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

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2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. SAMPSON -- 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 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:

Section 1. Section 28 of the private housing finance law is amended by adding a new subdivision 4 to read as follows:

4. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE OR OF ANY OTHER PROVISION OF GENERAL, SPECIAL OR LOCAL LAW, A COMPANY (OTHER THAN A MUTUAL COMPANY) THAT OPERATES A MUNICIPALLY-AIDED PROJECT IN A CITY WITH A POPULATION OF ONE MILLION OR MORE AND THAT IS OTHERWISE AUTHORIZED TO PAY DIVIDENDS UPON ITS SHARES OR INTEREST UPON ITS INCOME DEBENTURES MAY, WITH THE APPROVAL OF THE SUPERVISING AGENCY, PAY SUCH DIVIDENDS OR INTEREST IN EXCESS OF SIX PERCENT PER ANNUM.

(B) ON AND AFTER THE DATE OF THE APPROVAL OF SUCH EXCESS DIVIDEND OR INTEREST BY THE SUPERVISING AGENCY PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, THE PROVISIONS OF SECTION THIRTY-ONE OF THIS ARTICLE RELATING TO THE VARIATION OF RENTAL RATES OF DWELLING UNITS IN SUCH MUNICIPALLY-AIDED PROJECT SHALL NOT APPLY AND RENTAL RATES OF DWELLING UNITS MAY BE INCREASED ANNUALLY BY SUCH COMPANY, WITHOUT PUBLIC HEARING OR FURTHER APPROVAL BY THE SUPERVISING AGENCY, IN THE AMOUNT AUTHORIZED BY THE RENT GUIDELINES BOARD ESTABLISHED PURSUANT TO THE RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE FOR RENT STABILIZED DWELLING UNITS.

(C) THIS SUBDIVISION SHALL NOT APPLY TO A COMPANY WITH A MORTGAGE LOAN INSURED OR HELD BY THE FEDERAL GOVERNMENT.

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

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

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

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

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

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

(D) "DISSOLUTION DATE" SHALL MEAN, WITH RESPECT TO ANY AFFECTED DEVELOPMENT, THE DATE OF THE DISSOLUTION OR RECONSTITUTION OF THE AFFECTED HOUSING COMPANY WITH SUCH AFFECTED DEVELOPMENT PURSUANT TO SECTION THIRTY-FIVE OF THIS ARTICLE.

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

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

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

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

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

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

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

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

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

(B) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE LEGAL REGULATED RENT FOR A VOUCHER UNIT SHALL BE EQUAL TO THE MAXIMUM RENT AUTHORIZED AND APPROVED IN CONNECTION WITH THE FEDERAL ASSISTANCE PROVIDED TO THE VOUCHER RECIPIENT OCCUPYING SUCH VOUCHER UNIT. IF AN

AFFECTED DWELLING UNIT WHICH WAS A VOUCHER UNIT CEASES TO BE A VOUCHER UNIT AT ANY TIME OR FOR ANY REASON, EXCEPT FOR THOSE REASONS SPECIFIED IN SUBDIVISION THREE OF THIS SECTION, THE INITIAL LEGAL REGULATED RENT FOR SUCH AFFECTED DWELLING UNIT FOLLOWING SUCH CHANGE IN STATUS SHALL BE EQUAL TO THE SUM OF (I) THE LAST RENT AUTHORIZED BEFORE THE DISSOLUTION DATE, PLUS (II) ANY ADJUSTMENTS TO SUCH RENT AUTHORIZED BY LAW BETWEEN THE DISSOLUTION DATE AND THE DATE UPON WHICH SUCH UNIT CEASED TO BE A VOUCHER UNIT.

3. NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, WHERE AN AFFECTED DEVELOPMENT CONTAINS DWELLING UNITS WHICH MAY BE ELIGIBLE FOR ENHANCED VOUCHER ASSISTANCE PURSUANT TO THE VOUCHER ACT, ANY DWELLING UNIT IN SUCH AFFECTED DEVELOPMENT SHALL BE DEEMED TO BE A MARKET UNIT AND NOT SUBJECT TO THE RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE AND THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR FOR THE DURATION OF SUCH TENANCY IF: (A) THE TENANT RESIDING IN SUCH DWELLING UNIT AS OF THE DISSOLUTION DATE FAILS TO SUBMIT ALL OF THE REQUIRED DOCUMENTATION FOR THE INITIAL APPLICATION FOR ENHANCED VOUCHER ASSISTANCE PURSUANT TO THE VOUCHER ACT, (B) A VOUCHER RECIPIENT RESIDING IN SUCH DWELLING UNIT FAILS TO SUBMIT THE REQUIRED DOCUMENTATION FOR RECERTIFICATION FOR ENHANCED VOUCHER ASSISTANCE PURSUANT TO THE VOUCHER ACT, OR (C) A VOUCHER RECIPIENT RESIDING IN SUCH DWELLING UNIT VIOLATES, THROUGH ACTION OR INACTION, THE REQUIREMENTS OF THE VOUCHER ACT. UPON THE FIRST VACANCY OF AN AFFECTED DWELLING UNIT WHICH BECOMES A MARKET RATE UNIT PURSUANT TO THIS SUBDIVISION, SUCH AFFECTED DWELLING UNIT SHALL BE FULLY SUBJECT TO THE PROVISIONS OF THE RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE AND THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR, AND THE INITIAL LEGAL REGULATED RENT FOR SUCH AFFECTED DWELLING UNIT FOLLOWING SUCH CHANGE IN STATUS SHALL BE EQUAL TO THE SUM OF (I) THE LAST RENT AUTHORIZED BEFORE THE DISSOLUTION DATE, PLUS (II) ANY ADJUSTMENTS TO SUCH RENT AUTHORIZED BY LAW BETWEEN THE DISSOLUTION DATE AND THE DATE UPON WHICH SUCH UNIT CEASES TO BE A MARKET UNIT.

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

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

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

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