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Introduced by M. of A. NIOU, RICHARDSON, JOYNER, CARROLL, REYES, SIMON, GOTTFRIED, SEAWRIGHT, BARNWELL, DAVILA, L. ROSENTHAL, DICKENS, BARRON, DE LA ROSA, KIM, FAHY, PICHARDO, FERNANDEZ, EPSTEIN, BICHOTTE HERMELYN, PERRY, FRONTUS, CRUZ, GLICK, WALKER, J. RIVERA, TAYLOR, ANDERSON, BRONSON -- read once and referred to the Committee on Housing

AN ACT to establish the Rent and Mortgage Cancellation Act of 2021

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

1 Section 1. This act shall be known and may be cited as the "Rent and
2 Mortgage Cancellation Act of 2021".
3 § 2. Legislative findings. The legislature hereby finds that a serious
4 public emergency exists in the state of New York due to the impact of
5 the global outbreak of novel coronavirus, COVID-19, which as of the date
6 of this legislation, created destabilized housing, loss of employment
7 and income, closure of businesses and schools, and greatly exacerbated
8 financial insecurity in the state of New York. The legislature further
9 finds that it is currently impossible to accurately assess the full
10 scope, duration, and severity of impact this public emergency has and
11 will have on the residents of New York and that, in response to this
12 crisis, on March 7, 2020 the executive declared a 'State Disaster Emer-
13 gency' which has put extraordinary constraints on individuals, families,
14 homeowners, not-for-profits, residential housing cooperatives, and
15 local, state, and federal agencies. The legislature further finds that
16 the loss of employment, illness and deaths caused by the COVID-19
17 outbreak have rendered many individuals and families unable to pay for
18 the costs of housing and other life necessities. The legislature further
19 finds that safe and affordable housing is a key measure of positive
20 individual, family, and public health outcomes. The legislature further
21 finds that without government intervention, individuals and families who
22 are unable to pay the costs of housing will be displaced, which will
23 result in an increase in families who are cohabiting with one or more

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

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1 other families and an increase in the population of unhoused individuals
2 and families, both of which will accelerate the spread of COVID-19
3 infection and, therefore, measures to prevent such individual and house-
4 hold displacement are necessary to prevent increased COVID-19 trans-
5 mission. The legislature further finds that without rent and mortgage
6 relief, the number of eviction case filings for nonpayment of rent and
7 the number of mortgage foreclosures will increase tremendously, result-
8 ing in overburdened court systems which will not have the resources or
9 space to operate functionally and also resulting in massive congestion
10 and increased human contact in courthouse spaces, both of which will
11 exacerbate the spread of COVID-19 creating a worsened public health
12 hazard. The legislature further finds that a tremendous increase in
13 evictions and foreclosures will overburden social services agencies and
14 resources and that the shelter system does not have the capacity to
15 accommodate a significantly increased homeless population, both of which
16 will also worsen the spread of COVID-19. The legislature further finds
17 that public housing authorities have incurred expenses resulting from
18 the COVID-19 outbreak and have lost rental income due to widespread
19 financial hardship suffered by public housing tenants and occupants as a
20 result of the COVID-19 outbreak. The legislature declares that it is
21 both in the public interest and the responsibility of government to
22 provide and secure federal and state emergency funding to ensure that
23 individuals and families are not rendered homeless or severely finan-
24 cially burdened because of an inability to pay for the cost of housing
25 and other necessities due to the COVID-19 outbreak and to ensure that
26 public housing entities, not-for-profits, residential cooperatives, and
27 landlords unable to afford necessary expenses as a result of COVID-19
28 outbreak, not be encumbered with severe financial burden, and to promote
29 the stability and proper maintenance of the housing stock and assist
30 communities in recovering from the adverse social and economic impacts
31 of the COVID-19 outbreak, and that, consistent with articles 17 and 18
32 of the state constitution, it is therefore incumbent on the legislature
33 and the executive to implement protections and to provide rent and mort-
34 gage relief so as to reduce the harm to New York residents and ensure
35 safe, decent, sanitary, affordable housing and financial stability
36 during the novel coronavirus, COVID-19, crisis and all other public
37 emergencies.

