. The agency's requirements, including but not limited to income limits applicable to the tenant-purchaser and the purchase price of the residence, must be satisfied at or before the time the mortgage loan is purchased, and the tenant-purchaser must be deemed qualified by the agency at the time.

(8) Notwithstanding any other provision of law, the agency is authorized to require, as a condition to the financing of any mortgage with respect to a lease-purchase residence, such restrictions upon assumability of the mortgage, default provisions, rights to accelerate, and other terms as the agency may determine to be necessary or desirable. All such terms shall be enforceable by the originating bank, the agency, and any successor holder of the mortgage unless expressly waived in writing by or on behalf of the agency.

(9) The provisions of this section shall expire and be of no further force and effect on and after July first, nineteen hundred ninety-five.

#### **HISTORY:**

Add, L 1992, ch 782, § 6, eff Aug 7, 1992 (see 1992 note below); amd, L 1992, ch 792, § 1, eff Aug 7, 1992 (see 1992 note below).

#### **NOTES:**

##### **Prior Law:**

Former § 2405-d, renumbered § 2405-e, L 1994, ch 291, § 1, eff July 6, 1994.

##### **Editor's Notes:**

**Laws 1992, ch 782, § 15**, eff Aug 7, 1992, provides as follows:

§ 15. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 1992, ch 792, § 3**, eff Aug 7, 1992, provides as follows:

§ 3. This act shall take effect on the same date as a chapter of the laws of 1992, amending the public authorities law relating to the state of New York mortgage agency, as proposed in legislative bill number S. 8449--B, takes effect; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.



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*NY CLS Pub A § 2405-e (2016)*

**§ 2405-e. Purchase of employer assisted forward commitment mortgages**

(1) In accordance with the authority set forth in section twenty-four hundred five-b of this title, the agency may purchase employer assisted forward commitment mortgages from banks at such prices and upon such terms and conditions as it shall determine. In conducting its program of purchasing employer assisted forward commitment mortgages, the agency shall be governed by the provisions of section twenty-four hundred five-b of this title. The board of directors of the agency shall establish from time to time maximum income limits of persons eligible to receive such mortgages, which income limits shall not exceed the latest maximum income limits permitted under the Internal Revenue Code of 1986, as amended, for mortgages financed by mortgage revenue bonds. An employer may develop additional qualifications for eligible employees beyond those qualifications provided for in this section, provided that such qualifications are non-discriminatory and are pre-approved by the agency; the employer, however, shall remain solely responsible for determining and insuring the legality of such qualifications and may not rely on any agency reviews, approvals, legal opinions or statements.

(2) To participate in an employer assisted forward commitment mortgage program, an employer must be a corporation, partnership, or sole proprietorship which maintains an office in the state and must satisfy the requirements set forth in guidelines established by the agency.

(3) For any employer assisted forward commitment mortgage, the maximum loan-to-value ratio shall be established by the agency, provided that such loan shall not exceed one hundred percent of the appraised value of the mortgaged premises. Reasonable closing costs for the loan may be amortized over the life of the loan, provided that the final loan amount does not exceed one hundred percent of the appraised value of the mortgaged premises.

(4) The agency shall require any employer participating in the employer assisted forward commitment mortgage program to guarantee to pay up to twenty percent of the total outstanding mortgage indebtedness (as determined by the agency) for each employee who obtains a mortgage loan under the provisions of this section and who defaults on such

mortgage loan during the first seven years of such loan, regardless of whether such borrower is an employee of such employer at the time of the default.

**HISTORY:**

Formerly § 2405-d, add, L 1992, ch 783, § 2; renumbered § 2405-e, L 1994, ch 291, § 1, eff July 6, 1994.



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*NY CLS Pub A § 2405-f (2015)*

**§ 2405-f. New York state community restoration fund**

*(1) Definitions. For the purposes of this section, the following terms shall have the following meanings:*

*(a) "fund" shall mean the New York state community restoration fund established pursuant to subdivision two of this section;*

*(b) "residential home loan" shall mean a first or subordinate lien loan, including mortgage loans purchased by the agency under section twenty-four hundred five-b of this part, that is secured by a borrower's interest in: (i) residential real property, including as defined in section thirteen hundred five of the real property actions and proceedings law, and any improvements or structures thereon; (ii) a share or shares of a cooperative corporation that entitles a borrower to a housing unit; or (iii) a residential structure that is part of a condominium development. Residential home loan shall also include interest, taxes, homeownership associations fees, carrying charges, and other liens encumbering the residence;*

*(c) "vacant and abandoned" residential real property shall mean (i) residential real property, as defined in section thirteen hundred five of the real property actions and proceedings law, where the property is not occupied by the tenant, as that term is defined in section thirteen hundred five of the real property actions and proceedings law, homeowner, or mortgagor and (ii) either:*

*(A) the property is a risk to the health, safety, or welfare of the public, or any adjoining or adjacent property owners, due to acts of vandalism, loitering, criminal conduct, or physical destruction or deterioration of the property;*  
*or*

*(B) the relevant governmental authority has declared the property unfit for occupancy and either ordered that the property remain vacant and unoccupied or ordered that the property be demolished; or*

*(C) each homeowner or mortgagor has separately informed the mortgagee, in writing, that they do not intend to occupy the property in the future, and*

*(iii) where indicia of lack of occupancy may include, but shall not be limited to: (A) overgrown or dead vegetation; (B) accumulation of newspapers, circulars, flyers, or mail; (C) past due utility notices, disconnected utilities or utilities not in use; (D) accumulation of trash, refuse or other debris; (E) absence of window coverings such as curtains, blinds, or shutters; (F) absence of furnishings or personal items consistent with residential habitation; (G) one or more boarded, missing or broken windows; (H) the property is open to casual entry or trespass; (I) the property has a building or structure that is or appears structurally unsound or has any other condition that presents a potential hazard or danger to the safety of persons, and*

*(iv) where such residential real property shall not be considered "vacant and abandoned" if, on the property: (A) there is an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding to completion, and the building is in compliance with all applicable ordinances, codes, regulations, and statutes; (B) there is a building that is secure, but is the subject of a probate action, action to quiet title, or other similar ownership dispute; (C) there is a building damaged by natural disaster upon declaration of a state disaster emergency by the governor pursuant to section twenty-eight of the executive law relating to any claim arising from the cause of such declaration, while awaiting funds to repair; or (D) there is a building occupied on a seasonal basis, but otherwise secure;*

*(d) "homeowner" shall mean a natural person who has a legal interest in the property other than a tenant and is the occupant of a residence that secures such residential home loan;*

*(e) "eligible institution" shall mean a community development financial institution or a community development financial institution partnered with a not-for-profit, housing counseling agency, land bank, or other local government entity, or any of the aforementioned, either on their own or partnered with a community development financial institution. An eligible community development financial institution shall have a record of success in serving investment areas or targeted populations; and/or shall have agreed to expand its operations into a new investment area or to serve a new targeted population, offer more products or services, or increase the volume of its current business. Eligible not-for-profits shall, among other things, have the ability to: undertake repair or rehabilitation efforts; carry out property and asset management, including servicing, undertake demolition; and/or provide assistance in finding housing options, market properties for sale or rental; coordinate, provide, and/or connect homeowners to counseling, mediation, legal representation, and negotiate on behalf of homeowners seeking a residential home loan payment modification, provide training and support for counselors, mediators, and attorneys regarding such assistance to homeowners, as well as provide credit counseling;*

*(f) "community development financial institution" or "CDFI" shall mean an organization located in this state which has been certified as a community development financial institution by the federal community development financial institutions fund, as established pursuant to 12 U.S.C. 4701 et seq., as amended from time to time;*

*(g) "investment area" means a geographic area that is determined by the agency, from time to time, as meeting criteria indicative, as of such time, of economic distress, including unemployment rate; foreclosure rate; percentages and numbers of low-income residents; per capita income and per capita real property wealth; and such other indicators of distress as the agency shall determine. Economically distressed areas may include counties, cities, municipalities, block numbering areas, and census tracts. The program shall to the fullest extent possible strive for regional diversity in providing foreclosure relief and assistance consistent with the program goals to communities throughout New York state that are impacted by the foreclosure crises;*

*(h) "lender" means banks as defined in section twenty-four hundred two of this part, investors including institutional investors, the agency, any state agency authorized to acquire and hold residential home loans, mortgage servicers and other private, non-bank entities that may own and hold a mortgage and mortgage note, the federal*



*housing administration, the U.S. department of agriculture rural development corporation, the U.S. department of housing and urban development, the federal housing finance agency, and any privately owned, publicly chartered entities and wholly-owned corporate instrumentalities of the United States within the U.S. department of housing and urban development created by congress to encourage lending and reduce costs primarily in the housing sector of the economy; and*

*(i) "residence" means residential real property as defined in section thirteen hundred five of the real property actions and proceedings law.*

*(2) The agency is hereby directed to establish and administer a fund to be known as the "New York state community restoration fund," which shall consist of monies deposited therein. Nothing contained in this section shall prevent the agency from receiving grants, gifts, or other monies from other sources, or bequests and depositing them into the fund. The agency shall not commingle the monies in such fund with any other monies of the agency.*

*(3) The monies in the fund shall be eligible to be used by the agency under program guidelines established by the board of directors of the agency, in consultation with an advisory council to be created by the agency comprised of a minimum of seven members, where a majority of the membership of the council will be comprised of representatives from non-profit members of the community with knowledge of foreclosures, housing, or community development needs in communities hard hit by foreclosures. The guidelines shall include, among other things, requirements to ensure that fund monies are expended based upon demonstrable community needs, for the purposes set forth in this subdivision, and may also be awarded by the agency to eligible institutions following the process established pursuant to subdivision four of this section, to:*

*(a) acquire, purchase, or sell residences and/or mortgage notes on residential home loans and residences at or below market rates, or at par if so required to satisfy legal or programmatic restrictions applicable to the purchase of any mortgage loans expected to be acquired, from lenders, or from local, state, and/or the federal government at auction, short sale, or other private or public sale with the intent to:*

*(i) where possible, provided the homeowner can demonstrate an economic hardship, as such term is defined under the agency's guidelines, in consultation with the advisory council, modify the residential home loan to an affordable rate to keep the current homeowners in the property;*

*(ii) permit the homeowner, provided the homeowner can demonstrate an economic hardship, as such term is defined under the agency's guidelines, in consultation with the advisory council, to transfer his or her ownership interest in the home to the agency or to an eligible institution and to remain in the residence as a tenant on agreed-upon terms, or obtain assistance from the agency or an eligible institution to acquire a new affordable residence;*

*(iii) rehabilitate distressed properties; and/or*

*(iv) demolish homes that are dilapidated or reasonably beyond repair.*

*(b) make grants and loans to eligible homeowners or to potential buyers of residences in the investment areas;*  
or

*(c) fund not-for-profit developers, affordable housing developers, and not-for-profit agencies to acquire vacant and abandoned properties or other real property, mortgages, or mortgage notes acquired under this program, and develop such properties into affordable housing and to work with homeowners in the investment area eligible to be assisted under this section, through activities such as foreclosure prevention counseling, providing new homeowner training, home repair and rehabilitation, property and asset management, demolition, and marketing properties for sale and rental.*

*(4) (a) In awarding funding to eligible institutions, the agency shall select from eligible institutions pursuant to*

*criteria established by the agency's board of directors, in consultation with the advisory council established in subdivision three of this section, which criteria shall include, but not be limited to:*

- (i) the experience and background of the eligible institution's board of directors or management team;*
- (ii) the extent of need within the investment areas or targeted populations;*
- (iii) the extent of economic distress within the investment areas or the extent of need within the targeted populations;*
- (iv) the extent of the eligible institution's current and planned community involvement;*
- (v) the extent to which the eligible institution will increase its resources through coordination with other eligible institutions or encourage collaborative applications by multiple eligible institutions;*
- (vi) in the case of an institution with a prior history of serving investment areas or targeted populations, the extent of success in serving such areas or populations;*
- (vii) the extent to which eligible institutions would use funds to restructure residential home loans to allow homeowners to continue to occupy their residences; and*
- (viii) other factors deemed to be appropriate by the agency.*

*(b) In allocating funding to eligible institutions, the agency shall be authorized to make funding available in any manner necessary for such eligible institution to participate in auctions disposing of mortgage notes or residences.*

*(5) The agency's board of directors shall establish, in consultation with the advisory council established in subdivision three of this section, guidelines to:*

*(a) develop application and reporting procedures for eligible institutions to use to apply for funds to carry out the provisions of this section and criteria for use by the eligible institutions that receive funds pursuant to this section to evaluate applications for assistance from homeowners;*

*(b) develop guidelines for funds issued to and loans issued by the agency and by eligible institutions, including guidelines for use by the agency for purchase and sales of residences and/or mortgages and notes;*

*(c) establish the procedure by which eligible institutions are selected and compensated, including establishing the relative importance and/or weight given to each criterion;*

*(d) establish terms by which eligible institutions shall maintain and utilize funds received pursuant to this section, provided however that eligible institutions shall keep such funds separate from all other of its business or fiduciary accounts; and*

*(e) establish terms by which the eligible institutions shall repay the fund for monies allocated to them pursuant to this section, if applicable.*

*(6) Nothing in this section shall preclude an eligible institution from working with or coordinating activities and/or services with any entity that handles and facilitates the transfers of mortgage notes and/or property to eligible entities under this section; provided, however, that any funds awarded to an eligible institution shall only be used to advance the purposes of this section.*

*(7) The agency shall submit a report to the governor, the speaker of the assembly, the minority leader of the assembly, the temporary president of the senate, and the minority leader of the senate on or before the first of February*

*each year. Such report shall include, but not be limited to, a detailed description of the use of funds by the agency for programs under this section, and of the use of funds for each eligible institution receiving funds under this section.*

**HISTORY:**

L 2016, ch 72, § 3, eff June 23, 2016.



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*NY CLS Pub A § 2406 (2016)*

**§ 2406. Bonds and notes of the agency**

(1) Subject to the approval of the New York public authorities control board in accordance with the provisions of chapter thirty-nine of the laws of nineteen hundred seventy-six, as amended and subject to the provisions of section two thousand four hundred seven of this title, the agency shall have the power and is hereby authorized from time to time to issue its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amounts as, in the opinion of the agency, shall be necessary to provide sufficient funds for achieving the corporate purposes thereof, including the purchase of mortgages from banks, the payment of interest on bonds and notes of the agency, establishment of reserves to secure such bonds and notes, the transfer of money to the state as described in subdivision twenty-seven of section twenty-four hundred four of this chapter, and all other expenditures of the agency incident to and necessary or convenient to carry out its corporate purposes and powers, except the operating expenses of the agency.

(2) Except as may otherwise be expressly provided by the agency, all bonds and notes issued by the agency shall be general obligations of the agency, secured by the full faith and credit of the agency and payable out of any moneys, assets, or revenues of the agency, subject only to any agreement with bondholders or noteholders pledging any particular moneys, assets or revenues.

(3) Bonds and notes shall be authorized by a resolution or resolutions of the agency adopted as provided by this title; provided, however, that any such resolution authorizing the issuance of bonds or notes may delegate to an officer of the agency the power to issue such bonds or notes from time to time and to fix the details of any such issues of bonds or notes by an appropriate certificate of such authorized officer.

(4) Such bonds or notes shall bear such date or dates, shall mature at such time or times, shall bear interest at such rate or rates, shall be of such denominations, shall be in such form, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places within or without the

state, be subject to such terms of redemption prior to maturity as may be provided by such resolution or resolutions or such certificate with respect to such bonds or notes, as the case may be; provided, however, that the maximum maturity of bonds shall not exceed forty years from the date thereof and the maximum maturity of notes or any renewals thereof shall not exceed seven years from the date of the original issue of such notes.

(5) Any bonds or notes of the agency may be sold at such price or prices, at public or private sale, in such manner and from time to time as may be determined by the agency, and the agency may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof. No bonds or notes of the agency may be sold at private sale, however, unless such sale and the terms thereof have been approved in writing by

(a) the comptroller if such sale is not to the comptroller and the comptroller is not then serving as a director of the agency, or

(b) the state director of the budget, if such sale is to the comptroller or the comptroller is then serving as a director of the agency.

(6) The agency is authorized to provide for the issuance of its bonds or notes (including bonds, notes or other obligations the interest on which is includable under the United States Internal Revenue Code of nineteen hundred eighty-six, as amended, or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders thereof under said Internal Revenue Code or any such subsequent law) for the purpose of refunding any bonds or notes of the agency then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the redemption date next succeeding the date of delivery of such refunding bonds or notes. The proceeds of any such bonds or notes issued for the purpose of so refunding outstanding bonds or notes shall be forthwith applied to the purchase or retirement of such outstanding bonds or notes or the redemption of such outstanding bonds or notes on the redemption date next succeeding the date of delivery of such refunding bonds or notes and may, pending such application, be placed in escrow to be applied to such purchase or retirement or redemption on such date. Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations of or guaranteed by the state or the United States of America, or in certificates of deposit or time deposits secured in such manner as the agency shall determine, or in obligations of any agency of the state or the United States of America which may from time to time be legally purchased by savings banks within the state as an investment of funds belonging to them or in their control, or in obligations of the Federal National Mortgage Association, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, on the outstanding bonds or notes to be so refunded by purchase, retirement or redemption, as the case may be. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds or notes to be so refunded by purchase, retirement or redemption, as the case may be. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, if any, earned or realized on the investments thereof may be returned to the agency for use by it in any lawful manner. All such bonds or notes shall be issued and secured and shall be subject to the provisions of this title in the same manner and to the same extent as any other bonds or notes issued pursuant to this title.

(7) Whether or not the bonds and notes are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds and notes for registration.

(8) Subject only to the provisions of sections two thousand four hundred seven and two thousand four hundred eight of this title, any resolution or resolutions authorizing any bonds or notes of the agency may contain provisions which may be a part of the contract with the holders of such bonds or notes, as to: (a) pledging or creating a lien, to the

extent provided by such resolution or resolutions, on all or any part of any monies or property of the agency or of any moneys held in trust or otherwise by others for the payment of such bonds or notes; (b) otherwise providing for the custody, collection, securing, investment and payment of any moneys of the agency; (c) the setting aside of reserves or sinking funds and the regulation or disposition thereof; (d) limitations on the purpose to which the proceeds of sale of any issue of such bonds or notes then or thereafter to be issued may be applied; (e) limitations on the issuance of additional bonds or notes, the terms upon which additional bonds or notes may be issued and secured, and upon the refunding of outstanding or other bonds or notes; (f) the procedure, if any, by which the terms of any contract with the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto and the manner in which such consent may be given; (g) the creation of special funds into which any moneys of the agency may be deposited; (h) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the agency may determine, which may include any or all of the rights, powers and duties of the trustee appointed pursuant to section two thousand four hundred nine of this title, and limiting or abrogating the right of the holders of bonds or notes to appoint a trustee under such section or limiting the rights, duties and powers of such trustee; (i) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the agency and providing for the rights and remedies of the holders of bonds or notes in the event of such default, providing, however, that such rights and remedies shall not be inconsistent with the general laws of this state and other provisions of this title; and (j) any other matters of like or different character, which in any way affect the security and protection of the bonds or notes and the rights of the holders thereof.

