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

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I N S E N A T E

June 15, 2012

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the private housing finance law, in relation to rentals and selection of tenants in projects owned by limited-profit housing companies; and to repeal subdivision 5 of section 31 of such law relating to continued occupancy by certain tenants in such projects

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

Section 1. Subdivision 1 of section 31 of the private housing finance law is amended by adding a new paragraph (a-1) to read as follows:

(A-1) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF ANY OTHER GENERAL, SPECIAL OR LOCAL LAW, WITH RESPECT TO MUNICIPALLY-AIDED PROJECTS IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, UNLESS THE COMPANY NOTIFIES THE SUPERVISING AGENCY IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY RULE OF SUCH AGENCY THAT IT DOES NOT WANT AN INCREASE IN ITS RENTAL RATE OR IS MAKING APPLICATION FOR A PROJECT-SPECIFIC INCREASE IN ITS RENTAL RATE, THE RENTAL RATE FOR THE DWELLINGS IN ANY SUCH PROJECT SHALL BE INCREASED ANNUALLY ON JULY FIRST IN AN AMOUNT EQUAL TO THE ONE YEAR RENEWAL LEASE GUIDELINE PROMULGATED BY THE RENT GUIDELINES BOARD OF THE CITY OF NEW YORK THEN IN EFFECT, AND NO FURTHER PROCEDURES SHALL BE REQUIRED TO EFFECTUATE SUCH RENTAL RATE INCREASES. WITH RESPECT TO SUCH MUNICIPALLY-AIDED PROJECTS, WHERE THE COMPANY HAS NOTIFIED THE SUPERVISING AGENCY IN ACCORDANCE WITH SUCH ESTABLISHED PROCEDURES THAT IT DOES NOT REQUIRE ANY INCREASE IN ITS RENTAL RATE OR IS MAKING APPLICATION FOR A PROJECT-SPECIFIC INCREASE IN ITS RENTAL RATE OR IF THE SUPERVISING AGENCY DETERMINES THAT SUCH PROJECT NEEDS AN INCREASE IN RENTAL RATE OTHER THAN THE ONE YEAR RENEWAL LEASE GUIDELINES PROMULGATED BY THE RENT GUIDELINES BOARD OF THE CITY OF NEW YORK, THE SUPERVISING AGENCY MAY VARY SUCH RENTAL RATE FOR SUCH PROJECT FROM SUCH GUIDELINE ON NO MORE THAN AN ANNUAL BASIS PROVIDED THAT THE ALTERNATIVE RENTAL RATE WILL SECURE, TOGETHER WITH ALL OTHER INCOME OF SUCH COMPANY, SUFFICIENT INCOME FOR IT TO MEET WITHIN REASONABLE LIMITS ALL NECESSARY PAYMENTS, TO BE MADE OR PROJECTED TO BE MADE, OF ALL EXPENSES INCLUDING FIXED CHARGES, SINKING FUNDS, RESERVES AND DIVIDENDS ON OUTSTANDING STOCK AS

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

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AUTHORIZED BY THE SUPERVISING AGENCY, AND NO FURTHER PROCEDURES SHALL BE REQUIRED TO EFFECTUATE SUCH ALTERNATIVE RENTAL RATE. LETTING, SUBLETTING OR ASSIGNMENT OF LEASES OF APARTMENTS AT GREATER RENTALS THAN THOSE ESTABLISHED PURSUANT TO THIS PARAGRAPH SHALL BE UNLAWFUL. NOTWITHSTANDING THE FOREGOING, THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO ANY PROJECT (I) THAT IS OWNED BY THE FEDERAL GOVERNMENT; (II) FOR WHICH THE MORTGAGE LOAN OF THE COMPANY IS INSURED OR HELD BY THE FEDERAL GOVERNMENT; OR (III) THAT HAS AN INTEREST REDUCTION CONTRACT PURSUANT TO SECTION TWO HUNDRED THIRTY-SIX OF THE NATIONAL HOUSING ACT (12 U.S.C. S 1715Z-1).

S 2. Paragraph (e) of subdivision 2 of section 31 of the private housing finance law, as added by chapter 729 of the laws of 1974, is amended to read as follows:

(e) Notwithstanding the provisions of this subdivision, PERSONS OR families [with two or more dependents] whose probable aggregate annual income does not exceed one hundred twenty-five percent of the limitations as to income as determined pursuant to paragraphs (a) and (b) of this subdivision, shall also be eligible for admission to the dwelling or non-housekeeping accommodations without board of a project on the understanding that any PERSON OR family becoming eligible for admission by reason hereof shall pay, from the time of admission, a rental surcharge as provided for in subdivision three of this section, computed on the basis of the income limitations applicable to such PERSON OR family in the absence of this subdivision. In applying the provisions of subdivision three to a PERSON OR family becoming eligible by reason of this section, the maximum income prescribed by law for admission or occupancy shall for all purposes be computed without reference to this paragraph.

