

STATE OF NEW YORK

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IN SENATE

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Introduced by Sens. KAVANAGH, BAILEY, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, GIANARIS, GOUNARDES, HARCKHAM, HINCHEY, HOYLMAN, JACKSON, KENNEDY, KRUEGER, LIU, MANNION, MAY, MAYER, MYRIE, PARKER, PERSAUD, RAMOS, RIVERA, RYAN, SALAZAR, SANDERS, SEPULVEDA, SKOUFIS, STAVISKY -- 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-A to read as follows:

3 ARTICLE 14-A

4 HOUSING ACCESS VOUCHER PROGRAM

5 Section 605. Legislative findings.

6 606. Definitions.

7 607. Housing access voucher program.

8 608. Eligibility.

9 609. Funding allocation and distribution.

10 610. Payment of housing vouchers.

11 611. Leases and tenancy.

12 612. Rental obligation.

13 613. Monthly assistance payment.

14 614. Inspection of units.

15 615. Rent.

16 616. Vacated units.

17 617. Leasing of units owned by a housing access voucher local
18 administrator.

19 618. Verification of income.

20 619. Division of an assisted family.

21 620. Maintenance of effort.

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

LBD01985-01-3

1 621. Vouchers statewide.

2 622. Applicable codes.

3 623. Housing choice.

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

11 § 606. Definitions. For the purposes of this article, the following
12 terms shall have the following meanings:

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

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

55 3. "Public housing agency" means any county, municipality, or other
56 governmental entity or public body that is authorized to administer any

1 public housing program (or an agency or instrumentality of such an enti-
2 ty), and any other public or private non-profit entity that administers
3 any other public housing program or assistance.

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

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

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

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

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

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

38 10. "Adjusted income" means income minus any deductions allowable by
39 the rules promulgated by the commissioner pursuant to this article.
40 Mandatory deductions shall include:

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

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

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

46 (d) The sum total of unreimbursed medical expenses for each elderly
47 family member and/or family member with a disability plus unreimbursed
48 attendant care and/or medical apparatus expenses for each member of the
49 family with a disability which are necessary for any member of the fami-
50 ly (including the member of the family who is a person with a disabili-
51 ty) to be employed, that is greater than three percent of the annual
52 income; and

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

54 11. "Reasonable rent" means rent not more than the rent charged on
55 comparable units in the private unassisted market and rent charged for
56 comparable unassisted units in the premises.

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

5 13. "Voucher" means a document issued by the housing trust fund corpo-
6 ration pursuant to this article to an individual or family selected for
7 admission to the housing access voucher program, which describes such
8 program and the procedures for approval of a unit selected by the family
9 and states the obligations of the individual or family under the
10 program.

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

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

- 18 (a) under the age of eighteen;
- 19 (b) a person with a disability; or
- 20 (c) a full-time student.

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

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

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

27 19. "Disability" means:

28 (a) the inability to engage in any substantial gainful activity by
29 reason of any medically determinable physical or mental impairment which
30 can be expected to result in death or which has lasted or can be
31 expected to last for a continuous period of not less than twelve months;
32 or

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

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

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

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

41 and

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

44 (d) a developmental disability that is a severe, chronic disability of
45 an individual that:

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

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

49 (iii) is likely to continue indefinitely;

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

52 (A) self-care;

53 (B) receptive and expressive language;

54 (C) learning;

55 (D) mobility;

56 (E) self-direction;

1 (F) capacity for independent living; or
2 (G) economic self-sufficiency; and
3 (v) reflects the individual's need for a combination and sequence of
4 special, interdisciplinary, or generic services, individualized
5 supports, or other forms of assistance that are of lifelong or extended
6 duration and are individually planned and coordinated.

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

23 § 608. Eligibility. The commissioner shall promulgate standards for
24 determining eligibility for assistance under this program. Individuals
25 and families who meet the standards shall be eligible regardless of
26 immigration status. Eligibility shall be limited to individuals and
27 families who are homeless or facing imminent loss of housing. Housing
28 access voucher local administrators may rely on correspondence from a
29 homeless shelter or similar institution or program to determine whether
30 an applicant qualifies as a homeless individual or family.

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

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

40 3. When an individual or family becomes financially ineligible for
41 rental assistance under this program pursuant to subdivision two of this
42 section, the individual or family shall retain rental assistance for a
43 period no shorter than one year, subject to appropriation of funds for
44 this purpose.