(9) Any resolution or resolutions or trust indenture or indentures under which bonds or notes of the agency are authorized to be issued may contain provisions for vesting in a trustee or trustees such properties, rights, powers and duties in trust as the agency may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of any issue of notes or bonds pursuant to section two thousand four hundred nine of this title, in which event the provisions of said section two thousand four hundred nine authorizing the appointment of a trustee by such holders of bonds or notes shall not apply.

(10) It is the intention of the legislature that any pledge of mortgages, housing loans, property, earnings, revenues or other moneys made by the agency shall be valid and binding from the time when the pledge is made; that the mortgages, housing loans, property, earnings, revenues or other moneys so pledged and thereafter received by the agency or its agent, including a servicing bank shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency or its agent, including a servicing bank irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(11) Neither the members of the agency nor any person executing the bonds or other obligations shall be liable personally on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

#### **HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970; amd, L 1970, ch 613, § 3; L 1970, ch 614, § 4; L 1971, ch 1023, §§ 11-13, eff July 2, 1971; L 1980, ch 883, § 93; L 1982, ch 120, § 1; L 1982, ch 915, § 12; L 1984, ch 353, § 8; L 1985, ch 668, § 29, eff July 30, 1985 and deemed to have been in full force and effect on and after June 19, 1985; L 1986, ch 897, § 6; L 1988, ch 414, § 2; L 1990, ch 190, § 358, eff May 25, 1990; L 1992, ch 782, § 7, eff Aug 7, 1992 (see 1992 note below).

#### **NOTES:**

Editor's Notes:

See 1970 note under Title 17.

**Laws 1982, ch 120, § 2**, provides as follows:

§ 2. All proceedings heretofore had and taken by the state of New York mortgage agency authorizing the issuance by such agency on November twenty-fourth, nineteen hundred eighty-one of bonds dated November first, nineteen hundred eighty-one, maturing November first, two thousand twelve, are hereby legalized, validated, ratified and confirmed and such bonds shall constitute valid, enforceable and legally binding obligations of said agency, notwithstanding the failure of said agency to have complied with subdivision four of section twenty-four hundred six of the public authorities law in connection therewith.

**Laws 1992, ch 782, § 15**, eff Aug 7, 1992, provides as follows:

§ 15. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

Cross References:

Requirements of negotiable instruments, CLS *UCC* § 3-104.

Investment securities, CLS *UCC* §§ 8-101 et seq.

Jurisprudences:

*64 Am Jur 2d, Public Securities and Obligations* §§ 75-90.



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*NY CLS Pub A § 2407 (2015)*

**§ 2407. Bond limits**

(1) Except for notes issued in nineteen hundred seventy and nineteen hundred seventy-one, the agency shall not issue bonds and notes, the interest on which is not included in the gross income of the holders of the bonds and notes under the United States Internal Revenue Code of 1986, as amended, or any subsequent corresponding internal revenue law of the United States, in an aggregate principal amount exceeding ten billion two hundred twenty million dollars, excluding from such limitation (a) an amount equal to any original issue discount from the principal amount of any bonds or notes issued, (b) bonds and notes issued to refund outstanding bonds and notes, and (c) bonds and notes not described in paragraph (b) of this subdivision issued to refund outstanding bonds and notes in accordance with the provisions of the Internal Revenue Code of 1986 or the Tax Reform Act of 1986, as amended, where such bonds or notes are not included in the statewide volume cap on private purpose bonds under section 146 of such code provided, however, that upon any refunding pursuant to this paragraph or paragraph (b) of this subdivision, such exclusion shall apply only to the extent that the amount of the refunding bonds or notes does not exceed (i) the outstanding amount of the refunded bonds or notes, plus (ii) to the extent permitted by applicable federal tax law, costs of issuance of the refunding bonds or notes to be financed from the proceeds of the refunding bonds or notes. No such bond or note shall be issued by the agency on or after July twenty-third, two thousand seventeen, excluding bonds and notes issued to refund outstanding bonds and notes. No more than five hundred million dollars of proceeds of bonds or notes issued by the agency pursuant to this subdivision shall be used for mortgage purposes by blending with proceeds of bonds issued pursuant to subdivision two of this section.

(2) In connection with the issuance of bonds for the purpose of furthering programs described in this title, the agency is authorized to covenant and consent that the interest on any of its bonds, notes or other obligations shall be includable, under the United States Internal Revenue Code of 1986, as amended or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross



income of the holders thereof under said Internal Revenue Code or any such subsequent law. Pursuant to this subdivision, the agency shall not issue bonds, notes or other obligations in an aggregate principal amount exceeding <1>*one billion* dollars, excluding from such limitation bonds, notes or other obligations issued to refund outstanding bonds, notes or other obligations. No such bond, note or other obligation shall be issued by the agency on or after July twenty-third, two thousand seventeen, excluding bonds, notes or other obligations issued to refund outstanding bonds, notes or other obligations and no mortgages shall be purchased with the proceeds of such bonds, notes or other obligations after such date. The board of directors of the agency shall establish program guidelines for purposes of bonds, notes or other obligations issued pursuant to this subdivision. The board of directors shall establish from time to time maximum income limits of persons eligible to receive mortgages financed by bonds, notes or other obligations issued pursuant to this subdivision, which income limits with respect to one-third of the total principal amount of mortgages authorized to be so financed shall not exceed one hundred twenty-five percent of the latest maximum income limits permitted under the Internal Revenue Code of 1986, as amended, for mortgagors financed by mortgage revenue bonds, with respect to one-third of such principal amount authorized to be so financed, shall not exceed one hundred thirty-five percent of such income limits, and with respect to one-third of such principal amount authorized to be so financed, shall not exceed one hundred fifty percent of such limits, *provided that notwithstanding the foregoing, the maximum income limits of persons eligible to receive mortgages financed by the agency under its neighborhood revitalization program (and any successor program) shall not exceed one hundred fifty percent of the latest maximum income limits permitted under the Internal Revenue Code of 1986, as amended, for mortgagors financed by mortgage revenue bonds.*

(3) The fixing of the statutory maximums in this section shall not be construed as constituting a contract between the agency and the holders of its bonds or notes that additional bonds and notes may not be issued subsequently by the agency in the event that such statutory maximums shall subsequently be increased by law.

#### HISTORY:

Add, L 1970, ch 612, § 1; amd, L 1980, ch 883, § 94; L 1982, ch 915, § 11; L 1985, ch 668, § 30; L 1986, ch 897, § 7; L 1987, ch 60, § 3; L 1988, ch 414, § 3; L 1988, ch 728, § 1 (see 1988 note below); L 1989, ch 555, § 4; L 1990, ch 190, § 359; L 1992, ch 7, § 3; L 1992, ch 782, § 8 (see 1992 note below); L 1993, ch 25, § 3; L 1994, ch 284, § 3, (see 1994 note below); L 1995, ch 247, § 1; L 1996, ch 308, § 3, eff July 12, 1996; L 1996, ch 328, § 2; L 1997, ch 196, § 3, eff July 10, 1997; L 1998, ch 142, § 3, eff June 30, 1998; L 1999, ch 226, § 2, eff July 13, 1999; L 2000, ch 132, § 2, eff July 11, 2000; L 2001, ch 111, § 2, eff July 25, 2001; L 2002, ch 103, § 2, eff June 28, 2002; L 2003, ch 141, § 2, eff July 22, 2003; L 2004, ch 147, § 2, eff July 13, 2004; L 2005, ch 121, § 2, eff June 30, 2005; L 2006, ch 138, § 2, eff July 5, 2006; L 2007, ch 229, § 3, eff July 9, 2007; L 2008, ch 148, § 2, eff June 30, 2008; L 2009, ch 177, § 2, eff July 11, 2009; L 2010, ch 218, § 2, eff July 15, 2010; L 2011, ch 100, § 5, eff June 28, 2011; L 2013, ch 152, § 4, eff July 12, 2013; L 2015, ch 85, § 5, eff July 23, 2015; L 2016, ch 163, § 2, eff July 21, 2016.

#### NOTES:

##### Editor's Notes:

See 1970 note under Title 17.

**Laws 1988, ch 728, § 2**, eff July 29, 1988, deemed eff June 15, 1988, provides as follows:

§ 2. This act shall take effect on the same date as such chapter of the laws of nineteen hundred eighty-eight takes effect and shall be subject to the same retroactive application as such chapter.

**Laws 1992, ch 782, § 15**, eff Aug 7, 1992, provides as follows:

§ 15. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 1994, ch 284, § 6**, eff July 6, 1994, deemed eff June 15, 1994, provides as follows:

§ 6. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June

15, 1994; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law. (Amd, L 1994, ch 291, § 3, eff July 6, 1994.).

Amendment Notes:

**2013.** Chapter 152, § 4 amended:

Sub (1) by deleting at fig 1 "thirteen" and adding the matter in italics.

Sub (2) by deleting at fig 1 "thirteen" and adding the matter in italics.

**The 2015 amendment by ch 85, § 5,** substituted "two thousand seventeen" for "two thousand fifteen" in the second sentence of (1) and third sentence of (2).

**The 2016 amendment by ch 163, § 2,** in (2), substituted "one billion dollars" for "eight hundred million dollars" in the second sentence and added "provided that notwithstanding the foregoing, the maximum income limits of persons eligible to receive mortgages financed by the agency under its neighborhood revitalization program (and any successor program) shall not exceed one hundred fifty percent of the latest maximum income limits permitted under the Internal Revenue Code of 1986, as amended, for mortgagors financed by mortgage revenue bonds" in the last sentence.



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*NY CLS Pub A § 2408 (2016)*

**§ 2408. Reserve funds and appropriations**

(1) The agency may create and establish one or more reserve funds to be known as debt service reserve funds and pay into any such reserve fund (a) any moneys appropriated by the state for the purposes of such fund, (b) any proceeds of sale of bonds and notes to the extent provided in the resolution of the agency authorizing the issuance thereof, (c) any moneys directed to be transferred by the agency to such debt service reserve fund, and (d) any other moneys made available to the agency for the purposes of such fund from any other source or sources. The moneys held in or credited to any debt service reserve fund established under this subdivision, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the agency secured by such debt service reserve fund, as the same mature, required payments to any sinking fund established for the amortization of such bonds (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such bonds of the agency, the payment of interest on such bonds of the agency or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity, provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of the principal and interest maturing and becoming due in any succeeding state fiscal year on the bonds of the agency then outstanding and secured by such reserve fund, except for the purpose of paying the principal of and interest on such bonds of the agency secured by such reserve fund maturing and becoming due and sinking fund payments for the payment of which other moneys of the agency are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred to any other fund or account of the agency to the extent it does not reduce the amount of such debt service reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding state fiscal year on all bonds of the agency then outstanding and secured by such reserve fund. Moneys in any debt service reserve fund not required for immediate use or disbursement may be invested in obligations of the state or the United States of America or obligations the principal and interest of which are guaranteed by the state or the United States of America or in obligations of any agency of the state or the United States of America which may from time to time be legally purchased by savings banks within the state as an investment of funds belonging to them or in

their control. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund are invested shall be valued at par or, if purchased at less than par, at their cost to the agency. If the agency shall create and establish one or more debt service reserve funds as herein provided, the agency shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in a succeeding state fiscal year on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds to be issued, or otherwise an amount which together with the amount then in such reserve fund, will be not less than the amount of principal and interest maturing and becoming due in any succeeding state fiscal year on the bonds then to be issued and on all other bonds of the agency then outstanding and secured by such reserve fund.

(2) To assure the continued operation and solvency of the agency for the carrying out of the public purposes of this act, provision is made in subdivision one of this section for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding state fiscal year on all bonds of the agency then outstanding and secured by such reserve fund. In order to further assure the continued operation and solvency of the agency for the fulfillment of its corporate purposes, there shall be annually apportioned and paid to the agency for deposit in each debt service reserve fund such sum, if any, as shall be certified by the chairman of the agency to the governor and director of the budget, as necessary to restore any such debt service reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding state fiscal year on the bonds of the agency then outstanding and secured by such reserve fund; in which case such sum so apportioned and paid shall be deposited by the agency in such debt service reserve fund. The principal amount of bonds secured by a debt service reserve fund or funds to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subdivision, but in no event shall the total amount of bonds so secured by such a debt service reserve fund or funds exceed three hundred eighty-seven million dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

(3) The agency may create and establish such other reserve funds as it shall deem advisable and necessary.

(4) All amounts paid over to the agency by the state pursuant to the provisions of this section shall constitute and be accounted for as advances by the state to the agency and, subject only to the rights of the holders of any bonds or notes of the agency theretofore or thereafter issued, shall be repaid to the state from all available operating revenues of the agency in excess of amounts required for the debt service reserve funds and operating expenses.

(5) The chairman of the agency shall make and deliver to the governor and director of the budget on or before December first, nineteen hundred seventy and on or before December first in each year thereafter, a certificate stating the amount estimated to be required for payment of or provision for expenses of the agency for the next ensuing state fiscal year. The amount so stated for any such ensuing state fiscal year shall be the sum of the amounts, if any, estimated for such fiscal year, by which anticipated operating expenses will exceed available operating revenues that the agency anticipates with reasonable certainty it will receive during such fiscal year. To assure the continued operation and solvency of the agency for the fulfillment of its corporate purposes, there shall be apportioned and paid to the agency after audit by and upon the warrant of the comptroller on vouchers certified or approved by the officer or officers authorized by the agency, not more than the amount so stated for expenses of the agency for such fiscal year.

(6) As used in this section, (a) the term "operating expenses" for the fiscal year shall mean ordinary expenditures for operation and administration of the agency; and (b) the term "available operating revenues" for the fiscal year shall

mean all amounts received on account of mortgages acquired by the agency, fees charged by the agency, if any, and income or interest earned or added to funds of the agency due to the investment thereof, and not required under the terms or provisions of any covenant or agreement with holders of any bonds or notes of the agency to be applied to any purposes other than payment of expenses of the agency.

**HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970; renumbered sub (5) and amd, L 1971, ch 1023 § 17, eff July 2, 1971; renumbered sub (6) and amd, L 1971, ch 1023 § 17, eff July 2, 1971; L 1970, ch 613, § 4,5; L 1970, ch 614, § 5, eff May 12, 1970; L 1971, ch 1023 § 14, eff July 2, 1971,15, eff July 2, 1971,16, eff July 2, 1971,17, eff July 2, 1971; L 1971, ch 1023, § 14, eff July 2, 1971; L 1976, ch 38, § 13, eff April 1, 1976.

**NOTES:**

Editor's Note:

See 1970 note under Title 17.

See 1976 note under Article 1-A.



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*NY CLS Pub A § 2409 (2016)*

**§ 2409. Remedies of bondholders and noteholders**

(1) In the event that the agency shall default in the payment of principal or of interest on any issue of bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the agency shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the agency is located, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

(2) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes then outstanding shall, in his or its own name,

(a) enforce all rights of the bondholders or noteholders, including the right to require the agency to collect interest and amortization payments on the mortgages held by it adequate to carry out any agreement as to, or pledge of, such interest and amortization payments, and to require the agency to carry out any other agreements with the holders of such bonds or notes and to perform its duties under this title;

(b) bring suit upon such bonds or notes;

(c) by action or suit, require the agency to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes;

(e) declare all such bonds or notes due and payable and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

(3) Such trustee shall in addition to the foregoing have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

(4) Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the agency and to the attorney general of the state.

(5) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action, or proceeding shall be laid in the county in which the principal office of the agency is located.

**HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970.

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.

Cross References:

Injunctions, CLS *CPLR* §§ 6301-6315.

General jurisdiction of supreme court, CLS Jud § 140-b.

Jurisprudences:

64 *Am Jur 2d, Public Securities and Obligations* §§ 477-499.



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*NY CLS Pub A § 2410 (2016)*

**§ 2410. State and municipalities not liable on bonds, notes or insurance commitments or contracts *or development corporation credit support***

The bonds, notes, insurance commitments or contracts *or development corporation credit support* and other obligations of the agency shall not be a debt of the state of New York or of any municipality, and neither the state nor any municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the agency.

**HISTORY:**

Add, L 1970, ch 612, § 1; amd, L 1978, ch 788, § 8, eff Dec 8, 1978; L 2004, ch 3, § 19, eff Dec 8, 2004 (see 2004 note below).

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.

**Laws 2004, ch 3, § 26**, eff Dec 8, 2004, provides as follows:

§ 26. Construction. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.





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*NY CLS Pub A § 2411 (2016)*

**§ 2411. Agreement of the state**

The state of New York does hereby pledge to and agree with the holders of any bonds or notes or any mortgage insurance contract issued under this title that the state will not limit or alter the rights hereby vested in the agency to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such bonds or notes together with the interest thereon, with interest on any unpaid installments of interest, or insurance contracts and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged. The agency is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes or insurance contracts.

**HISTORY:**

Add, L 1970, ch 612, § 1; amd, L 1978, ch 788, § 8, eff Dec 8, 1978.

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.



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*NY CLS Pub A § 2412 (2016)*

**§ 2412. Property and income**

1. The property of the agency and its income and operations shall be exempt from taxation or assessments of every kind and nature, other than assessments for local improvements and the tax imposed by article eleven of the tax law; nor shall the agency be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf.

2. Notwithstanding the provisions of subdivision one of this section, all mortgages recorded prior to the effective date of this subdivision as to which an assignment to the agency has been recorded shall be recordable, enforceable, assignable and valid for all purposes as if the mortgage recording tax had been paid regardless of whether a mortgage recording tax was paid thereon.

**HISTORY:**

Add, L 1970, ch 612, § 1; amd, L 1984, ch 353, § 9, eff July 10, 1984.

**NOTES:**

**Editor's Notes:**

See 1970 note under Title 17.

**Cross References:**

Tax on mortgages, *CLS Tax* §§ 250 et seq.

Jurisprudences:

*71 Am Jur 2d, State and Local Taxation §§ 336-349.*

Notes to Decisions

Property acquired by State of New York Mortgage Agency (SONYMA) becomes tax exempt as of taxable status date following its acquisition of title to real property. 12 Op. Counsel SBRPS No. 10. Agency Opinions

Mortgages which arise directly from operation of State of New York Mortgage Agency's Forward Commitment Program are exempt from mortgage recording taxes imposed by CLS Tax Law Art 11. NY Adv Op Comm T & F TSB-A-84-(1)M.



