

STATE OF NEW YORK

4455

2023-2024 Regular Sessions

IN ASSEMBLY

February 15, 2023

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Housing

AN ACT to amend the public housing law, in relation to maintaining a database of vacant residential housing units and establishing an affordable housing development program; to amend the real property tax law, in relation to imposing a tax on certain vacant residential housing units; and to amend the state finance law, in relation to establishing an affordable housing development fund

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

1 Section 1. Section 14 of the public housing law is amended by adding
2 two new subdivisions 8 and 9 to read as follows:

3 8. (a) The commissioner shall establish and maintain a public database
4 of all residential dwelling units, in multiple dwellings containing six
5 or more separate units, that have been vacant for at least one hundred
6 eighty days in the state of New York.

7 (b) The owner of any multiple dwelling with at least six separate
8 residential dwelling units shall register with the database, under
9 penalty of perjury, all units:

10 (i) that have been vacant for at least one hundred eighty days;

11 (ii) whose last tenant paid a rent that was rent stabilized, rent
12 controlled, administered by a state or local section eight administering
13 agency, or an amount of rent which was charged with the approval of a
14 federal, state or local governmental agency; and

15 (iii) that the owner is not offering for rent at a legal rate or less.

16 9. The commissioner shall establish an "affordable housing development
17 program", which shall use monies received by the commissioner from the
18 affordable housing development fund pursuant to paragraph (b) of subdi-
19 vision three of section ninety-nine-qq of the state finance law, for the
20 following purposes:

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

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1 (a) to provide rental subsidies for individuals age sixty-two or older
2 and rental subsidies for households with a combined household income of
3 fifty thousand dollars or less; and

4 (b) the acquisition and rehabilitation of multi-unit buildings, in
5 which at least one-third of residential units are unoccupied, for
6 affordable housing, and the operation of such buildings acquired and/or
7 rehabilitated under such program.

8 § 2. The real property tax law is amended by adding a new section
9 307-b to read as follows:

10 § 307-b. Additional tax on vacant residential housing units. 1. Gener-
11 ally. Notwithstanding any provision of any general, special, or local
12 law to the contrary, an annual real property tax surcharge shall be
13 imposed in accordance with this section on each owner that owns a multi-
14 ple dwelling containing one or more vacant residential housing units.

15 2. Definitions. As used in this section, the following terms shall
16 have the following meanings:

17 (a) "Dwelling" means any building or structure or portion thereof that
18 is occupied in whole or in part as the home, residence or sleeping place
19 of one or more human beings.

20 (b) "Multiple dwelling" means a dwelling that is either rented,
21 leased, let or hired out, to be occupied, or is occupied as the resi-
22 dence or home of six or more individuals or groups of individuals living
23 independently of each other. A "multiple dwelling" shall not be deemed
24 to include a class B multiple dwelling as defined by section four of the
25 multiple dwelling law, or a hospital, convent, monastery, residential
26 care facility, or a building used wholly for commercial purposes.

27 (c) "Owner" means any individual, partnership, business, corporation
28 or hedge fund, that owns a multiple dwelling or residential unit within
29 a multiple dwelling subject to the provisions of this section.

30 (d) "Residential housing unit" means a room or group of rooms within a
31 multiple dwelling that is designated as the living quarters for an indi-
32 vidual or group of individuals living independently from other individ-
33 uals occupying such multiple dwelling.

34 (e) "Vacancy exclusion period" means days falling within any of the
35 following periods:

36 (i) the period beginning upon the date that an application for a
37 permit for repair, rehabilitation, or construction of a residential
38 housing unit is filed pursuant to state or local law, ordinance, or
39 regulation, and ending upon approval or denial of such application;

40 (ii) the period during which a permit for repair, rehabilitation, or
41 construction of a residential housing unit issued pursuant to state or
42 local law, ordinance, or regulation is valid;

43 (iii) the one-year period following the construction, repair, or reha-
44 bilitation of any new residential housing unit;

45 (iv) the two-year period following the date that a residential housing
46 unit was severely damaged and made uninhabitable or unusable due to
47 fire, natural disaster, or other catastrophic event;

48 (v) the period during which a residential housing unit is the princi-
49 pal place of residence of any owner of such residential housing unit;

50 (vi) any period covered under the terms of a lease agreement between
51 the owner and a tenant or tenants;

52 (vii) the one-year period following the death of any owner or tenant
53 of a residential housing unit; or

54 (viii) any days falling within the same year an owner took or trans-
55 ferred ownership of a residential housing unit.

