

S T A T E O F N E W Y O R K

9487--B

I N A S S E M B L Y

(PREFILED)

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Introduced by M. of A. V. LOPEZ, SILVER, FARRELL, ARROYO, BENJAMIN, BROOK-KRASNY, CYMBROWITZ, ESPAILLAT, HEASTIE, JEFFRIES, KAVANAGH, LENTOL, MAISEL, P. RIVERA, TITONE -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Housing in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public housing law, in relation to authorizing the New York city housing authority to enter into mixed-finance transactions in order to preserve the continued availability of low-income housing to public housing residents of the city of New York

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

1 Section 1. The public housing law is amended by adding a new section
2 402-b to read as follows:
3 S 402-B. POWER OF AUTHORITY TO ENTER INTO MIXED-FINANCE TRANSACTIONS
4 TO CONTINUE VIABILITY OF PUBLIC HOUSING. 1. LEGISLATIVE FINDINGS AND
5 DECLARATION. THE LEGISLATURE FINDS AND DECLARES THAT THE STATE HAS A
6 VITAL INTEREST IN THE CONTINUED VIABILITY OF PUBLIC HOUSING. IT IS
7 NECESSARY TO ENSURE THAT PUBLIC HOUSING CONTINUES TO SERVE LOW-INCOME
8 INDIVIDUALS AND FAMILIES WHO WOULD OTHERWISE FACE HOMELESSNESS OR BE
9 FORCED INTO UNSAFE OR UNSANITARY HOUSING. PUBLIC HOUSING FUNCTIONS AS A
10 SAFETY NET FOR PERSONS MOST IN NEED OF SAFE, DECENT AND AFFORDABLE HOUS-
11 ING. THE LEGISLATURE FURTHER FINDS THAT THE NEW YORK CITY HOUSING
12 AUTHORITY HAS MADE, AND CONTINUES TO MAKE, A CONCERTED EFFORT TO PROVIDE
13 PUBLIC HOUSING TO INDIVIDUALS AND FAMILIES IN NEED. CERTAIN PROJECTS
14 OWNED BY THE NEW YORK CITY HOUSING AUTHORITY HAVE SUFFERED DETERIORATION
15 OVER TIME, AND THE HOUSING AUTHORITY DOES NOT HAVE SUFFICIENT RESOURCES
16 TO ADDRESS THIS DETERIORATION. AN INFUSION OF PRIVATE CAPITAL IS NECES-
17 SARY TO ENSURE THE CONTINUED SUCCESS AND LONG TERM VIABILITY OF THESE
18 PROJECTS. THE LEGISLATURE FURTHER FINDS THAT BRINGING STATE FINANCED

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

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1 PUBLIC HOUSING OPERATED BY THE NEW YORK CITY HOUSING AUTHORITY WITHIN
2 THE PUBLIC HOUSING SUBSIDIZED BY THE FEDERAL GOVERNMENT, BY UTILIZING
3 THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, WILL ALLOW
4 THE NEW YORK CITY HOUSING AUTHORITY TO ENTER INTO MIXED FINANCE TRANS-
5 ACTIONS, WHICH WILL RESULT IN RECEIVING NEW OPERATING AND CAPITAL SUBSI-
6 DIES FROM THE FEDERAL GOVERNMENT AND PRESERVE THE UNITS AS PUBLIC HOUS-
7 ING. THE LEGISLATURE ALSO FINDS THAT TENANTS LIVING IN THE PROJECTS THAT
8 HAVE BEEN FINANCED BY THE CITY OF NEW YORK, COMMONLY KNOWN AS MARBLE
9 HILL HOUSES, ST. MARY'S PARK HOUSES, BAY VIEW HOUSES, BOULEVARD HOUSES,
10 LINDEN HOUSES AND SAMUEL HOUSES, LOCATED IN THE CITY OF NEW YORK, COUN-
11 TIES OF BRONX, KINGS AND NEW YORK, WILL, THROUGH MULTIPLE CONTRACTS AND
12 AGREEMENTS AMONG THE NEW YORK CITY HOUSING AUTHORITY, INVESTMENT PART-
13 NERS AND THE FEDERAL GOVERNMENT, BE AFFORDED THE SAME PROTECTIONS AS
14 TENANTS LIVING IN THE PROJECTS LISTED IN SUBDIVISION TWO OF THIS
15 SECTION. THE LEGISLATURE THEREFORE FINDS AND DECLARES THAT ENACTMENT OF
16 THIS SECTION WOULD ENABLE REDEVELOPMENT AND REHABILITATION OF THOSE
17 CERTAIN NEW YORK STATE AND NEW YORK CITY FINANCED PROJECTS OWNED BY THE
18 NEW YORK CITY HOUSING AUTHORITY, AND THE CONTINUED OPERATION OF SAID
19 PROJECTS FOR PERSONS AND FAMILIES OF LOW INCOME.

