

STATE OF NEW YORK

7628

IN SENATE

February 3, 2020

Introduced by Sen. KAVANAGH -- 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 public housing law, in relation to establishing the housing access voucher program

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

Section 1. The public housing law is amended by adding a new article 14 to read as follows:

ARTICLE 14

HOUSING ACCESS VOUCHER PROGRAM

Section 600. Legislative findings.

601. Definitions.

602. Housing access voucher program.

603. Eligibility.

604. Funding allocation and distribution.

605. Payment of housing vouchers.

606. Leases and tenancy.

607. Rental obligation.

608. Monthly assistance payment.

609. Inspection of units by public housing agencies.

610. Rent.

611. Vacated units.

612. Leasing of units owned by a public housing agency.

613. Verification of income.

614. Division of an assisted family.

615. Maintenance of effort.

616. Vouchers statewide.

617. Applicable codes.

618. Housing choice.

§ 600. Legislative findings. The legislature finds that it is in the public interest and an obligation of the state to ensure that individuals and families are not rendered homeless because of an inability to pay the cost of housing, and that the state should aid individuals and

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

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1 families who are homeless or face an imminent loss of housing in obtain-
2 ing and maintaining suitable permanent housing in accordance with the
3 provisions of this article.

4 § 601. Definitions. For the purposes of this article, the following
5 terms shall have the following meanings:

6 1. "homeless" means lacking a fixed, regular, and adequate nighttime
7 residence; having a primary nighttime residence that is a public or
8 private place not designed for or ordinarily used as a regular sleeping
9 accommodation for human beings, including a car, park, abandoned build-
10 ing, bus or train station, airport, campground, or other place not meant
11 for human habitation; living in a supervised publicly or privately oper-
12 ated shelter designated to provide temporary living arrangements
13 (including hotels and motels paid for by federal, state or local govern-
14 ment programs for low-income individuals or by charitable organizations,
15 congregate shelters, or transitional housing); exiting an institution
16 where an individual or family has resided and lacking a regular fixed
17 and adequate nighttime residence upon release or discharge; being a
18 homeless family with children or unaccompanied youth defined as homeless
19 under federal statute; having experienced a long-term period without
20 living independently in permanent housing or having experienced persist-
21 ent instability as measured by frequent moves and being reasonably
22 expected to continue in such status for an extended period of time
23 because of chronic disabilities, chronic physical health or mental
24 health conditions, substance addiction, histories of domestic violence
25 or childhood abuse, the presence of a child or youth with a disability,
26 multiple barriers to employment, or other dangerous or life-threatening
27 conditions, including conditions that relate to violence against an
28 individual or a family member.

29 2. "imminent loss of housing" means having received a verified rent
30 demand or a petition for eviction; having received a court order result-
31 ing from an eviction action that notifies the individual or family that
32 they must leave their housing; facing loss of housing due to hazardous
33 conditions, including but not limited to asbestos, lead exposure, mold,
34 and radon; having a primary nighttime residence that is a room in a
35 hotel or motel and lacking the resources necessary to stay; facing loss
36 of the primary nighttime residence, which may include living in the home
37 of another household, where the owner or renter of the housing will not
38 allow the individual or family to stay, provided further, that an
39 assertion from an individual or family member alleging such loss of
40 housing or homelessness shall be sufficient to establish eligibility; or
41 fleeing or attempting to flee domestic violence, dating violence, sexual
42 assault, stalking, human trafficking or other dangerous or life-threat-
43 ening conditions that relate to violence against the individual or a
44 family member, provided further that an assertion from an individual or
45 family member alleging such abuse and loss of housing shall be suffi-
46 cient to establish eligibility.

47 3. "public housing agency" means any county, municipality, or other
48 governmental entity or public body that is authorized to administer any
49 public housing program (or an agency or instrumentality of such an enti-
50 ty), and any other public or private non-profit entity that administers
51 any other public housing program or assistance.

