

STATE OF NEW YORK

2804--B

2021-2022 Regular Sessions

IN SENATE

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

15 610. Rent.

16 611. Vacated units.

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

LBD06413-08-1

1 612. Leasing of units owned by a housing access voucher local
2 administrator.

3 613. Verification of income.

4 614. Division of an assisted family.

5 615. Maintenance of effort.

6 616. Vouchers statewide.

7 617. Applicable codes.

8 618. Housing choice.

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

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

18 1. "Homeless" means lacking a fixed, regular, and adequate nighttime
19 residence; having a primary nighttime residence that is a public or
20 private place not designed for or ordinarily used as a regular sleeping
21 accommodation for human beings, including a car, park, abandoned build-
22 ing, bus or train station, airport, campground, or other place not meant
23 for human habitation; living in a supervised publicly or privately oper-
24 ated shelter designated to provide temporary living arrangements
25 (including hotels and motels paid for by federal, state or local govern-
26 ment programs for low-income individuals or by charitable organizations,
27 congregate shelters, or transitional housing); exiting an institution
28 where an individual or family has resided and lacking a regular fixed
29 and adequate nighttime residence upon release or discharge; being a
30 homeless family with children or unaccompanied youth defined as homeless
31 under 42 U.S.C. § 11302(a); having experienced a long-term period with-
32 out living independently in permanent housing or having experienced
33 persistent instability as measured by frequent moves and being reason-
34 ably expected to continue in such status for an extended period of time
35 because of chronic disabilities, chronic physical health or mental
36 health conditions, substance addiction, histories of domestic violence
37 or childhood abuse, the presence of a child or youth with a disability,
38 multiple barriers to employment, or other dangerous or life-threatening
39 conditions, including conditions that relate to violence against an
40 individual or a family member.

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

1 member, provided further that an assertion from an individual or family
2 member alleging such abuse and loss of housing shall be sufficient to
3 establish eligibility.

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

9 4. "Section 8 local administrator" means an organization that adminis-
10 ters the Section 8 Housing Choice Vouchers program within a community,
11 county or region, or statewide, on behalf of and under contract with the
12 housing trust fund corporation.

13 5. "Housing access voucher local administrator" means a public housing
14 agency, as defined in subdivision three of this section, or Section 8
15 local administrator designated to administer the housing access voucher
16 program within a community, county or region, or statewide, on behalf of
17 and under contract with the housing trust fund corporation.

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

24 7. "Owner" means any private person or any entity, including a cooper-
25 ative, an agency of the federal government, or a public housing agency,
26 having the legal right to lease or sublease dwelling units.

27 8. "Dwelling unit" means a single-family dwelling, including attached
28 structures such as porches and stoops; or a single-family dwelling unit
29 in a structure that contains more than one separate residential dwelling
30 unit, and in which each such unit is used or occupied, or intended to be
31 used or occupied, in whole or in part, as the residence of one or more
32 persons.

33 9. "Income" means income from all sources of each member of the house-
34 hold, including all wages, tips, over-time, salary, welfare assistance,
35 social security payments, child support payments, returns on invest-
36 ments, and recurring gifts. The term "income" shall not include:
37 employment income from children under eighteen years of age, employment
38 income from children eighteen years of age or older who are full-time
39 students, foster care payments, sporadic gifts, groceries provided by
40 persons not living in the household, supplemental nutrition assistance
41 program (food stamp) benefits, earned income disregard (EID), or the
42 earned income tax credit.

43 10. "Adjusted income" means income minus any deductions allowable by
44 the rules promulgated by the commissioner pursuant to this article.
45 Mandatory deductions shall include:

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

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

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

51 (d) The sum total of unreimbursed medical expenses for each elderly
52 family member and/or family member with a disability plus unreimbursed
53 attendant care and/or medical apparatus expenses for each member of the
54 family with a disability which are necessary for any member of the fami-
55 ly (including the member of the family who is a person with a disabili-

1 ty) to be employed, that is greater than three percent of the annual
2 income; and

3 (e) expenses related to child support payments due and owing.

4 11. "Reasonable rent" means rent not more than the rent charged on
5 comparable units in the private unassisted market and rent charged for
6 comparable unassisted units in the premises.

7 12. "Fair market rent" means the fair market rent for each rental area
8 as promulgated annually by the United States department of housing and
9 urban development's office of policy development and research pursuant
10 to 42 U.S.C. 1437f.

