

1433

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT, ESPAILLAT -- Multi-Sponsored by -- M. of
A. ALFANO, BARRA, BOYLAND, TOWNS -- read once and referred to the
Committee on Housing

AN ACT to amend the public housing law, in relation to creating a home
ownership assistance program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The public housing law is amended by adding a new article 9
2 to read as follows:

3 ARTICLE IX

4 HOME OWNERSHIP ASSISTANCE PROGRAM

5 SECTION 170. DEFINITIONS.

6 171. HOME OWNERSHIP ASSISTANCE PROGRAM.

7 172. APPLICABILITY OF THE PROGRAM.

8 173. AMOUNT AND PROCEDURE FOR HOME OWNERSHIP ASSISTANCE
9 PAYMENTS.

10 174. TERMS OF ASSISTANCE FOR NOT-FOR-PROFIT ORGANIZATIONS.

11 175. RULES AND REGULATIONS.

12 176. FUNDING FOR THE HOME OWNERSHIP ASSISTANCE PROGRAM.

13 S 170. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS
14 SHALL HAVE THE FOLLOWING MEANINGS:

15 1. "DEPARTMENT" SHALL MEAN THE NEW YORK CITY DEPARTMENT OF HOUSING
16 PRESERVATION AND DEVELOPMENT.

17 2. "ELIGIBLE UNIT" SHALL MEAN:

18 A. ANY (I) HOME WITH FOUR OR LESS UNITS; (II) CONDOMINIUM; OR (III)
19 COOPERATIVE;

20 B. WHERE THE PURCHASE OF SUCH HOME, CONDOMINIUM, OR COOPERATIVE IS
21 PROVIDED FOR, INSURED, OR GUARANTEED BY THE STATE OR FEDERAL GOVERNMENT.

22 3. "QUALIFIED HOUSEHOLD" SHALL MEAN ANY PERSON OR HIS OR HER FAMILY
23 MEMBER WHO:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 A. (I) HAS AN ANNUAL HOUSEHOLD INCOME UNDER EIGHTY PERCENT OF THE
2 MEDIAN POVERTY LEVEL, PROVIDED, THAT ANY ASSISTANCE RECEIVED AS A RESULT
3 OF A SOCIAL PROGRAM SHALL NOT BE CONSIDERED WHEN CALCULATING AN INDIVID-
4 UAL'S GROSS INCOME. THE DEPARTMENT SHALL DETERMINE INCOME ELIGIBILITY
5 OF HOME BUYERS USING THE INCOME DETERMINATION METHODOLOGY UTILIZED BY
6 THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT IN ACCORD-
7 ANCE WITH THEIR SECTION 8 HOUSING PROGRAM; OR

8 (II) IS OVER THE AGE OF SIXTY-FIVE; OR

9 (III) IS DIAGNOSED BY A LICENSED PHYSICIAN TO BE MENTALLY OR PHYS-
10 ICALLY DISABLED;

11 B. DOES NOT CURRENTLY OWN A HOUSING UNIT IN THE CITY OF NEW YORK OR
12 ANY OTHER LOCATION, INCLUDING A SINGLE FAMILY HOUSE, CONDOMINIUM UNIT,
13 COOPERATIVE UNIT, OR RENTAL UNIT THAT COULD BE OWNER OCCUPIED;

14 C. HAS NOT PREVIOUSLY RECEIVED HOME OWNERSHIP ASSISTANCE PAYMENTS
15 PURSUANT TO THIS ARTICLE; AND

16 D. IS CURRENTLY EMPLOYED AND HAS BEEN GAINFULLY EMPLOYED FOR AT LEAST
17 TWELVE MONTHS PRIOR TO HIS OR HER APPLICATION FOR HOME OWNERSHIP ASSIST-
18 ANCE PAYMENTS, EXCEPT THAT THIS PARAGRAPH SHALL NOT APPLY TO AN INDIVID-
19 UAL WHO QUALIFIES PURSUANT TO SUBPARAGRAPH (II) OR (III) OF PARAGRAPH A
20 OF THIS SUBDIVISION.