20 2. UPON APPROVAL BY THE COMMISSIONER OF THE DIVISION OF HOUSING AND
21 COMMUNITY RENEWAL, THE NEW YORK CITY HOUSING AUTHORITY IS HEREBY AUTHOR-
22 IZED TO SELL OR LEASE ALL OR PART OF THE RESIDENTIAL BUILDINGS WITHIN
23 THE PROJECTS COMMONLY KNOWN AS MARLBORO HOUSES, CHELSEA HOUSES, CASTLE
24 HILL HOUSES, 344 EAST 28TH STREET, AMSTERDAM ADDITION, BUSHWICK HOUSES,
25 STEPHEN WISE TOWERS, ARTHUR H. MURPHY HOUSES, BAYCHESTER HOUSES, JONA-
26 THAN WILLIAMS PLAZA, DREW-HAMILTON HOUSES, INDEPENDENCE TOWERS, RUTGERS
27 HOUSES, STAPLETON HOUSES AND MANHATTANVILLE HOUSES, LOCATED IN THE CITY
28 OF NEW YORK, COUNTIES OF BRONX, KINGS, NEW YORK AND RICHMOND, UPON SUCH
29 TERMS AND CONDITIONS AND IN SUCH MANNER AS THE NEW YORK CITY HOUSING
30 AUTHORITY MAY DEEM APPROPRIATE AND IN COMPLIANCE WITH THE PROVISIONS OF
31 THIS SECTION. THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY
32 RENEWAL SHALL NOT GRANT SUCH APPROVAL UNLESS HE OR SHE MAKES A FINDING
33 THAT SUCH SALE OR LEASE WILL ENABLE THE PROJECTS TO BE REDEVELOPED AND
34 OPERATED IN SUCH MANNER AS TO PROVIDE DECENT, SAFE AND SANITARY HOUSING
35 WITHIN THE FINANCIAL REACH OF PERSONS AND FAMILIES OF LOW INCOME AND A
36 FURTHER FINDING THAT NEW FEDERAL ASSISTANCE IS SIGNIFICANTLY MORE LIKELY
37 TO BE AVAILABLE TO THE PROJECTS LISTED IN THIS SECTION IF SUCH APPROVAL
38 IS GRANTED. THERE SHALL BE NO REQUIREMENT FOR A FINDING BY THE COMMIS-
39 SIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL THAT PROVISIONS
40 HAVE BEEN MADE TO PAY OR OTHERWISE ASSURE PAYMENT OR RETIREMENT OF ALL
41 BONDS, NOTES AND OTHER OBLIGATIONS HERETOFORE ISSUED TO FINANCE THE
42 PROJECTS OR A PORTION THEREOF, PROVIDED THAT THE SALE OR LEASE OF THE
43 PROJECTS IS PART OF A COMPREHENSIVE PLAN OF REHABILITATION AND/OR
44 RESTRUCTURING WHICH INCLUDES THE PROVISION OF HOUSING FOR PERSONS AND
45 FAMILIES OF LOW INCOME. THE SALE OR LEASE OF ALL OR PART OF THE RESIDEN-
46 TIAL BUILDINGS WITHIN THE PROJECTS ENUMERATED IN THIS SECTION SHALL BE
47 MADE SUBJECT TO ALL PERTINENT FEDERAL STATUTORY, EXECUTIVE ORDERS,
48 CONSENT ORDERS AND REGULATORY REQUIREMENTS, AS THOSE REQUIREMENTS MAY BE
49 AMENDED FROM TIME TO TIME, AND CONTRACTS AND AGREEMENTS WHICH SHALL BE
50 RECORDED AGAINST AND WHICH SHALL RUN WITH THE LAND, INCLUDING A REGULA-
51 TORY AND OPERATING AGREEMENT AND A DECLARATION OF RESTRICTIVE COVENANTS
52 REQUIRING THE OPERATION AND MAINTENANCE OF SUCH RESIDENTIAL PROJECTS IN
53 COMPLIANCE WITH FEDERAL REQUIREMENTS, AND AMENDMENTS TO A CERTAIN
54 MIXED-FINANCE AMENDMENT TO THE CONSOLIDATED ANNUAL CONTRIBUTIONS
55 CONTRACT BETWEEN THE NEW YORK CITY HOUSING AUTHORITY AND THE UNITED

STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (COLLECTIVELY, THE "APPLICABLE PUBLIC HOUSING REQUIREMENTS").

3. (A) ALL APPLICABLE PUBLIC HOUSING REQUIREMENTS PERTAINING TO FEDERAL PUBLIC HOUSING PROJECTS SHALL APPLY TO THE PROJECTS LISTED IN SUBDIVISION TWO OF THIS SECTION, INCLUDING BUT NOT LIMITED TO ALL PROCEDURAL AND SUBSTANTIVE DUE PROCESS REQUIREMENTS, RESTRICTIONS ON EVICTIONS EXCEPT FOR JUST CAUSE, THE RIGHT TO AUTOMATIC RENEWALS OF LEASES, AND THE RIGHT TO MEANINGFUL INPUT IN MATTERS CONCERNING TENANTS; SECTION 8 UNITS SHALL BE SUBJECT TO THE VOLUNTARY CONVERSION AGREEMENT AND MANAGEMENT PLAN APPROVED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ON SEPTEMBER ELEVENTH, TWO THOUSAND EIGHT, AND AS IT MAY BE AMENDED FROM TIME TO TIME. THE PUBLIC HOUSING AND SECTION 8 LEASES OF TENANTS IN OCCUPANCY OF THE PROJECTS LISTED IN SUBDIVISION TWO OF THIS SECTION ON THE DATE OF SALE OR LEASE OF SUCH PROJECTS SHALL REMAIN IN EFFECT, EXCEPT AS SUCH LEASES MAY BE MODIFIED OR ASSIGNED TO REFLECT CHANGES IN THE OWNERSHIP OF PROJECT BUILDINGS. EACH SUCH TENANT SHALL ENJOY THE SAME RIGHTS AND OBLIGATIONS AS OTHER TENANTS WITH PUBLIC HOUSING LEASES OCCUPYING DWELLING UNITS IN THE HOUSING PROJECTS OWNED AND OPERATED BY THE NEW YORK CITY HOUSING AUTHORITY THAT ARE NOT LISTED IN SUBDIVISION TWO OF THIS SECTION, OR PURSUANT TO SECTION 8 LEASES SUPPORTED BY SECTION 8 VOUCHERS, EXCEPT AS PROVIDED BY PARAGRAPH (B) OF THIS SUBDIVISION. EACH PROJECT OWNER AND THE NEW YORK CITY HOUSING AUTHORITY SHALL BE JOINTLY AND SEVERALLY OBLIGATED TO PROVIDE AND PROTECT THE RIGHTS SET FORTH HEREIN.