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*NY CLS Pub A § 2413 (2016)*

**§ 2413. Exemption from taxation of bonds and notes and insurance commitments and loans**

It is hereby determined that the creation of the agency is in all respects for the benefit of the people of the state, for the improvement of their health and welfare, and for the promotion of the economy, and that said purposes are public purposes and the agency will be performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the state covenants with the purchasers and all subsequent holders and transferees of bonds and notes issued by the agency, in consideration of the acceptance of and payment for the bonds and notes, that the bonds and notes of the agency, issued pursuant to this title and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation, except for estate or gift taxes and taxes on transfers and in addition all other property of the agency and its income and operations shall be exempt from taxation.

**HISTORY:**

Add, L 1970, ch 612, § 1; amd, L 1978, ch 788, § 8, eff Dec 8, 1978.

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.

Cross References:

Exemption of real property of public authorities, CLS *Real P Tax* § 412.

Jurisprudences:

*64 Am Jur 2d, Public Securities and Obligations § 28.*

*71 Am Jur 2d, State and Local Taxation §§ 336-349.*



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*NY CLS Pub A § 2414 (2016)*

**§ 2414. Bonds and notes as legal investments for public officers and fiduciaries**

The bonds and notes of the agency are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

**HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970.

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.

Jurisprudences:

*31 Am Jur 2d, Executors and Administrators § 229.*

*63C Am Jur 2d, Public Officers and Employees §§ 263, 345-348.*

*76 Am Jur 2d, Trusts § 505.*



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*NY CLS Pub A § 2415 (2016)*

**§ 2415. Moneys of the agency**

(1) All moneys of the agency from whatever source derived, except as otherwise authorized or provided in this title, shall be paid to the treasurer of the agency and shall be deposited forthwith in a bank or banks in the state designated by the agency. The moneys in such accounts shall be withdrawn on the order of such person or persons as the agency may authorize. All deposits of such moneys shall, if required by the agency, be secured in such manner as the agency may determine. The comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the agency, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. Such an examination shall be conducted by the comptroller at least once in every five years; the comptroller is authorized, however, to accept from the agency, in lieu of such an examination, an external examination of its books and accounts made at the request of the agency, within thirty days after receipt by the agency, the agency shall submit a copy of the report of every external examination of the books and accounts of the agency with respect to insurance contracts, other than copies of the reports of such examinations made by the comptroller.

(2) The agency shall have power to contract with holders of any of its bonds or notes, as to the custody, collection, securing, investment, and payment of any moneys of the agency, of any moneys held in trust or otherwise for the payment of bonds or notes, and to carry out such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the agency, and all banks and trust companies are authorized to give such security for such deposits.

(3) Subject to the provisions of any contract with bondholders or noteholders and to the approval of the comptroller, the agency shall prescribe a system of accounts.

(4) The agency shall submit to the governor, chairman of the senate finance committee, chairman of the assembly ways and means committee and the comptroller, within thirty days of the receipt thereof by the agency, a copy of the



report of every external examination of the books and accounts of the agency other than copies of the reports of such examinations made by the comptroller.

**HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970; amd, L 1971, ch 1023, § 18; L 1978, ch 788, § 9, eff Dec 8, 1978.

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.

Codes, Rules and Regulations:

Accounting and reporting for statewide public authorities, generally. 2 *NYCRR* §§ 201.1 et seq.

Jurisprudences:

*63C Am Jur 2d, Public Funds* §§ 5-29.

*63C Am Jur 2d, Public Officers and Employees* § 264.



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*NY CLS Pub A § 2416 (2016)*

#### **§ 2416. Actions**

In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the agency or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice.

Except in an action for wrongful death, no action shall be commenced (a) prior to the expiration of thirty days from the date on which the demand, claim or claims upon which the action is founded were presented to a director of the agency or other officer thereof designated for such purpose nor (b) more than one year *and ninety days* after the cause of action therefor shall have accrued. An action against the agency for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

#### **HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970; amd, L 1990, ch 804, § 88, eff Aug 24, 1990 (see 1990 note below); L 2012, ch 500, § 67, eff June 15, 2013 (see 2012 note below).

#### **NOTES:**

##### Editor's Notes:

See 1970 note under Title 17.

**Laws 1990, ch 804, § 126**, eff Aug 24, 1990, provides as follows:

§ 126. This act shall take effect on the thirtieth day after it shall have become a law, and shall apply to actions accruing on or after such date.

**Laws 2012, ch 500, §§ 1 and 79**, eff June 15, 2013, provide as follows:

Section 1. Short title. This act shall be known and may be cited as the "uniform notice of claim act".

§ 79. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to all

actions and proceedings accruing on or after such date; provided, however, that section four of this act shall take effect two hundred ten days after this act shall have become a law; and provided, further, that section seventy-eight of this act shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect as section seventy-eight of this act, but if the state of New Jersey shall have enacted such legislation into law prior to the first day of January next succeeding the date upon which this act shall have become a law, section seventy-eight of this act shall take effect on the one hundred eightieth day from the date upon which it shall have become a law; provided further, that the state of New Jersey shall notify the legislative bill drafting commission upon the occurrence of the enactment of the provisions provided for in this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of *section 44 of the legislative law* and *section 70-b of the public officers law*; and provided further that section nine of this act shall take effect upon the concurrence by members of the Delaware River Basin Water Commission. (Amd, L 2013, ch 24, § 7, eff June 15, 2013.).

Amendment Notes:

**2012.** Chapter 500, § 67 amended:

Closing par by adding the matter in italics.

Jurisprudences:

*1 Am Jur 2d, Actions §§ 64, 69.*

*51 Am Jur 2d, Limitation of Actions § 12.*



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*NY CLS Pub A § 2417 (2016)*

**§ 2417. Limitation of liability**

Neither the members of the agency, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from carrying out any of the powers expressly given in this act.

**HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970.

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.

Jurisprudences:

*63C Am Jur 2d, Public Officers and Employees §§ 230, 303, 308.*



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*NY CLS Pub A § 2418 (2016)*

**§ 2418. Assistance by state officers, departments, boards and commissions; transfer of officers and employees**

(1) The department of audit and control, department of law, and all other state agencies may render such services to the agency within their respective functions as may be requested by the agency.

(2) Officers and employees of state departments and agencies may be transferred to the agency and officers and employees of the agency may be transferred to state departments and agencies without examination and without loss of any civil service status or rights. No such transfer may, however, be made except with the approval of the head of the state department or division involved, the director of the budget and the chairman of the agency, and in compliance with the rules and regulations of the civil service commission of the state.

**HISTORY:**

Add, L 1970, ch 612, § 1; amd, L 1978, ch 788, § 10, eff Dec 8, 1978.

**NOTES:**

**Editor's Notes:**

See 1970 note under Title 17.



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*NY CLS Pub A § 2419 (2016)*

**§ 2419. Annual report**

The agency shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the comptroller and the director of the budget within six months after the end of its fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments; (2) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the agency for its operating and capital outlay purposes, including a listing of all private consultants engaged by the agency on a contract basis and a statement of the total amount paid to each such private consultant; (3) its assets and liabilities at the end of its fiscal year, including a schedule of its mortgages and the status of reserve, special or other funds; (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year; (5) a schedule of mortgages which have been insured during such year and mortgages for which there exists an outstanding commitment to insure and the status of the mortgage insurance fund and other funds established by the corporation; and with respect to the agency's fiscal years ending after nineteen hundred eighty-five; (6) a breakdown by region (as defined in subdivision nine of section two thousand four hundred twenty-six of this title) of the average income of recipients of SONYMA mortgage loans for such fiscal year, stated separately for SONYMA's tax exempt and blended program and SONYMA's taxable program; (7) a breakdown by region of the income distribution of recipients of SONYMA mortgage loans for such fiscal year, stated separately for SONYMA's tax exempt and blended program and SONYMA's taxable program; and (8) a breakdown by region of the average purchase price of structures acquired with SONYMA mortgage loans for such fiscal year, stated separately for SONYMA's tax exempt and blended program and SONYMA's taxable program. With respect to the schedule mentioned in item five hereof, such schedule shall be submitted within ninety days after the end of its fiscal year and shall be submitted to the temporary president of the senate and speaker of the assembly in addition to the aforementioned officers.

**HISTORY:**

Add, L 1970, ch 612, § 1; amd, L 1978, ch 788, § 10; L 1984, ch 353, § 10; L 1989, ch 555, § 5, eff July 16, 1989,

deemed eff June 15, 1989.

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.

Codes, Rules and Regulations:

Accounting and reporting for statewide public authorities, generally. 2 *NYCRR* §§ 201.1 et seq.



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*NY CLS Pub A § 2419-a (2016)*

**§ 2419-a. Additional reports**

1. Within six months after the end of its fiscal year the agency shall submit to the governor, the majority leader of the senate, the speaker of the assembly, the comptroller and the director of the budget a complete and detailed report setting forth data establishing compliance with the provisions of subdivision three of section twenty-four hundred five of this article by the agency and each bank which participated in the agency's purchase of mortgages from the proceeds of the sale of each issue by the agency of its bonds and notes made on and after the effective date of this section.

2. The agency shall provide to the commissioner of housing and community renewal, on a timely basis, with the data and other information necessary to compile the report or reports required pursuant to section twenty of the public housing law.

**HISTORY:**

Add, L 1980, ch 883, § 95, eff Dec 1, 1980; amd, L 1989, ch 576, § 9, eff July 17, 1989.





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*NY CLS Pub A § 2420 (2016)*

**§ 2420. Court proceedings; preferences; venue**

Any action or proceeding to which the agency or the people of the state of New York may be parties, in which any question arises as to the validity of this act, shall be preferred over all other civil causes except election causes in all courts of the state of New York and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the agency in any action or proceeding questioning the validity of this title in which he may be allowed to intervene. The venue of any such action or proceeding shall be laid in the county in which the principal office of the agency is located.

**HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970.

**NOTES:**

**Editor's Notes:**

See 1970 note under Title 17.

**Cross References:**

Venue of actions involving public authorities, CLS *CPLR* § 505.

Intervention, CLS *CPLR* §§ 1012-1014.

Trial preferences, CLS *CPLR* § 3403.



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*NY CLS Pub A § 2420-a (2016)*

**§ 2420-a. Validity**

Bonds, insurance commitments or contracts and development corporation credit support may contain a recital that they are issued or executed, respectively, pursuant to this section, which recital shall be conclusive evidence of their validity, respectively, and the regularity of the proceedings related thereto.

**HISTORY:**

Add, L 2004, ch 3, § 18, eff Dec 8, 2004 (see 2004 note below).

**NOTES:**

Editor's Notes:

**Laws 2004, ch 3, § 26**, eff Dec 8, 2004, provides as follows:

§ 26. Construction. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.



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*NY CLS Pub A § 2421 (2016)*

**§ 2421. Inconsistent provisions of other laws superseded**

Insofar as the provisions of this title are inconsistent with the provisions of any other law, general, special or local, the provisions of this title shall be controlling. It is the intent of the legislature that the provisions of this title relating to mortgage commitments and laws be construed liberally so as to effectuate the public and governmental purpose thereof.

**HISTORY:**

Add, L 1970, ch 612, § 1; amd, L 1971, ch 1023 § 19; L 1978, ch 788, § 11, eff Dec 8, 1978.

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.

Jurisprudences:

*73 Am Jur 2d, Statutes § 381.*

Agency Opinions

Mortgages which arise directly from operation of State of New York Mortgage Agency's Forward Commitment Program are exempt from mortgage recording taxes imposed by CLS Tax Law Art 11. NY Adv Op Comm T & F TSB-A-84-(1)M.



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*NY CLS Pub A § 2422 (2016)*

**§ 2422. Construction**

This title, being necessary for the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its purposes.

**HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970.

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.

Agency Opinions

Mortgages which arise directly from operation of State of New York Mortgage Agency's Forward Commitment Program are exempt from mortgage recording taxes imposed by CLS Tax Law Art 11. NY Adv Op Comm T & F TSB-A-84-(1)M.



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*NY CLS Pub A § 2423 (2016)*

**§ 2423. Separability**

If any clause, sentence, paragraph, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**HISTORY:**

Add, L 1970, ch 612, § 1, eff May 12, 1970.

**NOTES:**

Editor's Notes:

See 1970 note under Title 17.

Jurisprudences:

*16 Am Jur 2d, Constitutional Law §§ 181-197.*

*73 Am Jur 2d, Statutes § 381.*



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*NY CLS Pub A, Art. 8, Title 17, Pt. II Notes (2015)*

**Part II [Insurance Commitments or Contracts] Notes**

**HISTORY:**

Add, L 1978, ch 788, § 7, eff Dec 8, 1978.



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*NY CLS Pub A § 2425 (2016)*

**§ 2425. Statement of legislative findings and purpose with respect to insurance commitments or contracts by the agency**

It is hereby found that there exist in many cities, towns and villages of the state neighborhoods which are blighted, are becoming blighted or may become blighted because of substandard, insanitary, deteriorated or deteriorating conditions, including undermaintained and deteriorating housing accommodations and related retail and other community facilities.

It is further found that there exists throughout the state a seriously inadequate supply of safe, sanitary and affordable housing accommodations for persons of low income. As a result, a large portion of the state's population, including many persons of low income, must continue to reside in undermaintained and deteriorating housing accommodations. These conditions are contrary to the public interest and threaten the health, safety, welfare, comfort and security of the people of the state.

It is further found that a deficiency of mortgage financing is one of the causes of the above conditions. The unaided efforts of private enterprise have not been able to provide nor can they provide sufficient funds to refinance existing mortgage indebtedness and to undertake necessary preservation and rehabilitation of housing accommodations and related retail and other community facilities within neighborhoods which are blighted, are becoming blighted or may become blighted.

It is further found that the lack of mortgage insurance for loans to refinance existing indebtedness and to undertake necessary preservation and rehabilitation of housing accommodations and related retail and other community facilities within such neighborhoods is one reason that the available funds are not sufficient to satisfy the mortgage financing needs of such neighborhoods.

It is further found that the conditions set forth herein accelerate the deterioration of housing accommodations, related retail and other community facilities as well as the neighborhoods in which such real property is located.

Uncorrected, such conditions will increase the rate of abandonment and destruction of housing accommodations and related retail and other community facilities. Abandonment and destruction, in turn, erode the local tax base, which deprives cities, towns and villages of revenues needed for essential services such as police, sanitation and fire fighting. Failure to fund essential services could require the state to provide costly financial assistance to ameliorate the emergency conditions thus created.

It is further found that if mortgage insurance were available for loans to refinance existing indebtedness and to undertake necessary preservation and rehabilitation of housing accommodations and related retail and other community facilities, the conditions of blight within such neighborhoods could be ameliorated or averted.

It is therefore declared to be a public purpose of the state, in order to promote the preservation of neighborhoods which are blighted, are becoming blighted or may become blighted, to provide safe, sanitary and affordable housing accommodations to persons, including those of low income, who reside in such neighborhoods, and to discourage disinvestment and encourage the investment of mortgage capital in the real estate situated in such neighborhoods by authorizing the agency to insure qualified mortgage loans in such neighborhoods subject to the terms and provisions hereinafter set forth.

The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

[Expires July 23, 2017] Also, it is hereby found that it has become very expensive and programmatically restrictive for the agency and for other entities to purchase mortgage pool insurance coverage. It is therefore declared to be in the public interest to authorize the agency to use the mortgage insurance fund to provide mortgage pool insurance for mortgages which the agency purchases pursuant to its programs, and to provide mortgage pool insurance for certain other entities in accordance with the provisions of this title.

Also, it is hereby found and declared that it is in the public interest to facilitate the financial activities of the development corporation by providing a source or potential source of payment into funds established by such corporation for the payment of financial obligations or financial rights of such corporation under bonds or ancillary bond facilities.

#### **HISTORY:**

Add, L 1978, ch 788, § 7; amd, L 1981, ch 722, § 1, eff July 21, 1981; L 1989, ch 555, § 6, eff July 16, 1989, deemed eff June 15, 1989; L 2004, ch 3, § 8, eff Dec 8, 2004.

#### **NOTES:**

##### Editor's Notes:

**Laws 1989, ch 555, § 19**, eff July 16, 1989 and deemed eff June 15, 1989, provides as follows:

§ 19. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 15, 1989 provided that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect, and provided however that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall continue to apply to all commitments issued or policies or development corporation credit support in force on or before July 23, 2017, and provided further that the amendments to *section 2429-b of the public authorities law* made by section 13 of chapter 3 of the laws of 2004 which amended this section shall not cease to be of force and effect prior to the time that full payment of all development corporation credit support obligations has been made or provided for. (Amd, L 1992, ch 7, § 2; L 1993, ch 25, § 2; L 1994, ch 284, § 2; L 1996, ch 308, § 2; L 1997, ch 196, § 2, eff July 10, 1997; L 1998, ch 142, § 2, eff June 30, 1998; L 1999, ch 227, § 1, eff July 13, 1999; L 2001, ch 110, § 1, eff July 25, 2001; L 2003, ch 145, § 1, eff July 22, 2003; L 2004, ch 3, § 17, eff Dec 8, 2004; L 2005, ch 125, § 1, eff June



1, 2005; L 2007, ch 230, § 1, eff July 9, 2007; L 2009, ch 192, § 1, eff July 11, 2009; L 2011, ch 100, § 6, eff June 28, 2011; L 2013, ch 152, § 5, eff July 12, 2013; L 2015, ch 85, § 6, eff July 23, 2015.).

**Laws 2004, ch 3, § 26**, eff Dec 8, 2004, provides as follows:

§ 26. Construction. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.

Cross References:

This section referred to in § 2426.



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*NY CLS Pub A § 2426 (2016)*

#### **§ 2426. Definitions**

As used in sections twenty-four hundred twenty-five through twenty-four hundred twenty-nine inclusive.

