

# STATE OF NEW YORK

2804

2021-2022 Regular Sessions

## IN SENATE

January 25, 2021

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the public housing law, in relation to establishing the housing access voucher program

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

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.

21 616. Vouchers statewide.

22 617. Applicable codes.

23 618. Housing choice.

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

LBD06413-01-1

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

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

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

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

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

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

7 5. "individual" means a single person.

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

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

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

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

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

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

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

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

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

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

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

54 13. "lease" means a written agreement between an owner and a tenant  
55 for the leasing of a dwelling unit to the tenant. The lease establishes  
56 the conditions for occupancy of the dwelling unit by an individual or

1 family with housing assistance payments under a contract between the  
2 owner and the public housing agency.

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

5 (a) under the age of eighteen;

6 (b) a person with a disability; or

7 (c) a full-time student.

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

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

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

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

18 19. "disability" means:

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

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

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

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

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

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

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

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

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

40 (iii) is likely to continue indefinitely;

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

43 (A) self-care;

44 (B) receptive and expressive language;

45 (C) learning;

46 (D) mobility;

47 (E) self-direction;

48 (F) capacity for independent living; or

49 (G) economic self-sufficiency; and

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

54 § 602. Housing access voucher program. The commissioner, subject to  
55 the appropriation of funds for this purpose, shall implement a program  
56 of rental assistance in the form of housing vouchers for eligible indi-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (b) contain terms and conditions that:

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

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

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

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

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

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

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

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

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

46 (a) thirty percent of the monthly adjusted income of the family or  
47 individual; or

48 (b) If the family or individual is receiving payments for welfare  
49 assistance from a public agency and a part of those payments, adjusted  
50 in accordance with the actual housing costs of the family, is specif-  
51 ically designated by that agency to meet the housing costs of the fami-  
52 ly, the portion of those payments that is so designated. These payments  
53 include, but are not limited to any shelter assistance or housing  
54 assistance administered by any federal, state or local agency.

55 2. If the rent for the individual or family (including the amount  
56 allowed for tenant-paid utilities) exceeds the applicable payment stand-

1 ard established under subdivision one of this section, the monthly  
2 assistance payment for the family shall be equal to the amount by which  
3 the applicable payment standard exceeds the greater of amounts under  
4 paragraphs (a) and (b) of subdivision one of this section.

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

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

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

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

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

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

52 (c) In the case of any property that within the previous twenty-four  
53 months has met the requirements of an inspection that qualifies as an  
54 alternative inspection method pursuant to subdivision five of this  
55 section, a public housing agency may authorize occupancy before the  
56 inspection under paragraph (a) of this subdivision has been completed,

1 and may make assistance payments retroactive to the beginning of the  
2 lease term after the unit has been determined pursuant to an inspection  
3 under paragraph (a) of this subdivision to meet the housing quality  
4 standards under subdivision two of this section. This paragraph may not  
5 be construed to exempt any dwelling unit from compliance with the  
6 requirements of subdivision four of this section.

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

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

10 (b) by local housing codes or by codes adopted by public housing agen-  
11 cies that:

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

18 (ii) do not severely restrict housing choice.

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

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

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

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

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

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

49 (b) pursuant to such inspection, the property was determined to meet  
50 the standards or requirements regarding housing quality or safety appli-  
51 cable to properties assisted under such program, and, if a non-state  
52 standard or requirement was used, the public housing agency has certi-  
53 fied to the commissioner that such standard or requirement provides the  
54 same (or greater) protection to occupants of dwelling units meeting such  
55 standard or requirement as would the housing quality standards under  
56 subdivision two of this section.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 49 (a) which of the new units has custody of dependent children;  
50 (b) which family member was the head of household when the voucher was  
51 initially issued (listed on the initial application);  
52 (c) the composition of the new units and which unit includes elderly  
53 or disabled members;  
54 (d) whether domestic violence was involved in the breakup of the fami-  
55 ly unit;  
56 (e) which family members remain in the unit; and

1 (f) recommendations of social service professionals.

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

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

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

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

26 § 618. Housing choice. 1. The commissioner shall administer the home-  
27 less access voucher program under this article to promote housing choice  
28 for voucher holders. The commissioner shall affirmatively promote fair  
29 housing to the extent possible under this program.

30 2. Nothing in this article shall lessen or abridge any fair housing  
31 obligations promulgated by municipalities, localities, or any other  
32 applicable jurisdiction.

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