

# STATE OF NEW YORK

2804--A

2021-2022 Regular Sessions

## IN SENATE

January 25, 2021

Introduced by Sens. KAVANAGH, PERSAUD, BAILEY, BENJAMIN, BIAGGI, COMRIE, GIANARIS, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, KRUEGER, LIU, MAY, MYRIE, PARKER, RAMOS, RIVERA, SALAZAR, SANDERS, SAVINO, SEPULVEDA, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. The public housing law is amended by adding a new article  
2 14 to read as follows:

### ARTICLE 14

#### HOUSING ACCESS VOUCHER PROGRAM

##### Section 600. Legislative findings.

6 601. Definitions.

7 602. Housing access voucher program.

8 603. Eligibility.

9 604. Funding allocation and distribution.

10 605. Payment of housing vouchers.

11 606. Leases and tenancy.

12 607. Rental obligation.

13 608. Monthly assistance payment.

14 609. Inspection of units by public housing agencies.

15 610. Rent.

16 611. Vacated units.

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

18 613. Verification of income.

19 614. Division of an assisted family.

20 615. Maintenance of effort.

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

LBD06413-06-1

1           616. Vouchers statewide.

2           617. Applicable codes.

3           618. Housing choice.

4       § 600. Legislative findings. The legislature finds that it is in the  
5 public interest and an obligation of the state to ensure that individ-  
6 uals and families are not rendered homeless because of an inability to  
7 pay the cost of housing, and that the state should aid individuals and  
8 families who are homeless or face an imminent loss of housing in obtain-  
9 ing and maintaining suitable permanent housing in accordance with the  
10 provisions of this article.

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

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

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

54       3. "public housing agency" means any county, municipality, or other  
55 governmental entity or public body that is authorized to administer any  
56 public housing program (or an agency or instrumentality of such an enti-

1 ty), and any other public or private non-profit entity that administers  
2 any other public housing program or assistance.

3 4. "family" means a group of persons residing together. Such group  
4 includes, but is not limited to a family with or without children (a  
5 child who is temporarily away from the home because of placement in  
6 foster care is considered a member of the family) or the remaining  
7 member of a tenant family. The commissioner shall have the discretion to  
8 determine if any other group of persons qualifies as a family.

9 5. "individual" means a single person.

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

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

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

29 9. "adjusted income" means income minus any deductions allowable by  
30 the rules promulgated by the commissioner pursuant to this article.  
31 Mandatory deductions shall include:

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

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

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

37 (d) The sum total of unreimbursed medical expenses for each elderly  
38 family member and/or family member with a disability plus unreimbursed  
39 attendant care and/or medical apparatus expenses for each member of the  
40 family with a disability which are necessary for any member of the fami-  
41 ly (including the member who is a person with a disability) to be  
42 employed greater than three percent of the annual income.

43 10. "reasonable rent" means rent not more than the rent charged on  
44 comparable units in the private unassisted market and rent charged for  
45 comparable unassisted units in the premises.

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

50 12. "voucher" means a document issued by the housing trust fund corpo-  
51 ration pursuant to this article to an individual or family selected for  
52 admission to the housing access voucher program, which describes such  
53 program and the procedures for approval of a unit selected by the family  
54 and states the obligations of the individual or family under the  
55 program.

1 13. "lease" means a written agreement between an owner and a tenant  
2 for the leasing of a dwelling unit to the tenant. The lease establishes  
3 the conditions for occupancy of the dwelling unit by an individual or  
4 family with housing assistance payments under a contract between the  
5 owner and the public housing agency.

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

8 (a) under the age of eighteen;

9 (b) a person with a disability; or

10 (c) a full-time student.

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

12 16. "child care expenses" means expenses relating to the care of chil-  
13 dren under the age of thirteen.

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

17 18. "disability" means:

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

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

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

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

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

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

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

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

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

39 (iii) is likely to continue indefinitely;

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

42 (A) self-care;

43 (B) receptive and expressive language;

44 (C) learning;

45 (D) mobility;

46 (E) self-direction;

47 (F) capacity for independent living; or

48 (G) economic self-sufficiency; and

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

53 § 602. Housing access voucher program. The commissioner, subject to  
54 the appropriation of funds for this purpose, shall implement a program  
55 of rental assistance in the form of housing vouchers for eligible indi-  
56 viduals and families who are homeless or who face an imminent loss of

1 housing in accordance with the provisions of this article. The housing  
2 trust fund corporation shall issue vouchers pursuant to this article,  
3 subject to appropriation of funds for this purpose, and may contract  
4 with the division of housing and community renewal to administer any  
5 aspect of this program in accordance with the provisions of this arti-  
6 cle. The commissioner shall designate public housing agencies in the  
7 state to make vouchers available to such individuals and families and to  
8 administer other aspects of the program in accordance with the  
9 provisions of this article.

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

14 1. An individual or family shall be eligible for this program if they  
15 are homeless or facing imminent loss of housing and have an income of no  
16 more than fifty percent of the area median income.

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

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

25 4. Income eligibility shall be verified no less frequently than annu-  
26 ally.

