

# PROGRAM BILL # 36

Legislative Bill Drafting Commission  
12089-01-6

S. -----  
Senate  
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IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
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IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

\*PUBAUTLA\*  
(Relates to establishing the New  
York state community restoration  
fund)

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Pub Aut. community restore fund

## AN ACT

to amend the public authorities law,  
in relation to establishing the New  
York state community restoration  
fund

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

## IN SENATE

### Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal:

s15 Addabbo	s31 Espallat	s27 Hoylman	s25 Montgomery	s56 Robach
s52 Akshar	s49 Farley	s09 Kaminsky	s40 Murphy	s10 Sanders
s46 Amedore	s17 Felder	s63 Kennedy	s54 Nozzolio	s23 Savino
s11 Avella	s02 Flanagan	s34 Klein	s58 O'Mara	s41 Serino
s42 Bonacic	s55 Funke	s28 Krueger	s62 Ortt	s29 Serrano
s04 Boyle	s59 Gallivan	s24 Lanza	s60 Pancipinto	s51 Seward
s44 Breslin	s12 Gianaris	s39 Larkin	s21 Parker	s26 Squadron
s38 Carlucci	s22 Golden	s37 Latimer	s13 Peralta	s16 Stavisky
s14 Comrie	s47 Griffo	s01 LaValle	s30 Perkins	s35 Stewart-
s03 Croci	s20 Hamilton	s45 Little	s19 Persaud	Cousins
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s61 Ranzenhofer	s53 Valesky
s32 Diaz	s36 Hassell-	s43 Marchione	s48 Ritchie	s08 Venditto
s18 Dilan	Thompson	s07 Martins	s33 Rivera	s57 Young

## IN ASSEMBLY

### Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a034 DenDekker	a011 Jean-Pierre	a003 Murray	a076 Scawright
a092 Abinanti	a054 Dilan	a135 Johns	a133 Nojay	a087 Sepulveda
a084 Arroyo	a081 Dinowitz	a077 Joyner	a037 Nolan	a027 Simanowitz
a035 Aubry	a147 DiPietro	a094 Katz	a130 Oaks	a052 Simon
a120 Barclay	a115 Duprey	a074 Kavanagh	a069 O'Donnell	a036 Simotas
a106 Barrett	a004 Englebright	a142 Kearns	a051 Ortiz	a104 Skartados
a060 Barron	a109 Fahy	a040 Kim	a091 Otis	a099 Skoufis
a082 Benedetto	a071 Farrell	a131 Kolb	a132 Palmesano	a022 Solages
a042 Bichotte	a126 Finch	a105 Lalor	a002 Palumbo	a114 Stec
a079 Blake	a008 Fitzpatrick	a013 Lavinc	a088 Paulin	a110 Steck
a117 Blankcnbush	a124 Friend	a134 Lawrence	a141 Peoples-	a127 Stirpe
a098 Brabenec	a095 Galef	a050 Lentol	Stokes	a112 Tedisco
a026 Braunstein	a137 Gantt	a125 Lifton	a058 Perry	a101 Tenney
a044 Brennan	a007 Garbarino	a072 Linares	a086 Pichardo	a001 Thiele
a119 Brindisi	a148 Giglio	a102 Lopez	a089 Pretlow	a061 Titonc
a138 Bronson	a080 Gjonaj	a123 Lupardo	a073 Quart	a031 Titus
a093 Buchwald	a066 Glick	a010 Lupinacci	a019 Ra	a055 Walker
a118 Butler	a023 Goldfeder	a121 Magcc	a012 Raia	a146 Walter
a103 Cahill	a150 Goodell	a129 Magnarelli	a006 Ramos	a041 Weinstein
a065 Cancel	a075 Gottfried	a064 Malliotakis	a043 Richardson	a024 Weprin
a062 Castorina	a005 Graf	a030 Markey	a078 Rivera	a059 Williams
a145 Ceretto	a100 Gunther	a090 Mayer	a056 Robinson	a113 Woerner
a047 Colton	a046 Harris	a108 McDonald	a068 Rodriguez	a143 Wozniak
a032 Cook	a139 Hawley	a014 McDonough	a067 Rosenthal	a070 Wright
a144 Corwin	a083 Heastie	a017 McKevitt	a025 Rozic	a096 Zebrowski
a085 Crespo	a028 Hevcsi	a107 McLaughlin	a116 Russell	a020
a122 Crouch	a048 Hikind	a038 Miller	a149 Ryan	a033
a021 Curran	a018 Hooper	a015 Montesano	a009 Saladino	
a063 Cusick	a128 Hunter	a136 Morelle	a111 Santabarbara	
a045 Cymbrowitz	a029 Hyndman	a057 Mosley	a016 Schimel	
a053 Davila	a097 Jaffee	a039 Moya	a140 Schimminger	

1) Single House Bill (introduced and printed separately in either or  
both houses). Uni-Bill (introduced simultaneously in both houses and printed  
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and 4 copies of memorandum in support (single house);  
or 4 signed copies of bill and 8 copies of memorandum  
in support (uni-bill).