11 13. "Voucher" means a document issued by the housing trust fund corpo-
12 ration pursuant to this article to an individual or family selected for
13 admission to the housing access voucher program, which describes such
14 program and the procedures for approval of a unit selected by the family
15 and states the obligations of the individual or family under the
16 program.

17 14. "Lease" means a written agreement between an owner and a tenant
18 for the leasing of a dwelling unit to the tenant. The lease establishes
19 the conditions for occupancy of the dwelling unit by an individual or
20 family with housing assistance payments under a contract between the
21 owner and the housing access voucher local administrator.

22 15. "Dependent" means any member of the family who is neither the head
23 of household, nor the head of the household's spouse, and who is:

24 (a) under the age of eighteen;

25 (b) a person with a disability; or

26 (c) a full-time student.

27 16. "Elderly" means a person sixty-two years of age or older.

28 17. "Child care expenses" means expenses relating to the care of chil-
29 dren under the age of thirteen.

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

33 19. "Disability" means:

34 (a) the inability to engage in any substantial gainful activity by
35 reason of any medically determinable physical or mental impairment which
36 can be expected to result in death or which has lasted or can be
37 expected to last for a continuous period of not less than twelve months;
38 or

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

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

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

46 (ii) substantially impedes his or her ability to live independently;

47 and

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

50 (d) a developmental disability that is a severe, chronic disability of
51 an individual that:

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

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

55 (iii) is likely to continue indefinitely;

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

3 (A) self-care;

4 (B) receptive and expressive language;

5 (C) learning;

6 (D) mobility;

7 (E) self-direction;

8 (F) capacity for independent living; or

9 (G) economic self-sufficiency; and

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

14 § 602. Housing access voucher program. The commissioner, subject to
15 the appropriation of funds for this purpose, shall implement a program
16 of rental assistance in the form of housing vouchers for eligible indi-
17 viduals and families who are homeless or who face an imminent loss of
18 housing in accordance with the provisions of this article. The housing
19 trust fund corporation shall issue vouchers pursuant to this article,
20 subject to appropriation of funds for this purpose, and may contract
21 with the division of housing and community renewal to administer any
22 aspect of this program in accordance with the provisions of this arti-
23 cle. The commissioner shall designate housing access voucher local
24 administrators in the state to make vouchers available to such individ-
25 uals and families and to administer other aspects of the program in
26 accordance with the provisions of this article. In the city of New York,
27 the housing access voucher local administrator shall be the New York
28 city department of housing preservation and development, or the New York
29 city housing authority, or both.

30 § 603. Eligibility. The commissioner shall promulgate standards for
31 determining eligibility for assistance under this program. Individuals
32 and families who meet the standards shall be eligible regardless of
33 immigration status. Eligibility shall be limited to individuals and
34 families who are homeless or facing imminent loss of housing. Housing
35 access voucher local administrators may rely on correspondence from a
36 homeless shelter or similar institution or program to determine whether
37 an applicant qualifies as a homeless individual or family.

38 1. An individual or family shall be eligible for this program if they
39 are homeless or facing imminent loss of housing and have an income of no
40 more than fifty percent of the area median income, as defined by the
41 federal department of housing and urban development.

42 2. An individual or family in receipt of rental assistance pursuant to
43 this program shall be no longer financially eligible for such assistance
44 under this program when thirty percent of the individual's or family's
45 adjusted income is greater than or equal to the total rent for the
46 dwelling unit.

47 3. When an individual or family becomes financially ineligible for
48 rental assistance under this program pursuant to subdivision two of this
49 section, the individual or family shall retain rental assistance for a
50 period no shorter than one year, subject to appropriation of funds for
51 this purpose.

52 4. Income eligibility shall be verified prior to a public housing
53 agency's initial determination to provide rental assistance for this
54 program and upon determination of such eligibility, an individual or
55 family shall annually certify their income for the purpose of determin-
56 ing continued eligibility and any adjustments to such rental assistance.

1 5. The commissioner shall collaborate with the office of temporary
2 and disability assistance and other state and city agencies to allow
3 public housing agencies to access income information for the purpose of
4 verifying an individual's or family's income.

5 § 604. Funding allocation and distribution. 1. Funding shall be allo-
6 cated by the commissioner in each county and the city of New York in
7 proportion to the number of households in each county or the city of New
8 York who are severely rent burdened based on data published by the
9 United States census bureau.