S 3. Subdivision 3 of section 31 of the private housing finance law, as amended by chapter 778 of the laws of 1971, is amended to read as follows:

3. In the event that the income of a person or family in occupancy should increase and exceed the maximum prescribed by law for admission [or for continued occupancy, based on the latest existing rent, by more than twenty-five per centum], such person or family shall be [subject to removal from the dwelling, non-housekeeping, aged care accommodations or non-housekeeping accommodations for handicapped persons provided, however, that such person or family may be] permitted to remain in occupancy [until such income exceeds the maximum prescribed by law by more than fifty per centum, if the company, with the approval of the commissioner or the supervising agency, shall determine that removal would cause hardship to such person or family. Any person or family in occupancy whose income exceeds the maximum prescribed by law] AND shall pay a rental surcharge in accordance with a schedule of surcharges to be promulgated by the company with the approval of the commissioner or the supervising agency, as the case may be, provided, however, such rental surcharge shall in no event exceed fifty per centum of the existing rent.

S 4. Subdivision 3 of section 31 of the private housing finance law, as amended by section 3 of this act, is amended to read as follows:

3. In the event that the income of a person or family in occupancy should increase and exceed the maximum prescribed by law for admission, such person or family shall be permitted to remain in occupancy and shall pay a rental surcharge in accordance with a schedule of surcharges to be promulgated by the company with the approval of the commissioner or the supervising agency, as the case may be, provided, however, such

rental surcharge shall in no event exceed fifty per centum of the existing rent. NOTWITHSTANDING THE PRECEDING SENTENCE, ANY SUCH PERSON OR FAMILY IN OCCUPANCY WHOSE INCOME EXCEEDS SUCH MAXIMUM IN A MUNICIPALLY-AIDED PROJECT IN A CITY WITH A POPULATION OF ONE MILLION OR MORE SHALL, WITH THE APPROVAL OF THE SUPERVISING AGENCY, PAY A RENTAL SURCHARGE IN ACCORDANCE WITH A SCHEDULE OF SURCHARGES TO BE PROMULGATED BY THE SUPERVISING AGENCY, PROVIDED, HOWEVER, THAT SUCH RENTAL SURCHARGE SHALL IN NO EVENT EXCEED TWO HUNDRED PER CENTUM OF THE EXISTING RENT.

S 5. Subdivision 4 of section 31 of the private housing finance law, as amended by chapter 743 of the laws of 1981, is amended to read as follows:

4. Twenty-five per cent of rental surcharges collected pursuant to this section on account of rentals payable prior to July first, nineteen hundred eighty-one shall be paid by the company to the municipality which has granted tax exemption pursuant to section thirty-three of this article as a credit against the grant of tax exemption, the value of such tax exemption and of such credit to be determined on an individual dwelling, non-housekeeping, aged care accommodation or non-housekeeping accommodations for handicapped persons unit basis. In the event that such tax exemption has not been granted, or in the event that a sum equal to the total of all accrued taxes as to individual dwelling, non-housekeeping, aged care accommodation or non-housekeeping accommodations for handicapped persons units where such tax exemption was granted have been paid to the municipality, the excess if any, of surcharges and all surcharges imposed after June thirtieth, nineteen hundred eighty-one shall be applied to the expenses of operation and management as approved by the commissioner or the supervising agency. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE, WITH RESPECT TO MUNICIPALLY-AIDED PROJECTS IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, ALL SURCHARGES IMPOSED ON OR AFTER THE EFFECTIVE DATE OF A CHAPTER OF THE LAWS OF TWO THOUSAND TWELVE THAT AMENDED THIS SUBDIVISION SHALL BE PLACED IN THE COMPANY'S CAPITAL REPAIR AND CONTINGENCY RESERVE FUND, AS PROVIDED FOR BY THE RULES OF THE SUPERVISING AGENCY, UNLESS SUCH AGENCY APPROVES THE APPLICATION OF SUCH SURCHARGES TO THE COMPANY'S EXPENSES OF OPERATION AND MANAGEMENT.

S 6. Subdivision 5 of section 31 of the private housing finance law is REPEALED.

S 7. This act shall take effect immediately; provided, however, that: (i) sections one, four and five of this act shall take effect July 1, 2013; and (ii) effective immediately, any rule or regulation necessary for the timely implementation of any provision of this act may be promulgated, any procedures, forms, or instructions necessary for such implementation may be adopted and issued, and any other acts by any governmental agency necessary for such implementation may be taken, on or after such effective date.