(B) ALL UNITS IN PROJECTS LISTED IN SUBDIVISION TWO OF THIS SECTION WHERE THERE HAS BEEN AN ALLOCATION OF FEDERAL LOW-INCOME HOUSING TAX CREDITS, DURING THE REQUIRED FEDERAL REGULATORY COMPLIANCE PERIODS APPLICABLE TO SUCH FEDERAL LOW-INCOME HOUSING TAX CREDITS, SHALL UPON VACANCY BE RENTED BY PERSONS OR FAMILIES WHOSE INCOME DOES NOT EXCEED SIXTY PERCENT OF AREA MEDIAN INCOME AT A RENT, INCLUDING UTILITIES, NOT TO EXCEED THIRTY PERCENT OF THE HOUSEHOLD'S ADJUSTED GROSS INCOME. ALL OTHER UNITS SHALL UPON VACANCY BE RENTED BY PERSONS OR FAMILIES WHOSE INCOME DOES NOT EXCEED EIGHTY PERCENT OF AREA MEDIAN INCOME AT A RENT, INCLUDING UTILITIES, NOT TO EXCEED THIRTY PERCENT OF THE HOUSEHOLD'S ADJUSTED GROSS INCOME. ALL INCOME GUIDELINES APPLICABLE TO FEDERAL PUBLIC HOUSING PROJECTS SHALL APPLY TO PROJECTS LISTED IN SUBDIVISION TWO OF THIS SECTION. EACH SUCH TENANT SHALL ENJOY THE SAME RIGHTS AND OBLIGATIONS AS OTHER TENANTS WITH PUBLIC HOUSING LEASES OCCUPYING DWELLING UNITS IN THE HOUSING PROJECTS OWNED AND OPERATED BY THE NEW YORK CITY HOUSING AUTHORITY THAT ARE NOT LISTED IN SUBDIVISION TWO OF THIS SECTION, OR PURSUANT TO SECTION 8 LEASES SUPPORTED BY SECTION 8 VOUCHERS, EXCEPT AS PROVIDED BY THIS PARAGRAPH.

(C) ALL TENANTS WHO RESIDE IN THE HOUSING PROJECTS LISTED IN SUBDIVISION TWO OF THIS SECTION PRIOR TO THE SALE OR LEASE OF SUCH PROJECT SHALL BE ENTITLED TO REMAIN IN THEIR CURRENT APARTMENTS, PROVIDED THAT SUCH TENANT OR TENANTS COMPLY WITH THE TERMS AND CONDITIONS OF THEIR LEASES AND MEET ALL APPLICABLE FEDERAL INCOME GUIDELINES. EACH SUCH TENANT SHALL ENJOY THE SAME RIGHTS AND OBLIGATIONS AS OTHER TENANTS WITH PUBLIC HOUSING LEASES OCCUPYING DWELLING UNITS IN THE HOUSING PROJECTS OWNED AND OPERATED BY THE NEW YORK CITY HOUSING AUTHORITY THAT ARE NOT LISTED IN SUBDIVISION TWO OF THIS SECTION, OR PURSUANT TO SECTION 8 LEASES SUPPORTED BY SECTION 8 VOUCHERS, EXCEPT AS PROVIDED BY PARAGRAPH (B) OF THIS SUBDIVISION.

(D) FOR EACH PROJECT LISTED IN SUBDIVISION TWO OF THIS SECTION, ALL UNITS OCCUPIED BY PERSONS OF LOW INCOME SHALL BE PHYSICALLY INTEGRATED WITH ALL OTHER UNITS IN THE PROJECT. THEY SHALL SHARE COMMON MEANS OF

1 ACCESS, SERVICES AND AMENITIES EQUALLY WITH ALL OTHER UNITS AND SHALL IN
2 NO WAY BE PHYSICALLY OR OTHERWISE SET APART FROM ALL OTHER UNITS IN THE
3 PROJECT.

