Non-Bank Multi-Family Lender Licensing

This tool would allow state government licensing of non-bank multi-family lenders to create public oversight to discourage speculative lending. Non-bank lenders are playing an increasing and increasingly dangerous role in multi-family lending, yet their lending standards are unregulated and speculative underwriting contributes to rising tenant displacement pressure.

Status In NYC: Discussed
Status Elsewhere: N/A

For NYC:

POLICY OBJECTIVE:
The objective of this policy is to create some level of government oversight and regulation of non-bank multi-family buildings lenders in order to actively discourage speculative lending in those buildings. Most NYC residents live in multi-family apartment buildings, and low-rent paying tenants are facing a crisis of displacement. Mortgage lending based on speculative underwriting often encourages or makes tenant harassment worse. Currently, most multi-family building mortgage lenders in NYC are legally chartered banks, but the amount of problematic lending by non-bank lenders is increasing.

HOW MIGHT IT WORK?
In contrast to non-bank multi-family building lenders (called “commercial” lending), non-bank lenders on 1-4 family homes (called “residential” lending) are subject to licensing and oversight under Article XII of the New York State Banking Law. This licensing requirement allows the State to set a certain level of professional standards, including basic fair lending and responsible underwriting standards, as a condition of being licensed. Article XII of the New York State Banking Law could be expanded to create a similar set of provisions for non-bank commercial lenders in multi-family buildings. These requirements could include standards that mirror the quality affordable underwriting standards that NYS Dept. of Financial Services bank regulators recently adopted in their oversight of chartered banks, which includes evaluating underwriting to ensure that a loan is based on in-place rents and at a debt service coverage ratio of >1.2.
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For NYC:

WHO WOULD BENEFIT?
Tenants in multi-family buildings and in neighborhoods where gentrification is on the rise and where aggressive developers see the buildings as “undervalued” because the existing rent-regulated tenants are paying significantly below the market-rate rents, and are therefore especially vulnerable to harassment and displacement.

HOW WOULD IT BE ENACTED?
While a concept exists, legislation would need to be drafted and passed by the New York State Legislature and signed by the Governor.

HOW WOULD IT BE ENFORCED?
The New York State Department of Financial Services would have oversight of the new system of lender licensing.

WHAT IS THE FEASIBILITY FOR ACHIEVING THIS IN NYC?
Potential Proponents:
- Activists and tenants in gentrifying neighborhoods who see non-bank lenders as a growing threat.
Potential Opponents:
- The Real Estate Industry
- The Commercial Mortgage Lending Industry

Challenges:
- Implementation of the policy would be complex enough that, even with enough support in the legislature, some level of buy-in from State executive agencies might be needed.

WHO’S INVOLVED?
Association for Neighborhood and Housing Development