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I N S E N A T E

January 7, 2010

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

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.