1. "Financial institution". Any bank, trust company, national bank, savings bank, state or federal savings and loan association, or state or federal credit union, insurance company, pension fund or retirement system of any corporation, association, any other entity which is owned or controlled by any one or more of the above, provided the same is supervised by or responsible to any agency of the federal government, the state, any department thereof or the governing body of any city, town or village of the state or any other entity approved by the agency or any one or more of the above when lawfully acting as a trustee or otherwise in a fiduciary capacity. The term "financial institution" shall also include the New York state housing finance agency and the New York state urban development corporation, the New York city housing development corporation, the New York city department of housing preservation and development and any person who is approved as a mortgage lender by the federal housing administration for purposes of insurance issued by such administration or licensed by the state of New York as a mortgage banker.
2. "Housing accommodation". Any existing building, structure, unit thereof or unimproved real property, which is used or occupied, or is intended to be used or occupied, wholly or partly, as the home or residence of one or more persons.
3. "Other real property". Any existing building, structure or unimproved property which is used or occupied, or is intended to be used or occupied, primarily for the retail sale of goods or the rendering of services.
4. "Mortgage insurance fund". The mortgage insurance fund established pursuant to section twenty-four hundred twenty-nine-b of this article.
5. "Mortgage insurance fund requirement". For any category of loans *or development corporation credit support*

as of any particular date of computation, an amount of money or cash equivalents equal to (a) the aggregate of <1> (i) such insured amounts of each category of loans *and such amount of development corporation credit support* as the agency has determined to be due and payable as of such date pursuant to its contracts to insure mortgages *or provide development corporation credit support* plus <2> (ii) an amount equal to twenty per centum of the amounts of each category of loans insured under the agency's insurance contracts plus twenty per centum of the amounts to be insured under the agency's commitments to insure less the amounts payable in each category of loans pursuant to *subparagraph (i) of this paragraph* <3> , provided, however, that if the board of directors of the agency shall have established a per centum for a category of loans, or for one or more loans within such categories, pursuant to subdivision seven of section twenty-four hundred twenty-eight of this <4> *part*, such per centum shall be substituted for twenty per centum in this paragraph for such category or loan, and provided further, that no such new per centum shall be lower than twenty per centum *plus (iii) an amount equal to the respective amounts established by contract with respect to each reserve and financial support fund (which may be determined by reference to percentages of amounts required or permitted to be on deposit in said funds and may be different for each such fund) for which the agency has determined that the development corporation credit support account established under section twenty-four hundred twenty-nine-b of this part is or will be a source or potential source of development corporation credit support, less the amounts payable with respect to development corporation credit support pursuant to subparagraph (i) of this paragraph less (b) the aggregate of the amount of each reinsurance contract procured in connection with agency obligations determined by the board of directors of the agency to be a reduction pursuant to this paragraph in calculating the mortgage insurance fund requirement.* For purposes of pool insurance, in no event shall the reserve requirement be less than twenty percent of the amounts insured under the agency's insurance contracts.

6. "Mortgagee". The lender under a mortgage eligible for insurance pursuant to section twenty-four hundred twenty-eight of this chapter, and its successors and assigns approved by the agency.

7. "Mortgagor". The original borrower under a mortgage eligible for insurance pursuant to section twenty-four hundred twenty-eight of this chapter, and its successors and assigns approved by the agency.

8. "Operating expenses". All costs of administering the agency, including but not limited to salaries and wages, expenses of administering staff functions, fees of consultants, legal fees, charges incurred for servicing insured mortgage loans, money management, office rents, utility charges, cost of supplies, furnishings, equipment, machinery and apparatus, maintenance and repair of property and other expenses incurred in connection with the foregoing.

9. "Region". One or more of the following named areas comprised of the counties indicated:

- (1) Buffalo: Cattaraugus, Chautauqua, Erie and Niagara counties;
- (2) Rochester: Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming and Yates counties;
- (3) Syracuse: Cayuga, Cortland, Madison, Onondaga and Oswego counties;
- (4) Elmira-Binghamton: Allegany, Broome, Chemung, Chenango, Delaware, Otsego, Schuyler, Steuben, Tioga and Tompkins counties;
- (5) Mid-Hudson: Columbia, Dutchess, Greene, Orange, Putnam, Sullivan and Ulster counties;
- (6) Capital: Albany, Montgomery, Rensselaer, Saratoga, Schenectady and Schoharie counties;
- (7) Mohawk Valley-Northern: Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Oneida, St. Lawrence, Warren and Washington counties;
- (8) Downstate: Rockland and Westchester counties;

(9) Long Island: Nassau and Suffolk counties;

(10) New York City: the five counties comprising the city of New York.

10. "Rehabilitation". Repairs, alterations or improvements of a housing accommodation designed to raise the housing standards therein or, in the case of other real property, designed to provide needed improvements therein.

11. "Preservation loan". A loan extended by a financial institution for the purposes of refinancing existing indebtedness secured by one or more mortgages on a housing accommodation or other real property and/or financing the acquisition of a housing accommodation or other real property and which otherwise complies with the conditions established pursuant to section twenty-four hundred twenty-eight of this chapter.

12. [Expires and repealed July 23, 2017] "Rehabilitation loan". A loan extended by a financial institution which may include the refinancing of existing indebtedness, if any, secured by one or more mortgages on the housing accommodation or other real property to be rehabilitated or financing the acquisition of the housing accommodation or other real property to be rehabilitated, and which otherwise complies with the conditions established pursuant to section twenty-four hundred twenty-eight of this part, provided however that a sum equal to at least twenty percent of the amount of the loan shall be used for the cost of rehabilitation of, or construction of improvements on a housing accommodation or other real property; *provided further that such percentage shall not be required for a community residence as such term is defined in subdivision twenty-eight of section 1.03 of the mental hygiene law, or for any other residential facility funded by, under contract with, or subject to regulation by or under the jurisdiction of the department of mental hygiene, providing services to persons with mental disabilities as such term is defined in subdivision three of such section.*

13. "Residential purposes". The use or intended use of any space as the home or residence of one or more persons, excluding use as a housing accommodation for transients, but including use or intended use for emergency, transitional or shelter housing.

14. "Cash equivalent". A letter of credit, insurance policy, surety, guarantee or other security arrangement.

15. "Pool insurance". Mortgage insurance provided by the agency to insure an aggregate of mortgage loans.

16. Reverse mortgage. A reverse mortgage loan pursuant to section two hundred eighty or two hundred eighty-a of the real property law shall mean a loan which is secured by a first mortgage on real property improved by a one to four-family residence or condominium that is the residence of the mortgagor, the proceeds of which are advanced to the mortgagor during the loan term in equal installments, in advances through a line of credit or otherwise, in lump sums, or through a combination thereof. A reverse mortgage may be structured to provide for the addition of accrued but unpaid interest to principal. Such reverse mortgage loan may provide for an initial lump-sum advance wherein the mortgagor may receive an amount necessary to pay closing costs, including but not limited to loan or commitment fees, if any, insurance premiums, the cost of house repairs, legal fees, the cost of annuities, the costs of third party counseling, the amount necessary to pay off existing mortgages or liens, and other appropriate costs.

17. "Ancillary bond facility". That portion of an ancillary bond facility, as defined in the convention center development corporation act, with respect to which the corporation has an actual or potential financial obligation or financial right.

18. "Bonds". Bonds as defined in the convention center development corporation act.

19. "Corporation". The convention center development corporation, created by the convention center development corporation act.

20. "Development corporation credit support". The sum of the respective amounts (or percentages) of required

or permissive funding by the corporation of each reserve and financial support fund established by the corporation for its bonds and, to the extent not otherwise provided in respect of the support of bonds, for its ancillary bond facilities for which the agency has determined that the development corporation credit support account established under section twenty-four hundred twenty-nine-b of this part is or will be a source or potential source of funding.

**21. "Reserve and financial support fund".** The convention center development fund created by the convention center development corporation act and each fund (including, but not limited to, any fund or account in the nature of a reserve fund, a debt service fund, a revenue fund, a redemption fund or a reimbursement fund) established by the corporation in connection with its bonds or ancillary bond facilities from which amounts are required to be, or available to be, applied in satisfaction of financial obligations or financial rights of the corporation under such bonds or ancillary bond facilities.

**22. "Convention center development corporation act".** The convention center development corporation act, constituting chapter thirty-five of the laws of nineteen hundred seventy-nine, as amended, by the chapter of the laws of two thousand four which added this subdivision.

#### **HISTORY:**

Add, L 1978, ch 788, § 7, eff Dec 8, 1978; amd, L 1981, ch 103, § 182; L 1981, ch 722, §§ 2, 3; L 1982, ch 915, § 13; L 1984, ch 354, § 1, eff July 10, 1984; L 1987, ch 60, §§ 4, 5, eff April 22, 1987, deemed eff March 31, 1987; L 1989, ch 555, §§ 7, 8; L 1992, ch 782, § 9, eff Aug 7, 1992; L 1993, ch 613, § 9, eff Dec 2, 1993; L 2000, ch 112, § 1, eff July 11, 2000; L 2002, ch 172, § 1, eff July 23, 2002; L 2004, ch 3, § 9, eff Dec 8, 2004; L 2006, ch 402, § 1, eff July 26, 2006.

#### **NOTES:**

##### **Editor's Notes:**

**Laws 1989, ch 555, § 19**, eff July 16, 1989 and deemed eff June 15, 1989, provides as follows:

§ 19. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 15, 1989 provided that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect, and provided however that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall continue to apply to all commitments issued or policies or development corporation credit support in force on or before July 23, 2017, and provided further that the amendments to *section 2429-b of the public authorities law* made by section 13 of chapter 3 of the laws of 2004 which amended this section shall not cease to be of force and effect prior to the time that full payment of all development corporation credit support obligations has been made or provided for. (Amd, L 1992, ch 7, § 2; L 1993, ch 25, § 2; L 1994, ch 284, § 2; L 1996, ch 308, § 2; L 1997, ch 196, § 2, eff July 10, 1997; L 1998, ch 142, § 2, eff June 30, 1998; L 1999, ch 227, § 1, eff July 13, 1999; L 2001, ch 110, § 1, eff July 25, 2001; L 2003, ch 145, § 1, eff July 22, 2003; L 2004, ch 3, § 17, eff Dec 8, 2004; L 2005, ch 125, § 1, eff June 1, 2005; L 2007, ch 230, § 1, eff July 9, 2007; L 2009, ch 192, § 1, eff July 11, 2009; L 2011, ch 100, § 6, eff June 28, 2011; L 2013, ch 152, § 5, eff July 12, 2013; L 2015, ch 85, § 6, eff July 23, 2015.).

**Laws 1992, ch 782, § 15**, eff Aug 7, 1992, provides as follows:

§ 15. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 1993, ch 613, § 12**, eff Dec 2, 1993, provides as follows:

§ 12. This act shall take effect on the one hundred twentieth day after it shall have become a law except that any rules and regulations necessary for the timely implementation of this act on its effective date shall be promulgated on or before such date.

**Laws 2000, ch 112, § 4**, eff July 11, 2000, provides as follows:

§ 4. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 2002, ch 172, § 2**, eff July 23, 2002, provides as follows:

§ 2. This act shall take effect immediately and shall remain in full force and effect until July 23, 2017, whereupon such date the provisions of this act shall expire and be deemed repealed. (Amd, L 2005, ch 309, § 1, eff July 26, 2005; L 2006, ch 137, § 1, eff July 5, 2006; L 2008, ch 150, § 1, eff June 30, 2008; L 2010, ch 162, § 1, eff July 7, 2010; L 2011, ch 100, § 7, eff June 28, 2011; L 2013, ch 152, § 6, eff July 12, 2013; L 2015, ch 85, § 7, eff July 23, 2015.).

**Laws 2004, ch 3, § 26**, eff Dec 8, 2004, provides as follows:

§ 26. Construction. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.

**Laws 2006 ch 402, § 2**, eff July 26, 2006, provides as follows:

§ 2. This act shall take effect immediately; provided, however, that the amendment made to subdivision 12 of *section 2426 of the public authorities law* by section one of this act shall not affect the expiration of such subdivision and shall be deemed expired therewith.

#### Amendment Notes:

**2006.** Chapter 402, § 1.

Sub 12 by adding the matter in italics.

**2004.** Chapter 3, § 9 amended:

Sub 5 by deleting at fig 1 "(a)", at fig 2 "(b)", at fig 3 "(a) of this subdivision", at fig 4 "title" and adding the matter in italics.

By adding sub 17.

By adding sub 18.

By adding sub 19.

By adding sub 20.

By adding sub 21.

By adding sub 22.

**1989.** Chapter 555, § 8 amended:

By adding sub 14.

By adding sub 15.

#### Cross References:

This section referred to in §§ 2405, 2419, 2428, 2429-b.



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Public Authorities Law  
Article 8 Miscellaneous Authorities  
Title 17 State of New York Mortgage Agency Act  
Part II [Insurance Commitments or Contracts]

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*NY CLS Pub A § 2427 (2015)*

**§ 2427. Additional powers of the agency**

The agency shall have the following additional powers only with respect to insuring mortgage loans and providing development corporation credit support:

1. To establish and levy fees and charges in connection with the processing of applications for mortgage insurance;

2. [Expires July 23, 2017]

(a) To issue commitments to insure mortgages and to enter into contracts of mortgage insurance,

(b) to issue commitments to provide and to provide pool insurance for one or more aggregates of mortgage loans purchased by the agency pursuant to its forward commitment program, or for one or more aggregates of mortgage loans on single or multi-family residential buildings made by a domestic not-for-profit corporation whose public purposes include combatting community deterioration and which is approved as a mortgage lender by the federal housing administration for purposes of insurance issued by such administration, and which is a qualified seller-servicer for the federal national mortgage association and the federal home loan mortgage corporation or for one or more aggregates of preservation loans made by a financial institution with respect to a building owned by a cooperative housing corporation, and

(c) to fulfill its obligations and enforce its rights under any insurance so furnished as provided in this article and such rules and regulations as may be adopted by the agency;

2. [Eff July 23, 2017] To enter into commitments to insure mortgages and contracts of mortgage insurance and to fulfill its obligations and enforce its rights under any insurance so furnished as provided in this article and such rules

and regulations as may be adopted by the agency;

3. To pay, pursue to final collection, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any equity or right of redemption;

4. To foreclose any mortgage in default or commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract or other agreement, and to bid for and purchase such property at any foreclosure or at any other sale, or otherwise to acquire or take possession of any such property;

5. To deal with, hold, administer, manage, rent, repair, insure or sell, lease or otherwise dispose of any property conveyed to or acquired by the agency and to enter into agreements with the state, any city, town or village of this state or any person, firm, partnership or corporation, either public or private, for the purpose of causing any such property to be so dealt with;

6. To procure insurance against any loss in connection with its property and other assets and to procure reinsurance in connection with its obligations, all in such amounts and from such insurers as it deems necessary or desirable;

7. To consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security or any other term, of any mortgage, mortgage loan, contract or agreement of any kind which the agency has insured or to which the agency is a party;

8. To sell, at public or private sale, any mortgage, mortgage participation or other obligation held by the agency;

9. To invest any funds held in reserves or sinking funds or any funds not required for immediate use or disbursement, at the discretion of the agency, in obligations of the state <1>or federal government or of any city of the state, the principal and interest of which are guaranteed by the state or federal government, obligations of agencies of the federal government, *or in Government National Mortgage Association mortgage backed securities*, or special time deposits in, or certificates of deposit issued by, a bank or trust company authorized to do business in the state and secured by a pledge of obligations of the United States of America or obligations of the state, any city of the state, other municipal corporation, school district or district corporation of the state or obligations of agencies of the federal government, provided that any such investment from time to time (1) may be legally purchased by savings banks of the state as investments of funds belonging to them or in their control and (2) shall be approved by the comptroller.

10. To provide development corporation credit support.

#### **HISTORY:**

Add, L 1978, ch 788, § 7, eff Dec 8, 1978; amd, L 1989, ch 555, § 9; L 1994, ch 284, § 4, eff July 6, 1994, deemed eff June 15, 1994; L 2004, ch 3, § 10, eff Dec 8, 2004; L 2016, ch 158, § 1, eff July 21, 2016.

#### **NOTES:**

##### **Editor's Notes:**

**Laws 1989, ch 555, § 19**, eff July 16, 1989 and deemed eff June 15, 1989, provides as follows:

§ 19. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 15, 1989 provided that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect, and provided however that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall continue to apply to all commitments issued or policies or development corporation credit support in force on or before July 23, 2017, and provided further that the amendments to *section 2429-b of the public authorities law* made by section 13 of chapter 3 of the laws of 2004 which amended this section shall not cease to be of force and



effect prior to the time that full payment of all development corporation credit support obligations has been made or provided for. (Amd, L 1992, ch 7, § 2; L 1993, ch 25, § 2; L 1994, ch 284, § 2; L 1996, ch 308, § 2; L 1997, ch 196, § 2, eff July 10, 1997; L 1998, ch 142, § 2, eff June 30, 1998; L 1999, ch 227, § 1, eff July 13, 1999; L 2001, ch 110, § 1, eff July 25, 2001; L 2003, ch 145, § 1, eff July 22, 2003; L 2004, ch 3, § 17, eff Dec 8, 2004; L 2005, ch 125, § 1, eff June 1, 2005; L 2007, ch 230, § 1, eff July 9, 2007; L 2009, ch 192, § 1, eff July 11, 2009; L 2011, ch 100, § 6, eff June 28, 2011; L 2013, ch 152, § 5, eff July 12, 2013; L 2015, ch 85, § 6, eff July 23, 2015.).

**Laws 1994, ch 284, § 6**, eff July 6, 1994, deemed eff June 15, 1994, provides as follows:

§ 6. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 15, 1994; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law. (Amd, L 1994, ch 291, § 3, eff July 6, 1994.).

**Laws 2004, ch 3, § 26**, eff Dec 8, 2004, provides as follows:

§ 26. Construction. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.

#### Amendment Notes:

**2004.** Chapter 3, § 10 amended:

Opening par by adding the matter in italics.

By adding sub 10.

**The 2016 amendment by ch 158, § 1**, added "or in Government National Mortgage Association mortgage backed securities" in 9. and made a stylistic change.

#### Cross References:

This section referred to in § 2426.



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*NY CLS Pub A § 2428 (2016)*

**§ 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. [Expires July 23, 2017] 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.

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. [Expires and repealed July 23, 2017] 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.

3. [Expires July 23, 2017] 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.

3. [Eff July 23, 2017] 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.

**3-a.** [Expires July 23, 2017] 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 <1> 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.

**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 <1> 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.** [Expires July 23, 2017] 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 <1> 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.

4. [Eff July 23, 2017] 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 <1> 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.

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) [Expires July 23, 2017] 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 <1> greater than the <2> per centum set in subdivision five of section twenty-four hundred twenty-six of this <3> 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.*

7. (a) [Eff July 23, 2017] 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.

(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. [Expires July 23, 2017] 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.*

8. [Eff July 23, 2017] 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 such loan is made with respect to a one to four family dwelling.

#### **HISTORY:**

Add, L 1978, ch 788, § 7, eff Dec 8, 1978; amd, L 1981, ch 722, § 4; L 1982, ch 915, § 14; L 1984, ch 354, §§ 2, 3, eff July 10, 1984; L 1987, ch 60, § 6 (see 1987 note below); L 1989, ch 555, §§ 10-15, eff July 16, 1989, deemed eff June 15, 1989; L 1992, ch 782, § 10; L 1992, ch 792, § 2, eff Aug 7, 1992; L 1993, ch 613, § 10, eff Dec 2, 1993; L 1994, ch 284, § 5, eff July 6, 1994, deemed eff June 15, 1994; L 2000, ch 63, § 15 (Part GG), eff May 15, 2000; L 2000, ch 112, § 2, eff July 11, 2000; L 2000, ch 113, § 1, eff July 11, 2000; L 2009, ch 432, §§ 6, 7, eff Sept 16, 2009; L 2010, ch 246, §§ 1, 2, eff July 30, 2010; L 2011, ch 62, § 104 (Part A), eff Oct 3, 2011.

