

2595

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 19, 2011

---

Introduced by M. of A. V. LOPEZ, CYMBROWITZ, WRIGHT, ORTIZ, ROBINSON, O'DONNELL, PERRY, MAYERSOHN, COLTON, BROOK-KRASNY, SCHROEDER, ROSENTHAL, LANCMAN, MAISEL, KAVANAGH, P. RIVERA, JEFFRIES, TITONE, TITUS, CAMARA, SPANO, BARRON -- Multi-Sponsored by -- M. of A. BING, DINOWITZ, FARRELL, GLICK, GOTTFRIED, HEASTIE, HEVESI, JACOBS, MILLMAN, PHEFFER, TOWNS -- read once and referred to the Committee on Housing

AN ACT to amend the private housing finance law, in relation to limited-profit housing companies in a city with a population of one million or more

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

1     Section 1. Section 28 of the private housing finance law is amended by  
2     adding a new subdivision 4 to read as follows:  
3     4. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE OR  
4     OF ANY OTHER PROVISION OF GENERAL, SPECIAL OR LOCAL LAW, A COMPANY  
5     (OTHER THAN A MUTUAL COMPANY) THAT OPERATES A MUNICIPALLY-AIDED PROJECT  
6     IN A CITY WITH A POPULATION OF ONE MILLION OR MORE AND THAT IS OTHERWISE  
7     AUTHORIZED TO PAY DIVIDENDS UPON ITS SHARES OR INTEREST UPON ITS INCOME  
8     DEBENTURES MAY, WITH THE APPROVAL OF THE SUPERVISING AGENCY, PAY SUCH  
9     DIVIDENDS OR INTEREST IN EXCESS OF SIX PERCENT PER ANNUM.  
10    (B) ON AND AFTER THE DATE OF THE APPROVAL OF SUCH EXCESS DIVIDEND OR  
11    INTEREST BY THE SUPERVISING AGENCY PURSUANT TO PARAGRAPH (A) OF THIS  
12    SUBDIVISION, THE PROVISIONS OF SECTION THIRTY-ONE OF THIS ARTICLE RELAT-  
13    ING TO THE VARIATION OF RENTAL RATES OF DWELLING UNITS IN SUCH MUNICI-  
14    PALLY-AIDED PROJECT SHALL NOT APPLY AND RENTAL RATES OF DWELLING UNITS  
15    MAY BE INCREASED ANNUALLY BY SUCH COMPANY, WITHOUT PUBLIC HEARING OR  
16    FURTHER APPROVAL BY THE SUPERVISING AGENCY, IN THE AMOUNT AUTHORIZED BY  
17    THE RENT GUIDELINES BOARD ESTABLISHED PURSUANT TO THE RENT STABILIZATION  
18    LAW OF NINETEEN HUNDRED SIXTY-NINE FOR RENT STABILIZED DWELLING UNITS.  
19    (C) THIS SUBDIVISION SHALL NOT APPLY TO A COMPANY WITH A MORTGAGE LOAN  
20    INSURED OR HELD BY THE FEDERAL GOVERNMENT.

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

LBD04993-01-1

1 S 2. The private housing finance law is amended by adding a new  
2 section 35-a to read as follows:

3 S 35-A. DISSOLUTION OF CERTAIN RENTAL HOUSING COMPANIES. 1. FOR THE  
4 PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS  
5 SET FORTH BELOW:

6 (A) "AFFECTED DEVELOPMENT" SHALL MEAN HOUSING ACCOMMODATIONS (I)  
7 LOCATED IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, (II) IN  
8 BUILDINGS COMPLETED OR BUILDINGS SUBSTANTIALLY REHABILITATED AS FAMILY  
9 UNITS ON OR AFTER JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR, AND  
10 (III) OPERATED PRIOR TO THE DISSOLUTION DATE AS A RENTAL DEVELOPMENT  
11 PURSUANT TO THIS ARTICLE.

12 (B) "AFFECTED DWELLING UNIT" SHALL MEAN A DWELLING UNIT IN AN AFFECTED  
13 DEVELOPMENT.

14 (C) "AFFECTED HOUSING COMPANY" SHALL MEAN A LIMITED-PROFIT HOUSING  
15 COMPANY WITH AN AFFECTED DEVELOPMENT.

16 (D) "DISSOLUTION DATE" SHALL MEAN, WITH RESPECT TO ANY AFFECTED DEVEL-  
17 OPMENT, THE DATE OF THE DISSOLUTION OR RECONSTITUTION OF THE AFFECTED  
18 HOUSING COMPANY WITH SUCH AFFECTED DEVELOPMENT PURSUANT TO SECTION THIR-  
19 TY-FIVE OF THIS ARTICLE.

