

STATE OF NEW YORK

7637

2021-2022 Regular Sessions

IN ASSEMBLY

May 19, 2021

Introduced by M. of A. CYMBROWITZ -- read once and referred to the
Committee on Housing

AN ACT to amend the private housing finance law, in relation to author-
izing additional supervision and regulation of limited-profit housing
companies

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

1 Section 1. Section 32-a of the private housing finance law, as added
2 by chapter 449 of the laws of 1975, subdivision 6 as added by chapter
3 744 of the laws of 1977, subdivision 7 as added by chapter 409 of the
4 laws of 1982, subdivision 8 as added by chapter 594 of the laws of 2019
5 and the closing paragraph as added by chapter 74 of the laws of 1988, is
6 amended to read as follows:

7 § 32-a. Additional supervision and regulation. The commissioner or the
8 supervising agency, as the case may be, shall:

9 1. Promulgate regulations providing for recognition of duly consti-
10 tuted tenants' associations and cooperators' advisory councils by the
11 commissioner or supervising agency, as the case may be, and providing
12 that a housing company shall meet on a regular basis with represen-
13 tatives of such an association or council at the specific project
14 involved to discuss matters relating to the project. A duly constituted
15 cooperators' advisory council shall only be such a council in a mutual
16 company project prior to the election of a board of directors by the
17 tenant-cooperators.

18 2. Require every company to file with him, her or it an annual operat-
19 ing budget for each individual project in the manner prescribed by the
20 commissioner or supervising agency.

21 3. Require every company to file with him, her or it semi-annual or
22 quarterly financial statements and an annual financial statement. Each
23 annual financial statement shall be accompanied by a certificate of the
24 company's independent certified public accountant. Such financial state-

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

LBD11105-01-1

1 ments shall be filed at the times and in the manner prescribed by the
2 commissioner or supervising agency.

3 4. Afford tenants access to and an opportunity to acquire copies of
4 all operating budgets or financial statements respecting the project in
5 which such tenants reside, to the extent that such budgets and state-
6 ments are required by law to be kept by the commissioner or supervising
7 agency.

8 5. Permit any tenant, duly constituted tenants' association, duly
9 constituted cooperators' advisory council or his, hers or its duly
10 authorized representative to audit the books of the company and to have
11 access during normal business hours to the financial records upon which
12 the company's financial statements are based.

13 6. Promulgate regulations relating to managing agents, including
14 criteria for the eligibility for selection and the compensation of
15 managing agents by companies organized pursuant to this article. Such
16 regulations shall provide, among other things, that any contract with a
17 managing agent entered into after September first, nineteen hundred
18 seventy-seven shall be terminable for cause and shall be terminable,
19 with or without cause, at least every twelve months after commencement
20 of the term thereof, and that promptly upon termination the managing
21 agent shall turn over to the company all project records, rent rolls,
22 bills, cancelled checks, bank statements and other papers owned by such
23 company.

24 7. Require that every company file with him, her or it, within six
25 months of the effective date of regulations implementing this subdivi-
26 sion and in such format as shall be prescribed by the commissioner or
27 the supervising agency after consultation with the state energy office,
28 an energy audit report which identifies potential energy-saving building
29 improvements, including alterations, modifications and adjustments to
30 the building structure, heating, cooling, lighting and ventilation
31 systems; their relative costs; potential energy and cost savings; and
32 simple payback periods, which for the purpose of this subdivision shall
33 mean that period of time within which the estimated cost of such
34 improvements, exclusive of the cost of capital, would be recovered from
35 the savings generated by reduced energy consumption resulting from the
36 improvements. The energy audit shall be conducted by a public utility,
37 an engineer or architect licensed by the state, or the managing agent or
38 other representative of the company if such individual has attended an
39 energy audit training workshop sponsored by the commissioner or the
40 state energy office. A copy of the energy audit report, required herein,
41 shall be given to any duly constituted tenant's association or
42 cooperator's advisory council and a copy shall be available for
43 inspection and copying by any individual tenant who requests it. The
44 commissioner or supervising agency shall also require that every company
45 certify by March thirty-first, nineteen hundred eighty-four that all
46 compatible conservation measures identified in the energy audit report
47 which have simple payback periods of one year or less have been imple-
48 mented; provided, however, if the commissioner or supervising agency
49 determines within sixty days of the date the energy audit report is
50 filed that one or more of such identified conservation measures cannot
51 be implemented by March thirty-first, nineteen hundred eighty-four,
52 given the projected rent revenues and other monies available to the
53 company from reserve funds, loans or grants from the state or federal
54 government or any other source, the implementation of such conservation
55 measures shall be provided for according to a schedule prescribed by the
56 commissioner or supervising agency.

