

9487

I N A S S E M B L Y

(PREFILED)

January 6, 2010

Introduced by M. of A. V. LOPEZ -- read once and referred to the Committee on Housing

AN ACT authorizing a certain housing authority to sell or lease all or part of certain housing developments

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

1 Section 1. Legislative findings and declaration. The legislature finds  
2 and declares that the state has a vital interest in the continued  
3 viability of public housing. It is necessary to ensure that public hous-  
4 ing continues to serve low-income individuals and families who would  
5 otherwise face homelessness or be forced into unsafe or unsanitary hous-  
6 ing. Public housing functions as a safety net for persons most in need  
7 of safe, decent and affordable housing. The legislature further finds  
8 that the New York City Housing Authority has made, and continues to  
9 make, a concerted effort to provide public housing to individuals and  
10 families in need. Certain projects owned by the New York City Housing  
11 Authority have suffered deterioration over time, and the housing author-  
12 ity does not have sufficient resources to address this deterioration. An  
13 infusion of private capital is necessary to ensure the continued success  
14 and long term viability of these projects. This legislature therefore  
15 finds and declares that enactment of this legislation would enable rede-  
16 velopment and rehabilitation of those certain projects owned by the New  
17 York City Housing Authority, and the continued operation of said  
18 projects for persons and families of low income.

19 S 2. Upon approval by the commissioner of housing and community  
20 renewal and the city council of the city of New York, the New York City  
21 Housing Authority is hereby authorized to sell or lease all or part of  
22 the projects commonly known as Marlboro Houses, Chelsea Houses, Castle  
23 Hill Houses, 344 East 28th Street, Amsterdam Addition, Bushwick Houses,  
24 Stephen Wise Towers, Arthur H. Murphy Houses, Baychester Houses, Jona-  
25 than Williams Plaza, Drew-Hamilton Houses, Independence Towers, Rutgers  
26 Houses, Stapleton Houses and Manhattanville Houses, located in the city  
27 of New York, counties of Bronx, Kings, New York and Richmond, upon such

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

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1 terms and conditions and in such manner as the New York City Housing  
2 Authority may deem appropriate and in compliance with the provisions of  
3 this act. The commissioner of the division of housing and community  
4 renewal shall not grant such approval unless he or she makes a finding  
5 that such sale or lease will enable the projects to be redeveloped and  
6 operated in such manner as to provide decent, safe and sanitary housing  
7 within the financial reach of persons and families of low income. There  
8 shall be no requirement for finding by the commissioner of housing and  
9 community renewal that: (a) federal assistance will be available to the  
10 projects upon the sale or lease thereof; or (b) provisions have been  
11 made to pay or otherwise assure payment or retirement of all bonds,  
12 notes and other obligations heretofore issued to finance the projects or  
13 a portion thereof, provided that the sale or lease of the projects is  
14 part of a comprehensive plan of rehabilitation and/or restructuring  
15 which includes the provision of housing for persons and families of low  
16 income.

17 S 3. (a) All laws, rules, and regulations applicable to federal public  
18 housing projects shall apply to all federal public housing units,  
19 including but not limited to all procedural and substantive due process  
20 requirements, restrictions on evictions except for just cause, the right  
21 to automatic renewals, and the right to meaningful input in matters  
22 concerning tenants; section 8 units shall be subject to the Voluntary  
23 Conversion Agreement and Management Plan approved by HUD and as may be  
24 amended from time to time. Each project owner and the New York City  
25 Housing Authority shall be jointly and severally obligated to provide  
26 and protect the rights set forth herein.

27 (b) Except for tenants in occupancy as of the date of sale or lease,  
28 all federal public housing units shall be occupied by persons or fami-  
29 lies whose income does not exceed sixty percent of area median income at  
30 a rent, including utilities, not to exceed thirty percent of the house-  
31 hold's adjusted gross income.