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

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

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

37 4. At least eighty-seven and one-half percent of funds distributed in  
38 each county or in the city of New York for individuals or families who  
39 are homeless pursuant to subdivision three of this section shall be  
40 allocated to individuals and families whose income does not exceed thir-  
41 ty percent of the area median income.

42 5. Of the funds allocated to individuals and families who face an  
43 imminent loss of housing, priority shall be given to individuals and  
44 families who have formerly experienced homelessness, including those who  
45 have previously received a temporary rental voucher from the state, a  
46 locality, or a non-profit organization or who currently have a rental  
47 assistance voucher that is due to expire within six months of applica-  
48 tion.

49 § 605. Payment of housing vouchers. The housing voucher shall be paid  
50 directly to any owner under a contract between the owner of the dwelling  
51 unit to be occupied by the voucher recipient and the appropriate public  
52 housing agency. A housing assistance payment contract entered into  
53 pursuant to this section shall establish the maximum monthly rent  
54 (including utilities and all maintenance and management charges) which  
55 the owner is entitled to receive for each dwelling unit with respect to  
56 which such assistance payments are to be made. The maximum monthly rent

1 shall not exceed one hundred ten percent nor be less than ninety percent  
2 of the fair market rent for the rental area in which it is located.  
3 Fair market rent for a rental area shall be published not less than  
4 annually by the commissioner and shall be made available on the website  
5 of New York state homes and community renewal.

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

9 1. that the lease between the tenant and the owner shall be for a term  
10 of not less than one year, except that the public housing agency may  
11 approve a shorter term for an initial lease between the tenant and the  
12 dwelling unit owner if the public housing agency determines that such  
13 shorter term would improve housing opportunities for the tenant and if  
14 such shorter term is considered to be a prevailing local market prac-  
15 tice;

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

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

20 (b) contain terms and conditions that:

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

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

24 (c) shall provide that during the term of the lease, the owner shall  
25 not terminate the tenancy except for serious or repeated violation of  
26 the terms and conditions of the lease, for violation of applicable state  
27 or local law, or for other good cause, and in the case of an owner who  
28 is an immediate successor in interest pursuant to foreclosure during the  
29 term of the lease vacating the property prior to sale shall not consti-  
30 tute other good cause, except that the owner may terminate the tenancy  
31 effective on the date of transfer of the unit to the owner if the owner:

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

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

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

39 3. that any unit under an assistance contract originated under this  
40 article shall only be occupied by the individual or family designated in  
41 said contract and shall be the designated individual or family's primary  
42 residence. Contracts shall not be transferable between units and shall  
43 not be transferable between recipients. A family or individual may  
44 transfer their voucher to a different unit under a new contract pursuant  
45 to this article;

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

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

51 (a) thirty percent of the monthly adjusted income of the family or  
52 individual; or

53 (b) If the family or individual is receiving payments for welfare  
54 assistance from a public agency and a part of those payments, adjusted  
55 in accordance with the actual housing costs of the family, is specif-  
56 ically designated by that agency to meet the housing costs of the fami-

1 ly, the portion of those payments that is so designated. These payments  
2 include, but are not limited to any shelter assistance or housing  
3 assistance administered by any federal, state or local agency.

4 2. If the rent for the individual or family (including the amount  
5 allowed for tenant-paid utilities) exceeds the applicable payment stand-  
6 ard established under subdivision one of this section, the monthly  
7 assistance payment for the family shall be equal to the amount by which  
8 the applicable payment standard exceeds the greater of amounts under  
9 paragraphs (a) and (b) of subdivision one of this section.

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

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

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

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

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

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

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

12 2. The housing quality standards under this subdivision shall be stan-  
13 dards for safe and habitable housing established:

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

15 (b) by local housing codes or by codes adopted by public housing agen-  
16 cies that:

17 (i) meet or exceed housing quality standards, except that the commis-  
18 sioner may waive the requirement under this subparagraph to significant-  
19 ly increase access to affordable housing and to expand housing opportu-  
20 nities for families assisted under this article, except where such  
21 waiver could adversely affect the health or safety of families assisted  
22 under this article; and

23 (ii) do not severely restrict housing choice.

24 3. The determination required under subdivision one of this section  
25 shall be made by the public housing agency (or other entity, as provided  
26 in section six hundred twelve of this article) pursuant to an inspection  
27 of the dwelling unit conducted before any assistance payment is made for  
28 the unit. Inspections of dwelling units under this subdivision shall be  
29 made before the expiration of the fifteen day period beginning upon a  
30 request by the resident or landlord to the public housing agency or, in  
31 the case of any public housing agency that provides assistance under  
32 this article on behalf of more than one thousand two hundred fifty fami-  
33 lies, before the expiration of a reasonable period beginning upon such  
34 request. The performance of the agency in meeting the fifteen day  
35 inspection deadline shall be taken into consideration in assessing the  
36 performance of the agency.