21 4. "QUALIFIED NOT-FOR-PROFIT ORGANIZATION" SHALL MEAN AN ORGANIZATION
22 THAT IS TAX EXEMPT PURSUANT TO SUBSECTION (C) OF SECTION 501 OF THE
23 INTERNAL REVENUE CODE AND WHOSE PURPOSE IS TO ASSIST HOUSEHOLDS, WHOSE
24 INCOME IS UNDER EIGHTY PERCENT OF THE MEDIAN POVERTY LEVEL, WITH
25 PURCHASING A HOME. SUCH ORGANIZATION MUST SHOW EXPERIENCE AND CAPACITY
26 TO UNDERTAKE A PURCHASE FOR REHABILITATION AND TO RESELL TO QUALIFIED
27 HOUSEHOLDS AS DEFINED IN SUBDIVISION THREE OF THIS SECTION.

28 S 171. HOME OWNERSHIP ASSISTANCE PROGRAM. 1. THERE IS HEREBY ESTAB-
29 LISHED A HOME OWNERSHIP ASSISTANCE PROGRAM. THE PURPOSE OF THE PROGRAM
30 IS TO PROVIDE FINANCIAL ASSISTANCE TO LOW INCOME HOUSEHOLDS, WITH ANNUAL
31 INCOMES UNDER EIGHTY PERCENT OF THE MEDIAN POVERTY LEVEL WHO DO NOT
32 CURRENTLY OWN A HOME, TO PURCHASE AN ELIGIBLE UNIT FOR PURPOSES OF REHA-
33 BILITATION AND OWNERSHIP.

34 2. THE MAXIMUM PURCHASE PRICE SHALL BE THE SINGLE FAMILY MORTGAGE
35 LIMITS DEFINED UNDER 24 C.F.R. 203 AND SHALL BE ADJUSTED ACCORDING TO
36 THE ADJUSTMENTS MADE BY THE UNITED STATES DEPARTMENT OF HOUSING AND
37 URBAN DEVELOPMENT.

38 3. THE UNIT MAY NOT BE "OVERCROWDED" AS DEFINED IN THE HOUSING QUALITY
39 STANDARDS, WHICH ARE ISSUED BY THE UNITED STATES DEPARTMENT OF HOUSING
40 AND URBAN DEVELOPMENT. A SUFFICIENT NUMBER OF BEDROOMS ARE REQUIRED TO
41 PROVIDE ADEQUATE SLEEPING SPACE FOR ALL MEMBERS OF THE HOUSEHOLD. THERE
42 MUST BE ONE BEDROOM FOR EVERY TWO MEMBERS OF THE FAMILY, PROVIDED THAT
43 CHILDREN OF THE OPPOSITE SEX MAY NOT SHARE A BEDROOM.

44 4. MONTHLY HOME OWNERSHIP EXPENSES SHALL INCLUDE INTEREST ON THE MORT-
45 GAGE, MORTGAGE INSURANCE PREMIUMS, REAL ESTATE TAXES, HOME OWNERSHIP
46 INSURANCE, AND MAJOR REPAIRS AND REPLACEMENTS. HOUSING EXPENSES AFTER
47 THE PURCHASE AND REHABILITATION OF A HOME MAY NOT EXCEED THIRTY PERCENT
48 OF THE HOUSEHOLD'S GROSS MONTHLY INCOME.

49 S 172. APPLICABILITY OF THE PROGRAM. 1. A QUALIFIED HOUSEHOLD MUST
50 MAKE AN APPLICATION TO THE DEPARTMENT TO RECEIVE HOME OWNERSHIP ASSIST-
51 ANCE PAYMENTS.

52 2. THE DEPARTMENT SHALL APPROVE AN INDIVIDUAL'S APPLICATION IF IT
53 FINDS THAT:

54 A. SUCH INDIVIDUAL IS PART OF A QUALIFIED HOUSEHOLD AS DEFINED IN
55 SUBDIVISION THREE OF SECTION ONE HUNDRED SEVENTY OF THIS ARTICLE;

1 B. THE HOME TO BE PURCHASED BY THE INDIVIDUAL IS AN ELIGIBLE UNIT AS
2 DEFINED IN SUBDIVISION TWO OF SECTION ONE HUNDRED SEVENTY OF THIS ARTI-
3 CLE;