10 2. The commissioner shall be responsible for distributing the funds
11 allocated in each county or the city of New York among housing access
12 voucher local administrators operating in each county or in the city of
13 New York.

14 3. At least fifty percent of funds distributed in each county or in
15 the city of New York shall be allocated to individuals or families who
16 are homeless. If a county is unable to fully distribute all funds allo-
17 cated pursuant to this program under this section, such county may spend
18 fewer than fifty percent of its funds for those who are homeless,
19 provided that all eligible applicant individuals or families who are
20 homeless have been served.

21 4. At least eighty-five percent of funds distributed in each county or
22 in the city of New York for individuals or families who are homeless
23 pursuant to subdivision three of this section shall be allocated to
24 individuals and families whose income does not exceed thirty percent of
25 the area median income as defined by the federal department of housing
26 and urban development.

27 5. Of the funds allocated to individuals and families who face an
28 imminent loss of housing, priority shall be given to individuals and
29 families who have formerly experienced homelessness, including those who
30 have previously received a temporary rental voucher from the state, a
31 locality, or a non-profit organization or who currently have a rental
32 assistance voucher that is due to expire within six months of applica-
33 tion.

34 § 605. Payment of housing vouchers. The housing voucher shall be paid
35 directly to any owner under a contract between the owner of the dwelling
36 unit to be occupied by the voucher recipient and the appropriate housing
37 access voucher local administrator. A housing assistance payment
38 contract entered into pursuant to this section shall establish the maxi-
39 mum monthly rent (including utilities and all maintenance and management
40 charges) which the owner is entitled to receive for each dwelling unit
41 with respect to which such assistance payments are to be made. The maxi-
42 mum monthly rent shall not exceed one hundred ten percent nor be less
43 than ninety percent of the fair market rent for the rental area in which
44 it is located. Fair market rent for a rental area shall be published
45 not less than annually by the commissioner and shall be made available
46 on the website of New York state homes and community renewal.

47 § 606. Leases and tenancy. Each housing assistance payment contract
48 entered into by a housing access voucher local administrator and the
49 owner of a dwelling unit shall provide:

50 1. that the lease between the tenant and the owner shall be for a term
51 of not less than one year, except that the housing access voucher local
52 administrator may approve a shorter term for an initial lease between
53 the tenant and the dwelling unit owner if the housing access voucher
54 local administrator determines that such shorter term would improve
55 housing opportunities for the tenant and if such shorter term is consid-
56 ered to be a prevailing local market practice;

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

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

5 (b) contain terms and conditions that:

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

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

9 (c) shall provide that during the term of the lease, the owner shall
10 not terminate the tenancy except for serious or repeated violation of
11 the terms and conditions of the lease, for violation of applicable state
12 or local law, or for other good cause, and in the case of an owner who
13 is an immediate successor in interest pursuant to foreclosure during the
14 term of the lease vacating the property prior to sale shall not consti-
15 tute other good cause, except that the owner may terminate the tenancy
16 effective on the date of transfer of the unit to the owner if the owner:

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

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

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

24 3. that any unit under an assistance contract originated under this
25 article shall only be occupied by the individual or family designated in
26 said contract and shall be the designated individual or family's primary
27 residence. Contracts shall not be transferable between units and shall
28 not be transferable between recipients. A family or individual may
29 transfer their voucher to a different unit under a new contract pursuant
30 to this article;

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

33 § 607. Rental obligation. 1. The monthly rental obligation for an
34 individual or family receiving housing assistance pursuant to the hous-
35 ing access voucher program shall be the greater of:

36 (a) thirty percent of the monthly adjusted income of the family or
37 individual; or

38 (b) If the family or individual is receiving payments for welfare
39 assistance from a public agency and a part of those payments, adjusted
40 in accordance with the actual housing costs of the family, is specif-
41 ically designated by that agency to meet the housing costs of the fami-
42 ly, the portion of those payments that is so designated. These payments
43 include, but are not limited to any shelter assistance or housing
44 assistance administered by any federal, state or local agency.

45 2. If the rent for the individual or family (including the amount
46 allowed for tenant-paid utilities) exceeds the applicable payment stand-
47 ard established under subdivision three of section six hundred eight of
48 this article, the monthly assistance payment for the family shall be
49 equal to the amount by which the applicable payment standard exceeds the
50 greater of amounts under paragraphs (a) and (b) of subdivision one of
51 this section.