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

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

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

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

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

54 (b) pursuant to such inspection, the property was determined to meet  
55 the standards or requirements regarding housing quality or safety appli-  
56 cable to properties assisted under such program, and, if a non-state



1 standard or requirement was used, the public housing agency has certi-  
2 fied to the commissioner that such standard or requirement provides the  
3 same (or greater) protection to occupants of dwelling units meeting such  
4 standard or requirement as would the housing quality standards under  
5 subdivision two of this section.

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

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

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

17 7. The commissioner shall establish procedural guidelines and perform-  
18 ance standards to facilitate inspections of dwelling units and conform  
19 such inspections with practices utilized in the private housing market.  
20 Such guidelines and standards shall take into consideration variations  
21 in local laws and practices of public housing agencies and shall provide  
22 flexibility to agencies appropriate to facilitate efficient provision of  
23 assistance under this section.

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

28 2. A public housing agency (or other entity, as provided in section  
29 six hundred twelve of this article) shall, at the request of an individ-  
30 ual or family receiving tenant-based assistance under this article,  
31 assist that individual or family in negotiating a reasonable rent with a  
32 dwelling unit owner. A public housing agency (or other such entity)  
33 shall review the rent for a unit under consideration by the individual  
34 or family (and all rent increases for units under lease by the individ-  
35 ual or family) to determine whether the rent (or rent increase)  
36 requested by the owner is reasonable. If a public housing agency (or  
37 other such entity) determines that the rent (or rent increase) for a  
38 dwelling unit is not reasonable, the public housing agency (or other  
39 such entity) shall not make housing assistance payments to the owner  
40 under this subdivision with respect to that unit.

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

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

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

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

6 § 612. Leasing of units owned by a public housing agency. 1. If an  
7 eligible individual or family assisted under this article leases a  
8 dwelling unit (other than a public housing dwelling unit) that is owned  
9 by a public housing agency administering assistance to that individual  
10 or family under this section, the commissioner shall require the unit of  
11 general local government or another entity approved by the commissioner,  
12 to make inspections required under section six hundred nine of this  
13 article and rent determinations required under section six hundred ten  
14 of this article. The agency shall be responsible for any expenses of  
15 such inspections and determinations.

16 2. For purposes of this section, the term "owned by a public housing  
17 agency" means, with respect to a dwelling unit, that the dwelling unit  
18 is in a project that is owned by such agency, by an entity wholly  
19 controlled by such agency, or by a limited liability company or limited  
20 partnership in which such agency (or an entity wholly controlled by such  
21 agency) holds a controlling interest in the managing member or general  
22 partner. A dwelling unit shall not be deemed to be owned by a public  
23 housing agency for purposes of this section because the agency holds a  
24 fee interest as ground lessor in the property on which the unit is situ-  
25 ated, holds a security interest under a mortgage or deed of trust on the  
26 unit, or holds a non-controlling interest in an entity which owns the  
27 unit or in the managing member or general partner of an entity which  
28 owns the unit.

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

46 § 614. Division of an assisted family. 1. In those instances where a  
47 family assisted under this article becomes divided into two otherwise  
48 eligible individuals or families due to divorce, legal separation or the  
49 division of the family, where the new units cannot agree as to which new  
50 unit should continue to receive the assistance, and where there is no  
51 determination by a court, the public housing authority shall consider  
52 the following factors to determine which of the individuals or families  
53 will continue to be assisted:

54 (a) which of the new units has custody of dependent children;

55 (b) which family member was the head of household when the voucher was  
56 initially issued (listed on the initial application);

1 (c) the composition of the new units and which unit includes elderly  
2 or disabled members;

3 (d) whether domestic violence was involved in the breakup of the fami-  
4 ly unit;

5 (e) which family members remain in the unit; and

6 (f) recommendations of social service professionals.

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

11 § 615. Maintenance of effort. Any funds made available pursuant to  
12 this article shall not be used to offset or reduce the amount of funds  
13 previously expended for the same or similar programs in a prior year in  
14 any county or in the city of New York, but shall be used to supplement  
15 any prior year's expenditures. The commissioner may grant an exception  
16 to this requirement if any county, municipality, or other governmental  
17 entity or public body can affirmatively show that such amount of funds  
18 previously expended is in excess of the amount necessary to provide  
19 assistance to all individuals and families within the area in which the  
20 funds were previously expended who are homeless or facing an imminent  
21 loss of housing.

22 § 616. Vouchers statewide. Notwithstanding section six hundred six of  
23 this article, any voucher issued pursuant to this article may be used  
24 for housing anywhere in the state. The commissioner shall inform voucher  
25 holders that a voucher may be used anywhere in the state and, to the  
26 extent practicable, the commissioner shall assist voucher holders in  
27 finding housing in the area of their choice.

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

31 § 618. Housing choice. 1. The commissioner shall administer the home-  
32 less access voucher program under this article to promote housing choice  
33 for voucher holders. The commissioner shall affirmatively promote fair  
34 housing to the extent possible under this program.

35 2. Nothing in this article shall lessen or abridge any fair housing  
36 obligations promulgated by municipalities, localities, or any other  
37 applicable jurisdiction.

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