20 (E) "VOUCHER RECIPIENT" SHALL MEAN A TENANT IN AN AFFECTED DWELLING  
21 UNIT WHO RECEIVES ENHANCED VOUCHER ASSISTANCE PURSUANT TO THE VOUCHER  
22 ACT FOR SUCH PERIOD AS SUCH TENANT RECEIVES SUCH ASSISTANCE.

23 (F) "VOUCHER UNIT" SHALL MEAN AN AFFECTED DWELLING UNIT THAT IS AT ANY  
24 TIME OCCUPIED BY A VOUCHER RECIPIENT, FOR SUCH PERIOD AS SUCH AFFECTED  
25 DWELLING UNIT IS OCCUPIED BY A VOUCHER RECIPIENT.

26 (G) "MARKET UNIT" SHALL MEAN AN AFFECTED DWELLING UNIT THAT IS NO  
27 LONGER SUBJECT TO THE RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-  
28 NINE AND THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR  
29 BECAUSE IT HAS BEEN DECONTROLLED PURSUANT TO THE TERMS OF APPLICABLE LAW  
30 OR PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

31 (H) "VACATED UNIT" SHALL MEAN AN AFFECTED DWELLING UNIT, OTHER THAN A  
32 VOUCHER UNIT OR A MARKET UNIT, THAT IS NO LONGER OCCUPIED BY THE TENANT  
33 WHO OCCUPIED SUCH UNIT ON THE DISSOLUTION DATE OR BY THE LAWFUL SUCCE-  
34 SORS IN INTEREST OF SUCH TENANT.

35 (I) "FULLY TAXABLE UNITS" SHALL MEAN, WITH RESPECT TO ANY TAX YEAR,  
36 ALL AFFECTED UNITS THAT WERE VOUCHER UNITS, MARKET UNITS OR VACATED  
37 UNITS ON THE TAXABLE STATUS DATE OF SUCH TAX YEAR.

38 (J) "PARTIALLY TAXABLE UNITS" SHALL MEAN, WITH RESPECT TO ANY TAX  
39 YEAR, ALL AFFECTED UNITS WHICH WERE NOT FULLY TAXABLE UNITS ON THE TAXA-  
40 BLE STATUS DATE OF SUCH TAX YEAR.

41 (K) "VOUCHER ACT" SHALL MEAN SECTION 8(T) OF THE UNITED STATES HOUSING  
42 ACT OF NINETEEN THIRTY-SEVEN, AS AMENDED, OR ANY SUCCESSOR STATUTE, AND  
43 ANY REGULATIONS PROMULGATED THEREUNDER.

44 2. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN THIS  
45 ARTICLE, AND NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR  
46 LOCAL LAW, AFTER THE DISSOLUTION DATE, AFFECTED DWELLING UNITS SHALL BE  
47 FULLY SUBJECT TO THE PROVISIONS OF THE RENT STABILIZATION LAW OF NINE-  
48 TEEN HUNDRED SIXTY-NINE AND THE EMERGENCY TENANT PROTECTION ACT OF NINE-  
49 TEEN SEVENTY-FOUR.

50 (A) THE INITIAL LEGAL REGULATED RENT FOR ANY AFFECTED DWELLING UNIT  
51 FOLLOWING THE DISSOLUTION DATE SHALL BE THE LAST RENT AUTHORIZED FOR THE  
52 AFFECTED DWELLING UNIT BEFORE THE DISSOLUTION DATE, WHICH SHALL NOT BE  
53 SUBJECT TO ADJUSTMENT PURSUANT TO SUBDIVISION A OF SECTION 26-513 OF THE  
54 ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

55 (B) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE  
56 LEGAL REGULATED RENT FOR A VOUCHER UNIT SHALL BE EQUAL TO THE MAXIMUM

1 RENT AUTHORIZED AND APPROVED IN CONNECTION WITH THE FEDERAL ASSISTANCE  
2 PROVIDED TO THE VOUCHER RECIPIENT OCCUPYING SUCH VOUCHER UNIT. IF AN  
3 AFFECTED DWELLING UNIT WHICH WAS A VOUCHER UNIT CEASES TO BE A VOUCHER  
4 UNIT AT ANY TIME OR FOR ANY REASON, EXCEPT FOR THOSE REASONS SPECIFIED  
5 IN SUBDIVISION THREE OF THIS SECTION, THE INITIAL LEGAL REGULATED RENT  
6 FOR SUCH AFFECTED DWELLING UNIT FOLLOWING SUCH CHANGE IN STATUS SHALL BE  
7 EQUAL TO THE SUM OF (I) THE LAST RENT AUTHORIZED BEFORE THE DISSOLUTION  
8 DATE, PLUS (II) ANY ADJUSTMENTS TO SUCH RENT AUTHORIZED BY LAW BETWEEN  
9 THE DISSOLUTION DATE AND THE DATE UPON WHICH SUCH UNIT CEASED TO BE A  
10 VOUCHER UNIT.

