STATE OF NEW YORK

5336

2017-2018 Regular Sessions

IN SENATE

March 22, 2017

Introduced by Sen. SAVINO -- 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 the provision of rental assistance for low income elderly families, and to amend the administrative code of the city of New York, in relation to imposing a tax on conveyances or transfers of residential real property whose consideration is greater than two million dollars

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 654-b of the private housing finance law is amended by adding a new subdivision 9 to read as follows:

9. The subsidiary corporation shall use the taxes described in subdivision g of section 11-2102 of the administrative code of the city of New York exclusively for the provision of the elderly rental assistance program as described in article sixteen-B of this chapter.

§ 2. The private housing finance law is amended by adding a new article 16-B to read as follows:

ARTICLE 16-B

ELDER RENTAL ASSISTANCE PROGRAM

Section 930. Statement of legislative findings and purpose.
931. Definitions.
932. Elder rental assistance program.
933. General and administrative provisions.

§ 930. Statement of legislative findings and purpose. The legislature hereby finds that the city of New York is experiencing an extreme shortage of affordable housing that serves low income senior citizens. For hundreds of thousands of senior citizens living on pensions, retirement savings and other fixed incomes, the rapid rise in rents has threatened their ability to stay in their homes and neighborhoods. More than half of seniors spend more on housing than they can afford and more than one

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

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hundred thousand seniors have waited for seven years or more on an affordable housing waitlist.

The legislature further finds that citywide, almost two-thirds of all senior renter households are among the lowest income households in the city, earning less than fifty percent of area median income. Accordingly, the legislature finds that legislation should be enacted to create the elder rental assistance program, which will provide monthly financial assistance to rent-burdened seniors so they can live in dignity in their own homes. This program will be financed through a marginal tax on real estate transactions over two million dollars.

§ 931. Definitions. As used in this article:

1. "Elderly family" shall mean a family, as defined in 24 C.F.R § 5.403, whose head (including co-head), spouse, or sole member is a person who is at least sixty-two years of age. It may include two or more persons who are at least sixty-two years of age living together, or one or more persons who are at least sixty-two years of age living with one or more live-in aides, as defined in 24 C.F.R § 5.403, and shall incorporate any amendments made to this definition in 24 C.F.R § 5.403.

2. "Low income families" shall mean those families whose incomes do not exceed eighty per centum of the median income for the New York metropolitan statistical area, as determined by the secretary of the federal department of housing and urban development with adjustments for smaller and larger families.

§ 932. Elder rental assistance program. 1. Subject to the availability of funds generated by the taxes described in subdivision g of section 11-2102 of the administrative code of the city of New York, the housing assistance corporation, established by section six hundred fifty-four-b of this chapter, shall provide rental assistance to or on behalf of low-income families whose members constitute an elderly family, who are residents of the city of New York, and who pay more than thirty percent of their monthly adjusted income as rent as calculated pursuant to 42 U.S.C § 1437a(a)(1)(A). The amount of rental assistance provided to or on behalf of each such family pursuant to this subdivision shall be an amount up to the difference between (i) a rent established by the department of housing preservation and development on an annual basis not to exceed the maximum monthly rent prescribed in 42 U.S.C. §1437f(c)(1), or such lower rent as may be required by applicable law, or as ordered pursuant to section four hundred sixty-seven-b or four hundred sixty-seven-c of the real property tax law, if applicable and (ii) thirty percent of each such family's monthly adjusted income as calculated pursuant to 42 U.S.C. §1437a(a)(1)(A).

2. To the extent a person or entity receives any such rental assistance on behalf of a particular elderly family, such person or entity shall credit such assistance against the rent of such family on a monthly basis.

3. The rental assistance provided pursuant to subdivision one of this section shall continue upon the death or permanent departure of a member of an elderly family who was at least sixty-two years of age, including the head of such family (including co-head) or his or her spouse, provided that such elderly family is otherwise eligible for such rental assistance and a member of such elderly family who is at least sixty-two years of age has resided in the dwelling unit receiving such rental assistance for at least one hundred eighty days immediately preceding such death or permanent departure.

4. The rental assistance authorized by subdivision one of this section may be provided either as tenant-based or as building-based assistance.

Such assistance may be used in conjunction with any governmental program or project to develop or preserve housing.