1 (f) "Vacant" means unoccupied, uninhabited, or unused for more than
2 one hundred eighty days, whether consecutive or nonconsecutive, in a tax
3 year.

4 (g) "Vacant residential housing unit tax" means the additional real
5 property tax surcharge imposed pursuant to paragraph (a) of subdivision
6 three of this section.

7 3. Additional vacant residential housing unit tax. (a) For the fiscal
8 year beginning in two thousand twenty-five, and each year thereafter,
9 there shall be imposed on any owner of a multiple dwelling an annual
10 real property tax surcharge for each vacant residential housing unit in
11 such multiple dwelling of three thousand dollars.

12 (b) The vacant residential housing unit tax shall be payable by the
13 owner or owners of the vacant residential unit subject to such real
14 property tax surcharge. Not more than one such real property tax
15 surcharge shall be imposed under this section for a single vacant resi-
16 dential unit for a tax year by reason of multiple liable owners. If
17 there are multiple liable owners under this subdivision, each such owner
18 shall be jointly and severally liable for the vacant residential housing
19 unit tax, which shall be the highest amount of such tax payable by any
20 owner for the vacant residential housing unit subject to such real prop-
21 erty tax surcharge.

22 4. Payment of tax; presumption of vacancy. (a) Each person required to
23 pay a vacant residential housing unit tax under this section shall pay
24 such tax to the appropriate collecting officer, in the manner that shall
25 be prescribed by the commissioner, and any local laws, rules, or regu-
26 lations authorized by the commissioner.

27 (b) Each owner of a multiple dwelling shall report annually the vacan-
28 cy status of any residential housing units in such multiple dwelling in
29 a manner to be prescribed by the commissioner. The failure of an owner
30 to report such vacancy status shall result in a presumption of vacancy
31 for the applicable residential housing units. Such owner may rebut such
32 presumption of vacancy by producing satisfactory evidence that such
33 residential unit was not vacant for the relevant tax year.

34 5. Exemptions and exclusions. (a) In determining whether an owner has
35 kept a residential housing unit vacant for the purposes of this section,
36 days falling within a vacancy exclusion period shall not be considered.

37 (b) The following entities shall be exempt from the vacant residential
38 housing unit tax:

39 (i) any organization that is exempt from income taxation under section
40 501 (c) (3) of the United States Internal Revenue code, as amended; or

41 (ii) the state or any county, city, town, village or other munici-
42 pality within the state, or any agency, department, division, office, or
43 other body thereof.

44 6. Revenues. Revenues received from payment of the vacant residential
45 housing unit tax shall be paid into the affordable housing development
46 fund created pursuant to section ninety-nine-qq of the state finance
47 law.

48 7. Administration. The commissioner shall promulgate any rules and
49 regulations, and authorize any local laws, regulations or ordinances,
50 necessary for the administration of this section.

51 § 3. The state finance law is amended by adding a new section 99-qq to
52 read as follows:

53 § 99-qq. Affordable housing development fund. 1. There is hereby
54 established in the joint custody of the state comptroller, the commis-
55 sioner of housing and community renewal and the commissioner of taxation

1 and finance a fund to be known as the "affordable housing development
2 fund".

3 2. Such fund shall consist of all real property tax revenues received
4 by the commissioner of taxation and finance pursuant to section three
5 hundred seven-b of the real property tax law and all other monies trans-
6 ferred to such fund pursuant to law. Any interest earned by the invest-
7 ment of monies in such fund shall be added to such fund, become a part
8 of such fund, and be used for the purpose of such fund.

9 3. (a) Monies of such fund shall be expended first by the commissioner
10 of taxation and finance, as needed, to cover the costs of administration
11 of the vacant residential housing unit tax under section three hundred
12 seven-b of the real property tax law, and refunds of any overpayments
13 made under such section.

14 (b) Remaining monies of such fund, after appropriate expenditures have
15 been made under paragraph (a) of this subdivision, shall be expended by
16 the commissioner of housing and community renewal for the operation of
17 the affordable housing development program under subdivision nine of
18 section fourteen of the public housing law.

19 4. Monies shall be payable from the fund on the audit and warrant of
20 the comptroller on vouchers approved and certified by the commissioner
21 of taxation and finance or the commissioner of housing and community
22 renewal.

23 § 4. This act shall take effect on the ninetieth day after it shall
24 have become a law. Effective immediately, the addition, amendment and/or
25 repeal of any rule or regulation necessary for the implementation of
26 this act on its effective date are authorized to be made and completed
27 on or before such effective date.