52 § 608. Monthly assistance payment. 1. The amount of the monthly
53 assistance payment with respect to any dwelling unit shall be the
54 difference between the maximum monthly rent which the contract provides
55 that the owner is to receive for the unit and the rent the individual or

1 family is required to pay under section six hundred seven of this arti-
2 cle. Reviews of income shall be made no less frequently than annually.

3 2. The commissioner shall establish maximum rent levels for different
4 sized rentals in each rental area in a manner that promotes the use of
5 the program in all localities based on the fair market rental of the
6 rental area. Rental areas shall be delineated by county, excepting that
7 the city of New York shall be considered one rental area. The commis-
8 sioner may rely on data or other information promulgated by any other
9 state or federal agency in determining the rental areas and fair market
10 rent.

11 3. The payment standard for each size of dwelling unit in a rental
12 area shall not be less than ninety percent and shall not exceed one
13 hundred ten percent of the fair market rent established in section six
14 hundred one of this article for the same size of dwelling unit in the
15 same rental area, except that the commissioner shall not be required as
16 a result of a reduction in the fair market rent to reduce the payment
17 standard applied to a family continuing to reside in a unit for which
18 the family was receiving assistance under this article at the time the
19 fair market rent was reduced.

20 § 609. Inspection of units. 1. Initial inspection.

21 (a) For each dwelling unit for which a housing assistance payment
22 contract is established under this article, the housing access voucher
23 local administrator (or other entity pursuant to section six hundred
24 twelve of this article) shall inspect the unit before any assistance
25 payment is made to determine whether the dwelling unit meets the housing
26 quality standards under subdivision two of this section, except as
27 provided in paragraph (b) or (c) of this subdivision.

28 (b) In the case of any dwelling unit that is determined, pursuant to
29 an inspection under paragraph (a) of this subdivision, not to meet the
30 housing quality standards under subdivision two of this section, assist-
31 ance payments may be made at the discretion of a housing access voucher
32 local administrator for the unit notwithstanding subdivision three of
33 this section if failure to meet such standards is a result only of non-
34 life-threatening conditions, as such conditions are established by the
35 commissioner. A housing access voucher local administrator making
36 assistance payments pursuant to this paragraph for a dwelling unit
37 shall, thirty days after the beginning of the period for which such
38 payments are made, withhold any assistance payments for the unit if any
39 deficiency resulting in noncompliance with the housing quality standards
40 has not been corrected by such time. The housing access voucher local
41 administrator shall recommence assistance payments when such deficiency
42 has been corrected, and may use any payments withheld to make assistance
43 payments relating to the period during which payments were withheld.

44 (c) In the case of any property that within the previous twenty-four
45 months has met the requirements of an inspection that qualifies as an
46 alternative inspection method pursuant to subdivision five of this
47 section, a housing access voucher local administrator may authorize
48 occupancy before the inspection under paragraph (a) of this subdivision
49 has been completed, and may make assistance payments retroactive to the
50 beginning of the lease term after the unit has been determined pursuant
51 to an inspection under paragraph (a) of this subdivision to meet the
52 housing quality standards under subdivision two of this section. This
53 paragraph may not be construed to exempt any dwelling unit from compli-
54 ance with the requirements of subdivision four of this section.

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

1 (a) by the commissioner for purposes of this subdivision; or
2 (b) by local housing codes or by codes adopted by the housing access
3 voucher local administrator that:

4 (i) meet or exceed housing quality standards, except that the commis-
5 sioner may waive the requirement under this subparagraph to significant-
6 ly increase access to affordable housing and to expand housing opportu-
7 nities for families assisted under this article, except where such
8 waiver could adversely affect the health or safety of families assisted
9 under this article; and

10 (ii) do not severely restrict housing choice.

11 3. The determination required under subdivision one of this section
12 shall be made by the housing access voucher local administrator (or
13 other entity, as provided in section six hundred twelve of this article)
14 pursuant to an inspection of the dwelling unit conducted before any
15 assistance payment is made for the unit. Inspections of dwelling units
16 under this subdivision shall be made before the expiration of the
17 fifteen day period beginning upon a request by the resident or landlord
18 to the housing access voucher local administrator or, in the case of any
19 housing access voucher local administrator that provides assistance
20 under this article on behalf of more than one thousand two hundred fifty
21 families, before the expiration of a reasonable period beginning upon
22 such request. The performance of the housing access voucher local admin-
23 istrator in meeting the fifteen day inspection deadline shall be taken
24 into consideration in assessing the performance of the housing access
25 voucher local administrator.