5. A person who has obtained a rent increase exemption order granted pursuant to section four hundred sixty-seven-b or four hundred sixty-seven-c of the real property tax law may also be eligible to receive rental assistance pursuant to subdivision one of this section if such person is a member of an elderly family that is otherwise eligible for such assistance.

§ 933. General and administrative provisions. 1. The housing assistance corporation and the department of housing preservation and development shall have the authority to incur reasonable costs for administration of the program authorized by section nine hundred thirty-two of this article provided that no more than five percent of the taxes collected pursuant to subdivision g of section 11-2102 of the administrative code of the city of New York shall be used for such costs.

2. The housing assistance corporation and the department of housing preservation and development shall have the authority to promulgate such rules as are necessary to carry out the provisions of section nine hundred thirty-two of this article.

§ 3. Section 11-2102 of the administrative code of the city of New York is amended by adding three new subdivisions g, h and i to read as follows:

g. In addition to the taxes imposed by subdivisions a and b of this section, there is hereby imposed a tax on each deed or other instrument or transaction conveying or transferring residential real property or an economic interest therein, at the time of delivery by a grantor to a grantee, when the consideration for such property and any improvement thereon (whether or not it is included in the same deed) is greater than two million dollars, or at the time of the transfer of such economic interest by a grantor to a grantee, where the consideration for such economic interest is greater than two million dollars. Except as otherwise provided in this section, all the provisions of this chapter relating to or applicable to the administration, collection and determination of the tax imposed by subdivisions a and b of this section shall apply to the tax imposed by this subdivision with such modifications as may be necessary to adapt such language to the tax so imposed. For purposes of this section, "residential real property" shall include any premises that are or may be used in whole or in part as a personal residence, and shall include a one, two or three-family house, an individual residential condominium unit, or an individual residential cooperative apartment. Such tax shall be at the rate of two and one-half percent of the consideration in excess of two million dollars.

h. For purposes of this section, the determination of whether a conveyance or transfer shall be subject to the taxes imposed by subdivisions a, b and g of this section, and of the rate of such taxes, shall be made prior to the application of subdivision f of this section and paragraph eight of subdivision b of section 11-2106 of this chapter, provided, however, that the amount of consideration subject to such taxes shall be determined after the application of subdivision f of this section and paragraph eight of subdivision b of section 11-2106 of this chapter.

i. Any tax collected pursuant to subdivision g of this section shall be used exclusively for the provision of rental assistance to low-income families whose members constitute an elderly family, as described in subdivision nine of section six hundred fifty-four-b of the private housing finance law. For purposes of this subdivision, "low-income fami-

lies" and "elderly family" shall have the same meaning as provided in section nine hundred thirty-one of the private housing finance law.

§ 4. Section 11-2104 of the administrative code of the city of New York, as added by local law number 71 of the city of New York for the year 1986, subdivision 4 as amended by local law number 59 of the city of New York for the year 1989, subdivisions 5 and 6 as amended and subdivision 7 as added by chapter 170 of the laws of 1994, is amended to read as follows:

§ 11-2104 Payment. The tax imposed [~~hereunder~~] **pursuant to subdivisions a and b of section 11-2102 of this chapter** shall be paid by the grantor to the commissioner of finance at the office of the register in the county where the deed is or would be recorded within thirty days after the delivery of the deed by the grantor to the grantee but before the recording of such deed, or, in the case of a tax on the transfer of an economic interest in real property, at such place as the commissioner of finance shall designate, within thirty days after the transfer. The grantee shall also be liable for the payment of such tax in the event that the amount of tax due is not paid by the grantor or the grantor is exempt from tax. **The tax imposed pursuant to subdivision g of section 11-2102 of this chapter shall be paid by the grantee to the commissioner of finance at the office of the register in the county where the deed is or would be recorded within thirty days after the delivery of the deed by the grantor to the grantee but before the recording of such deed, or, in the case of a tax on the transfer of an economic interest in real property, at such place as the commissioner of finance shall designate, within thirty days after the transfer. The grantor shall also be liable for the payment of the tax imposed pursuant to subdivision g of section 11-2102 of this chapter in the event that the amount of tax due is not paid by the grantee or the grantee is exempt from payment of the tax.** All moneys received as such payments by the register during the preceding month shall be transmitted to the commissioner of finance on the first day of each month or on such other day as is mutually agreeable to the commissioner of finance and the register.

a. From the moneys so received by him or her **pursuant to subdivisions a and b of section 11-2102 of this chapter**, the commissioner of finance shall set said in a special account:

(1) the total amount of taxes imposed pursuant to the provisions of paragraph three of subdivision a of section 11-2102 of this chapter including any interest or penalties thereon;

(2) fifty percent of the total amount of taxes imposed pursuant to the provisions of paragraph four of subdivision a of section 11-2102 of this chapter, including fifty percent of any interest or penalties thereon, provided, however, that where such tax is measured by the consideration for a conveyance without deduction for the amount of any mortgage or other lien or encumbrance on the real property or interest therein which existed before the delivery of the deed and remains thereon after the delivery of the deed, the entire amount of tax imposed at the rate of one percent on the portion of the consideration ascribable to such nondeductible mortgage, lien or other encumbrance, including any interest or penalties thereon, and fifty percent of the tax on the balance of the consideration, including fifty percent of any interest or penalties thereon, shall be set aside in such special account;

(3) fifty percent of the total amount of taxes imposed pursuant to the provisions of subparagraph (iii) of paragraph seven of subdivision a of section 11-2102 of this chapter, including fifty percent of any interest or penalties thereon;

(4) fifty percent of the total amount of taxes imposed pursuant to the provisions of paragraph eight of subdivision a of section 11-2102 of this chapter, including fifty percent of any interest or penalties thereon;

(5) fifty percent of the total amount of taxes imposed at the rate of two percent pursuant to the provisions of clause (ii) of subparagraph A of paragraph one of subdivision b of section 11-2102 of this chapter including fifty percent of any interest or penalties thereon;

(6) with respect to any conveyance of real property, transfer of an economic interest therein, or any grant, assignment or surrender of a leasehold interest in real property, made on or after August first, nineteen hundred eighty-nine and taxable under this chapter, in each instance where the tax rate is in excess of two percent, a portion of the tax received equal to one percent of the consideration subject to the tax plus any interest or penalty attributable to such portion of the tax; and

(7) notwithstanding anything in [~~subdivision~~] **paragraph** six **of this subdivision** to the contrary, in each instance where the tax rate imposed pursuant to subdivision e of section 11-2102 of this chapter is in excess of one percent, a portion of the tax received equal to one-half of one percent of the total consideration for the real property or economic interest therein conveyed or transferred, plus any interest or penalty attributable to such portion of the tax.

Moneys in such account shall be used for payment by such commissioner to the state comptroller for deposit in the urban mass transit operating assistance account of the mass transportation operating assistance fund of any amount of insufficiency certified by the state comptroller pursuant to the provisions of subdivision six of section [~~eight-eight-a~~] **eighty-eight-a** of the state finance law, and, on the fifteenth day of each month, the commissioner of finance shall transmit all funds in such account on the last day of the preceding month, except the amount required for the payment of any amount of insufficiency certified by the state comptroller and such amount as he or she deems necessary for refunds and such other amounts necessary to finance the New York City transportation disabled committee and the New York City paratransit system as established by section fifteen-b of the transportation law, provided, however, that such amounts shall not exceed six percent of the total funds in the account but in no event be less than one hundred seventy-five thousand dollars beginning April first, nineteen hundred eighty-six, and further that beginning November fifteenth, nineteen hundred eighty-four and during the entire period prior to operation of such system, the total of such amounts shall not exceed three hundred seventy-five thousand dollars for the administrative expenses of such committee and fifty thousand dollars for the expenses of the agency designated pursuant to paragraph b of subdivision five of such section, and other amounts necessary to finance the operating needs of the private bus companies franchised by the city of New York and eligible to receive state operating assistance under section eighteen-b of the transportation law, provided, however, that such amounts shall not exceed four percent of the total funds in the account, to the New York city transit authority for mass transit within the city.

b. The moneys received by the commissioner of finance pursuant to subdivision g of section 11-2102 of this chapter shall be held for the benefit of the housing assistance corporation for the provision of rental assistance to low-income families whose members constitute an elderly family in accordance with subdivision i of such section, and

paid to the housing assistance corporation, in the same fiscal year or as soon as practicable thereafter, for the purposes described in such subdivision i. Such moneys shall be used to supplement, rather than supplant, local funds that such city would have expended for the provision of rental assistance to low-income families whose members constitute an elderly family. For purposes of this subdivision, "low-income families" and "elderly family" shall have the same meaning as provided in section nine hundred thirty-one of the private housing finance law.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law.