1 Section 1. Section 2401 of the public authorities law, is amended by  
2 adding a new closing paragraph to read as follows:

3 It is further found and determined that there is a need to establish a  
4 program to assist homeowners in the state of New York who have been  
5 affected by the national mortgage crisis who are either delinquent on  
6 their mortgage payments or are in danger of going into default because  
7 of economic hardship, as such term is defined under the agency's guide-  
8 lines, in consultation with the advisory council established in subdivi-  
9 sion three of section twenty-four hundred five-f of this part, who may  
10 lose their homes to foreclosure, or who may have abandoned their homes  
11 due to economic hardship and who may benefit from assistance. In addi-  
12 tion, the existence of vacant, abandoned, distressed, dilapidated or  
13 reasonably beyond repair properties may contribute to the persistence of  
14 conditions that increase blight and add to the deterioration of the  
15 quality of the environment and living conditions of a large number of  
16 persons residing in the state. To address these conditions, it is hereby  
17 found and determined that the state of New York mortgage agency shall be  
18 authorized to create and manage a fund to acquire residences and to  
19 purchase mortgages and mortgage notes, or to provide monies to eligible  
20 institutions to acquire residences and to purchase mortgages and mort-  
21 gage notes and to carry out such other functions in connection with such  
22 acquisitions as are necessary to accomplish the purposes of this para-  
23 graph. In connection therewith, the state of New York mortgage agency  
24 shall be authorized to create a subsidiary corporation to carry out the  
25 program authorized under this paragraph.

26 § 2. Subdivision 31 of section 2404 of the public authorities law, as  
27 renumbered by chapter 151 of the laws of 2013, is renumbered subdivision  
28 33 and two new subdivisions 31 and 32 are added to read as follows:

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

3 (32) To form a subsidiary to be known as "the state of New York mort-  
4 gage agency community restoration fund" for the purpose of using funds  
5 available to the agency under the program set forth in section twenty-  
6 four hundred five-f of this part and of owning and holding any resi-  
7 dences, mortgages and mortgage notes acquired by the agency, and to  
8 otherwise carry out the purposes of section twenty-four hundred five-f  
9 of this part. Such subsidiary created pursuant to this subdivision may  
10 exercise and perform one or more of the purposes, powers, duties, func-  
11 tions, rights and responsibilities of the agency, other than the issu-  
12 ance of indebtedness, in connection with real and personal property with  
13 respect to which the agency holds or held a mortgage, security interest  
14 or other collateral. Such subsidiary shall have the power to own,  
15 acquire and dispose of real property, and to acquire, own and hold,  
16 service and dispose of mortgages and mortgage notes. It shall have the  
17 right to foreclose or contract to foreclose on any mortgage acquired by  
18 such subsidiary, under the laws of the state, to commence any action to  
19 protect or to enforce the rights conveyed to it by law, contract or any  
20 agreement and to dispose of any such property and to otherwise proceed  
21 with any action as may be necessary to protect the interests of said  
22 subsidiary. Notwithstanding any other provision of law to the contrary,  
23 the transfer of title to such subsidiary or any other actions taken by  
24 the agency or such subsidiary to enforce the agency's rights under the  
25 mortgage, security interest or other collateral interest or to protect,  
26 acquire, own, manage or dispose of the property shall be deemed to be a  
27 corporate purpose of the agency granted to it to carry out the purposes  
28 of section twenty-four hundred five-f of this part. Such subsidiary

1 shall be established in the form of a public benefit corporation by  
2 executing and filing with the secretary of state a certificate of incor-  
3 poration which shall identify the agency as the entity organizing such  
4 subsidiary and set forth the name of such subsidiary public benefit  
5 corporation, its duration, the location of its principal office and its  
6 corporate purposes as provided in this subdivision and which certificate  
7 may be amended from time to time by the filing of amendments thereto  
8 with the secretary of state, provided that the subsidiary created here-  
9 under shall cease to exist at such time as the program authorized under  
10 section twenty-four hundred five-f of this part is no longer in exist-  
11 ence. Such subsidiary shall be organized as a public benefit corpo-  
12 ration, shall be a body politic and corporate, and shall have all the  
13 privileges, immunities, tax exemptions and other exemptions of the agen-  
14 cy. The members of such subsidiary shall be the same as the members of  
15 the agency.