38 § 3. Definitions. (a) "Residential tenant" shall have the same meaning
39 as in paragraph (a) of subdivision 1 of section 235-f of the real prop-
40 erty law, those who otherwise pay for the use and occupancy of a resi-
41 dential dwelling unit, occupants as defined by paragraph (b) of subdivi-
42 sion 1 of section 235-f of the real property law, or tenants or
43 occupants of residential dwelling units funded pursuant to 42 U.S.C.
44 1437g.

45 (b) "Small homeowner" shall mean an owner of a dwelling with 6 or
46 fewer units where such owner also resides as a primary residence.

47 (c) "Affordable housing operator" shall mean a not-for-profit entity
48 as defined in the not-for-profit corporation law or a housing develop-
49 ment fund company as defined in section 572 of the private housing
50 finance law that owns and operates a housing project for persons of
51 low-income.

52 (d) "Rent" shall have the same meaning as defined in section 702 of
53 the real property actions and proceedings law.

54 (e) "Residential cooperative" shall mean any housing project, of any
55 size, operated for persons of low income by a housing corporation as
56 defined in section 572 of the private housing finance law, or any corpo-

1 ration or entity owning and operating a residential cooperative with 10
2 or fewer units.

3 (f) "Public housing authority" shall mean any municipal housing
4 authority created under article 13 of the public housing law.

5 (g) "Commissioner" shall mean the commissioner of housing and communi-
6 ty renewal.

7 § 4. Cancellation of rent in the case of residential tenants; fines;
8 termination of tenancy and eviction proceedings; debt; consumer credit
9 reports. (a) Notwithstanding any other provision of law, the obligation
10 of a residential tenant to pay rent shall be suspended for a period that
11 shall run from March 7, 2020 until the expiration of 90 days after the
12 executive declares that the state disaster emergency has ended.

13 (b) No tenant or tenant household may be charged a fine or fee for
14 non-payment of rent in accordance with this section.

15 (c) The nonpayment of rent by a tenant in accordance with this section
16 shall not be grounds for any termination of tenancy or eviction proceed-
17 ing or civil judgment.

18 (d) No tenant or tenant household may be treated as accruing any debt
19 by reason of suspension of rent under this section.

20 (e) No tenant or tenant household may be held liable for repayment of
21 any amount of rent suspended under this section.

22 (f) The nonpayment of rent by a tenant in accordance with this section
23 shall not be reported to a tenant screening agency or a consumer report-
24 ing agency nor shall such nonpayment adversely affect a tenant or member
25 of a tenant's household's credit score nor shall such nonpayment be
26 grounds for denying any future application for rental housing made by a
27 tenant or a member of a tenant's household.

28 § 5. Mortgage payment suspension, fees and penalties, credit scores.

29 (a) Notwithstanding any other provision of law, the obligation of a
30 small homeowner to make mortgage payments of principal or interest that
31 become due during the period running from March 7, 2020 until the expi-
32 ration of 90 days after the executive declares that the state disaster
33 emergency has ended, is hereby suspended.

34 (b) No mortgagor who is a small homeowner may be held responsible for
35 payment of mortgage payments suspended under this section or treated as
36 accruing any debt by reason of suspension under this section of the
37 obligation to make mortgage payments.

38 (c) A mortgagee, or servicer for such mortgagee, under a residential
39 mortgage loan to a small homeowner may not commence or continue any
40 judicial foreclosure action or non-judicial foreclosure process or any
41 action for failure to make a payment due under such mortgage that is
42 suspended pursuant to this section.

43 (d) No fees, penalties, or additional interest beyond the amounts
44 scheduled or calculated as if the mortgagor made all contractual
45 payments on time and in full under the terms of the mortgage contract in
46 effect as of the commencement of the COVID-19 suspension period shall
47 accrue.