52 4. "family" means a group of persons residing together. Such group
53 includes, but is not limited to a family with or without children (a
54 child who is temporarily away from the home because of placement in
55 foster care is considered a member of the family) or the remaining

1 member of a tenant family. The commissioner shall have the discretion to
2 determine if any other group of persons qualifies as a family.

3 5. "individual" means a single person.

4 6. "owner" means any private person or any entity, including a cooper-
5 ative, an agency of the federal government, or a public housing agency,
6 having the legal right to lease or sublease dwelling units.

7 7. "dwelling unit" means a single-family dwelling, including attached
8 structures such as porches and stoops; or a single-family dwelling unit
9 in a structure that contains more than one separate residential dwelling
10 unit, and in which each such unit is used or occupied, or intended to be
11 used or occupied, in whole or in part, as the residence of one or more
12 persons.

13 8. "income" means income from all sources of each member of the house-
14 hold, including all wages, tips, over-time, salary, welfare assistance,
15 social security payments, child support payments, returns on invest-
16 ments, and recurring gifts. The term "income" shall not include:
17 employment income from children under eighteen years of age, employment
18 income from children eighteen years of age or older who are full-time
19 students, foster care payments, sporadic gifts, groceries provided by
20 persons not living in the household, supplemental nutrition assistance
21 program (food stamp) benefits, earned income disregard (EID), or the
22 earned income tax credit.

23 9. "adjusted income" means income minus any deductions allowable by
24 the rules promulgated by the commissioner pursuant to this article.
25 Mandatory deductions shall include:

26 (a) four hundred eighty dollars for each dependent;

27 (b) four hundred dollars for any elderly family member and/or a family
28 member with a disability;

29 (c) any reasonable child care expenses necessary to enable a member of
30 the family to be employed or to further his or her education; and

31 (d) The sum total of unreimbursed medical expenses for each elderly
32 family member and/or family member with a disability plus unreimbursed
33 attendant care and/or medical apparatus expenses for each member of the
34 family with a disability which are necessary for any member of the fami-
35 ly (including the member who is a person with a disability) to be
36 employed greater than three percent of the annual income.

37 10. "reasonable rent" means rent not more than the rent charged on
38 comparable units in the private unassisted market and rent charged for
39 comparable unassisted units in the premises.

40 11. "fair market rent" means the fair market rent for each rental area
41 as promulgated annually by the United States department of housing and
42 urban development's office of policy development and research pursuant
43 to 42 U.S.C. 1437f.

44 12. "voucher" means a document issued by New York state homes and
45 community renewal (NYSHCR) pursuant to this article to an individual or
46 family selected for admission to the housing access voucher program,
47 which describes such program and the procedures for New York state homes
48 and community renewal approval of a unit selected by the family and
49 states the obligations of the individual or family under the program.

50 13. "lease" means a written agreement between an owner and a tenant
51 for the leasing of a dwelling unit to the tenant. The lease establishes
52 the conditions for occupancy of the dwelling unit by an individual or
53 family with housing assistance payments under a contract between the
54 owner and the public housing agency.

55 14. "dependent" means any member of the family who is neither the head
56 of household, nor the head of the household's spouse, and who is:

- (a) under the age of eighteen;
- (b) a person with a disability; or
- (c) a full-time student.

15. "elderly" means a person sixty-two years of age or older.

16. "child care expenses" means expenses relating to the care of children under the age of thirteen.

17. "federal poverty level" means a measure of income promulgated annually by the United States department of health and human services pursuant to 42 U.S.C. 9902 that establishes a threshold for poverty in the United States based on the size of household.

18. "severely rent burdened" means those individuals and families who pay more than fifty percent of their income in rent as defined by the United States census bureau.