1 8. Every tenant or resident, or a person acting on behalf of a tenant
2 or resident, shall be permitted to copy, by photographic means, any
3 document within the scope of this section pertaining to the project in
4 which such tenant or resident resides. A reasonable fee, subject to a
5 maximum therefor prescribed in regulations, may be charged for such
6 copies.

7 9. Require that within ten days of the filing of any reports or finan-
8 cial statements with the commissioner or supervising agency, the housing
9 company shall transmit a copy of said report or financial statement to a
10 duly constituted resident board of directors, and if there be none, to a
11 cooperator's advisory council or a duly constituted tenants association
12 representing the project concerned. Where no such council or association
13 exists in a project, a notice shall be posted informing the residents of
14 the location on the premises of the project where a copy of said report
15 or financial statement is available for inspection. The notice shall be
16 posted within ten days of filing, in a prominent place on the premises
17 of the project concerned.

18 10. Require every voting member of a board of directors of a company
19 subject to the provisions of this article, elected or appointed for a
20 term beginning on or after the effective date of this subdivision, to
21 complete, within the first year of his or her term and at least once
22 every three years thereafter, a minimum of two hours of training, in
23 person or virtually, as the commissioner or supervising agency, as the
24 case may be, may deem appropriate on the financial oversight, account-
25 ability and fiduciary responsibilities of a board member; and to require
26 every voting member of a board of directors of a company subject to the
27 provisions of this article, elected or appointed for a term beginning
28 before the effective date of this subdivision, to complete such training
29 within one year of the effective date of this subdivision and at least
30 once every three years thereafter.

31 11. Require every voting member of a board of directors of a company
32 subject to the provisions of this article, elected or appointed for a
33 term beginning on or after the effective date of this subdivision, to
34 complete, within the first year of his or her term and at least once
35 every three years thereafter, in addition to the training required by
36 subdivision ten of this section, a training course, in person or virtu-
37 ally, as the commissioner or supervising agency, as the case be, may
38 deem appropriate, to acquaint him or her with the powers, functions and
39 duties of a board of directors of a company subject to the provisions of
40 this article, as well as the powers and duties of other governing and
41 administrative authorities affecting such companies; and to require
42 every voting member of a board of directors of a company subject to the
43 provisions of this article, elected or appointed for a term beginning
44 before the effective date of this subdivision, to complete such training
45 within one year of the effective date of this subdivision and at least
46 once every three years thereafter.

47 12. Require each member of a board of directors of a company subject
48 to the provisions of this article to demonstrate compliance with the
49 requirements set forth in subdivisions ten and eleven of this section by
50 filing a certificate of completion of such course or courses on a form
51 to be promulgated by the commissioner. Such form shall be filed with the
52 secretary of the housing corporation and maintained by the secretary as
53 a corporate record and distributed annually to the shareholders and upon
54 the filing of any director with the company of the intention to seek
55 re-election to the position. Sixty days prior to any scheduled election
56 of members of the board of directors, the secretary of the housing

1 company shall furnish the commissioner or the supervising authority, as
2 the case may be, with a list of all incumbent directors indicating which
3 individuals have submitted certificates required in this subdivision.
4 Such course or courses shall be provided by the commissioner or super-
5 vising agency, as the case may be, at no cost to the trainee or the
6 board to which the trainee has been elected.

7 13. Develop the curricula used for training required by subdivisions
8 ten and eleven of this section for which the supervising agency or the
9 commissioner may request and shall receive the cooperation and assist-
10 ance from any departments, divisions, boards, bureaus, commissions or
11 agencies of the state and political subdivisions thereof in developing
12 such curricula. These curricula may be offered together as a single
13 course or separately. The training required by this section may be
14 offered by providers approved by the commissioner or supervising agency,
15 as the case may be. In approving other providers for these trainings,
16 the commissioner or supervising agency shall consider a potential
17 provider's understanding of cooperative homeownership; laws, rules and
18 regulations affecting companies subject to the provisions of this arti-
19 cle; and the fiduciary responsibilities of the board of a residential
20 cooperative, as well as the experience of the provider in delivering
21 such training.

22 14. Hold such meeting or meetings, in person or virtually as the
23 commissioner or supervisory agency shall deem appropriate, with the
24 board of a company on the financial oversight, accountability and fidu-
25 ciary responsibilities of such board; the powers, functions and duties
26 of such board; and the powers and duties of other governing and adminis-
27 trative authorities affecting such company.

28 § 2. This act shall take effect immediately.