11 3. NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY,  
12 WHERE AN AFFECTED DEVELOPMENT CONTAINS DWELLING UNITS WHICH MAY BE  
13 ELIGIBLE FOR ENHANCED VOUCHER ASSISTANCE PURSUANT TO THE VOUCHER ACT,  
14 ANY DWELLING UNIT IN SUCH AFFECTED DEVELOPMENT SHALL BE DEEMED TO BE A  
15 MARKET UNIT AND NOT SUBJECT TO THE RENT STABILIZATION LAW OF NINETEEN  
16 HUNDRED SIXTY-NINE AND THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN  
17 SEVENTY-FOUR FOR THE DURATION OF SUCH TENANCY IF: (A) THE TENANT RESID-  
18 ING IN SUCH DWELLING UNIT AS OF THE DISSOLUTION DATE FAILS TO SUBMIT ALL  
19 OF THE REQUIRED DOCUMENTATION FOR THE INITIAL APPLICATION FOR ENHANCED  
20 VOUCHER ASSISTANCE PURSUANT TO THE VOUCHER ACT, (B) A VOUCHER RECIPIENT  
21 RESIDING IN SUCH DWELLING UNIT FAILS TO SUBMIT THE REQUIRED DOCUMENTA-  
22 TION FOR RECERTIFICATION FOR ENHANCED VOUCHER ASSISTANCE PURSUANT TO THE  
23 VOUCHER ACT, OR (C) A VOUCHER RECIPIENT RESIDING IN SUCH DWELLING UNIT  
24 VIOLATES, THROUGH ACTION OR INACTION, THE REQUIREMENTS OF THE VOUCHER  
25 ACT. UPON THE FIRST VACANCY OF AN AFFECTED DWELLING UNIT WHICH BECOMES A  
26 MARKET RATE UNIT PURSUANT TO THIS SUBDIVISION, SUCH AFFECTED DWELLING  
27 UNIT SHALL BE FULLY SUBJECT TO THE PROVISIONS OF THE RENT STABILIZATION  
28 LAW OF NINETEEN HUNDRED SIXTY-NINE AND THE EMERGENCY TENANT PROTECTION  
29 ACT OF NINETEEN SEVENTY-FOUR, AND THE INITIAL LEGAL REGULATED RENT FOR  
30 SUCH AFFECTED DWELLING UNIT FOLLOWING SUCH CHANGE IN STATUS SHALL BE  
31 EQUAL TO THE SUM OF (I) THE LAST RENT AUTHORIZED BEFORE THE DISSOLUTION  
32 DATE, PLUS (II) ANY ADJUSTMENTS TO SUCH RENT AUTHORIZED BY LAW BETWEEN  
33 THE DISSOLUTION DATE AND THE DATE UPON WHICH SUCH UNIT CEASES TO BE A  
34 MARKET UNIT.

35 4. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN THIS  
36 ARTICLE, AND NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR  
37 LOCAL LAW, AFTER THE DISSOLUTION DATE, ANY PARTIAL EXEMPTION FROM REAL  
38 PROPERTY TAXATION GRANTED TO THE REAL PROPERTY IN AN AFFECTED DEVELOP-  
39 MENT PURSUANT TO SECTION THIRTY-THREE OF THIS ARTICLE SHALL CONTINUE  
40 WITH RESPECT TO ANY PARTIALLY TAXABLE UNITS, BUT ANY FULLY TAXABLE UNITS  
41 SHALL BE SUBJECT TO FULL REAL PROPERTY TAXATION.

42 5. THIS SECTION SHALL NOT APPLY TO AN AFFECTED DEVELOPMENT IF: (A) THE  
43 OWNER AND A DULY RECOGNIZED TENANTS ASSOCIATION EXECUTE A WRITTEN  
44 SETTLEMENT AGREEMENT ON OR BEFORE THE DISSOLUTION DATE, AND (B) SUCH  
45 WRITTEN SETTLEMENT AGREEMENT SPECIFIES THE RESPECTIVE RIGHTS AND OBLI-  
46 GATIONS OF THE TENANTS AND OWNER SUBSEQUENT TO THE DISSOLUTION DATE.

47 S 3. If any clause, sentence, paragraph, section or part of this act  
48 shall be adjudged by any court of competent jurisdiction to be invalid,  
49 such judgment shall not affect, impair, or invalidate the remainder  
50 thereof, but shall be confined in its operation to the clause, sentence,  
51 paragraph, section or part thereof directly involved in the controversy  
52 in which judgment shall have been rendered.

53 S 4. This act shall take effect immediately; provided, however, that  
54 section two of this act shall apply to any affected development with a  
55 dissolution date on or after the effective date of this act.