48 (e) The nonpayment of a mortgage payment by a mortgagor pursuant to
49 suspension of the obligation to make such payment under this section
50 shall not be reported to a consumer reporting agency nor shall such
51 nonpayment adversely affect a mortgagor's credit score.

52 (f) Assistance may not be provided under this section with respect to
53 any dwelling for which assistance is provided pursuant to section seven
54 or eight of this act.

55 § 6. Assistance to residential housing cooperatives losing maintenance
56 and rental income. (a) Except as modified in this section, any residen-

1 tial housing cooperatives that can demonstrate they lost maintenance or
2 rental income during the period from March 7, 2020 until the expiration
3 of 90 days after the executive declares that the state disaster emergen-
4 cy has ended shall be entitled to a payment of the total amount of main-
5 tenance or rental income lost during that period.

6 (b) (i) The commissioner of housing and community renewal, shall issue
7 regulations establishing an application procedure for a residential
8 housing cooperative seeking payment of lost maintenance or rental
9 income.

10 (ii) Such regulations shall provide that as a condition of such
11 assistance payments, a residential housing cooperative shall agree and
12 shall be obligated, through executing an instrument in a form specified
13 in the regulations issued hereunder to provide any tenants residing in
14 the housing cooperative with a renewal lease of at least 1 year, at the
15 same rental amount actually charged and collected 6 months prior to the
16 application for relief.

17 (iii) Such regulations shall further provide that any rental housing
18 cooperative shall not be eligible for the relief provided herein for
19 rental or maintenance income imputable to any illegal unit or unit occu-
20 pied in violation of the cooperative's bylaws or for rental income
21 imputable to a unit containing uncorrected, as of the time of the appli-
22 cation, immediately hazardous violations of a state or local housing or
23 building code that existed prior to March 7, 2020 and which are the
24 housing cooperative's legal duty to remedy.

25 (c) Any residential cooperative that receives payment for unpaid main-
26 tenance under this section shall waive all rights to receive said main-
27 tenance payments from the cooperative shareholder of the dwelling unit
28 for which payment was received.

29 § 7. Assistance to affordable housing operators losing rental income.

30 (a) Except as modified in this section, any affordable housing operator
31 that can demonstrate they lost rental income during the period from
32 March 7, 2020 until the expiration of 90 days after the executive
33 declares that the state disaster emergency has ended shall be entitled
34 to a payment of the total amount of rental income lost during that peri-
35 od.

36 (b) The commissioner of housing and community renewal, shall issue
37 regulations establishing an application procedure for an affordable
38 housing operator seeking payment of lost rental income.

39 (c) The commissioner may provide a payment under this section only
40 with respect to rental dwellings that meet all the following require-
41 ments:

42 (i) The affordable housing operator of the rental dwelling has made
43 such certifications to, and entered into such binding agreements with,
44 the commissioner as the commissioner considers necessary to ensure that
45 during the five year period beginning upon initial receipt by such
46 affordable housing operator of payment under this section for such
47 dwelling, such dwelling shall be subject to the following requirements:

48 (1) the monthly rental amounts for the rental units within the proper-
49 ty may not be increased from the amount of such rent charged as of the
50 date of the enactment of this act;

51 (2) tenants of the rental units may be evicted only for the following
52 reasons:

53 (A) the tenant is violating a substantial obligation of their tenancy
54 other than the obligation to surrender possession of such housing accom-
55 modation and has failed to cure such violation after written notice by
56 the landlord that the violation cease within 10 days, or within the 3

1 month period immediately prior to the commencement of the proceeding the
2 tenant has willfully violated such an obligation inflicting serious and
3 substantial injury to the landlord;