4 C. THE HOME TO BE PURCHASED HAS BEEN INSPECTED BY A DEPARTMENT
5 APPROVED HOME INSPECTOR;

6 D. THE HOME TO BE PURCHASED HAS BEEN APPRAISED AT A VALUE NEAR OR
7 ABOVE THE MAXIMUM PURCHASE PRICE AS DEFINED IN SUBDIVISION TWO OF
8 SECTION ONE HUNDRED SEVENTY-ONE OF THIS ARTICLE. IF THE PURCHASE PRICE
9 EXCEEDS THE MAXIMUM PURCHASE PRICE, THE ELIGIBLE HOUSEHOLD MUST PAY THE
10 DIFFERENCE. THE ELIGIBLE HOUSEHOLD MUST GIVE THE FUNDS TO THE DEPARTMENT
11 AT THE CLOSING. THE DEPARTMENT WILL HOLD THE FUNDS IN AN INTEREST BEAR-
12 ING ESCROW ACCOUNT AND MAKE PAYMENTS FROM SUCH ACCOUNT AS NECESSARY. ALL
13 ELIGIBLE HOUSEHOLD FUNDS MUST BE EXPENDED BEFORE ANY HOME OWNERSHIP
14 ASSISTANCE PROGRAM PAYMENTS MAY BE MADE.

15 3. UPON APPROVAL OF THE INDIVIDUAL'S APPLICATION, THE INDIVIDUAL MUST
16 ATTEND HOME OWNERSHIP ASSISTANCE COUNSELING. SUCH COUNSELING SHALL
17 INCLUDE, BUT NEED NOT BE LIMITED TO:

18 A. HOME MAINTENANCE;

19 B. BUDGETING AND MONEY MANAGEMENT;

20 C. CREDIT COUNSELING; AND

21 D. HOW TO OBTAIN HOME OWNERSHIP FINANCING, INCLUDING HOW TO IDENTIFY
22 AND AVOID LOANS WITH OPPRESSIVE TERMS AND CONDITIONS.

23 4. UPON COMPLETION OF THE HOME OWNERSHIP COUNSELING PURSUANT TO SUBDI-
24 VISION THREE OF THIS SECTION, THE DEPARTMENT SHALL MAKE HOME OWNERSHIP
25 ASSISTANCE PAYMENTS IN ACCORDANCE WITH SECTION ONE HUNDRED SEVENTY-THREE
26 OF THIS ARTICLE.

27 5. THE REFINANCING OF A HOME THAT IS A BASIS FOR RECEIVING HOME OWNER-
28 SHIP ASSISTANCE PAYMENTS SHALL AUTOMATICALLY CAUSE SUCH PAYMENTS TO
29 CEASE AND BE TERMINATED.

30 6. IF ANY QUALIFIED HOUSEHOLD THAT HAS BEEN APPROVED AND IS RECEIVING
31 HOME OWNERSHIP ASSISTANCE PAYMENTS DEFAULTS ON ITS MORTGAGE PAYMENT,
32 SUCH HOME OWNERSHIP ASSISTANCE PAYMENTS SHALL AUTOMATICALLY CEASE AND BE
33 TERMINATED.

34 S 173. AMOUNT AND PROCEDURE FOR HOME OWNERSHIP ASSISTANCE PAYMENTS.
35 1. THE MAXIMUM FINANCIAL ASSISTANCE UNDER THE HOME OWNERSHIP ASSISTANCE
36 PROGRAM FOR ELIGIBLE HOUSEHOLDS SHALL NOT EXCEED THE TOTAL COST OF
37 ACQUISITION AND REHABILITATION. THE ASSISTANCE PROVIDED FOR THE PURCHASE
38 OF THE PROPERTY SHALL BE A PRORATED LOAN. THE DEPARTMENT WILL PLACE A
39 MORTGAGE ON THE PROPERTY TO SECURE THE LOAN. THE MORTGAGEE MAY BE SUBOR-
40 DINATED TO ANY OTHER MORTGAGEE APPROVED BY THE DEPARTMENT THAT IS PRES-
41 ENTLY ON OR THAT MAY BE PLACED ON THE PROPERTY.