19. "disability" means:

(a) the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months; or

(b) in the case of an individual who has attained the age of fifty-five and is blind, the inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which they have previously engaged with some regularity and over a substantial period of time; or

(c) a physical, mental, or emotional impairment which:

(i) is expected to be of long-continued and indefinite duration;

(ii) substantially impedes his or her ability to live independently; and

(iii) is of such a nature that such ability could be improved by more suitable housing conditions; or

(d) a developmental disability that is a severe, chronic disability of an individual that:

(i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) is manifested before the individual attains age twenty-two;

(iii) is likely to continue indefinitely;

(iv) results in substantial functional limitations in three or more of the following areas of major life activity:

(A) self-care;

(B) receptive and expressive language;

(C) learning;

(D) mobility;

(E) self-direction;

(F) capacity for independent living; or

(G) economic self-sufficiency; and

(v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

§ 602. Housing access voucher program. The commissioner, subject to the appropriation of funds for this purpose, shall implement a program of rental assistance in the form of housing vouchers for eligible individuals and families who are homeless or who face an imminent loss of housing in accordance with the provisions of this article. The commissioner shall designate public housing agencies in the state to carry out the administration of this program.

1 § 603. Eligibility. Eligibility for the housing access voucher program
2 shall be limited to individuals and families who are homeless or facing
3 imminent loss of housing. The commissioner shall promulgate standards
4 for determining eligibility for this program.

5 1. An individual or family shall be eligible for this program if they
6 are homeless or facing imminent loss of housing and have an income of no
7 more than two hundred fifty percent of the federal poverty level.

8 2. An individual or family in receipt of rental assistance under this
9 program shall be no longer financially eligible for assistance under
10 this program when thirty percent of the individual or family's adjusted
11 income is greater than or equal to the total rent for the dwelling unit.

12 3. When an individual or family becomes financially ineligible for
13 rental assistance under this program pursuant to subdivision two of this
14 section, the individual or family shall retain rental assistance for a
15 period no shorter than one year.

16 4. Income eligibility shall be verified no less frequently than annu-
17 ally.

18 § 604. Funding allocation and distribution. 1. Funding shall be allo-
19 cated by the commissioner in each county and the city of New York in
20 proportion to the number of households in each county or the city of New
21 York who are severely rent burdened.

22 2. The commissioner shall be responsible for distributing the funds
23 allocated in each county or the city of New York among public housing
24 agencies operating in each county or in the city of New York.

25 3. At least fifty percent of funds distributed in each county or in
26 the city of New York shall be allocated to individuals or families who
27 are homeless.

28 4. At least eighty-seven and one-half percent of funds distributed in
29 each county or in the city of New York shall be allocated to individuals
30 and families whose income does not exceed the federal poverty level.

31 5. No funds may be allocated under this program to individuals or
32 families whose income exceeds two hundred fifty percent of the federal
33 poverty level.

34 § 605. Payment of housing vouchers. The housing voucher shall be paid
35 directly to any owner under a contract between the owner of the dwelling
36 unit to be occupied by the voucher recipient and the appropriate public
37 housing agency. A housing assistance payment contract entered into
38 pursuant to this section shall establish the maximum monthly rent
39 (including utilities and all maintenance and management charges) which
40 the owner is entitled to receive for each dwelling unit with respect to
41 which such assistance payments are to be made. The maximum monthly rent
42 shall not exceed one hundred ten percent nor be less than ninety percent
43 of the fair market rent for the rental area in which it is located.
44 Fair market rent for a rental area shall be published not less than
45 annually by the commissioner and shall be made available on the website
46 of New York state homes and community renewal.

47 § 606. Leases and tenancy. Each housing assistance payment contract
48 entered into by a public housing agency and the owner of a dwelling unit
49 shall provide:

50 1. that the lease between the tenant and the owner shall be for a term
51 of not less than one year, except that the public housing agency may
52 approve a shorter term for an initial lease between the tenant and the
53 dwelling unit owner if the public housing agency determines that such
54 shorter term would improve housing opportunities for the tenant and if
55 such shorter term is considered to be a prevailing local market prac-
56 tice;

1 2. that the dwelling unit owner shall offer leases to tenants assisted
2 under this article that:

3 (a) are in a standard form used in the locality by the dwelling unit
4 owner; and

5 (b) contain terms and conditions that:

6 (i) are consistent with state and local law; and

7 (ii) apply generally to tenants in the property who are not assisted
8 under this article;

9 (c) shall provide that during the term of the lease, the owner shall
10 not terminate the tenancy except for serious or repeated violation of
11 the terms and conditions of the lease, for violation of applicable state
12 or local law, or for other good cause, and in the case of an owner who
13 is an immediate successor in interest pursuant to foreclosure during the
14 term of the lease vacating the property prior to sale shall not consti-
15 tute other good cause, except that the owner may terminate the tenancy
16 effective on the date of transfer of the unit to the owner if the owner:

17 (i) will occupy the unit as a primary residence; and

18 (ii) has provided the tenant a notice to vacate at least ninety days
19 before the effective date of such notice;

20 (d) shall provide that any termination of tenancy under this section
21 shall be preceded by the provision of written notice by the owner to the
22 tenant specifying the grounds for that action, and any relief shall be
23 consistent with applicable state and local law;

24 3. that any unit under an assistance contract originated under this
25 article shall only be occupied by the individual or family designated in
26 said contract and shall be the designated individual or family's primary
27 residence. Contracts shall not be transferable between units and shall
28 not be transferable between recipients. A family or individual may
29 transfer their voucher to a different unit under a new contract pursuant
30 to this article;

31 4. that an owner shall not charge more than a reasonable rent as
32 defined in section six hundred one of this article.

33 § 607. Rental obligation. 1. Each recipient of housing assistance
34 under the housing access voucher program's monthly rental obligation
35 shall be the greater of:

36 (a) thirty percent of the monthly adjusted income of the family or
37 individual; or

38 (b) If the family or individual is receiving payments for welfare
39 assistance from a public agency and a part of those payments, adjusted
40 in accordance with the actual housing costs of the family, is specif-
41 ically designated by that agency to meet the housing costs of the fami-
42 ly, the portion of those payments that is so designated. These payments
43 include, but are not limited to any shelter assistance or housing
44 assistance administered by any federal, state or local agency.

45 2. If the rent for the individual or family (including the amount
46 allowed for tenant-paid utilities) exceeds the applicable payment stand-
47 ard established under subdivision one of this section, the monthly
48 assistance payment for the family shall be equal to the amount by which
49 the applicable payment standard exceeds the greater of amounts under
50 paragraphs (a) and (b) of subdivision one of this section.

51 § 608. Monthly assistance payment. 1. The amount of the monthly
52 assistance payment with respect to any dwelling unit shall be the
53 difference between the maximum monthly rent which the contract provides
54 that the owner is to receive for the unit and the rent the individual or
55 family is required to pay under section six hundred seven of this arti-
56 cle. Reviews of income shall be made no less frequently than annually.

2. The commissioner shall establish maximum rent levels for different sized rentals in each rental area in a manner that promotes the use of the program in all localities based on the fair market rental of the rental area. Rental areas shall be delineated by county, excepting that the city of New York shall be considered one rental area. The commissioner may rely on data or other information promulgated by any other state or federal agency in determining the rental areas and fair market rent.

3. The payment standard for each size of dwelling unit in a rental area shall not be less than ninety percent and shall not exceed one hundred ten percent of the fair market rent established in section six hundred one of this article for the same size of dwelling unit in the same rental area, except that the commissioner shall not be required as a result of a reduction in the fair market rent to reduce the payment standard applied to a family continuing to reside in a unit for which the family was receiving assistance under this article at the time the fair market rent was reduced.

§ 609. Inspection of units by public housing agencies. 1. Initial inspection.

(a) For each dwelling unit for which a housing assistance payment contract is established under this article, the public housing agency (or other entity pursuant to section six hundred twelve of this article) shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subdivision two of this section, except as provided in paragraph (b) or (c) of this subdivision.