4 (B) the tenant is committing or permitting a nuisance in such housing
5 accommodation or is maliciously or by reason of gross negligence
6 substantially damaging the housing accommodations, or the tenant's
7 conduct is such as to interfere substantially with the comfort or safety
8 of the landlord or of other tenants or occupants of the same or other
9 adjacent building or structure;

10 (C) occupancy of the housing accommodations by the tenant is illegal
11 because of the requirements of law, and the landlord is subject to civil
12 or criminal penalties therefor, or both;

13 (D) the tenant is using or permitting such housing accommodation to be
14 used for an illegal purpose;

15 (E) the tenant who had a written lease or other written rental agree-
16 ment which terminates on or after the effective date of this statute,
17 has refused upon demand of the landlord to execute a written extension
18 or renewal thereof for a further term of like duration not in excess of
19 one year but otherwise on the same terms and conditions as the previous
20 lease except in so far as such terms and conditions are inconsistent
21 with this act; or

22 (F) the tenant has unreasonably refused the landlord access to the
23 housing accommodations for the purpose of making necessary repairs or
24 improvements required by law or for the purpose of inspection or of
25 showing the accommodations to a prospective purchaser, mortgagee or
26 prospective mortgagee, or other person having a legitimate interest
27 therein; provided, however, that in the latter event such refusal shall
28 not be grounds for removal or eviction if such inspection or showing of
29 the accommodations is contrary to the provisions of the tenant's lease
30 or other rental agreement;

31 (3) the rental dwelling shall not have any outstanding violations for
32 hazardous or immediately hazardous conditions;

33 (4) the affordable housing operator may not refuse to rent any rental
34 dwelling unit, or discriminate in the renting of any rental dwelling
35 unit, to a household based on the source of income of such household,
36 including income under the program under section 8(o) of the United
37 States Housing Act of 1937 (42 U.S.C. 1437f(o)) or any similar tenant-
38 based rental assistance program;

39 (5) the affordable housing operator may not restrict tenancy of the
40 dwelling unit on the basis of sexual identity or orientation, gender
41 identity or expression, conviction or arrest record, credit history, or
42 immigration status;

43 (6) the affordable housing operator may not retaliate in any way
44 against a tenant of the dwelling unit; and

45 (7) the affordable housing operator may not report the tenant of the
46 dwelling unit or provide any adverse information regarding the tenant to
47 any credit reporting or tenant screening agency.

48 (ii) Assistance may not be provided under this section with respect to
49 any dwelling unit for which assistance is provided pursuant to section
50 five, six or eight of this act.

51 (d) (i) Subject to paragraph (ii) of this subdivision, the amount of a
52 payment under this section with respect to a rental dwelling may not
53 exceed the aggregate amount of rent for the rental dwelling suspended
54 pursuant to subdivision (a) of section four of this act and attributable
55 only to days from March 7, 2020 until the expiration of 90 days after
56 the executive declares that the state disaster emergency has ended

1 during which the dwelling unit was occupied by a tenant otherwise
2 required to pay rent for such occupancy.

3 (ii) In making payments under this section with respect to any rental
4 dwelling unit for which a tenant made a payment of rent during the peri-
5 od run from March 7, 2020 until the expiration of 90 days after the
6 executive declares that the state disaster emergency has ended the
7 commissioner of housing and community renewal agency shall:

8 (1) reduce the amount of the payment to the affordable housing opera-
9 tor under paragraph (i) of this subdivision by the amount of any such
10 rent paid; and

11 (2) make a payment to such tenant in the amount of any such rent paid.

12 (iii) In making payments under this section with respect to any dwell-
13 ing for which the affordable housing operator received mortgage payment
14 relief under section five of this act the commissioner shall reduce the
15 amount of the payment to the affordable housing operator for lost rent
16 by the amount of mortgage payment relief received under section five of
17 this act.

18 (e) If an affordable housing operator violates any requirement with
19 respect to a covered rental dwelling unit under any certification or
20 agreement entered into pursuant to paragraph (i) of subdivision (c) of
21 this section, the commissioner shall recapture from the affordable hous-
22 ing operator an amount equal to the entire amount of assistance provided
23 under this section that is attributable to such dwelling unit and ensure
24 that such amount is recaptured.