42 THE DEPARTMENT SHALL HAVE THE RIGHT TO DETERMINE WHETHER OR NOT AN
43 IMPROVEMENT QUALIFIES AS CAPITAL IMPROVEMENTS. PRIOR TO THE COMMENCEMENT
44 OF CAPITAL IMPROVEMENTS, THE PROPERTY OWNER MUST NOTIFY THE DEPARTMENT
45 AND PROVIDE A COST ESTIMATE. THE DEPARTMENT SHALL HAVE THE RIGHT TO
46 INSPECT THE PROPERTY PRIOR TO AND UPON COMPLETION OF CONSTRUCTION. THE
47 PROPERTY OWNER MUST PROVIDE DOCUMENTATION OF ALL WORK PERFORMED.

48 2. THE MAXIMUM ASSISTANCE FOR QUALIFIED NOT-FOR-PROFIT ORGANIZATIONS,
49 AS DEFINED IN SUBDIVISION FOUR OF SECTION ONE HUNDRED SEVENTY OF THIS
50 ARTICLE, MAY NOT EXCEED TWENTY THOUSAND DOLLARS PER BUILDING.

51 3. THE PROPERTY MAY BE SOLD SUBJECT TO THE FOLLOWING CONDITIONS:

52 A. THE MAXIMUM SALE PRICE WILL BE DETERMINED BY THE FOLLOWING FORMULA:
53 THE ORIGINAL SUBSIDIZED PRICE OF THE HOME MULTIPLIED BY A FRACTION WHERE
54 THE NUMERATOR IS THE MEDIAN INCOME FOR A FAMILY OF FOUR IN NEW YORK CITY
55 IN THE YEAR OF THE RESALE AND THE DENOMINATOR IS THE CORRESPONDING
56 FIGURE FOR THE YEAR THE PROPERTY WAS PURCHASED. BOTH NUMBERS SHALL BE

1 DETERMINED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOP-
2 MENT.

3 B. THE OWNER'S DOWN PAYMENT AND THE VALUE OF QUALIFYING CAPITAL
4 IMPROVEMENTS MAY BE ADDED TO THE MAXIMUM RESALE PRICE. QUALIFYING
5 IMPROVEMENTS ARE THOSE DEFINED AND APPLIED BY THE NEW YORK STATE DEPART-
6 MENT OF TAXATION AND FINANCE THAT DO NOT CONSTITUTE UNAFFORDABLE LUXU-
7 RIES DEFINED AS ITEMS NOT NORMALLY CONSIDERED A NECESSARY OR CUSTOMARY
8 PART OF A RESIDENCE IN THE SURROUNDING NEIGHBORHOOD. THE DEPARTMENT
9 SHALL HAVE THE RIGHT TO DETERMINE WHETHER OR NOT AN IMPROVEMENT QUALI-
10 FIES AS CAPITAL IMPROVEMENTS. PRIOR TO THE COMMENCEMENT OF CAPITAL
11 IMPROVEMENTS, THE PROPERTY OWNER MUST NOTIFY THE DEPARTMENT AND PROVIDE
12 A COST ESTIMATE. THE DEPARTMENT SHALL HAVE THE RIGHT TO INSPECT THE
13 PROPERTY PRIOR TO AND UPON COMPLETION OF CONSTRUCTION. THE PROPERTY
14 OWNER MUST PROVIDE DOCUMENTATION OF ALL WORK PERFORMED.

15 S 174. TERMS OF ASSISTANCE FOR NOT-FOR-PROFIT ORGANIZATIONS. FINANCIAL
16 ASSISTANCE AS DEFINED IN SECTION ONE HUNDRED SEVENTY-THREE OF THIS ARTI-
17 CLE MAY BE PROVIDED TO NOT-FOR-PROFIT ORGANIZATIONS FOR THE PURPOSE OF
18 RESALE TO QUALIFIED HOUSEHOLDS AS DEFINED IN SUBDIVISION THREE OF
19 SECTION ONE HUNDRED SEVENTY OF THIS ARTICLE.

20 1. THE NOT-FOR-PROFIT ORGANIZATION MAY MANAGE THE PROPERTY DURING AN
21 INTERIM PERIOD UNDER A "LEASE TO OWN" PROGRAM BEFORE TRANSFERRING TITLE
22 TO THE PROPERTY AND MUST SUBMIT COMPLETE DEVELOPMENT AND OPERATING BUDG-
23 ETS FOR THE INTERIM TO THE DEPARTMENT.