#### **NOTES:**

##### **Editor's Notes:**

**Laws 1987, ch 60, § 8,** provides as follows:

§ 8. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March thirty-first, nineteen hundred eighty-seven; and provided further that the provisions of section one of this act shall supersede any reversion provisions of chapter three hundred fifty-three of the laws of nineteen hundred eighty-four and provided further that the provisions of subdivision eight of section twenty-four hundred twenty-eight of the public authorities law shall not apply to any commitment to insure outstanding on the date on which this act shall have become a law or to any loan insurance which is issued within two years of the date on which this act shall become a law pursuant to an application pending on such date.

**Laws 1989, ch 555, § 19,** eff July 16, 1989 and deemed eff June 15, 1989, provides as follows:

§ 19. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 15, 1989 provided that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect, and provided however that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall continue to apply to all commitments issued or policies or development corporation credit support in force on or before July 23, 2017, and provided further that the amendments to *section 2429-b of the public authorities law* made by section 13 of chapter 3 of the laws of 2004 which amended this section shall not cease to be of force and effect prior to the time that full payment of all development corporation credit support obligations has been made or provided for. (Amd, L 1992, ch 7, § 2; L 1993, ch 25, § 2; L 1994, ch 284, § 2; L 1996, ch 308, § 2; L 1997, ch 196, § 2, eff July 10, 1997; L 1998, ch 142, § 2, eff June 30, 1998; L 1999, ch 227, § 1, eff July 13, 1999; L 2001, ch 110, § 1, eff July 25, 2001; L 2003, ch 145, § 1, eff July 22, 2003; L 2004, ch 3, § 17, eff Dec 8, 2004; L 2005, ch 125, § 1, eff June 1, 2005; L 2007, ch 230, § 1, eff July 9, 2007; L 2009, ch 192, § 1, eff July 11, 2009; L 2011, ch 100, § 6, eff June 28, 2011; L 2013, ch 152, § 5, eff July 12, 2013; L 2015, ch 85, § 6, eff July 23, 2015.).

**Laws 1992, ch 782, § 15,** eff Aug 7, 1992, provides as follows:

§ 15. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 1992, ch 792, § 3,** eff Aug 7, 1992, provides as follows:

§ 3. This act shall take effect on the same date as a chapter of the laws of 1992, amending the public authorities law relating to the state of New York mortgage agency, as proposed in legislative bill number S. 8449--B, takes effect; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 1993, ch 613, § 12**, eff Dec 2, 1993, provides as follows:

§ 12. This act shall take effect on the one hundred twentieth day after it shall have become a law except that any rules and regulations necessary for the timely implementation of this act on its effective date shall be promulgated on or before such date.

**Laws 1994, ch 284, § 6**, eff July 6, 1994, deemed eff June 15, 1994, provides as follows:

§ 6. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 15, 1994; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law. (Amd, L 1994, ch 291, § 3, eff July 6, 1994.).

**Laws 2000, ch 112, § 4**, eff July 11, 2000, provides as follows:

§ 4. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 2000, ch 113, § 2**, eff July 11, 2000, provides as follows:

§ 2. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 2009, ch 432, § 8(d)**, eff Sept 16, 2009, provides as follows:

§ 8. This act shall take effect immediately, provided that:

(d) the amendments to subdivision 4 of *section 2428 of the public authorities law* made by section six of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 19 of chapter 555 of the laws of 1989, as amended, when upon such date the provisions of section seven of this act shall take effect.

**Laws 2010, ch 246, §§ 3, 5**, eff July 30, 2010, provide as follows:

§ 3. Construction. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.

§ 5. This act shall take effect immediately and shall expire and be deemed repealed on and after July 23, 2017; provided, however, that the amendments to paragraph (c) of subdivision 8 of *section 2428 of the public authorities law* made by section two of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith (Amd, L 2012, ch 162, § 1, eff July 18, 2012; L 2014, ch 68, § 1, eff June 30, 2014; L 2015, ch 85, § 9, eff July 23, 2015.).

#### Amendment Notes:

**2011.** Chapter 62, § 104 (Part A) amended:

Sub 3-b, par (c) by substituting "superintendent of financial services" for "banking board".

**2010.** Chapter 246, § 1 amended:

By adding sub 2-a.

**2010.** Chapter 246, § 2 amended:



NY CLS Pub A § 2428

Sub 8, par (c) by adding the matter in italics.

**2009.** Chapter 432, § 6 amended:

Sub 4 [first setout] by deleting at fig 1 "charge" and adding the matter in italics.

**2009.** Chapter 432, § 7 amended:

Sub 4 [second setout] by deleting at fig 1 "charge" and adding the matter in italics.

**2000.** Chapter 63, § 15 (Part GG) amended:

Sub 3-a by substituting at fig 1 "empire" for "economic development".

**1992.** Chapter 792, § 2 amended:

Sub 1-a by adding the matter in italics.

Sub 3, opening par by adding the matter in italics.

Cross References:

This section referred to in § 2426.

Recording tax, *CLS Tax* § 253.



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*NY CLS Pub A § 2428-a (2016)*

**§ 2428-a. Development corporation credit support account as source of development corporation credit support**

1. The agency is authorized, subject to the provisions of this title, to provide the development corporation credit support account as a source or potential source of payment of development corporation credit support. The agency may provide the development corporation credit support account as a source or potential source of payment of all or any development corporation credit support upon the terms (which shall include a requirement to repay to the mortgage insurance fund any amounts transferred to the corporation or the convention center development fund) and under the conditions it shall set forth in the applicable contracts between the agency and such other parties (including the corporation) as the agency shall deem appropriate with respect to the applicable reserve and financial support funds which are to receive the benefit of such development corporation credit support. The agency may not execute a contract to provide development corporation credit support if, at the time such contract is executed, such execution would impair any then-existing credit rating of the single family pool insurance account or the project pool insurance account.

2. For purposes of determining the mortgage insurance fund requirement with respect to the development corporation credit support account, the board of directors of the agency, by a vote of a majority of all of its members, shall approve or authorize the applicable contracts which shall establish the amount of the required or permitted deposits in each reserve and financial support fund (which may be determined by reference to percentages of such required or permitted amounts) for which the development corporation credit support account is or will be a source or potential source of development corporation credit support. Such amounts (or percentages) may be different for each reserve and financial support fund.

3. For purposes of section twenty-four hundred eleven of this title, a development corporation credit support agreement shall be deemed and regarded as a mortgage insurance contract for the benefit of parties to such agreement.

**HISTORY:**

Add, L 2004, ch 3, § 11, eff Dec 8, 2004 (see 2004 note below).

**NOTES:**

Editor's Notes:

**Laws 2004, ch 3, § 26**, eff Dec 8, 2004, provides as follows:

§ 26. Construction. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.



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*NY CLS Pub A § 2429 (2016)*

**§ 2429. Rentals**

Notwithstanding the provisions of, or any regulation promulgated pursuant to, the emergency housing rent control law, the local emergency housing rent control act or local law enacted pursuant thereto, all dwelling units in a multiple dwelling the rehabilitation or construction of which commenced after July first, nineteen hundred seventy-eight and which is financed by a loan insured by the agency, except for dwelling units occupied by reason of ownership of stock in a cooperative, shall be subject to the rent stabilization law of nineteen hundred sixty-nine or the emergency tenant protection act of nineteen seventy-four, if applicable in the geographic area in which the multiple dwelling is located, beginning immediately after initial rents as established under applicable provisions of the rent stabilization law of nineteen hundred sixty-nine, the emergency tenant protection act of nineteen seventy-four or the private housing finance law for such dwelling units become effective on the basis of such rehabilitation or construction, provided that any occupant in possession of a dwelling unit that first becomes subject to the rent stabilization law of nineteen hundred sixty-nine or the emergency tenant protection act of nineteen seventy-four pursuant to this section shall be offered a two-year lease notwithstanding any contrary provisions of, or regulations adopted pursuant to, such law or act, at the initial rent established for such dwelling unit.

**HISTORY:**

Add, L 1978, ch 788, § 7; amd, L 1984, ch 354, § 4, eff July 10, 1984.

**NOTES:**

**Cross References:**

This section referred to in § 2426.

Emergency housing rent control law, CLS Unconsol L Ch 249.

Local emergency housing rent control act, CLS Unconsol L Ch 249-A.



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*NY CLS Pub A § 2429-a (2016)*

**§ 2429-a. Payment of insurance and development corporation credit support**

1. The agency shall establish procedures to be followed by a mortgagee in the event of a default under the terms of any mortgage insured by the agency. The agency may require that prior to submitting a claim to the agency for payment of insurance the mortgagee shall take such actions with respect to the property securing the defaulted mortgage as may be specified by the agency to be satisfactory evidence of a continuing default, including but not limited to the following: (i) becoming lawfully the mortgagee in possession thereof; (ii) causing a receiver to be appointed of such property; (iii) obtaining voluntary conveyance of the mortgagor's right and title to such property; or (iv) obtaining by foreclosure clear and unencumbered title to such property, all in such manner as the agency may require. Following submission of a valid claim the agency shall pay an amount which shall not exceed the lesser of (1) the then outstanding insured principal amount of the mortgage multiplied by the per centum of such outstanding amount insured by the agency and a per centum of the mortgagee's cost arising from the default, inclusive of public liens and delinquent and unpaid interest, all as the agency may from time to time allow, which per centum shall not exceed the per centum of the outstanding principal indebtedness insured by the agency or (2) the insured amount of the mortgage at the date of execution of the insurance contract or its latest amendment, if any, except that the agency shall pay the greater of the two amounts on claims by a public employee pension fund, or by a public benefit corporation derived from the sale of notes or bonds issued by said corporation, provided that no more than the actual loss suffered by such public employee pension fund or public benefit corporation shall be paid. Such payment may be made by the agency in a lump sum, or in partial payments made within such period of time as may be agreed to between the agency and the mortgagee, all in accordance with procedures to be established by the agency.

2. The agency shall establish, by contract or otherwise, procedures to be followed with respect to development corporation credit support for which the development corporation credit support account has been determined by the agency to be a source or potential source of payment.

**HISTORY:**

Add, L 1978, ch 788, § 7; amd, L 1981, ch 722, § 5; L 1984, ch 354, § 5; L 1992, ch 782, § 11, eff Aug 7, 1992 (see 1992 note below); L 2004, ch 3, § 12, eff Dec 8, 2004 (see 2004 note below).

**NOTES:**

Editor's Notes:

**Laws 1992, ch 782, § 15**, eff Aug 7, 1992, provides as follows:

§ 15. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 2004, ch 3, § 26**, eff Dec 8, 2004, provides as follows:

§ 26. Construction. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.

Amendment Notes:

**2004.** Chapter 3, § 12 amended:

Section heading by adding the matter in italics.

By redesignating entire section as sub 1.

By adding sub 2.

Cross References:

This section referred to in § 2429-b.



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*NY CLS Pub A § 2429-b (2015)*

**§ 2429-b. Mortgage insurance fund**

**1. [Expires July 23, 2017]**

(a) The agency shall create and establish a mortgage insurance fund. Within such fund, the agency shall establish: (i) a special account, which shall be divided into sub-accounts for each region as defined in subdivision nine of section twenty-four hundred twenty-six of this title; (ii) a single family pool insurance account; (iii) a project pool insurance account; and (iv) a development corporation credit support account. The single family pool insurance account shall be used for all business relating to the insurance of mortgages on properties with one to four dwelling units, the project pool insurance account shall be used for all business relating to the insurance of mortgages on properties other than those with one to four dwelling units, and the development corporation credit support account shall be used for all business relating to development corporation credit support. Separate sub-accounts may be established within the special account, the pool insurance accounts, and the development corporation credit support account as deemed appropriate by the agency.

(b) (i) The mortgage insurance fund shall be used as a revolving fund for carrying out the provisions of this title with respect to mortgages insured and development corporation credit support, provided thereunder. (ii) The agency shall pay into such fund all moneys which may be made available to the agency for the purposes of such fund from any source, including but not limited to the moneys received from recording officers pursuant to the provisions of subdivision two of section two hundred sixty-one of the tax law. The agency shall credit the amount of moneys received from the recording officer of each county, pursuant to subdivision two of section two hundred sixty-one of the tax law, to the special account. In any fiscal year, no more than fifty per centum of the amount received from the recording officers during the consecutive twelve month period ending on the preceding March thirty-first may be used by the agency for the purpose of insuring mortgages on property located in any one region pursuant to section two thousand four hundred twenty-eight of this part, provided, however, that this provision shall not include or be applied to pool insurance of mortgage loans purchased by the agency. The agency shall credit any other moneys which may be made



available to the agency for the purposes of such fund from any other source to the special account, the single family pool insurance account, the project pool insurance account, or the development corporation credit support account, as appropriate. Any income or interest earned by, or increment to, the mortgage insurance fund due to the investment thereof shall be credited to the special account, the applicable pool insurance account, or the development corporation credit support account, as appropriate.

(c) The agency may credit from the special account to the single family pool insurance account, to the project pool insurance account and to the development corporation credit support account such moneys as are required to satisfy the mortgage insurance fund requirement of such accounts, except that during any twelve-month period ending on March thirty-first the aggregate amount credited to the development corporation credit support account (excluding amounts described in the last sentence of paragraph (b) of this subdivision, shall not exceed the lesser of (i) fifty million dollars or (ii) the aggregate of the amounts required under the contracts executed by the agency to provide development corporation support.

(d) Moneys, investments and cash equivalents of the special account, the single family pool insurance account, the project pool insurance account and the development corporation credit support account shall be kept separate and shall not be commingled with each other or with any other accounts which may be established from time to time, except as otherwise authorized by this section.

(e) Moneys, investments and cash equivalents of the pool insurance accounts and the development corporation credit support account shall be excluded from the excess balance calculation set forth in subdivision two of this section. However, if at any time the moneys, investments and cash equivalents (valued as determined by the agency) of either pool insurance account or the development corporation credit support account exceed the amount necessary to attain and maintain the credit rating or, with respect to development corporation credit support, credit worthiness (as determined by the agency) required to accomplish the purposes of such account the agency shall transfer such excess to the special account and such excess shall be included in the excess balance calculation.

1. [Eff July 23, 2017] The agency shall create and establish a mortgage insurance fund. Within such fund, the agency shall establish a special account, which shall be divided into sub-accounts for each region as defined in subdivision nine of section twenty-four hundred twenty-six of this part and a development corporation credit support account. The development corporation credit support account shall be used for all business related to development corporation credit support. Separate sub-accounts may be established within the development corporation credit support account as deemed appropriate by the agency. The mortgage insurance fund shall be used as a revolving fund for carrying out the provisions of this title with respect to mortgages insured and development corporation support provided thereunder. The agency shall pay into such fund all moneys which may be made available to the agency for the purposes of such fund from any source, including but not limited to the moneys received from recording officers pursuant to the provisions of subdivision two of section two hundred sixty-one of the tax law. The agency shall credit the amount of moneys received from the recording officer of each county, pursuant to subdivision two of section two hundred sixty-one of the tax law, to the special account. In any calendar year, no more than fifty per centum of the amount received from the recording officers and credited to the special account during the consecutive twelve month period ending on the preceding December thirty-first may be used by the agency for the purpose of insuring mortgages on property located in any one region pursuant to section two thousand four hundred twenty-eight of this part. The agency shall credit any other moneys which may be made available to the agency for the purposes of such fund from any other source to the special account or the development corporation credit support account, as appropriate. Any income or interest earned by, or increment to, the mortgage insurance fund due to the investment thereof shall be credited to the special account or the development corporation credit account, as appropriate.

1-a. [Expires July 23, 2017] All moneys held in the mortgage insurance fund, except as hereinafter provided, shall be used, as required, solely for the payment of the agency's liabilities arising from mortgages insured as provided in section twenty-four hundred twenty-nine-a of this part and from the provision of development corporation credit support as provided in section twenty-four hundred twenty-eight-a of this part; provided, however, that no moneys shall

be withdrawn from any account at any time in such amount as would reduce the amount of, as applicable, the special account, either pool insurance account or the development corporation credit support account to less than its applicable mortgage insurance fund requirement, except for the purpose of paying such liabilities as the same become due and for the payment of which other moneys of the agency are not available. All payments pursuant to section twenty-four hundred twenty-nine-a of this part, and expenses attributable thereto shall be debited to the special account or the single family pool insurance account or the project pool insurance account or the development corporation credit support account, as appropriate, within the mortgage insurance fund. All other operating expenses of the agency with respect to insurance of mortgages and providing development corporation credit support shall be debited to the special account, the single family pool insurance account, the project pool insurance account or the development corporation credit support account within the mortgage insurance fund, as appropriate.

**1-a.** [Eff July 23, 2017] All moneys held in the mortgage insurance fund, except as hereinafter provided, shall be used, as required, solely for the payment of the agency's liabilities arising from mortgages insured as provided in section twenty-four hundred twenty-nine-a of this part and from the provision of development corporation credit support as provided in section twenty-four hundred twenty-eight-a of this part; provided, however, that no moneys shall be withdrawn from any account at any time in such amount as would reduce the amount of, as applicable, the special account or the development corporation credit support account to less than its applicable mortgage insurance fund requirement, except for the purpose of paying such liabilities as the same become due and for the payment of which other moneys of the agency are not available. All payments pursuant to section twenty-four hundred twenty-nine-a of this part, and expenses attributable thereto shall be debited to the special account or the development corporation credit support account within the mortgage insurance fund. All other operating expenses of the agency with respect to insurance of mortgages and providing development corporation credit support shall be debited to the special account or the development corporation credit support account within the mortgage insurance fund, as appropriate.