26 4. (a) Each housing access voucher local administrator providing
27 assistance under this article (or other entity, as provided in section
28 six hundred twelve of this article) shall, for each assisted dwelling
29 unit, make inspections not less often than annually during the term of
30 the housing assistance payments contract for the unit to determine
31 whether the unit is maintained in accordance with the requirements under
32 subdivision one of this section.

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

36 (c) The housing access voucher local administrator (or other entity)
37 shall retain the records of the inspection for a reasonable time, as
38 determined by the commissioner.

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

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

43 (b) pursuant to such inspection, the property was determined to meet
44 the standards or requirements regarding housing quality or safety appli-
45 cable to properties assisted under such program, and, if a non-state
46 standard or requirement was used, the housing access voucher local
47 administrator has certified to the commissioner that such standard or
48 requirement provides the same (or greater) protection to occupants of
49 dwelling units meeting such standard or requirement as would the housing
50 quality standards under subdivision two of this section.

51 6. Upon notification to the housing access voucher local administra-
52 tor, by an individual or family (on whose behalf tenant-based rental
53 assistance is provided under this article) or by a government official,
54 that the dwelling unit for which such assistance is provided does not
55 comply with the housing quality standards under subdivision two of this

1 section, the housing access voucher local administrator shall inspect
2 the dwelling unit:

3 (a) in the case of any condition that is life-threatening, within
4 twenty-four hours after the housing access voucher local administrator's
5 receipt of such notification, unless waived by the commissioner in
6 extraordinary circumstances; and

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

9 In conducting such an inspection, the housing access voucher local
10 administrator may, at its discretion, require evidence from the owner of
11 the physical condition of a unit, including, but not limited to photo-
12 graphs, signed work orders, and contractor bills in lieu of the housing
13 access voucher local administrator conducting a physical inspection.

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

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

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

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

44 4. Each housing access voucher local administrator shall make timely
45 payment of any amounts due to a dwelling unit owner under this section,
46 subject to appropriation of funds for this purpose. The housing assist-
47 ance payment contract between the owner and the housing access voucher
48 local administrator may provide for penalties for the late payment of
49 amounts due under the contract, which shall be imposed on the housing
50 access voucher local administrator in accordance with generally accepted
51 practices in the local housing market.

52 5. Unless otherwise authorized by the commissioner, each housing
53 access voucher local administrator shall pay any penalties from adminis-
54 trative fees collected by the housing access voucher local administra-
55 tor, except that no penalty shall be imposed if the late payment is due

1 to factors that the commissioner determines are beyond the control of
2 the housing access voucher local administrator.

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

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

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

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

52 § 614. Division of an assisted family. 1. In those instances where a
53 family assisted under this article becomes divided into two otherwise
54 eligible individuals or families due to divorce, legal separation or the
55 division of the family, where the new units cannot agree as to which new
56 unit should continue to receive the assistance, and where there is no

1 determination by a court, the public housing authority shall consider
2 the following factors to determine which of the individuals or families
3 will continue to be assisted:

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

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

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

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

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

12 (f) recommendations of social service professionals.

13 2. Documentation of these factors will be the responsibility of the
14 requesting parties. If documentation is not provided, the housing access
15 voucher local administrator will terminate assistance on the basis of
16 failure to provide information necessary for a recertification.

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

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

34 § 617. Applicable codes. Housing eligible for participation in the
35 housing access voucher program shall comply with applicable state and
36 local health, housing, building and safety codes.

37 § 618. Housing choice. 1. The commissioner shall administer the hous-
38 ing access voucher program under this article to promote housing choice
39 for voucher holders. The commissioner shall affirmatively promote fair
40 housing to the extent possible under this program.

41 2. Nothing in this article shall lessen or abridge any fair housing
42 obligations promulgated by municipalities, localities, or any other
43 applicable jurisdiction.

44 § 2. This act shall take effect on the first of April next succeeding
45 the date on which it shall have become a law. Effective immediately, the
46 addition, amendment and/or repeal of any rule or regulation necessary
47 for the implementation of this act on its effective date are authorized
48 to be made and completed on or before such effective date.