32 (c) All tenants who reside in a housing project prior to the sale or  
33 lease of such project shall be entitled to remain in their current  
34 apartments, provided that such tenant or tenants continue to pay their  
35 portion of rent, including utilities, comply with other terms and condi-  
36 tions of their lease and meet all applicable federal income guidelines.

37 (d) For each project, all units occupied by persons of low income  
38 shall be physically integrated with all other units in the project. They  
39 shall share common means of access, services and amenities equally with  
40 all other units and shall in no way be physically or otherwise set apart  
41 from all other units in the project.

42 (e) All prospective public housing tenants shall be selected from a  
43 waiting list which shall be maintained by the New York City Housing  
44 Authority in compliance with the federal public housing law and all  
45 applicable rules and regulations. The housing authority and each respec-  
46 tive project owner shall screen tenants and jointly have final approval  
47 over tenant selection all in accordance with aforementioned laws, rules  
48 and regulations. All prospective public housing tenants shall be taken  
49 from the waiting list in the order in which they applied for the size  
50 appropriate unit, subject however to preferences and priorities provided  
51 for in the public housing law and all applicable rules and regulations.

52 (f) The entity that controls the management of each project, or acts  
53 as the managing member or general partner of the respective owner of  
54 each project following transfer of such project, shall be a not-for-pro-  
55 fit Housing Development Fund Company wholly owned by the New York City  
56 Housing Authority and shall be established under article 11 of the

1 private housing finance law. The directors, members or other governing  
2 body of such entity shall be composed of the chairperson of the housing  
3 authority and the duly appointed commissioners of such authority.

4 (g) The entity that owns any project or assists in the management of  
5 any project may include an entity exempt from federal income taxes under  
6 section 501 (c) 3 of the Internal Revenue Code of 1986 as amended, or  
7 its wholly owned subsidiary.

8 (h) Nothing herein shall limit any right or obligation imposed upon  
9 either the general partner or managing member described in subdivision  
10 (f) of this section or the investment partner of the owner of any  
11 project under the terms of any partnerships agreement or other regulato-  
12 ry agreement.

13 (i) The provisions of this section may be enforced by any party  
14 aggrieved by a violation of such provisions.

15 (j) In any case where there is an allocation of federal low income  
16 housing tax credits in connection with a sale or lease of a project, the  
17 fee payable to the project developer shall not exceed twelve percent of  
18 the total development cost, provided however, that the fee payable to  
19 such developer may be increased to the maximum percentage permitted  
20 under regulations promulgated by the division of housing and community  
21 renewal if the developer assumes additional financial risk. Such  
22 increase shall not be granted (i) for risk the developer is customarily  
23 required to assume or guarantees which the developer is customarily  
24 required to provide by industry practice, (ii) for any risks or guaran-  
25 tees which parties other than the developer would ultimately bear, or  
26 (iii) if the cost of such risks or guarantees would be paid from govern-  
27 mental grants, loans, subsidies or other governmental funds. The forego-  
28 ing limitation shall not apply to any portion of a developer fee paid to  
29 the housing authority.

30 (k) The provisions of this section shall be applicable to each of the  
31 projects delineated in section two of this act commencing on the closing  
32 date of the sale or lease of each respective project for the period  
33 referred to in the governing regulatory agreement and in compliance with  
34 applicable law and shall be binding on all owners and operators of such  
35 project for such period.

36 S 4. State subsidies available to the projects referred to in section  
37 two of this act in connection with the bonds, notes or other obligations  
38 heretofore issued to finance the cost thereof may, subject to annual  
39 appropriation and upon compliance with the provisions of this act,  
40 continue to be used to pay the debt service on such bonds, notes or  
41 other obligations, subject to such terms and conditions as the commis-  
42 sioner of housing and community renewal may deem appropriate.

43 S 5. This act shall take effect immediately, provided, however, that  
44 the provisions of section four of this act shall apply to any debt  
45 service payments which become due after such date.