(b) In the case of any dwelling unit that is determined, pursuant to an inspection under paragraph (a) of this subdivision, not to meet the housing quality standards under subdivision two of this section, assistance payments may be made for the unit notwithstanding subdivision three of this section if failure to meet such standards is a result only of non-life-threatening conditions, as such conditions are established by the commissioner. A public housing agency making assistance payments pursuant to this paragraph for a dwelling unit shall, thirty days after the beginning of the period for which such payments are made, withhold any assistance payments for the unit if any deficiency resulting in noncompliance with the housing quality standards has not been corrected by such time. The public housing agency shall recommence assistance payments when such deficiency has been corrected, and may use any payments withheld to make assistance payments relating to the period during which payments were withheld.

(c) In the case of any property that within the previous twenty-four months has met the requirements of an inspection that qualifies as an alternative inspection method pursuant to subdivision five of this section, a public housing agency may authorize occupancy before the inspection under paragraph (a) of this subdivision has been completed, and may make assistance payments retroactive to the beginning of the lease term after the unit has been determined pursuant to an inspection under paragraph (a) of this subdivision to meet the housing quality standards under subdivision two of this section. This paragraph may not be construed to exempt any dwelling unit from compliance with the requirements of subdivision four of this section.

2. The housing quality standards under this subdivision shall be standards for safe and habitable housing established:

(a) by the commissioner for purposes of this subdivision; or

1 (b) by local housing codes or by codes adopted by public housing agen-
2 cies that:

3 (i) meet or exceed housing quality standards, except that the commis-
4 sioner may waive the requirement under this subparagraph to significant-
5 ly increase access to affordable housing and to expand housing opportu-
6 nities for families assisted under this article, except where such
7 waiver could adversely affect the health or safety of families assisted
8 under this article; and

9 (ii) do not severely restrict housing choice.

10 3. The determination required under subdivision one of this section
11 shall be made by the public housing agency (or other entity, as provided
12 in section six hundred twelve of this article) pursuant to an inspection
13 of the dwelling unit conducted before any assistance payment is made for
14 the unit. Inspections of dwelling units under this subdivision shall be
15 made before the expiration of the fifteen day period beginning upon a
16 request by the resident or landlord to the public housing agency or, in
17 the case of any public housing agency that provides assistance under
18 this article on behalf of more than one thousand two hundred fifty fami-
19 lies, before the expiration of a reasonable period beginning upon such
20 request. The performance of the agency in meeting the fifteen day
21 inspection deadline shall be taken into consideration in assessing the
22 performance of the agency.

23 4. (a) Each public housing agency providing assistance under this
24 article (or other entity, as provided in section six hundred twelve of
25 this article) shall, for each assisted dwelling unit, make inspections
26 not less often than annually during the term of the housing assistance
27 payments contract for the unit to determine whether the unit is main-
28 tained in accordance with the requirements under subdivision one of this
29 section.

30 (b) The requirements under paragraph (a) of this subdivision may be
31 complied with by use of inspections that qualify as an alternative
32 inspection method pursuant to subdivision five of this section.

33 (c) The public housing agency (or other entity) shall retain the
34 records of the inspection for a reasonable time, as determined by the
35 commissioner.

36 5. An inspection of a property shall qualify as an alternative
37 inspection method for purposes of this subdivision if:

38 (a) the inspection was conducted pursuant to requirements under a
39 federal, state, or local housing program; and

40 (b) pursuant to such inspection, the property was determined to meet
41 the standards or requirements regarding housing quality or safety appli-
42 cable to properties assisted under such program, and, if a non-state
43 standard or requirement was used, the public housing agency has certi-
44 fied to the commissioner that such standard or requirement provides the
45 same (or greater) protection to occupants of dwelling units meeting such
46 standard or requirement as would the housing quality standards under
47 subdivision two of this section.