**2.** On or before March twentieth in each year, the board of directors of the agency shall determine the amount estimated to be received by the agency from the additional tax imposed pursuant to subdivision one-a of section two hundred fifty-three of the tax law and deposited in the mortgage insurance fund and credited to the special account plus any other monies deposited in such account plus the amount of reserves available in such special account with respect to mortgage loans that were previously insured in accordance with section twenty-four hundred twenty-eight or development corporation credit support previously provided pursuant to section twenty-four hundred twenty-eight-a of this part under contracts or commitments that have been satisfied or cancelled, pursuant to subdivision one of this section, except charges and fees levied by the agency pursuant to section twenty-four hundred twenty-nine-c of this part, which shall be added in the computation only when such a commitment is cancelled or expires or when the insurance or contractual arrangement to provide development corporation credit support applied for is declared effective. Such determination made on or before March twentieth in each year shall be made for the consecutive twelve-month period ending on the subsequent March thirty-first. The board shall then determine the estimated excess balance, if any, in such special account by determining the amount by which such credits exceed twenty per centum, or such other per centums or amounts as may have been established by the board of directors of the agency pursuant to subdivision seven of section twenty-four hundred twenty-eight of this part, of the amounts insured or committed to be insured and the amounts of development corporation credit support established by the board of directors of the agency pursuant to section twenty-four hundred twenty-eight-a of this part to be provided during such twelve-month period plus any payments by the agency during such twelve-month period on account of a mortgage or development corporation credit support contract entered into during such twelve-month period ending on such March thirty-first, plus the operating expenses of the agency during such twelve-month period with respect to insurance of mortgages or provision of development corporation credit support, which amount may not exceed an amount determined and certified by the director of the budget, with notification to the chairman of the senate finance committee and chairman of the assembly ways and means committee. On or before May fifteenth, the board shall determine any adjustment to the estimated excess balance necessary to reflect the variance, if any, between such estimated excess balance and the actual excess balance computed as of March thirty-first, and shall certify such adjustment to the director of the budget. The agency shall include such adjustment in the estimated excess balance determination for the following fiscal year, unless

otherwise instructed by the director of the budget. The agency shall submit to the director of the budget an estimate of such operating expenses on or before the tenth business day in March of each year and the director of the budget shall make such certification before March twentieth of each year.

Upon making the determination of the estimated excess balance, the agency shall certify such determination to the director of the budget, the chairmen of the senate finance committee and the assembly ways and means committee, and the comptroller. Payment of such actual or estimated excess balance shall be made within ninety days after March twentieth. The agency shall, at the direction of the director of the budget, pay such estimated or actual excess balance, if any, from the special account to the comptroller for deposit to the state general fund; provided, however, that if the aggregate amount in the special account as of such date is less than the mortgage insurance fund requirement, the agency shall retain all or that portion of any such estimated or actual excess balance in such special account necessary to increase the aggregate amount in such special account to the mortgage insurance fund requirement. The director of the budget shall notify the chairmen of the senate finance committee and the assembly ways and means committee ten days prior to the issuance of the directive in respect to the payment of the estimated or actual excess balance to the general fund.

Further provided, however, that the budget to be submitted to the legislature by the governor pursuant to article seven of the constitution shall separately state the amount of such estimated or actual excess balance determined as hereinabove prescribed, if any, which shall be included in the monies and revenues estimated to be available during the current and ensuing fiscal years, respectively.

3. The moneys in such fund shall be deposited in one or more banks or trust companies designated in the manner provided by law, as depositories of the funds of the state. The agency may invest the moneys in such fund in obligations specified in subdivision four of this section. Any interest earned or capital gain realized on the money so deposited or invested shall accrue to and become part of such fund. The separate identity of such fund shall be maintained whether its assets consist of cash or investments or both.

4. Moneys in such fund may be invested (a) in special time deposit accounts in, or certificates of deposit issued by, a bank, trust company, savings bank or savings and loan association located and authorized to do business in this state, provided, however, that such time deposit account or certificate of deposit shall be payable within such time as the proceeds may be needed to meet expenditures estimated to be incurred by the agency and provided further that such time deposit account or certificate of deposit be secured by a pledge of obligations of the United States of America or obligations of the state, any city of the state, or other municipal corporation, school district or district corporation of the state or obligations of agencies of the federal government; or (b) in obligations of the United States of America or the state which may from time to time be legally purchased by savings banks within the state as an investment of funds belonging to them or in their control, or in obligations of the Federal National Mortgage Association, or (c) in *Government National Mortgage Association mortgage backed securities*, provided such obligations shall be payable or redeemable at the option of the owner within such times as the proceeds may be needed to meet expenditures estimated to be incurred by the agency.

5. In computing the amount of the mortgage insurance fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par if purchased at par, or if purchased at other than par, at amortized value. Amortized value, when used with respect to securities purchased at a premium above or a discount below par, shall mean the value as of any given date obtained by dividing the total premiums or discount at which such securities were purchased by the number of interest payments remaining to maturity on such securities after such purchase and by multiplying the amount so calculated by the number of interest payment dates having passed since the date of such purchase; and (i) in the case of securities purchased at a premium by deducting the product thus obtained from the purchase price, and (ii) in the case of securities purchased at a discount by adding the product thus obtained to the purchase price.

6. The agency may create and establish such other fund or funds as may be necessary or desirable for the carrying

out of its corporate purposes.

#### **HISTORY:**

Add, L 1978, ch 788, § 7, eff Dec 8, 1978; amd, L 1981, ch 103, § 183; L 1981, ch 722, § 6; L 1982, ch 915, § 15, eff Dec 19, 1982; L 1988, ch 414, §§ 4, 5; L 1989, ch 7, § 19; L 1989, ch 555, § 16; L 1992, ch 782, §§ 12-14; L 1994, ch 291, § 2, eff July 6, 1994; L 2000, ch 112, § 3, eff July 11, 2000; L 2004, ch 3, §§ 13-15, eff Dec 8, 2004; L 2004, ch 3, § 13, eff Dec 8, 2004; L 2016, ch 158, § 2, eff July 21, 2016.

#### **NOTES:**

##### Editor's Notes:

**Laws 1989, ch 555, § 19**, eff July 16, 1989 and deemed eff June 15, 1989, provides as follows:

§ 19. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 15, 1989 provided that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect, and provided however that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall continue to apply to all commitments issued or policies or development corporation credit support in force on or before July 23, 2017, and provided further that the amendments to *section 2429-b of the public authorities law* made by section 13 of chapter 3 of the laws of 2004 which amended this section shall not cease to be of force and effect prior to the time that full payment of all development corporation credit support obligations has been made or provided for. (Amd, L 1992, ch 7, § 2; L 1993, ch 25, § 2; L 1994, ch 284, § 2; L 1996, ch 308, § 2; L 1997, ch 196, § 2, eff July 10, 1997; L 1998, ch 142, § 2, eff June 30, 1998; L 1999, ch 227, § 1, eff July 13, 1999; L 2001, ch 110, § 1, eff July 25, 2001; L 2003, ch 145, § 1, eff July 22, 2003; L 2004, ch 3, § 17, eff Dec 8, 2004; L 2005, ch 125, § 1, eff June 1, 2005; L 2007, ch 230, § 1, eff July 9, 2007; L 2009, ch 192, § 1, eff July 11, 2009; L 2011, ch 100, § 6, eff June 28, 2011; L 2013, ch 152, § 5, eff July 12, 2013; L 2015, ch 85, § 6, eff July 23, 2015.).

**Laws 1992, ch 782, § 15**, eff Aug 7, 1992, provides as follows:

§ 15. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 2000, ch 112, § 4**, eff July 11, 2000, provides as follows:

§ 4. This act shall take effect immediately; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

**Laws 2004, ch 3, §§ 26 and 31, subs b and c**, eff Dec 8, 2004, provides as follows:

§ 26. Construction. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.

§ 31. This act shall take effect immediately; provided, however, that:

b. The amendments to subdivision 1 of *section 2429-b of the public authorities law* made by section thirteen of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 19 of chapter 555 of the laws of 1989, as amended, when upon such date the provisions of section fourteen of this act shall take effect.

c. The amendments to subdivision 1-a of *section 2429-b of the public authorities law* made by section thirteen of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 19 of chapter 555 of the laws of 1989, as amended, when upon such date the provisions of section fifteen of this act shall take effect.

Amendment Notes:

**2004.** Chapter 3, § 13 amended:

Sub 1 [first setout] by deleting at figs 1-3 "and" and adding the matter in italics.

Sub 1 [first setout], par (b) by deleting at fig 1 "chapter", at figs 2 and 3 "or" and adding the matter in italics.

Sub 1 [first setout], par (c) by deleting at fig 1 "and", at fig 2 "reserve" and adding the matter in italics.

Sub 1 [first setout], par (d) by deleting at fig 1 "and" and adding the matter in italics.

Sub 1 [first setout], par (e) by adding the matter in italics.

Sub 1-a [first setout] by deleting at figs 1 and 6 "chapter", at fig 2 "such fund", at figs 3 and 7 "or", at fig 4 "the", at fig 5 "of insurance" and adding the matter in italics.

Sub 2, first undesignated par by deleting at figs 1, 4 and 7 "title", at fig 2 "in connection with applications for mortgage insurance", at fig 3 "subdivision two of", at fig 5 "to insure", at fig 6 "centum" and adding the matter in italics.

**2004.** Chapter 3, § 14 amended:

Sub 1 [second setout] by deleting at fig 1 "twenty four", at figs 2 and 3 "chapter" and adding the matter in italics.

**2004.** Chapter 3, § 15 amended:

Sub 1-a, [second setout] by deleting at figs 1 and 5 "chapter", at fig 2 "such fund", at fig 3 "the", at fig 4 "of insurance" and adding the matter in italics.

**The 2016 amendment by ch 158, § 2,** added "or (c) in Government National Mortgage Association mortgage backed securities" in 4.

Cross References:

This section referred to in § 2426.

Recording tax, *CLS Tax* § 253.

Payment over and distribution of taxes, *CLS Tax* § 261.

State finances, CLS NYS Const Art VII §§ 1 et seq.



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Public Authorities Law  
Article 8 Miscellaneous Authorities  
Title 17 State of New York Mortgage Agency Act  
Part II [Insurance Commitments or Contracts]

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*NY CLS Pub A § 2429-c (2016)*

**§ 2429-c. Charges and fees**

1. [Expires July 23, 2017] The agency shall fix a premium charge for its insurance of mortgages pursuant to this article which, except for pool insurance, shall not be less than an amount equivalent to one-quarter of one per centum per annum nor more than an amount equivalent to two per centum per annum of the outstanding principal amount of the insurable mortgage loan at any time, without taking into account delinquent payments or prepayments.

1. [Eff July 23, 2017] The agency shall fix a premium charge for its insurance of mortgages pursuant to this article which shall not be less than an amount equivalent to one-quarter of one per centum per annum nor more than an amount equivalent to two per centum per annum of the outstanding principal amount of the insurable mortgage loan at any time, without taking into account delinquent payments or prepayments.

2. The agency may establish and levy such other charges and fees in connection with applications for mortgage insurance and insurance commitments as it may deem appropriate and necessary. Such charges and fees shall not exceed a total of two percent of the outstanding principal amount of the insurable mortgage loan.

3. Such premium charges and other charges shall be payable by the mortgagor in cash in such manner as may be prescribed by the agency.

4. Such premium charges and other charges and fees shall not be deemed to be interest for the purposes of *sections 5-501 of the general obligations law*.

5. The agency may, in its discretion, fix a premium charge for its provision of development corporation credit support pursuant to this part.

**HISTORY:**

Add, L 1978, ch 788, § 7, eff Dec 8, 1978; amd, L 1988, ch 414, § 6; L 1989, ch 555, § 17, eff July 16, 1989, deemed eff June 15, 1989; L 2004, ch 3, § 16, eff Dec 8, 2004.

**NOTES:**

## Editor's Notes:

**Laws 1989, ch 555, § 19**, eff July 16, 1989 and deemed eff June 15, 1989, provides as follows:

§ 19. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 15, 1989 provided that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall cease to be of force and effect on and after July 23, 2017, on which date the provisions of the public authorities law amended by such sections shall be as they were in force and effect immediately prior to this act taking effect, and provided however that the amendments to law effected by sections six and nine through seventeen of this act, as amended, shall continue to apply to all commitments issued or policies or development corporation credit support in force on or before July 23, 2017, and provided further that the amendments to *section 2429-b of the public authorities law* made by section 13 of chapter 3 of the laws of 2004 which amended this section shall not cease to be of force and effect prior to the time that full payment of all development corporation credit support obligations has been made or provided for. (Amd, L 1992, ch 7, § 2; L 1993, ch 25, § 2; L 1994, ch 284, § 2; L 1996, ch 308, § 2; L 1997, ch 196, § 2, eff July 10, 1997; L 1998, ch 142, § 2, eff June 30, 1998; L 1999, ch 227, § 1, eff July 13, 1999; L 2001, ch 110, § 1, eff July 25, 2001; L 2003, ch 145, § 1, eff July 22, 2003; L 2004, ch 3, § 17, eff Dec 8, 2004; L 2005, ch 125, § 1, eff June 1, 2005; L 2007, ch 230, § 1, eff July 9, 2007; L 2009, ch 192, § 1, eff July 11, 2009; L 2011, ch 100, § 6, eff June 28, 2011; L 2013, ch 152, § 5, eff July 12, 2013; L 2015, ch 85, § 6, eff July 23, 2015.).

**Laws 2004, ch 3, § 26**, eff Dec 8, 2004, provides as follows:

§ 26. Construction. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.

## Cross References:

Rate of interest; usury forbidden, CLS *Gen Oblig* § 5-501.



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*NY CLS Pub A § 2429-d (2016)*

**§ 2429-d. Contributions to agency**

Notwithstanding the provisions of any general or special law or the provisions of any certificate of incorporation, charter or other articles of organization, all domestic corporations or associations organized for the purpose of carrying on business in this state, and any other persons are hereby authorized to make contributions to the agency.

**HISTORY:**

Add, L 1978, ch 788, § 7, eff Dec 8, 1978.





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*NY CLS Pub A § 2429-e (2016)*

**§ 2429-e. Examination**

At least once in each calendar year the agency shall be examined by the <1> superintendent of financial services for the purposes of determining the agency's net worth and the soundness of its management and operating policies. The agency shall not, however, be deemed to be a banking organization. The agency shall pay the cost of each such examination. Copies of each examination report, including the findings, conclusions and recommendations of the examiners, shall be furnished to the agency. The agency shall furnish a complete copy of each report, including the findings, conclusions and recommendations of the examiners, to the comptroller.

**HISTORY:**

Add, L 1978, ch 788, § 7, eff Dec 8, 1978; amd, L 2011, ch 62, § 104 (Part A), eff Oct 3, 2011.

**NOTES:**

**Amendment Notes:**

**2011.** Chapter 62, § 104 (Part A) amended:

By substituting at fig 1 "superintendent of financial services" for "superintendent of banks".



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*NY CLS Pub A § 2429-f (2016)*

**§ 2429-f. Special provisions relating to directors of the agency**

The agency may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any corporation, trust, association, partnership or other entity in which any director of the agency has a financial interest, direct or indirect, provided that (1) such interest is disclosed to the board prior to the consummation of such transaction, (2) such disclosure is recorded in the minutes of the agency and (3) no director having such a financial interest may participate in any decision affecting such transaction.

**HISTORY:**

Add, L 1978, ch 788, § 7, eff Dec 8, 1978.

# SONYMA

## Description

# State of New York Mortgage Agency

**The State of New York Mortgage Agency ("SONYMA")** was created in 1970, pursuant to Chapter 612 of the Laws of New York, 1970, being Title 17 of Article 8 of the Public Authorities Law, in order to alleviate shortages of funds available in the private banking system for residential mortgages within New York State. The State of New York Mortgage Agency's (SONYMA) programs are geared to first time home buyers of owner-occupied, one-to-four unit residences that are required to meet eligibility criteria established by the Agency, which criteria are required by applicable Federal law. The Agency's

**The State of New York Community Restoration Fund** was recently created in August 2016, as a subsidiary of the State of New York Mortgage Agency, to prevent foreclosures and curb the threat posed to communities by "zombie properties." The bill enabling creation of this subsidiary was passed as part of the 2016 Legislative Session and will help stabilize the economic health and public safety of communities and homeowners who would otherwise be at risk of losing their residences. The State of New York Community Restoration Fund will help to combat the blight of vacant and abandoned properties by expediting the rehabilitation, repair and improvement of these properties, and enabling the State to assist homeowners facing mortgage foreclosure.

**Mortgage Insurance Fund Division (MIF)** provides primary mortgage insurance when the property which is the security for the loan:

- (a) is in an area suffering from disinvestment;
- (b) is located within a designated economic development zone;
- (c) will result in the production of affordable housing;
- (d) will be financed by a public lender and meets that lender's criteria; or
- (e) will provide a retail or community service facility that would not otherwise be provided.

In addition, in 1989, the MIF was authorized to write pool insurance on pools of:

- (a) single family loans financed by SONYMA's Single Family Division;
- (b) loans made by certain domestic not-for-profit corporations; or
- (c) loans made by a financial institution to a cooperative housing corporation where refinancing is not otherwise available and will facilitate or accommodate affordable home ownership opportunities.

In addition, in December of 2004, the MIF was authorized to enter into agreements to provide credit support for bonds and ancillary bond facilities issued by the Convention Center Development Corporation, a subsidiary of the New York State Urban Development Corporation. The yearly amount of credit support which can be provided by the MIF is limited by statute.

Membership consists of nine directors as follows:

The Comptroller or a director appointed by the Comptroller who will serve until a successor is appointed, the Director of the Budget, the Commissioner of Housing and Community Renewal, one director appointed by the Temporary President of the Senate, one director appointed by the Speaker of the Assembly and four directors appointed by the Governor with the advice and consent of the Senate. From the four directors appointed by him, the Governor designates the chairperson of the Agency. The directors appointed by the Temporary President of the Senate and the Speaker of the assembly of the Assembly serve at the pleasure of the Temporary President of the Senate and the Speaker of the Assembly respectively.

