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

S. 2771--B A. 6329--B

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

March 2, 2009

IN SENATE -- Introduced by Sens. BRESLIN, ESPADA -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. CANESTRARI, McENENY -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 authorizing a certain housing authority to sell or lease all or part of a certain housing project

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

Section 1. Legislative findings and declaration. The legislature finds and declares that the state has a vital interest in the continued viability of public housing. It is necessary to ensure that public housing continues to serve low-income individuals and families who would otherwise face homelessness or be forced into unsafe or unsanitary housing. Public housing functions as a safety net for persons most in need of safe, decent and affordable housing. The legislature further finds that the Albany Housing Authority has made, and continues to make, a concerted effort to provide public housing to individuals and families in need. A certain project owned by the Albany Housing Authority has suffered deterioration over time, and this authority does not have sufficient resources to address this deterioration. An infusion of private capital is necessary to ensure the continued success and long-

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

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term viability of the project. This legislature therefore finds and declares that enactment of this legislation would enable redevelopment and rehabilitation of that certain project owned by the Albany Housing Authority, and the continued operation of that project for persons and families of low-income.

S 2. Upon approval by the commissioner of housing and community renewal and the common council of the city of Albany, county of Albany, the Albany Housing Authority is hereby authorized to sell or lease all or part of the project commonly known as "Ezra Prentice Homes", located in the city of Albany, county of Albany, upon such terms and conditions and in such manner as the Albany Housing Authority may deem appropriate and in compliance with the provisions of this act. The commissioner of the division of housing and community renewal shall not grant such approval unless he or she makes a finding that such sale or lease will enable the project to be redeveloped and operated in such manner as to provide decent, safe and sanitary housing within the financial reach of persons and families of low-income. There shall be no requirement for a finding by the commissioner of housing and community renewal that: (a) federal assistance will be available to the project upon the sale or lease thereof; or (b) the provision has been made to pay or otherwise assure payment or retirement of all bonds, notes and other obligations heretofore issued to finance the project or a portion thereof, provided that the sale or lease of the project is part of a comprehensive plan of rehabilitation and/or restructuring which includes the provision of housing for persons and families of low-income.

S 3. (a) All laws, rules, and regulations applicable to federal public housing projects shall continue to apply to all units except those that are governed by the laws, rules, and regulations applicable to section 8 rental voucher program including but not limited to all procedural and substantive due process requirements, restrictions on evictions except for just cause, the right to automatic renewals, and the right to meaningful input in matters concerning tenants. The owner and the Albany Housing Authority shall be jointly and severally obligated to provide and protect the rights set forth herein.

(b) One hundred percent of all units shall be made available to tenants (including tenants in occupancy) with household incomes of sixty percent or less of area median income. Up to five percent of the units of the project may be rented to households participating in the federal section 8 rental voucher program.

(c) The first units that become available for occupancy after the sale or lease shall be made available to tenants of the project. Thereafter, no less than forty percent of new tenants will have household incomes of thirty percent or less of area median income. Units for which a portion of the rent is paid pursuant to section 8 of the United States Housing Act of 1937 may be counted to satisfy the aforementioned set aside for extremely low income tenants.

(d) All tenants who resided in the housing project prior to the sale or lease shall be offered their current apartments or comparable accommodations provided that such tenant paid portion of rent, including utilities, shall in no event exceed thirty percent of a household's adjusted gross income.

(e) 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 access, services and amenities equally with all other units and shall in no way be physically or otherwise set apart from all other units in the project.

(f) All prospective public housing tenants shall be selected from a waiting list which shall be maintained by the Albany Housing Authority in compliance with the federal public housing law and all applicable rules and regulations. The authority and owner shall screen tenants and jointly have final approval over tenant selection all in accordance with aforementioned laws, rules and regulations. All prospective public housing tenants shall be taken from the waiting list in the order in which they applied for the size appropriate unit, subject however to preferences and priorities provided for in the public housing law and all applicable rules and regulations.

(g) Except for tenants in occupancy as of the date of sale or lease, all units shall be occupied 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.

(h) The entity that controls the operation of the project or acts as the managing member or general partner following transfer of the project shall be a not-for-profit entity wholly owned by the Albany Housing Authority and shall be established under article 11 of the private housing finance law, provided, however, that the directors, members or other governing body of such entity shall be composed of the chairperson of the authority and the duly appointed and elected commissioners of such authority.

(i) If the managing member or general partner violates any of the governing laws or covenants imposed on the project resulting in an adverse effect on the investment partner, the investment partner may remove the managing member or general partner installed pursuant to subdivision (h) of this section and install a new managing member or general partner not subject to the limitations of such subdivision (h).

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

(k) The Albany Housing Authority, or a new managing member or general partner installed pursuant to subdivision (i) of this section shall provide the commissioner of the division of housing and community renewal, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly, the chair of the senate housing, construction, and community development committee, and the chair of the assembly housing committee copies of the annual project activity report or any substantially similar annual report or any substantially similar annual report that it is required to submit to the department of housing and urban development that is related to the "Ezra Prentice Homes" project.

(l) In any case where there is an allocation of federal low income housing tax credits in connection with a sale or lease of a project the fee payable to the developer shall not exceed twelve percent of the total development cost provided, however that the fee payable to the developer may be increased to the maximum percentage permitted under regulations promulgated by the division of housing and community renewal if the developer assumes additional financial risk. Such increase shall not be granted (i) for risk the developer is customarily required to assume or guarantees which the developer is customarily required to provide by industry practice; (ii) for any risks or guarantees which parties other than the developer would ultimately bear; or (iii) if the cost of such risks or guarantees would be paid from governmental grants, loans, subsidies or other governmental funds. The foregoing limitation

shall not apply to any portion of the developer fee paid to the housing authority.

(m) The provisions of this section shall be applicable to the "Ezra Prentice Homes" project commencing on the closing date of the sale or lease of the project for a period of forty years and shall be binding on all owners and operators of the project for such period.

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

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