48 6. Upon notification to the public housing agency, by an individual or
49 family (on whose behalf tenant-based rental assistance is provided under
50 this article) or by a government official, that the dwelling unit for
51 which such assistance is provided does not comply with the housing qual-
52 ity standards under subdivision two of this section, the public housing
53 agency shall inspect the dwelling unit:

54 (a) in the case of any condition that is life-threatening, within
55 twenty-four hours after the agency's receipt of such notification,
56 unless waived by the commissioner in extraordinary circumstances; and

1 (b) in the case of any condition that is not life-threatening, within
2 a reasonable time frame, as determined by the commissioner.

3 7. The commissioner shall establish procedural guidelines and perform-
4 ance standards to facilitate inspections of dwelling units and conform
5 such inspections with practices utilized in the private housing market.
6 Such guidelines and standards shall take into consideration variations
7 in local laws and practices of public housing agencies and shall provide
8 flexibility to agencies appropriate to facilitate efficient provision of
9 assistance under this section.

10 § 610. Rent. 1. The rent for dwelling units for which a housing
11 assistance payment contract is established under this article shall be
12 reasonable in comparison with rents charged for comparable dwelling
13 units in the private, unassisted local market.

14 2. A public housing agency (or other entity, as provided in section
15 six hundred twelve of this article) shall, at the request of an individ-
16 ual or family receiving tenant-based assistance under this article,
17 assist that individual or family in negotiating a reasonable rent with a
18 dwelling unit owner. A public housing agency (or other such entity)
19 shall review the rent for a unit under consideration by the individual
20 or family (and all rent increases for units under lease by the individ-
21 ual or family) to determine whether the rent (or rent increase)
22 requested by the owner is reasonable. If a public housing agency (or
23 other such entity) determines that the rent (or rent increase) for a
24 dwelling unit is not reasonable, the public housing agency (or other
25 such entity) shall not make housing assistance payments to the owner
26 under this subdivision with respect to that unit.

27 3. If a dwelling unit for which a housing assistance payment contract
28 is established under this article is exempt from local rent control
29 provisions during the term of that contract, the rent for that unit
30 shall be reasonable in comparison with other units in the rental area
31 that are exempt from local rent control provisions.

32 4. Each public housing agency shall make timely payment of any amounts
33 due to a dwelling unit owner under this section. The housing assistance
34 payment contract between the owner and the public housing agency may
35 provide for penalties for the late payment of amounts due under the
36 contract, which shall be imposed on the public housing agency in accord-
37 ance with generally accepted practices in the local housing market.

38 5. Unless otherwise authorized by the commissioner, each public hous-
39 ing agency shall pay any penalties from administrative fees collected by
40 the public housing agency, except that no penalty shall be imposed if
41 the late payment is due to factors that the commissioner determines are
42 beyond the control of the public housing agency.

43 § 611. Vacated units. If an assisted family vacates a dwelling unit
44 for which rental assistance is provided under a housing assistance
45 payment contract before the expiration of the term of the lease for the
46 unit, rental assistance pursuant to such contract may not be provided
47 for the unit after the month during which the unit was vacated.

48 § 612. Leasing of units owned by a public housing agency. 1. If an
49 eligible individual or family assisted under this article leases a
50 dwelling unit (other than a public housing dwelling unit) that is owned
51 by a public housing agency administering assistance to that individual
52 or family under this section, the commissioner shall require the unit of
53 general local government or another entity approved by the commissioner,
54 to make inspections required under section six hundred nine of this
55 article and rent determinations required under section six hundred ten

1 of this article. The agency shall be responsible for any expenses of
2 such inspections and determinations.

3 2. For purposes of this section, the term "owned by a public housing
4 agency" means, with respect to a dwelling unit, that the dwelling unit
5 is in a project that is owned by such agency, by an entity wholly
6 controlled by such agency, or by a limited liability company or limited
7 partnership in which such agency (or an entity wholly controlled by such
8 agency) holds a controlling interest in the managing member or general
9 partner. A dwelling unit shall not be deemed to be owned by a public
10 housing agency for purposes of this section because the agency holds a
11 fee interest as ground lessor in the property on which the unit is situ-
12 ated, holds a security interest under a mortgage or deed of trust on the
13 unit, or holds a non-controlling interest in an entity which owns the
14 unit or in the managing member or general partner of an entity which
15 owns the unit.