25 (f) There is hereby authorized to be appropriated such sums as may be
26 necessary to reimburse all affordable housing operators for all rent
27 payments suspended pursuant to subdivision (a) of section four of this
28 act.

29 (g) (i) Any affordable housing operator may apply for an exemption
30 from one or more of the requirements set forth in subdivision (c) of
31 this section and the commissioner shall grant exemptions from the
32 requirements set forth in subdivision (c) of this section upon determin-
33 ing that the affordable housing operator would otherwise suffer undue
34 financial hardship resulting from the requirements for which exemption
35 is sought.

36 (ii) Any affordable housing operator aggrieved by the commissioner's
37 decision on an application under this section or for a hardship
38 exemption pursuant to paragraph (i) of this subdivision may within 30
39 days of the commissioner's decision seek judicial review pursuant to
40 article 78 of the civil practice law and rules. In the event that the
41 court may find that the decision of the commissioner constitutes the
42 equivalent of a taking without compensation, it may, at the election of
43 the commissioner, either set aside the decision or order the payment of
44 just compensation by the commissioner.

45 § 8. Landlord relief fund, application, fair rental requirements,
46 prohibition on duplication of assistance. (a) The commissioner of hous-
47 ing and community renewal shall establish and manage a landlord relief
48 fund, or in this section referred to as "the fund", to provide lessors
49 payments under this section to reimburse such lessors for rent payments
50 cancelled pursuant to subdivision (a) of section four of this act.

51 (b) The commissioner shall provide for lessors of rental dwellings to
52 apply for reimbursement payments from the fund, which applications shall
53 include the certifications and binding agreements required pursuant to
54 subdivision (c) of this section.

1 (c) The commissioner may provide a payment under this section only
2 with respect to rental dwellings that meet all of the following require-
3 ments:

4 (i) The lessor of the rental dwelling has made such certifications to,
5 and entered into such binding agreements with, the commissioner as the
6 commissioner considers necessary to ensure that during the five year
7 period beginning upon initial receipt by such lessor of payment under
8 this section for such dwelling, such dwelling shall be subject to the
9 following requirements:

10 (1) the monthly rental amounts for the rental units within the proper-
11 ty may not be increased from the amount of such rent charged as of the
12 date of the enactment of this act;

13 (2) tenants of the rental units may be evicted only for the following
14 reasons:

15 (A) the tenant is violating a substantial obligation of his tenancy
16 other than the obligation to surrender possession of such housing accom-
17 modation and has failed to cure such violation after written notice by
18 the landlord that the violation cease within ten days, or within the 3
19 month period immediately prior to the commencement of the proceeding the
20 tenant has willfully violated such an obligation inflicting serious and
21 substantial injury to the landlord;

22 (B) the tenant is committing or permitting a nuisance in such housing
23 accommodation or is maliciously or by reason of gross negligence
24 substantially damaging the housing accommodations; or his conduct is
25 such as to interfere substantially with the comfort or safety of the
26 landlord or of other tenants or occupants of the same or other adjacent
27 building or structure;

28 (C) occupancy of the housing accommodations by the tenant is illegal
29 because of the requirements of law, and the landlord is subject to civil
30 or criminal penalties therefor, or both;

31 (D) the tenant is using or permitting such housing accommodation to be
32 used for an illegal purpose;

33 (E) the tenant who had a written lease or other written rental agree-
34 ment which terminates on or after the effective date of this statute,
35 has refused upon demand of the landlord to execute a written extension
36 or renewal thereof for a further term of like duration not in excess of
37 one year but otherwise on the same terms and conditions as the previous
38 lease except in so far as such terms and conditions are inconsistent
39 with this act; or