24 A. AN ELIGIBLE "LEASE TO OWN" PURCHASER MUST BE LOCATED WITHIN TWELVE
25 MONTHS FROM PURCHASE BY THE NOT-FOR-PROFIT ORGANIZATION.

26 B. THE INITIAL OCCUPANT OF THE OWNER'S UNIT, WHETHER A TENANT DURING A
27 RENTAL AGREEMENT, TENANT DURING A LEASE TO OWN PERIOD, OR HOME BUYER,
28 MUST QUALIFY AS AN ELIGIBLE HOUSEHOLD. FIFTY-ONE PERCENT OF THE UNITS
29 MUST BE OCCUPIED AT INITIAL OCCUPANCY BY HOUSEHOLDS WHOSE HOUSEHOLD
30 INCOME IS LESS THAN EIGHTY PERCENT OF THE MEDIAN POVERTY LEVEL.

31 C. RENT, INCLUDING UTILITIES, FOR A HOUSEHOLD WHERE THE HOUSEHOLD
32 INCOME IS BETWEEN FIFTY AND EIGHTY PERCENT OF THE MEDIAN POVERTY LEVEL
33 CANNOT EXCEED THIRTY PERCENT OF THE HOUSEHOLD MONTHLY INCOME. IF TENANTS
34 PAY UTILITIES, THE RENT SHALL BE ADJUSTED BY THE AMOUNT OF THE UTILI-
35 TIES.

36 D. NOT-FOR-PROFIT ORGANIZATIONS MUST SUBMIT A PROPOSED RESALE PROCESS
37 OR FORMULA FOR DEPARTMENTAL REVIEW AND APPROVAL.

38 E. IN ALL CASES, TRANSFER OF TITLE TO THE PROPERTY FROM THE
39 NOT-FOR-PROFIT ORGANIZATION TO AN ELIGIBLE HOUSEHOLD MUST TAKE PLACE
40 WITHIN FIVE YEARS FROM PURCHASE BY THE NOT-FOR-PROFIT ORGANIZATION.

41 F. IF THE NOT-FOR-PROFIT ORGANIZATION FAILS TO MEET THESE DEADLINES,
42 THE DEFERRED LOAN SHALL BE DUE AND PAYABLE WITH ACCRUED INTEREST AT A
43 RATE OF FOUR PERCENT.

44 S 175. RULES AND REGULATIONS. 1. THE DEPARTMENT IS AUTHORIZED TO
45 IMPLEMENT ANY RULE OR REGULATION NECESSARY FOR THE SUCCESSFUL IMPLEMEN-
46 TATION OF THIS PROGRAM.

47 2. THE DEPARTMENT MAY CREATE ANY FORM AND REQUIRE ANY APPLICANT TO
48 FILL OUT SUCH FORM BEFORE RECEIVING DEPARTMENTAL APPROVAL FOR THE HOME
49 OWNERSHIP ASSISTANCE PAYMENTS.

50 3. THE DEPARTMENT MAY CHARGE AN APPLICATION FEE FOR THE PROCESSING OF
51 A HOUSEHOLD'S HOME OWNERSHIP ASSISTANCE PAYMENT APPLICATION. SUCH FEE
52 SHALL NOT EXCEED ONE HUNDRED DOLLARS.

53 S 176. FUNDING FOR THE HOME OWNERSHIP ASSISTANCE PROGRAM. FUNDING
54 SHALL BE OBTAINED BY USING FUNDS FROM THE COMMUNITY DEVELOPMENT BLOCK
55 GRANT AND THE NEW YORK STATE HOME PROGRAM. TWO PERCENT OF THE TOTAL

1 AMOUNT OF EACH, RESPECTIVELY, SHALL BE USED TO FUND THE HOME OWNERSHIP
2 ASSISTANCE PROGRAM.

3 S 2. This act shall take effect on the one hundred eightieth day after
4 it shall have become a law; provided, however, that effective immediate-
5 ly, the addition, amendment and/or repeal of any rule or regulation
6 necessary for the timely implementation of this act on its effective
7 date is hereby authorized and directed to be made on or before such
8 effective date.