16 § 613. Verification of income. The commissioner shall establish proce-
17 dures which are appropriate and necessary to assure that income data
18 provided to the public housing agency and owners by individuals and
19 families applying for or receiving assistance under this article is
20 complete and accurate. In establishing such procedures, the commissioner
21 shall randomly, regularly, and periodically select a sample of families
22 to authorize the commissioner to obtain information on these families
23 for the purpose of income verification, or to allow those families to
24 provide such information themselves. Such information may include, but
25 is not limited to, data concerning unemployment compensation and federal
26 income taxation and data relating to benefits made available under the
27 social security act, 42 U.S.C. 301 et seq., the food and nutrition act
28 of 2008, 7 U.S.C. 2011 et seq., or title 38 of the United State Code.
29 Any such information received pursuant to this section shall remain
30 confidential and shall be used only for the purpose of verifying incomes
31 in order to determine eligibility of individuals and families for bene-
32 fits (and the amount of such benefits, if any) under this article.

33 § 614. Division of an assisted family. 1. In those instances where a
34 family assisted under this article becomes divided into two otherwise
35 eligible individuals or families due to divorce, legal separation or the
36 division of the family, where the new units cannot agree as to which new
37 unit should continue to receive the assistance, and where there is no
38 determination by a court, the public housing authority shall consider
39 the following factors to determine which of the individuals or families
40 will continue to be assisted:

- 41 (a) which of the new units has custody of dependent children;
42 (b) which family member was the head of household when the voucher was
43 initially issued (listed on the initial application);
44 (c) the composition of the new units and which unit includes elderly
45 or disabled members;
46 (d) whether domestic violence was involved in the breakup of the fami-
47 ly unit;
48 (e) which family members remain in the unit; and
49 (f) recommendations of social service professionals.

50 2. Documentation of these factors will be the responsibility of the
51 requesting parties. If documentation is not provided, the public housing
52 agency will terminate assistance on the basis of failure to provide
53 information necessary for a recertification.

54 § 615. Maintenance of effort. Any funds made available pursuant to
55 this article shall not be used to offset or reduce the amount of funds
56 previously expended for the same or similar programs in a prior year in

1 any county or in the city of New York, but shall be used to supplement
2 any prior year's expenditures. The commissioner may grant an exception
3 to this requirement if any county, municipality, or other governmental
4 entity or public body can affirmatively show that such amount of funds
5 previously expended is in excess of the amount necessary to provide
6 assistance to all individuals and families within the area in which the
7 funds were previously expended who are homeless or facing an imminent
8 loss of housing.

9 § 616. Vouchers statewide. Notwithstanding section six hundred six of
10 this article, any voucher issued pursuant to this article may be used
11 for housing anywhere in the state. The commissioner shall inform voucher
12 holders that a voucher may be used anywhere in the state and, to the
13 extent practicable, the commissioner shall assist voucher holders in
14 finding housing in the area of their choice.

15 § 617. Applicable codes. Housing eligible for participation in the
16 homeless access voucher program shall comply with applicable state and
17 local health, housing, building and safety codes.

18 § 618. Housing choice. 1. The commissioner shall administer the home-
19 less access voucher program under this article to promote housing choice
20 for voucher holders. The commissioner shall affirmatively promote fair
21 housing to the extent possible under this program.

22 2. Nothing in this article shall lessen or abridge any fair housing
23 obligations promulgated by municipalities, localities, or any other
24 applicable jurisdiction.

25 § 2. This act shall take effect on the first of October next succeed-
26 ing the date on which it shall have become a law. Effective immediately,
27 the addition, amendment and/or repeal of any rule or regulation neces-
28 sary for the implementation of this act on its effective date are
29 authorized to be made and completed on or before such effective date.