# SONYMA

Charters and Bylaws

**STATE OF NEW YORK MORTGAGE AGENCY  
AUDIT AND FINANCE COMMITTEE CHARTER**

- I. Purpose: the purpose of the Audit and Finance Committee shall be to assist the Board of Directors in their oversight of (a) the integrity of the financial statements of the Agency, (b) the Agency's compliance with applicable legal and regulatory requirements, (c) the qualifications and independence of the Agency's external auditor (the "Independent Auditor"), and (d) the performance of the Agency's internal audit function and the Independent Auditor.
- II. Membership: The membership of the Committee shall be as set forth in accordance with and pursuant to Article V, Sections 5.1 and 5.2 of the bylaws. In addition, such Directors as the Chairman shall appoint: a.) must satisfy such criteria of independence as the Board of Directors of the Agency may establish and other requirements as the Board of Directors of the Agency may determine to be applicable or appropriate, and b.) all members of the Audit and Finance Committee shall have financial experience and, if possible, at least one member shall be a financial expert.
- III. Committee Structure and Operation: The Audit and Finance Committee shall meet where and as provided by the Chairperson. The Secretary of the Agency shall be the Secretary of the Audit and Finance Committee unless and until the Audit and Finance Committee designates otherwise. In the absence of the Chairperson during any Audit and Finance Committee meeting, the Audit and Finance Committee may designate a temporary Chairperson for that meeting. Pursuant to Article V, Section 5.9 of the Agency's bylaws, when the Audit and Finance Committee has an even number of currently serving committee members, then 50% of the total number of the members of the Committee shall constitute a quorum for the transaction of business and when the committee has an odd number of currently serving Committee members, then a majority of all of the members of such committee shall constitute a quorum for the transaction of business. The Audit and Finance Committee shall act only on the affirmative vote of a majority of the Directors at a meeting or by unanimous written consent.
- IV. Responsibilities: The committee shall have the following responsibilities:
  1. Select, retain, and terminate (subject to approval by the Board of Directors) the Independent Auditor to examine the Agency's accounts, controls, and financial statements, evaluate the Independent Auditor and set the Independent Auditor's compensation, oversee the work of the Independent Auditor and pre-approve all audit services to be provided by the Independent Auditor.
  2. Establish procedures for the engagement of the Independent Auditor to provide permitted audit services. The Independent Auditor retained by the Agency shall be prohibited from providing such non-audit services to the Agency as the Audit and

Finance Committee may determine

3. Set procedures and practices for the hiring by the Agency of employees or former employees of the Independent Auditor, provided, however that the Chief Executive Officer, Chief Financial Officer and audit director of the Agency shall not have been employed by the Independent Auditor during the two year period preceding the audit.
4. Discuss with management and the Independent Auditor the annual audited financial statements, including matters to be reviewed under applicable legal or regulatory requirements.
5. Discuss with management and the Independent Auditor, as appropriate, any audit problems or difficulties and management's response, and the Agency's risk assessment and risk management policies, including the Agency's major financial risk exposure and steps taken by management to monitor and mitigate such exposure.
6. Resolve disagreements with respect to and oversee compliance with accounting policies and principles.
7. Review the Agency's financial reporting and accounting standards and principles, significant changes in such standards or principles or in their application and the key accounting decisions affecting the Agency's financial statements, including alternatives to, and the rationale for, the decision made.
8. Review and approve the internal audit staff functions, including: (i) purpose and authority; (ii) annual audit plan, budget and staffing; (iii) the appointment and compensation of the Agency Vice President in charge of internal audit; (iv) reports from the internal audit staff and the Agency Vice President in charge of internal audit, including, but not limited to, such reports as the Audit and Finance Committee shall require be made by the Agency Vice President in charge of internal audit directly to the Audit and Finance Committee; and (v) procedures for implementing accepted recommendations of the Independent Auditor.
9. Review the adequacy and effectiveness of the Agency's internal system of audit and financial controls and the results of internal audits. The Agency Vice President in charge of internal audit is an internal auditor serving as internal auditor for the Agency and other agencies affiliated with the Agency.
10. Review and investigate any matters pertaining to the status of compliance with laws, regulations, and internal procedures and/or refer instances of noncompliance to the State Inspector General, or as it deems appropriate, the Agency's Senior Vice President and Counsel for investigation.

11. Establish procedures for the receipt, retention, investigation, treatment and/or referral to the State Inspector General or, as it deems appropriate, the Agency's Senior Vice President and Counsel, of complaints on accounting, internal accounting controls or audit matters, as well as for confidential, anonymous submissions by Agency employees of concerns regarding questionable accounting or audit matters.
12. Establish procedures to ensure that every Director, officer and employee of the Agency shall report promptly to the State Inspector General, or, as it deems appropriate, the Agency's Senior Vice President and Counsel, any information concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse by the Directors, officers or employees of the Agency or any person having business dealings with the Agency. The Audit and Finance Committee shall review all reports and draft reports delivered by the State Inspector General to the Agency and shall serve as a point of contact with such Inspector General to the extent it has not deemed it appropriate to delegate to the Agency's Senior Vice President and Counsel the responsibility for being such point of contact.
13. Report its recommendations to the Board of Directors.
14. Provide, at least annually, the Board of Directors with a review of:
  - a. The Audit and Finance Committee's performance, and
  - b. The adequacy of the Audit and Finance Committee's charter together with any proposed changes the Committee recommends to the Board of Directors for approval.

V. Authority and Powers Delegated to the Committee as Agent of the Agency: The Audit and Finance Committee shall have the authority to retain such outside counsel, experts and other advisors as the Audit and Finance Committee may deem appropriate in its sole discretion. The Audit and Finance Committee shall have sole authority to approve related fees and retention terms, subject to the provisions of Public Authorities Law Section 2879. In discharging its oversight role the Audit and Finance Committee is empowered to investigate any matter brought to its attention with full access to all books, records, facilities, and personnel of the Agency.



**STATE OF NEW YORK MORTGAGE AGENCY**  
**GOVERNANCE COMMITTEE CHARTER**  
*(effective as of May 12, 2005, revised as of June 12, 2012)*

- I. Purpose: The Governance Committee is a Standing Committee of the Agency created pursuant to the provisions of Article VI, Section 6.7 of the Agency bylaws. The purpose of the Governance Committee (“Committee”) shall be to assist the Board of Directors to establish practices and procedures to promote honest and ethical conduct by Agency Directors, officers and employees and enhance public confidence in the Agency, including, but not limited to, assistance in monitoring and assessing the effectiveness of the Board of Directors and in developing and implementing the Agency’s governance guidelines.
- II. Membership: The membership of the Committee shall be as set forth in accordance with and pursuant to Article VI, Sections 6.1 and 6.2 of the bylaws. In addition, such Directors as the Chairperson shall appoint: a.) must satisfy such criteria of independence as the Board of Directors of the Agency may establish and other requirements as the Board of Directors of the Agency may determine to be applicable or appropriate, and b.) members of the Committee should be suitably knowledgeable in matters pertaining to governance.
- III. Committee Structure and Operation: The Committee shall meet where and as provided by the Chairperson. The Secretary of the Agency shall be the Secretary of the Committee unless and until the Committee designates otherwise. In the absence of the Chair during any Committee Meeting, the Committee may designate a temporary Chair for that meeting. Pursuant to Article VI, Section 6.4 of the Agency’s bylaws when the Committee has an even number of currently serving committee members, then 50% of the total number of the members of the Committee shall constitute a quorum for the transaction of business and when the Committee has an odd number of currently serving Committee members, then a majority of all of the members of such Committee shall constitute a quorum for the transaction of business. The Committee shall act only on the affirmative vote of a majority of the members at a meeting or by unanimous written consent.
- IV. Responsibilities: The Committee shall have the following responsibilities:
  1. Establish practices and procedures to promote honest and ethical conduct by Agency Directors, officers and employees and enhance public confidence in the Agency.
  2. Develop and recommend to the Board of Directors of the Agency for the approval a set of governance guidelines.

3. Review on a regular basis and update as necessary the Agency's code of conduct and the Agency's practices and procedures regarding conflicts of interest. Such code of conduct and practices and procedures shall be at least as stringent as the laws, rules, regulations and policies applicable to officers and employees of the State of New York.
4. Review on a regular basis and update as necessary the Agency's written practices and procedures regarding the protection of whistleblowers from retaliation.
5. Review on an annual basis compensation and benefits for Senior Officers (as defined under the bylaws).
6. Make recommendations on the structure of Board of Directors' meetings.
7. Review the Board of Director's committee structure.
8. Prepare a profile of the skill sets and experiences of individuals best equipped to be constructive Directors; keeping up-to-date with current governance practices; and updating the Agency's corporate governance documents accordingly.
9. Consider making recommendations to the Governor or State Legislature regarding the kinds of people (not necessarily specific individuals) the Agency believes should be appointed as Agency Directors for reasons such as experience, qualifications or otherwise.
10. Review on a regular basis and update as necessary the Agency's written policies regarding procurement of goods and services and equal opportunity and affirmative action within the Agency, including:
  - a. policies relating to the implementation of the Lobbying Reform Law<sup>1</sup> that include the disclosure of persons who attempt to influence the Agency's procurement process;
  - b. policies relating to the implementation of the Lobbying Contact Law<sup>2</sup> that include any attempt to influence (i) the adoption or rejection or any rule or regulation having the force and effect of law by the Agency, or (ii) the outcome of any rate making proceeding by the Agency; and

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<sup>1</sup> "Lobbying Reform Law" shall mean the provisions of the Legislative Law and the State Finance Law enacted on August 23, 2005, Chapter 1 of the laws of 2005 and amended on March 10, 2010, Chapter 4 of the laws of 2010.

<sup>2</sup> "Lobbying Contact Law" shall mean the provisions of Title 12-A of Article 9 of the Public Authorities Law enacted on December 11, 2009.

- c. monitoring and reviewing the status of equal opportunity and affirmative action within the Agency, in the Agency's purchasing and contracting, and with respect to the execution of the Agency's programs in accordance with the requirements of Article 15-A of the Executive Law. The Committee shall make recommendations with respect to equal opportunity and affirmative action. The Committee shall coordinate its efforts with the efforts of any similar committee of the affiliated New York State Housing Finance Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation.
- 11. Review on a regular basis and update as necessary the Agency's written policies regarding the disposition of real and personal property.
- 12. Report its recommendations to the Board of Directors.
- 13. Provide, at least annually, the Board of Directors with an evaluation of the:
  - a. Committee;
  - b. Governance Guidelines together with any proposed changes the Committee recommends to the Board of Directors for approval;
  - c. Adequacy of the Committee's charter together with any proposed changes the Committee recommends to the Board of Directors for approval; and
  - d. Accomplishments and goals of the Agency with respect to equal opportunity and affirmative action.

V. Authority and Powers Delegated to the Committee as Agent of the Agency:

- 1. The Committee shall have the authority to retain outside counsel and any other advisors as the Committee may deem appropriate in its sole discretion;
- 2. The Committee shall have sole authority to approve related fees and retention terms, subject to the terms of Public Authorities Law Section 2879; and
- 3. The Committee, on behalf of the Directors of the Board, shall have the authority to initially approve procurement contracts that exceed one year in duration or \$100,000 in amount, and to annually review procurement contracts that exceed one year in duration, pursuant to Article VI, Section 6.7 of the Agency's bylaws.

## **FINANCE AND PROGRAM COMMITTEE CHARTER OF THE STATE OF NEW YORK MORTGAGE AGENCY**

### **Purpose**

Pursuant to Section 6.8 of the State of New York Mortgage Agency's ("Agency") Bylaws, the purpose of the Finance and Program Committee is to assist and make recommendations to the Members in their oversight of (a) the issuance of debt by the Agency, (b) the analysis and assessment of policy issues as they relate to bond financings of the Agency, and (c) the development of the method of handling funds of the Agency and the system of accounting developed in connection therewith.

### **Duties of the Finance and Program Committee**

It shall be the responsibility of the Finance and Program Committee to:

- Review proposals for the issuance of debt by the Agency and its subsidiaries and to make recommendations concerning those proposals to the board.
- Annually review the financing guidelines prepared by staff, and make recommendations to the board concerning criteria that should govern the Agency's financings.
- Review staff recommendations for qualified panels and compensation ranges for bond counsel, investment advisors and underwriting firms used by the Agency and make recommendations concerning these proposals to the board.
- Meet with and request information from Agency staff, independent auditors and advisors or outside counsel, as necessary to perform the duties of the committee.
- Report annually to the Agency's board on how it has discharged its duties and met its responsibilities as outlined in the charter.
- Conduct an annual self-evaluation of its performance, including its effectiveness and compliance with the charter and request the board approval for proposed changes.
- At least annually review the Authority's investment policy and evaluate allocation of assets.
- Review and recommend to the board approval of the Authority's annual investment report.

### **Composition of Committee and Selection of Members**

The Finance and Program Committee shall consist of not less than three independent members of the board of directors, who shall constitute a majority on the committee. The Chairman shall be a member of the committee. Members shall be appointed to or removed from the committee by the

Chairman. Members appointed to the Committee shall have the background necessary to perform its duties.

### **Meetings**

- The Finance and Program Committee shall meet at such times as deemed advisable by the chair, but not less than twice a year. The committee must meet prior to any debt issuance planned to be undertaken by the Agency.
- Members of the Finance and Program Committee are expected to attend each committee meeting, in person or via videoconference. The Finance and Program Committee may invite other individuals, such as members of management, auditors or other technical experts to attend meetings and provide pertinent information, as necessary.
- A report of the committee's meeting shall be prepared and presented to the board at its next scheduled meeting following the meeting of the committee.
- Meetings of the committee are open to the public, and the committee shall be governed by the rules regarding public meetings set forth in the applicable provisions of the Public Authorities Law and Article 7 of the Public Officers Law that relate to public notice and the conduct of executive session.

Adopted August 19, 1970  
Amended March 5, 1974  
Amended May 13, 1982  
Amended August 19, 1982  
Amended March 22, 1983  
Amended December 22, 1983  
Amended January 23, 1986  
Amended February 27, 1986  
Amended May 16, 1989  
Amended October 6, 1993  
Amended September 17, 2008  
Amended January 28, 2010  
Amended October 28, 2010  
Amended March 15, 2012  
Amended June 14, 2012  
Amended September 10, 2015

BY-LAWS  
OF  
STATE OF NEW YORK MORTGAGE AGENCY

ARTICLE I  
THE AGENCY

Section 1.1. Description. The State of New York Mortgage Agency (the “Agency”), is a corporate governmental agency of the State of New York, constituting a political subdivision and public benefit corporation, created by and having the powers and functions set forth in the State of New York Mortgage Agency Act as amended (the “Act”).

Section 1.2. Membership. The membership of the Agency shall consist of nine Directors, who shall be selected and shall hold office as provided in the Act.

Section 1.3. Office. The principal office of the Agency shall be located in the City of New York, County of New York and State of New York. The Agency may also have other offices at such places within the State of New York as it may from time to time designate by resolution.

Section 1.4. Seal. The official seal of the Agency shall be in the form of a circle and shall bear the name of the Agency and the year of its creation. Such seal may also include such other insignia as may be approved by the Agency.

## ARTICLE II

### Officers

Section 2.1. Appointment The officers of the Agency shall include a Chairperson, a Vice-Chairperson, an Executive Director, an Executive Deputy Commissioner and Senior Vice President and Chief Operating Officer, an Executive Deputy Commissioner and Senior Vice President of Housing Development, a Senior Vice President and Chief Financial Officer, such Senior Vice Presidents as the Directors of the Agency shall appoint, the Senior Vice President and Director of the Mortgage Insurance Fund, and a Senior Vice President and Counsel.

The officers of the Agency shall also include a President of the Office of Finance and Development, a President of the Office of Community Renewal, and a President of the Office of Professional Services, each of whom shall also be a Senior Vice President.

For purposes of these bylaws, and of any resolution of the Agency, the Executive Director, the Executive Deputy Commissioner and Senior Vice President and Chief Operating Officer, the Executive Deputy Commissioner and Senior Vice President of Housing Development, the Senior Vice President and Counsel, the Senior Vice President and Chief Financial Officer, the Senior Vice President and Director of the Mortgage Insurance Fund, the President of the Office of Finance and Development, the President of the Office of Community Renewal, the President of the Office of Professional Services, and any Senior Vice President may be referred to as "Senior Officers."

The Agency shall also have such Vice Presidents as may be appointed pursuant to these bylaws.

Section 2.2. Chairperson. The Chairperson of the Agency shall preside at all meetings of the Directors, and shall have such other duties as the directors of the Agency may from time to time determine. The Chairperson shall make recommendations to the Directors concerning the policies and programs of the Agency and shall, from time to time, report to the Directors on the implementation thereof.

In the event of a vacancy in the office of the Executive Director and during the period of such vacancy, the duties and responsibilities of said office shall be exercised by the Chairperson. The Chairperson may delegate to employees or officers of the Agency any such duties or responsibilities, as he shall deem appropriate.

Section 2.3. Vice Chairperson. The Vice Chairperson shall, in the absence or incapacity of the Chairperson, preside at meetings of the Directors of the Agency and perform such other duties as shall have been delegated to the Chairperson.

Section 2.4. Executive Director. The Executive Director is the chief executive officer of the Agency as provided in the Act and shall have primary responsibility for the general management of the Agency's affairs and shall exercise general supervision over all activities of the Agency. The Executive Director shall serve in the offices of and have the title of President and Chief Executive Officer of the Agency, and shall have the power to appoint or hire, to remove, and to determine the compensation of all employees.

Section 2.5. Executive Deputy Commissioner and Senior Vice President and Chief Operating Officer. The Executive Deputy Commissioner and Senior Vice President and Chief Operating Officer shall oversee all operations including those under the Office of Housing Preservation and the Office of Professional Services and shall perform all such functions as may from time to time be assigned by the Executive Director.

Section 2.6. Executive Deputy Commissioner and Senior Vice President of Housing Development. The Executive Deputy Commissioner and Senior Vice President of Housing Development shall oversee the Office of Finance and Development, the Mortgage Insurance Fund, and the Office of Community Renewal and shall perform all such functions as may from time to time be assigned by the Executive Director.

Section 2.7 Senior Vice President and Chief Financial Officer. The Senior Vice President and Chief Financial Officer shall perform all such functions as may from time to time be assigned by the Executive Director.

Section 2.8. Senior Vice Presidents. The Senior Vice Presidents shall assist the Executive Director and shall perform all such functions as may from time to time be assigned to each by the Executive Director.

Section 2.9. Vice Presidents. The Executive Director may appoint such Vice Presidents as the Executive Director shall deem advisable, and shall assign to each such Vice President such duties and functions as the Executive Director shall determine to be appropriate.

Section 2.10. Senior Vice President and Counsel. The Senior Vice President and Counsel shall be the chief legal officer of the Agency and shall perform all the duties incident to such position and office and shall perform all other functions as may from time to time be assigned by the Executive Director. The Senior Vice President and Counsel shall also act as Secretary of the meetings of the Agency and record all votes and proceedings in a journal



Section 2.11. The President of the Office of Finance and Development. The President of the Office of Finance and Development shall perform such duties and functions incident to such position and office and shall perform all other functions as may be assigned by the Executive Director.

Section 2.12. The President of the Office of Community Renewal. The President of the Office of Community Renewal shall perform such duties and functions incident to such position and office and shall perform all other functions as may be assigned by the Executive Director.

Section 2.13. The President of the Office of Professional Services. The President of the Office of Professional Services shall perform such duties and functions incident to such position and office and shall perform all other functions as may be assigned by the Executive Director.

Section 2.13.5 Senior Vice President and Director of the Mortgage Insurance Fund. The Senior Vice President and Director of the Mortgage Insurance Fund shall oversee the Mortgage Insurance Fund, shall perform all such functions as may from time to time be assigned by the Executive Director.