4 (E) ALL PROSPECTIVE PUBLIC HOUSING AND SECTION 8 TENANTS SHALL BE
5 SELECTED FROM A WAITING LIST WHICH SHALL BE MAINTAINED BY THE NEW YORK
6 CITY HOUSING AUTHORITY IN COMPLIANCE WITH THE FEDERAL PUBLIC HOUSING AND
7 SECTION 8 LAWS AND ALL APPLICABLE RULES AND REGULATIONS. THE NEW YORK
8 CITY HOUSING AUTHORITY AND EACH RESPECTIVE PROJECT OWNER SHALL SCREEN
9 TENANTS AND JOINTLY HAVE FINAL APPROVAL OVER TENANT SELECTION ALL IN
10 ACCORDANCE WITH AFOREMENTIONED LAWS, RULES AND REGULATIONS. ALL PROSPEC-
11 TIVE PUBLIC HOUSING TENANTS SHALL BE TAKEN FROM THE WAITING LIST IN THE
12 ORDER IN WHICH THEY APPLIED FOR THE SIZE APPROPRIATE UNIT, SUBJECT
13 HOWEVER TO PREFERENCES AND PRIORITIES PROVIDED FOR IN THE PUBLIC HOUSING
14 LAW AND ALL APPLICABLE RULES AND REGULATIONS.

15 (F) THE ENTITY THAT ACTS AS THE MANAGING MEMBER OR GENERAL PARTNER OF
16 THE RESPECTIVE OWNER OF EACH PROJECT LISTED IN SUBDIVISION TWO OF THIS
17 SECTION FOLLOWING TRANSFER OF SUCH PROJECT, SHALL AT ALL TIMES BE A
18 NOT-FOR-PROFIT HOUSING DEVELOPMENT FUND CORPORATION WHOLLY OWNED BY THE
19 NEW YORK CITY HOUSING AUTHORITY AND SHALL BE ESTABLISHED UNDER ARTICLE
20 ELEVEN OF THE PRIVATE HOUSING FINANCE LAW. THE BOARD OF DIRECTORS OF
21 SUCH HOUSING DEVELOPMENT FUND CORPORATION SHALL BE COMPOSED OF THE
22 CHAIRPERSON OF THE NEW YORK CITY HOUSING AUTHORITY AND THE DULY
23 APPOINTED MEMBERS OF SUCH AUTHORITY.

24 (G) THE ENTITY THAT OWNS ANY PROJECT OR ASSISTS IN THE MANAGEMENT OF
25 ANY PROJECT MAY INCLUDE AN ENTITY EXEMPT FROM FEDERAL INCOME TAXES UNDER
26 SECTION 501(C)3 OF THE INTERNAL REVENUE CODE OF 1986 AS AMENDED, OR ITS
27 WHOLLY OWNED SUBSIDIARY.

28 (H) THE PROVISIONS OF THIS SECTION MAY BE ENFORCED BY ANY PARTY
29 AGGRIEVED BY A VIOLATION OF SUCH PROVISIONS.

30 (I) IN THE CASE WHERE THERE IS AN ALLOCATION OF FEDERAL LOW INCOME
31 HOUSING TAX CREDITS IN CONNECTION WITH A SALE OR LEASE OF THE PROJECT,
32 THE FEE PAYABLE TO THE PROJECT DEVELOPER SHALL NOT EXCEED TWELVE PERCENT
33 OF THE TOTAL DEVELOPMENT COST, PROVIDED HOWEVER, THAT THE FEE PAYABLE TO
34 SUCH DEVELOPER MAY BE INCREASED TO THE MAXIMUM PERCENTAGE PERMITTED
35 UNDER REGULATIONS PROMULGATED BY THE DIVISION OF HOUSING AND COMMUNITY
36 RENEWAL IF THE DEVELOPER ASSUMES ADDITIONAL FINANCIAL RISK. SUCH
37 INCREASE SHALL NOT BE GRANTED (I) FOR RISK THE DEVELOPER IS CUSTOMARILY
38 REQUIRED TO ASSUME OR GUARANTEES WHICH THE DEVELOPER IS CUSTOMARILY
39 REQUIRED TO PROVIDE BY INDUSTRY PRACTICE, (II) FOR ANY RISKS OR GUARAN-
40 TEES WHICH PARTIES OTHER THAN THE DEVELOPER WOULD ULTIMATELY BEAR, OR
41 (III) IF THE COST OF SUCH RISKS OR GUARANTEES WOULD BE PAID FROM GOVERN-
42 MENTAL GRANTS, LOANS, SUBSIDIES OR OTHER GOVERNMENTAL FUNDS. THE FORE-
43 GOING LIMITATION SHALL NOT APPLY TO ANY PORTION OF A DEVELOPER FEE PAID
44 TO THE HOUSING AUTHORITY.

