

5084

2013-2014 Regular Sessions

I N   S E N A T E

May 8, 2013

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

AN ACT to amend the private housing finance law, in relation to rentals and selection of tenants in limited-profit housing company projects; 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:

1     Section 1. Subdivision 1 of section 31 of the private housing finance  
2     law is amended by adding a new paragraph (a-1) to read as follows:  
3     (A-1) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF ANY OTHER GENERAL,  
4     SPECIAL OR LOCAL LAW, WITH RESPECT TO MUNICIPALLY-AIDED PROJECTS IN A  
5     CITY WITH A POPULATION OF ONE MILLION OR MORE, UNLESS THE COMPANY NOTI-  
6     FIES THE SUPERVISING AGENCY IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY  
7     RULE OF SUCH AGENCY THAT IT DOES NOT REQUIRE AN INCREASE IN ITS RENTAL  
8     RATE OR IS MAKING APPLICATION FOR A PROJECT-SPECIFIC INCREASE IN ITS  
9     RENTAL RATE, THE RENTAL RATE FOR THE DWELLINGS IN ANY SUCH PROJECT SHALL  
10    BE INCREASED ANNUALLY ON JULY FIRST IN AN AMOUNT EQUAL TO THE ONE YEAR  
11    RENEWAL LEASE GUIDELINE PROMULGATED BY THE RENT GUIDELINES BOARD OF THE  
12    CITY OF NEW YORK THEN IN EFFECT, AND NO FURTHER PROCEDURES SHALL BE  
13    REQUIRED TO EFFECTUATE SUCH RENTAL RATE INCREASES. WITH RESPECT TO SUCH  
14    MUNICIPALLY-AIDED PROJECTS, WHERE THE COMPANY HAS NOTIFIED THE SUPERVIS-  
15    ING AGENCY IN ACCORDANCE WITH SUCH ESTABLISHED PROCEDURES THAT IT DOES  
16    NOT REQUIRE ANY INCREASE IN ITS RENTAL RATE OR IS MAKING APPLICATION FOR  
17    A PROJECT-SPECIFIC INCREASE IN ITS RENTAL RATE, OR IF THE SUPERVISING  
18    AGENCY DETERMINES THAT SUCH PROJECT REQUIRES AN INCREASE IN RENTAL RATE  
19    OTHER THAN THE ONE YEAR RENEWAL LEASE GUIDELINE PROMULGATED BY THE RENT  
20    GUIDELINES BOARD OF THE CITY OF NEW YORK, THE SUPERVISING AGENCY MAY  
21    VARY SUCH RENTAL RATE FOR SUCH PROJECT FROM SUCH GUIDELINE ON NO MORE  
22    THAN AN ANNUAL BASIS PROVIDED THAT THE ALTERNATIVE RENTAL RATE WILL

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

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1 SECURE, TOGETHER WITH ALL OTHER INCOME OF SUCH COMPANY, SUFFICIENT  
2 INCOME FOR IT TO MEET WITHIN REASONABLE LIMITS ALL NECESSARY PAYMENTS,  
3 TO BE MADE OR PROJECTED TO BE MADE, OF ALL EXPENSES INCLUDING FIXED  
4 CHARGES, SINKING FUNDS, RESERVES AND DIVIDENDS ON OUTSTANDING STOCK AS  
5 AUTHORIZED BY THE SUPERVISING AGENCY, AND NO FURTHER PROCEDURES SHALL BE  
6 REQUIRED TO EFFECTUATE SUCH ALTERNATIVE RENTAL RATE. LETTING, SUBLETTING  
7 OR ASSIGNMENT OF LEASES OF APARTMENTS AT GREATER RENTALS THAN THOSE  
8 ESTABLISHED PURSUANT TO THIS PARAGRAPH SHALL BE UNLAWFUL. NOTWITHSTAND-  
9 ING THE FOREGOING, THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO  
10 ANY PROJECT:

11 (I) THAT IS OWNED BY THE FEDERAL GOVERNMENT;

12 (II) FOR WHICH THE MORTGAGE LOAN OF THE COMPANY IS INSURED OR HELD BY  
13 THE FEDERAL GOVERNMENT; OR

14 (III) THAT HAS AN INTEREST REDUCTION CONTRACT PURSUANT TO SECTION TWO  
15 HUNDRED THIRTY-SIX OF THE NATIONAL HOUSING ACT (12 U.S.C. S 1715Z-1).

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

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

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

36 3. In the event that the income of a person or family in occupancy  
37 should increase and exceed the maximum prescribed by law for admission  
38 [or for continued occupancy, based on the latest existing rent, by more  
39 than twenty-five per centum], such person or family shall be [subject to  
40 removal from the dwelling, non-housekeeping, aged care accommodations or  
41 non-housekeeping accommodations for handicapped persons provided, howev-  
42 er, that such person or family may be] permitted to remain in occupancy  
43 [until such income exceeds the maximum prescribed by law by more than  
44 fifty per centum, if the company, with the approval of the commissioner  
45 or the supervising agency, shall determine that removal would cause  
46 hardship to such person or family. Any person or family in occupancy  
47 whose income exceeds the maximum prescribed by law] AND shall pay a  
48 rental surcharge in accordance with a schedule of surcharges to be  
49 promulgated by the company with the approval of the commissioner or the  
50 supervising agency, as the case may be, provided, however, such rental  
51 surcharge shall in no event exceed fifty per centum of the existing  
52 rent. NOTWITHSTANDING THE PRECEDING SENTENCE, ANY SUCH PERSON OR FAMILY  
53 IN OCCUPANCY WHOSE INCOME EXCEEDS SUCH MAXIMUM IN A MUNICIPALITY-AIDED  
54 PROJECT IN A CITY WITH A POPULATION OF ONE MILLION OR MORE SHALL, WITH  
55 THE APPROVAL OF THE SUPERVISING AGENCY, PAY A RENTAL SURCHARGE IN  
56 ACCORDANCE WITH A SCHEDULE OF SURCHARGES TO BE PROMULGATED BY THE SUPER-

1 VISING AGENCY, PROVIDED, HOWEVER, THAT SUCH RENTAL SURCHARGE SHALL IN NO  
2 EVENT EXCEED TWO HUNDRED PER CENTUM OF THE EXISTING RENT.

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

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

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

31 S 6. This act shall take effect immediately; provided however that:  
32 (i) sections one and four of this act and the closing sentence of subdi-  
33 vision 3 of section 31 of the private housing finance law, as added by  
34 section three of this act, shall take effect July 1, 2014; and (ii) any  
35 rule or regulation necessary for the timely implementation of any  
36 provision of this act that takes effect on July 1, 2014 may be promul-  
37 gated, any procedures, forms, or instructions necessary for such imple-  
38 mentation may be adopted and issued, and any other acts by any govern-  
39 mental agency necessary for such implementation may be taken, on or  
40 after the date this act shall have become a law.