Section 2.14. Election or Appointment. All officers of the Agency, other than the Directors, shall hold office at the pleasure of the Agency and may be removed, either with or without cause, at any time by resolution of the Agency. Any Vice President may be removed, either with or without cause, by the Executive Director. The Executive Director, the Executive Deputy Commissioner and Senior Vice President and Chief Operating Officer, the Executive Deputy Commissioner and Senior Vice President of Housing Development, the Senior Vice President and Chief Financial Officer, the President of the Office of Finance and Development, the President of the Office of Community Renewal, the President of the Office of Professional Services, the Senior Vice President and Director of the Mortgage Insurance Fund, the Senior Vice Presidents and the Senior Vice President and Counsel shall be appointed by the Agency. Any person appointed to fill the aforementioned offices or any vacancies therein shall hold office for such term as the Agency may fix.

Section 2.15. Officers Holding Two or More Offices. Any two or more offices may be held by the same person, except as otherwise provided by law. No officer shall execute or verify any instrument in more than one capacity if such instrument be required by law or otherwise to be executed or verified by any two or more officers.

Section 2.16. Compensation of Certain Officers. The President of the Office of Community Renewal shall not receive any additional compensation for services rendered to the Agency, but such compensation shall be governed by the terms and conditions of the appointment of such officers as officers of the New York State Division of Housing and Community Renewal, or of the New York State Housing Trust Fund Corporation.

Section 2.17. Execution of Agency Documents, Authorization of Payments, and Approval of Budget. Except where otherwise specifically provided by resolution of the Agency, for the purpose of executing any document on behalf of the Agency, other than notes or bonds of the Agency or a mortgage securing an obligation to the Agency, the following Senior Officers shall be deemed Authorized Signatories: the Executive Director; the Executive Deputy Commissioner and Senior Vice President and Chief Operating Officer; the Executive Deputy Commissioner and Senior Vice President of Housing Development; the Senior Vice President and Chief Financial Officer; the Senior Vice President and Counsel; the Senior Vice President and Chief of Staff; the President of the Office of Finance and Development; and the Senior Vice President and Director of the Mortgage Insurance Fund. Each Authorized Signatory may designate any Senior Vice President or Vice President or, with the approval of the Executive Director, any other employee of the Agency as a deputy who shall be deemed to be that Authorized Signatory for such purpose. Such designation shall be in writing and filed with the Senior Vice President and Counsel. In any case where two Authorized Signatories must act, only one of them may be a designated deputy, and the other must not be the Authorized Signatory who designated that deputy.

Except as otherwise provided by resolution of the Agency, either the Executive Director or any two Authorized Signatories shall make final certification and payment of all duly authenticated and authorized items of expenditures for payment from any Agency funds from whatever source derived, and, whenever the Chairperson is required to sign vouchers, requisitions and other instruments made by the Agency, either the Executive Director or any two Authorized Signatories shall approve the same for submission to the Chairperson for signature.

The Directors will be responsible for review of the Agency's proposed administrative and capital budgets and making recommendations with respect thereto before adoption of such budgets by resolution of the Agency. Except as otherwise provided by resolution of the Agency, any expenditure involving an estimated amount of one hundred thousand dollars (\$100,000) or more shall be authorized prior to its approval by no less than four Directors; except that expenditures in excess of one hundred thousand dollars (\$100,000) for printing and engraving related to the sale of the Agency's bonds and notes may be approved by either the Executive Director or any two Authorized Signatories when the Directors have adopted a bond or note resolution; and expenditures involving an estimated amount of less than one hundred thousand dollars (\$100,000) may be approved by either the Executive Director or any two Authorized Signatories.

Section 2.18. Continuation of Authority. Any resolution referring to officer(s) shall be deemed to refer only to Senior Officer(s), unless such resolution is approved after October 6, 1993 and specifically provides otherwise, and any reference in any resolution approved on or before October 6, 1993 to Vice President(s) shall be deemed a reference to Senior Vice President(s).

### ARTICLE III

Section 3.1. Meeting. Meetings of the Agency may be called by the Chairperson or the Executive Director, and shall be called by the Chairperson upon the written request of five of the Directors.

Section 3.2. Notice. Notice of the time and place of each meeting of the Agency shall be given to each Director by mail at least five days before such meeting or personally or by telegram or cable at least twenty-four hours before such meeting. Except as otherwise provided in Article IV, relating to the amendment of these By-Laws, such notice need not specify the matters to be considered at the meeting. Notices by mail shall be deemed to have been given when mailed to each Director at his address appearing on the records of the Agency, and notices by telegram or cable shall be deemed to have been given when presented for transmission to an office of the telegraph or cable company, addressed as in the case of notices by mail.

Section 3.3. Waiver of Notice. Notice of any meeting of the Agency need not be given to any Director if waived in writing by the Director either before or after such meeting, or if the Director shall be present at such meeting. Notice of an adjourned meeting need not be given to any Director present at the time of the adjournment.

Section 3.4. Quorum and Voting. Except as otherwise required by the Act, a majority of the Directors then in office shall constitute a quorum for the transaction of any business or the exercise of any power or function of the Agency. Any act taken by vote of a majority of the Directors at any meeting at which a quorum is present shall be the act of the Agency. A majority of the Directors present at any meeting, whether or not constituting a quorum, may adjourn to another time and place.

Section 3.5. Matters Considered. Except as otherwise provided in Article IV, relating to the amendment of these By-Laws, any and all matters may be considered and acted upon at any meeting of the Agency at which a quorum is present, whether or not such matters were specified in the notice of the meeting.

Section 3.6. Procedure. At every meeting of the Agency, the order of business and all other matters or procedure may be determined by the person presiding at the meeting.

Section 3.7. Resolutions to Be in Writing. All resolutions presented to the Agency shall be in writing, on paper or in electronic form, and, upon the same becoming effective, shall be copied in or attached to a journal of the proceedings of the Agency.

Section 3.8. Certification of Resolutions. Each Director of the Agency and each officer of the Agency is authorized to certify, when necessary or appropriate, the records, proceedings,

documents and other instruments of the Agency and to affix, and attest to, the official seal of the Agency on all contracts, documents and instruments of the Agency.

Section 3.9. Approval of Resolution without Meeting. Resolutions which the Chairperson or Executive Director desire to be considered by the Directors of the Agency without holding a meeting thereon may be delivered in person or mailed to the business or home address of each Director and upon the written approval of such resolutions by a majority of the Directors then in office, the same shall become effective as if introduced and approved at a meeting of the Directors duly called and held.

Section 3:10. Meetings held by Video Conference. Meetings may be held by video conference when requested by a Director prior to the time public notice of the meeting is given. The public must have access to all sites participating in a video conference. Notice of meetings using video conferencing must announce its use, identify all sites and state that the public has a right to attend the meeting at any of the sites.

#### ARTICLE IV - FISCAL YEAR

Section 4.1. Fiscal Year. The fiscal year of the Agency shall commence November first of each calendar year and conclude October thirty-first of the following calendar year.

#### ARTICLE V

##### Amendment of By-Laws; Suspension

Section 5.1. Amendment. The By-Laws may be amended by a majority vote of the Directors then in office at any meeting provided that notice of intention to present such resolution shall be given in the time and manner provided in Section 3.2.

Section 5.2. Suspension. Any and all of the provisions of the bylaws may be suspended by unanimous consent of the Directors constituting a quorum present at any meeting of the Agency.

#### ARTICLE VI

Section 6.1. The Committees of the Agency shall be divided into Standing Committees and Special Committees. The Chairperson shall be, ex-officio, a member of all committees whether Standing Committees or Special Committees. Directors shall be appointed to or removed

from the Agency's Committees by the Chairperson. The Chairperson shall file with the Secretary of the Board a letter evidencing such appointment or removal.

Section 6.2. Standing Committees. The Board of Directors by resolution may create such Standing Committees as it may deem appropriate, each consisting of three or more directors, and each of which, to the extent provided in the resolution shall have all the authority of the Board, except as otherwise required by law. The Committees shall include but need not be limited to those specified in Section 5.4 hereof. A majority of any committee shall constitute a quorum for the transaction of all business that may properly come before it.

Section 6.3. Special Committees. The Board of Directors by resolution or the Chairperson, may create such special committees as the Agency or the Chairperson may deem desirable, except that no such committee shall have powers which are not authorized for any standing committee of the Agency.

Section 6.4. The Standing Committees shall be the Mortgage Insurance Committee, the Audit Committee, the Governance Committee, and the Finance & Program Committee. The responsibilities of said Committees are set forth in Sections 6.5, 6.6, 6.7 and 6.8, of these By-Laws. The Standing Committees shall be comprised of not less than three independent members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the committee.

Section 6.5. Mortgage Insurance Committee. The Mortgage Insurance Committee shall provide direction and guidance to the Board and to the Executive Director with respect to the development and implementation of the Agency's Mortgage Insurance Program. The Mortgage Insurance Committee shall analyze and assess all policy issues as they arise and recommend policy positions to the Board on all major policy matters. The Mortgage Insurance Committee, on behalf of the Board, shall have the authority, in its discretion, to approve any application involving a 'Covered Amount' of up to \$7,000,000. Covered Amount, as used in these By-Laws, shall mean, in respect to any application for mortgage insurance, the principal amount of the mortgage loan insured times the percentage of coverage to be provided.

Section 6.6. Audit Committee. The Audit Committee shall assist and make recommendations to the Directors of the Board in (a) the hiring of a certified independent accounting firm for the Agency; (b) the establishment of compensation to be paid to the accounting firm; (c) the direct oversight of the performance of the independent audit performed by the accounting firm hired for such purposes; (d) review of the annual audited report; (e) monitoring of internal accounting controls; (f) review of internal audit functions; and (g) oversight of the Agency's compliance with applicable legal and regulatory requirements. Members of the Audit Committee shall be familiar with corporate financial and accounting practices.

Section 6.7. Governance Committee. The Governance Committee shall assist and make recommendations to the Directors of the Board on (a) the current best governance practices and corporate governance trends, (b) potential updates to the Agency's corporate governance principles, (c) the skills and experiences required of potential Directors of the Board, (d) the examination of ethical and conflict of interest issues, (e) the performance of board self-evaluations, and (f) the adoption of bylaws which include rules and procedures for conduct of the Directors of the Board. The Governance Committee, on behalf of the Directors of the Board, shall have the authority, in its discretion, to approve procurement contracts that exceed one year in duration or \$100,000 in amount, and to annually review procurement contracts that exceed one year in duration.

Section 6.8. Finance & Program Committee. The Finance & Program Committee shall assist and make recommendations to the Directors in their oversight of (a) the issuance of debt by the Agency, (b) the analysis and assessment of all policy issues as they arise, and (c) the development of the method of handling funds of the Agency and the system of accounting developed in connection therewith.

Section 6.9. Committee Quorum Requirements. Where a Standing or Special Committee has an even number of committee members, then 50% of the total number of the members of such Committee shall constitute a quorum for the transaction of business. Where a Standing or Special Committee has an odd number of Committee members, then a majority (i.e. more than one-half) of all of the members of such committee shall constitute a quorum for the transaction of business.

# SONYMA

## Evaluation of Board Performance

NEW YORK STATE HOUSING FINANCE AGENCY  
STATE OF NEW YORK MORTGAGE AGENCY  
NEW YORK STATE AFFORDABLE HOUSING CORPORATION  
STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY  
TOBACCO SETTLEMENT FINANCING CORPORATION  
EVALUATION OF BOARD PERFORMANCE

The first Board Evaluations were approved by the Boards at their December 9, 2010 meetings. Board members were provided with self-evaluation forms, modeled on the form provided by the Authorities Budget Office (“ABO”) and revised by staff to take into account comments made by Board members as part of the first evaluation. Staff received the completed self-evaluation forms from the Members and Directors and submitted an analysis of the findings to the Governance Committees for their review. The Agencies’ Governance Committees adopted a resolution approving the self-evaluation in advance of the January 27, 2022 Members’ and Directors’ meetings. The Members and Directors adopted a resolution, reflecting the Governance Committees’ approval of the self evaluation.

Below is a summary of the results of the evaluation of Board Performance.

This year’s assessment shows a high degree of unanimity among Board members with all Board members who responded “agreeing” or “somewhat agreeing” that the various criteria by which Board performance is judged are satisfied.

Only one question elicited unanimous “Somewhat Agreed” responses. This was the question about whether Board members had identified areas of risks and worked with staff to mitigate the risks. And two questions--whether the Board set measurable goals for Agency performance, and whether board members had sufficient time to research topics before them, found Board members again overwhelmingly “somewhat agreeing.”

**Confidential Evaluation of Board Performance**

<b>Criteria</b>	<b>Agree</b>	<b>Somewhat Agree</b>	<b>Somewhat Disagree</b>	<b>Disagree</b>
Board members have a shared understanding of the mission and purpose of the Agencies.	5	1		
The policies, practices and decisions of the Board are consistent with this mission.	6			
Board members comprehend their role and fiduciary responsibilities and hold themselves and each other to these principles.	5	1		
The Board has adopted policies, by-laws, and practices for the effective governance, management and operations of the Agencies and reviews these as appropriate and required.	5	1		



The Board sets clear and measurable performance goals for the Agencies that contribute to accomplishing their mission.	0	6		
The decisions made by Board members are arrived at through independent judgment and deliberation, free of political influence, pressure or self-interest.	6			
Individual Board members communicate effectively with executive staff so as to be well informed on the status of all important issues.	3	3		
Board members are knowledgeable about the Agencies' programs, financial statements, reporting requirements, and other transactions.	3	3		
The Board has delegated to staff the responsibility to prepare external documents and reports and is confident that the Agencies have procedures in place so that the information being presented is accurate and complete.	6			
The Board knows the statutory obligations of the Agencies	3	3		
Board and committee meetings facilitate open, deliberate and thorough discussion, and the active participation of members.	5	1		
Board members have sufficient opportunity to research, discuss, question and prepare before decisions are made and votes taken.	3	3		
Individual Board members feel empowered to delay votes, defer agenda items, or table actions if they feel additional information or discussion is required.	6			
The Board exercises appropriate oversight of the CEO and other executive staff.	2	4		
The Board has identified the areas of most risk to the Agencies and works with management to implement risk mitigation strategies before problems occur.	1	4	1	
Board members demonstrate leadership and vision and work respectfully with each other.	6			

The Board has adopted policies, by-laws, and practices for the effective governance, management and operations of the Agencies and reviews these as appropriate and required.	8			
The Board sets clear and measurable performance goals for the Agencies that contribute to accomplishing their mission.	7	1		
The decisions made by Board members are arrived at through independent judgment and deliberation, free of political influence, pressure or self-interest.	8			
Individual Board members communicate effectively with executive staff so as to be well informed on the status of all important issues.	7	1		
Board members are knowledgeable about the Agencies' programs, financial statements, reporting requirements, and other transactions.	6	2		
The Board has delegated to staff the responsibility to prepare external documents and reports and is confident that the Agencies have procedures in place so that the information being presented is accurate and complete.	8			
The Board knows the statutory obligations of the Agencies	7	1		
Board and committee meetings facilitate open, deliberate and thorough discussion, and the active participation of members.	8			
Board members have sufficient opportunity to research, discuss, question and prepare before decisions are made and votes taken.	5	3		
Individual Board members feel empowered to delay votes, defer agenda items, or table actions if they feel additional information or discussion is required.	8			
The Board exercises appropriate oversight of the CEO and other executive staff.	7	1		
The Board has identified the areas of most risk to the Agencies and works with management to implement risk mitigation strategies before problems occur.	5	3		
Board members demonstrate leadership and vision and work respectfully with each other.	8			

# SONYMA

Board of Directors and  
Committee Structure and  
Members

## STATE OF NEW YORK MORTGAGE AGENCY

Directors	Date Appointed	Term Expires
Kenneth Adams Chairman Governor Appointed	June 23, 2017	January 1, 2019
Bethaida Gonzalez Governor Appointed	June 18, 2015	January 1, 2018
Joyce L. Miller Governor Appointed	June 21, 2016	January 1, 2019
Dr. Havidán Rodríguez Governor Appointee	June 7, 2021	January 1, 2025
RuthAnne Visnauskas Commissioner, New York State Division of Housing and Community Renewal	February 17, 2017	Ex-Officio
Robert Mujica Director New York State Division of the Budget	January 13, 2016	Ex-Officio
Jonathan A. Ballan Temporary President of the Senate Appointed	January 29, 2018	Serves at the pleasure of the Temporary President of the Senate
V. Elaine Gross Assembly Appointed	July 29, 2020	Serves at the pleasure of the Speaker of the Assembly
David E. Kapell State Comptroller Appointed	February 2, 2017	Serves at the pleasure of the State Comptroller

**STATE OF NEW YORK MORTGAGE AGENCY**  
**MORTGAGE INSURANCE COMMITTEE**

Directors	Date Appointed	Term Expires
Kenneth Adams Chairman Governor Appointed	June 23, 2017	January 1, 2019
RuthAnne Visnauskas Commissioner, New York State Division of Housing and Community Renewal	February 17, 2017	Ex-Officio
Robert Mujica Director New York State Division of the Budget	January 13, 2016	Ex-Officio
David E. Kapell State Comptroller Appointed	February 2, 2017	Serves at the pleasure of the State Comptroller

**STATE OF NEW YORK MORTGAGE AGENCY**

**AUDIT COMMITTEE**

Directors	Date Appointed	Term Expires
Kenneth Adams Chairman Governor Appointed	June 23, 2017	January 1, 2019
Joyce L. Miller Governor Appointed	June 21, 2016	January 1, 2019
Robert Mujica Director New York State Division of the Budget	January 13, 2016	Ex-Officio

**STATE OF NEW YORK MORTGAGE AGENCY**  
**GOVERNANCE COMMITTEE**

Directors	Date Appointed	Term Expires
Kenneth Adams Chairman Governor Appointed	June 23, 2017	January 1, 2019
RuthAnne Visnauskas Commissioner, New York State Division of Housing and Community Renewal	February 17, 2017	Ex-Officio
Robert Mujica Director New York State Division of the Budget	January 13, 2016	Ex-Officio
Jonathan A. Ballan Temporary President of the Senate Appointed	January 29, 2018	Serves at the pleasure of the Temporary President of the Senate
David E. Kapell State Comptroller Appointed	February 2, 2017	Serves at the pleasure of the State Comptroller

**STATE OF NEW YORK MORTGAGE AGENCY**  
**FINANCE AND PROGRAM COMMITTEE**

Directors	Date Appointed	Term Expires
Kenneth Adams Chairman Governor Appointed	June 23, 2017	January 1, 2019
Joyce L. Miller Governor Appointed	June 21, 2016	January 1, 2019
Robert Mujica Director New York State Division of the Budget	January 13, 2016	Ex-Officio



# SONYMA

Number of Employees

Number of SONYMA employees as of 10/31/2021: 187

# SONYMA

Pending Litigation

Pending Litigations as of 10/31/2021:

There are no pending litigations.