40 (F) the tenant has unreasonably refused the landlord access to the
41 housing accommodations for the purpose of making necessary repairs or
42 improvements required by law or for the purpose of inspection or of
43 showing the accommodations to a prospective purchaser, mortgagee or
44 prospective mortgagee, or other person having a legitimate interest
45 therein; provided, however, that in the latter event such refusal shall
46 not be grounds for removal or eviction if such inspection or showing of
47 the accommodations is contrary to the provisions of the tenant's lease
48 or other rental agreement;

49 (3) the rental dwelling shall not have any outstanding violations for
50 hazardous or immediately hazardous conditions;

51 (4) the lessor may not refuse to rent any rental dwelling unit, or
52 discriminate in the renting of any rental dwelling unit, to a household
53 based on the source of income of such household, including income under
54 the program under section 8(o) of the United States Housing Act of 1937
55 (42 U.S.C. 1437f(o)) or any similar tenant-based rental assistance
56 program;

1 (5) the lessor may not restrict tenancy of the dwelling unit on the
2 basis of sexual identity or orientation, gender identity or expression,
3 conviction or arrest record, credit history, or immigration status;

4 (6) the lessor may not retaliate in any way against a tenant of the
5 dwelling unit; and

6 (7) the lessor may not report the tenant of the dwelling unit or
7 provide any adverse information regarding the tenant to any credit
8 reporting or tenant screening agency.

9 (ii) Assistance may not be provided under this section with respect to
10 any dwelling unit for which assistance is provided pursuant to section
11 five, six or seven of this act.

12 (d) (i) Subject to paragraph (ii) of this subdivision, the amount of a
13 payment under this section with respect to a rental dwelling may not
14 exceed the aggregate amount of rent for the rental dwelling suspended
15 pursuant to subdivision (a) of section four of this act and attributable
16 only to days from March 7, 2020 until the expiration of 90 days after
17 the executive declares that the state disaster emergency has ended
18 during which the dwelling unit was occupied by a tenant otherwise
19 required to pay rent for such occupancy.

20 (ii) In making payments under this section with respect to any rental
21 dwelling unit for which a tenant made a payment of rent during the peri-
22 od run from March 7, 2020 until the expiration of 90 days after the
23 executive declares that the state disaster emergency has ended the
24 commissioner shall:

25 (1) reduce the amount of the payment to the lessor under paragraph (i)
26 of this subdivision by the amount of any such rent paid; and

27 (2) make a payment to such tenant in the amount of any such rent paid.

28 (iii) In making payments under this section with respect to any dwell-
29 ing for which the lessor received mortgage payment relief under section
30 five of this act the commissioner shall reduce the amount of the payment
31 to the lessor for lost rent by the amount of mortgage payment relief
32 received under section five of this act.

33 (e) In making payments under this section, the commissioner shall
34 establish a tiered system for priority for such payments based on
35 assets, revenues, and disclosure requirements with respect to lessors.
36 Such system shall provide priority for making payments to eligible small
37 homeowners and lessors having the fewest available amount of assets.

38 (f) If a lessor violates any requirement with respect to a covered
39 rental dwelling unit under any certification or agreement entered into
40 pursuant to paragraph (i) of subdivision (c) of this section, the
41 commissioner shall recapture from the lessor an amount equal to the
42 entire amount of assistance provided under this section that is attrib-
43 utable to such dwelling unit and ensure that such amount is recaptured
44 into the fund.

45 (g) There is authorized to be appropriated for the fund established
46 pursuant to this section such sums as may be necessary to reimburse all
47 lessors for all rent payments suspended pursuant to subdivision (a) of
48 section four of this act.

49 (h) (i) Any lessor may apply for an exemption from one or more of the
50 requirements set forth in subdivision (c) of this section and the
51 commissioner shall grant exemptions from requirements set forth in
52 subdivision (c) of this section upon determining that the lessor would
53 otherwise suffer undue financial hardship resulting from the require-
54 ments for which exemption is sought.