16 § 3. The public authorities law is amended by adding a new section  
17 2405-f to read as follows:

18 § 2405-f. New York state community restoration fund. (1) Definitions.  
19 For the purposes of this section, the following terms shall have the  
20 following meanings:

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

23 (b) "residential home loan" shall mean a first or subordinate lien  
24 loan, including mortgage loans purchased by the agency under section  
25 twenty-four hundred five-b of this part, that is secured by a borrower's  
26 interest in: (i) residential real property, including as defined in  
27 section thirteen hundred five of the real property actions and  
28 proceedings law, and any improvements or structures thereon; (ii) a

1 share or shares of a cooperative corporation that entitles a borrower to  
2 a housing unit; or (iii) a residential structure that is part of a  
3 condominium development. Residential home loan shall also include inter-  
4 est, taxes, homeownership associations fees, carrying charges, and other  
5 liens encumbering the residence;

6 (c) "vacant and abandoned" residential real property shall mean (i)  
7 residential real property, as defined in section thirteen hundred five  
8 of the real property actions and proceedings law, where the property is  
9 not occupied by the tenant, as that term is defined in section thirteen  
10 hundred five of the real property actions and proceedings law, homeown-  
11 er, or mortgagor and (ii) either:

12 (A) the property is a risk to the health, safety, or welfare of the  
13 public, or any adjoining or adjacent property owners, due to acts of  
14 vandalism, loitering, criminal conduct, or physical destruction or dete-  
15 rioration of the property; or

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

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

22 (iii) where indicia of lack of occupancy may include, but shall not be  
23 limited to: (A) overgrown or dead vegetation; (B) accumulation of news-  
24 papers, circulars, flyers, or mail; (C) past due utility notices,  
25 disconnected utilities or utilities not in use; (D) accumulation of  
26 trash, refuse or other debris; (E) absence of window coverings such as  
27 curtains, blinds, or shutters; (F) absence of furnishings or personal  
28 items consistent with residential habitation; (G) one or more boarded,

1 missing or broken windows; (H) the property is open to casual entry or  
2 trespass; (I) the property has a building or structure that is or  
3 appears structurally unsound or has any other condition that presents a  
4 potential hazard or danger to the safety of persons, and  
5 (iv) where such residential real property shall not be considered  
6 "vacant and abandoned" if, on the property: (A) there is an unoccupied  
7 building which is undergoing construction, renovation, or rehabilitation  
8 that is proceeding to completion, and the building is in compliance with  
9 all applicable ordinances, codes, regulations, and statutes; (B) there  
10 is a building that is secure, but is the subject of a probate action,  
11 action to quiet title, or other similar ownership dispute; (C) there is  
12 a building damaged by natural disaster upon declaration of a state  
13 disaster emergency by the governor pursuant to section twenty-eight of  
14 the executive law relating to any claim arising from the cause of such  
15 declaration, while awaiting funds to repair; or (D) there is a building  
16 occupied on a seasonal basis, but otherwise secure;  
17 (d) "homeowner" shall mean a natural person who has a legal interest  
18 in the property other than a tenant and is the occupant of a residence  
19 that secures such residential home loan;  
20 (e) "eligible institution" shall mean a community development finan-  
21 cial institution or a community development financial institution part-  
22 nered with a not-for-profit, housing counseling agency, land bank, or  
23 other local government entity, or any of the aforementioned, either on  
24 their own or partnered with a community development financial institu-  
25 tion. An eligible community development financial institution shall have  
26 a record of success in serving investment areas or targeted populations;  
27 and/or shall have agreed to expand its operations into a new investment  
28 area or to serve a new targeted population, offer more products or

1 services, or increase the volume of its current business. Eligible not-  
2 for-profits shall, among other things, have the ability to: undertake  
3 repair or rehabilitation efforts; carry out property and asset manage-  
4 ment, including servicing, undertake demolition; and/or provide assist-  
5 ance in finding housing options, market properties for sale or rental;  
6 coordinate, provide, and/or connect homeowners to counseling, mediation,  
7 legal representation, and negotiate on behalf of homeowners seeking a  
8 residential home loan payment modification, provide training and support  
9 for counselors, mediators, and attorneys regarding such assistance to  
10 homeowners, as well as provide credit counseling;

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

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

27 (h) "lender" means banks as defined in section twenty-four hundred two  
28 of this part, investors including institutional investors, the agency,

