

# STATE OF NEW YORK

3701--A

2021-2022 Regular Sessions

## IN ASSEMBLY

January 28, 2021

Introduced by M. of A. CYMBROWITZ, L. ROSENTHAL, BARNWELL, DE LA ROSA, JACOBSON, KIM, HUNTER, QUART, JOYNER, WALKER, HEVESI, AUBRY, EPSTEIN, DINOWITZ, NIOU, BARRON, REYES, TAYLOR, CRUZ, GOTTFRIED, COLTON, ROZIC, SIMON, CARROLL, RODRIGUEZ, DAVILA, RICHARDSON, DICKENS, FAHY, FERNANDEZ, SEAWRIGHT, PICHARDO, BICHOTTE HERMELYN, LUPARDO, PERRY, GLICK, O'DONNELL, FRONTUS, J. RIVERA, WEPRIN, BRONSON, GONZALEZ-ROJAS, GALLAGHER, CLARK, ANDERSON, FORREST, JACKSON, KELLES, MEEKS -- Multi-Sponsored by -- M. of A. COOK -- read once and referred to the Committee on Housing -- 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:

3 ARTICLE 14

4 HOUSING ACCESS VOUCHER PROGRAM

5 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.

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

LBD06413-07-1

1           613. Verification of income.

2           614. Division of an assisted family.

3           615. Maintenance of effort.

4           616. Vouchers statewide.

5           617. Applicable codes.

6           618. Housing choice.

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

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

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

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

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

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

12 5. "individual" means a single person.

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

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

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

32 9. "adjusted income" means income minus any deductions allowable by  
33 the rules promulgated by the commissioner pursuant to this article.  
34 Mandatory deductions shall include:

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

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

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

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

46 10. "reasonable rent" means rent not more than the rent charged on  
47 comparable units in the private unassisted market and rent charged for  
48 comparable unassisted units in the premises.

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

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

1 and states the obligations of the individual or family under the  
2 program.

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

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

10 (a) under the age of eighteen;

11 (b) a person with a disability; or

12 (c) a full-time student.

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

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

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

19 18. "disability" means:

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

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

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

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

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

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

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

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

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

41 (iii) is likely to continue indefinitely;

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

44 (A) self-care;

45 (B) receptive and expressive language;

46 (C) learning;

47 (D) mobility;

48 (E) self-direction;

49 (F) capacity for independent living; or

50 (G) economic self-sufficiency; and

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

55 § 602. Housing access voucher program. The commissioner, subject to  
56 the appropriation of funds for this purpose, shall implement a program

1 of rental assistance in the form of housing vouchers for eligible indi-  
2 viduals and families who are homeless or who face an imminent loss of  
3 housing in accordance with the provisions of this article. The housing  
4 trust fund corporation shall issue vouchers pursuant to this article,  
5 subject to appropriation of funds for this purpose, and may contract  
6 with the division of housing and community renewal to administer any  
7 aspect of this program in accordance with the provisions of this arti-  
8 cle. The commissioner shall designate public housing agencies in the  
9 state to make vouchers available to such individuals and families and to  
10 administer other aspects of the program in accordance with the  
11 provisions of this article.

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

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

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

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

27 4. Income eligibility shall be verified no less frequently than annu-  
28 ally.

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

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

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

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

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

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

1 the owner is entitled to receive for each dwelling unit with respect to  
2 which such assistance payments are to be made. The maximum monthly rent  
3 shall not exceed one hundred ten percent nor be less than ninety percent  
4 of the fair market rent for the rental area in which it is located.  
5 Fair market rent for a rental area shall be published not less than  
6 annually by the commissioner and shall be made available on the website  
7 of New York state homes and community renewal.

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

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

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

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

22 (b) contain terms and conditions that:

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

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

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

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

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

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

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

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

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

53 (a) thirty percent of the monthly adjusted income of the family or  
54 individual; or

55 (b) If the family or individual is receiving payments for welfare  
56 assistance from a public agency and a part of those payments, adjusted

1 in accordance with the actual housing costs of the family, is specif-  
2 ically designated by that agency to meet the housing costs of the fami-  
3 ly, the portion of those payments that is so designated. These payments  
4 include, but are not limited to any shelter assistance or housing  
5 assistance administered by any federal, state or local agency.

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

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

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

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

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

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

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

1 payments withheld to make assistance payments relating to the period  
2 during which payments were withheld.

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

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

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

17 (b) by local housing codes or by codes adopted by public housing agen-  
18 cies that:

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

25 (ii) do not severely restrict housing choice.

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

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

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

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

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

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



1 (b) pursuant to such inspection, the property was determined to meet  
2 the standards or requirements regarding housing quality or safety appli-  
3 cable to properties assisted under such program, and, if a non-state  
4 standard or requirement was used, the public housing agency has certi-  
5 fied to the commissioner that such standard or requirement provides the  
6 same (or greater) protection to occupants of dwelling units meeting such  
7 standard or requirement as would the housing quality standards under  
8 subdivision two of this section.

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

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

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

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

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

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

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

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

55 5. Unless otherwise authorized by the commissioner, each public hous-  
56 ing agency shall pay any penalties from administrative fees collected by

1 the public housing agency, except that no penalty shall be imposed if  
2 the late payment is due to factors that the commissioner determines are  
3 beyond the control of the public housing agency.

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

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

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

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

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

- 1 (a) which of the new units has custody of dependent children;
- 2 (b) which family member was the head of household when the voucher was
- 3 initially issued (listed on the initial application);
- 4 (c) the composition of the new units and which unit includes elderly
- 5 or disabled members;
- 6 (d) whether domestic violence was involved in the breakup of the fami-
- 7 ly unit;
- 8 (e) which family members remain in the unit; and
- 9 (f) recommendations of social service professionals.

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

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

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

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

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

38 2. Nothing in this article shall lessen or abridge any fair housing  
 39 obligations promulgated by municipalities, localities, or any other  
 40 applicable jurisdiction.

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