55 (ii) Any lessor aggrieved by the commissioner's decision on an appli-
56 cation to the Fund or for a hardship exemption pursuant to paragraph (i)

1 of this subdivision may within 30 days of the commissioner's decision
2 seek judicial review pursuant to article 78 of the civil practice law
3 and rules. In the event that the court may find that the decision of the
4 commissioner constitutes the equivalent of a taking without compen-
5 sation, it may, at the election of the commissioner, either set aside
6 the decision or order the payment of just compensation by the commis-
7 sioner.

8 § 9. Assistance to public housing authorities. (a) The commissioner of
9 housing and community renewal shall establish and manage a public hous-
10 ing relief fund, or in this section referred to as "the public housing
11 relief fund", to provide public housing authorities with funds to
12 compensate for expenses related to COVID-19 and unpaid rent that would
13 have been payable by residential tenants pursuant to 42 U.S.C. 1437a
14 during the period from March 7, 2020 until the expiration of 90 days
15 after the executive declares that the state disaster emergency has
16 ended.

17 (b) The commissioner shall provide for public housing authorities to
18 apply for payments from the public housing relief fund and shall promul-
19 gate regulations establishing the procedural requirements for such
20 applications.

21 (c) It is hereby declared to be the intent of the legislature that to
22 the extent that any part of this section is inconsistent with article 4
23 of the public housing law, this statute will prevail.

24 § 10. Civil action. (a) Any individual aggrieved by an adverse action
25 taken by a lessor, affordable housing operator, public housing authori-
26 ty, or mortgagee for exercising rights under section four or five of
27 this act may commence a civil action under this section against the
28 lessor, affordable housing operator, public housing authority, or mort-
29 gagee violating such section in an appropriate state court or a local
30 court of competent jurisdiction not later than 2 years after such
31 violation occurs for damages under subdivision (b) of this section.

32 (b) Any lessor or mortgagee found to have taken adverse action against
33 any lessee or mortgagor for exercising rights under section four or five
34 of this act shall be liable:

35 (i) to the individual aggrieved by such violation, for any actual
36 damages as a result of such adverse action; and

37 (ii) for a fine in the amount of:

38 (1) \$10,000, in the case of a violation that is the first violation by
39 such lessor or mortgagee;

40 (2) \$20,000, in the case of a violation that is the second violation
41 by such lessor or mortgagee; and

42 (3) \$100,000 or forfeiture of the property, in the case of a violation
43 that is the third or subsequent violation by such lessor or mortgagee.

44 (c) In an action brought under this section, the court:

45 (i) may award preventative relief, including a permanent or temporary
46 injunction or other order, to ensure the full rights granted by sections
47 four and five of this act; and

48 (ii) shall award any prevailing plaintiff reasonable attorney's fees
49 and costs.

50 (d) The attorney general may bring a civil action in any appropriate
51 court against any individual or entity which violates section four or
52 five of this act for fines under paragraph (ii) of subdivision (b) of
53 this section.

54 § 11. Non-severability clause. If section four of this act is adjudged
55 by a court of competent jurisdiction to be invalid, then sections six,
56 seven and eight of this act shall also be deemed invalid and it is here-

1 by declared to be the intent of the legislature that sections six, seven
2 and eight of this act would not have been enacted if section four of
3 this act had not been included herein.

4 § 12. Severability clause. If any clause, sentence, paragraph, subdi-
5 vision, section or part of this act other than section four of this act
6 shall be adjudged by a court of competent jurisdiction to be invalid,
7 such judgment shall not affect, impair or invalidate the remainder ther-
8 eof, but shall be confined in its operation to the clause, sentence,
9 paragraph, subdivision, section or part thereof directly involved in the
10 controversy in which such judgment shall have been rendered. It is here-
11 by declared to be the intent of the legislature that this act would have
12 been enacted even if such invalid provisions had not been included here-
13 in.

14 § 13. This act shall take effect immediately.