45 (J) THE PROVISIONS OF THIS SECTION SHALL BE APPLICABLE TO EACH OF THE
46 PROJECTS DELINEATED IN SUBDIVISION TWO OF THIS SECTION COMMENCING ON THE
47 CLOSING DATE OF THE SALE OR LEASE OF EACH RESPECTIVE PROJECT IN COMPLI-
48 ANCE WITH APPLICABLE LAW AND SHALL BE BINDING ON ALL OWNERS AND OPERA-
49 TORS OF SUCH PROJECT.

50 4. STATE SUBSIDIES AVAILABLE TO THE PROJECTS LISTED IN SUBDIVISION TWO
51 OF THIS SECTION IN CONNECTION WITH THE BONDS, NOTES OR OTHER OBLIGATIONS
52 HERETOFORE ISSUED TO FINANCE THE COST THEREOF MAY, SUBJECT TO ANNUAL
53 APPROPRIATION AND UPON COMPLIANCE WITH THE PROVISIONS OF THIS SECTION,
54 CONTINUE TO BE USED TO PAY THE DEBT SERVICE ON SUCH BONDS, NOTES OR
55 OTHER OBLIGATIONS, SUBJECT TO SUCH TERMS AND CONDITIONS AS THE COMMIS-

1 SIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL MAY DEEM APPRO-
2 PRIATE.

3 5. THE NEW YORK CITY HOUSING AUTHORITY SHALL BE REQUIRED TO DEVELOP
4 AND CIRCULATE A NOTICE TO ALL TENANTS OF PUBLIC HOUSING PROJECTS LISTED
5 IN SUBDIVISIONS ONE AND TWO OF THIS SECTION. THE NOTICE SHALL CONTAIN
6 INFORMATION REGARDING THE TRANSFER AND FEDERALIZATION PROCESS, AS WELL
7 AS NOTICE THAT TENANTS' RIGHTS TO OCCUPANCY AND DUE PROCESS SHALL
8 CONTINUE AS THEY EXISTED PRIOR TO THE TRANSFER.

9 6. THE NEW YORK CITY HOUSING AUTHORITY, SHALL PROVIDE THE COMMISSIONER
10 OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL, THE SPEAKER OF THE
11 ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF
12 THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE CHAIR OF THE ASSEM-
13 BLY HOUSING COMMITTEE, AND THE CHAIR OF THE SENATE HOUSING,
14 CONSTRUCTION, AND COMMUNITY DEVELOPMENT COMMITTEE COPIES OF THE ANNUAL
15 PROJECT ACTIVITY REPORT OR ANY SUBSTANTIALLY SIMILAR ANNUAL REPORT THAT
16 IT IS REQUIRED TO SUBMIT TO THE UNITED STATES DEPARTMENT OF HOUSING AND
17 URBAN DEVELOPMENT THAT IS RELATED TO THE PROJECTS LISTED IN SUBDIVISIONS
18 ONE AND TWO OF THIS SECTION.

19 S 2. This act shall take effect immediately, provided, however, that
20 the provisions of subdivision 4 of section 402-b of the public housing
21 law, as added by section one of this act, shall apply to any debt
22 service payments which become due after such date.