1 any state agency authorized to acquire and hold residential home loans,  
2 mortgage servicers and other private, non-bank entities that may own and  
3 hold a mortgage and mortgage note, the federal housing administration,  
4 the U.S. department of agriculture rural development corporation, the  
5 U.S. department of housing and urban development, the federal housing  
6 finance agency, and any privately owned, publicly chartered entities and  
7 wholly-owned corporate instrumentalities of the United States within the  
8 U.S. department of housing and urban development created by congress to  
9 encourage lending and reduce costs primarily in the housing sector of  
10 the economy; and

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

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

20 (3) The monies in the fund shall be eligible to be used by the agency  
21 under program guidelines established by the board of directors of the  
22 agency, in consultation with an advisory council to be created by the  
23 agency comprised of a minimum of seven members, where a majority of the  
24 membership of the council will be comprised of representatives from  
25 non-profit members of the community with knowledge of foreclosures,  
26 housing, or community development needs in communities hard hit by fore-  
27 closures. The guidelines shall include, among other things, require-  
28 ments to ensure that fund monies are expended based upon demonstrable

1 community needs, for the purposes set forth in this subdivision, and may  
2 also be awarded by the agency to eligible institutions following the  
3 process established pursuant to subdivision four of this section, to:

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

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

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

21 (iii) rehabilitate distressed properties; and/or

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

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

25 (c) fund not-for-profit developers, affordable housing developers, and  
26 not-for-profit agencies to acquire vacant and abandoned properties or  
27 other real property, mortgages, or mortgage notes acquired under this  
28 program, and develop such properties into affordable housing and to work

1 with homeowners in the investment area eligible to be assisted under  
2 this section, through activities such as foreclosure prevention coun-  
3 seling, providing new homeowner training, home repair and rehabili-  
4 tation, property and asset management, demolition, and marketing proper-  
5 ties for sale and rental.

6 (4) (a) In awarding funding to eligible institutions, the agency shall  
7 select from eligible institutions pursuant to criteria established by  
8 the agency's board of directors, in consultation with the advisory coun-  
9 cil established in subdivision three of this section, which criteria  
10 shall include, but not be limited to:

11 (i) the experience and background of the eligible institution's board  
12 of directors or management team;

13 (ii) the extent of need within the investment areas or targeted popu-  
14 lations;

15 (iii) the extent of economic distress within the investment areas or  
16 the extent of need within the targeted populations;

17 (iv) the extent of the eligible institution's current and planned  
18 community involvement;

19 (v) the extent to which the eligible institution will increase its  
20 resources through coordination with other eligible institutions or  
21 encourage collaborative applications by multiple eligible institutions;

22 (vi) in the case of an institution with a prior history of serving  
23 investment areas or targeted populations, the extent of success in serv-  
24 ing such areas or populations;

25 (vii) the extent to which eligible institutions would use funds to  
26 restructure residential home loans to allow homeowners to continue to  
27 occupy their residences; and

28 (viii) other factors deemed to be appropriate by the agency.

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

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

8 (a) develop application and reporting procedures for eligible insti-  
9 tutions to use to apply for funds to carry out the provisions of this  
10 section and criteria for use by the eligible institutions that receive  
11 funds pursuant to this section to evaluate applications for assistance  
12 from homeowners;

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

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

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

23 (e) establish terms by which the eligible institutions shall repay the  
24 fund for monies allocated to them pursuant to this section, if applica-  
25 ble.

26 (6) Nothing in this section shall preclude an eligible institution  
27 from working with or coordinating activities and/or services with any  
28 entity that handles and facilitates the transfers of mortgage notes

1 and/or property to eligible entities under this section; provided,  
2 however, that any funds awarded to an eligible institution shall only be  
3 used to advance the purposes of this section.

4 (7) The agency shall submit a report to the governor, the speaker of  
5 the assembly, the minority leader of the assembly, the temporary presi-  
6 dent of the senate, and the minority leader of the senate on or before  
7 the first of February each year. Such report shall include, but not be  
8 limited to, a detailed description of the use of funds by the agency for  
9 programs under this section, and of the use of funds for each eligible  
10 institution receiving funds under this section.

11 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-  
12 sion, section or part of this act shall be adjudged by any court of  
13 competent jurisdiction to be invalid, such judgement shall not affect,  
14 impair, or invalidate the remainder thereof, but shall be confined in  
15 its operation to the clause, sentence, subdivision, section or part  
16 thereof directly involved in the controversy in which such judgement  
17 shall have been rendered. It is hereby declared to be the intent of the  
18 legislature that this act would have been enacted even if such invalid  
19 provisions had not been included herein.

20 § 5. This act shall take effect immediately.