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

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

54 § 609. Funding allocation and distribution. 1. Funding shall be allo-
55 cated by the commissioner in each county and the city of New York in
56 proportion to the number of households in each county or the city of New

1 York who are severely rent burdened based on data published by the
2 United States census bureau.

3 2. The commissioner shall be responsible for distributing the funds
4 allocated in each county or the city of New York among housing access
5 voucher local administrators operating in each county or in the city of
6 New York.

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

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

20 5. Of the funds allocated to individuals and families who face an
21 imminent loss of housing, priority shall be given to individuals and
22 families who have formerly experienced homelessness, including those who
23 have previously received a temporary rental voucher from the state, a
24 locality, or a non-profit organization or who currently have a rental
25 assistance voucher that is due to expire within six months of applica-
26 tion.

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

40 § 611. Leases and tenancy. Each housing assistance payment contract
41 entered into by a housing access voucher local administrator and the
42 owner of a dwelling unit shall provide:

43 1. that the lease between the tenant and the owner shall be for a term
44 of not less than one year, except that the housing access voucher local
45 administrator may approve a shorter term for an initial lease between
46 the tenant and the dwelling unit owner if the housing access voucher
47 local administrator determines that such shorter term would improve
48 housing opportunities for the tenant and if such shorter term is consid-
49 ered to be a prevailing local market practice;

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

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

54 (b) contain terms and conditions that:

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

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

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

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

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

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

18 3. that any unit under an assistance contract originated under this
19 article shall only be occupied by the individual or family designated in
20 said contract and shall be the designated individual or family's primary
21 residence. Contracts shall not be transferable between units and shall
22 not be transferable between recipients. A family or individual may
23 transfer their voucher to a different unit under a new contract pursuant
24 to this article;

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

27 § 612. Rental obligation. 1. The monthly rental obligation for an
28 individual or family receiving housing assistance pursuant to the hous-
29 ing access voucher program shall be the greater of:

30 (a) thirty percent of the monthly adjusted income of the family or
31 individual; or

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

39 2. If the rent for the individual or family (including the amount
40 allowed for tenant-paid utilities) exceeds the applicable payment stand-
41 ard established under subdivision three of section six hundred thirteen
42 of this article, the monthly assistance payment for the family shall be
43 equal to the amount by which the applicable payment standard exceeds the
44 greater of amounts under paragraphs (a) and (b) of subdivision one of
45 this section.

46 § 613. Monthly assistance payment. 1. The amount of the monthly
47 assistance payment with respect to any dwelling unit shall be the
48 difference between the maximum monthly rent which the contract provides
49 that the owner is to receive for the unit and the rent the individual or
50 family is required to pay under section six hundred twelve of this arti-
51 cle. Reviews of income shall be made no less frequently than annually.

52 2. The commissioner shall establish maximum rent levels for different
53 sized rentals in each rental area in a manner that promotes the use of
54 the program in all localities based on the fair market rental of the
55 rental area. Rental areas shall be delineated by county, excepting that
56 the city of New York shall be considered one rental area. The commis-

1 sioner may rely on data or other information promulgated by any other
2 state or federal agency in determining the rental areas and fair market
3 rent.

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

13 § 614. Inspection of units. 1. Initial inspection.

14 (a) For each dwelling unit for which a housing assistance payment
15 contract is established under this article, the housing access voucher
16 local administrator (or other entity pursuant to section six hundred
17 seventeen of this article) shall inspect the unit before any assistance
18 payment is made to determine whether the dwelling unit meets the housing
19 quality standards under subdivision two of this section, except as
20 provided in paragraph (b) or (c) of this subdivision.

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

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

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

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

51 (b) by local housing codes or by codes adopted by the housing access
52 voucher local administrator that:

53 (i) meet or exceed housing quality standards, except that the commis-
54 sioner may waive the requirement under this subparagraph to significant-
55 ly increase access to affordable housing and to expand housing opportu-
56 nities for families assisted under this article, except where such

1 waiver could adversely affect the health or safety of families assisted
2 under this article; and

3 (ii) do not severely restrict housing choice.

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

19 4. (a) Each housing access voucher local administrator providing
20 assistance under this article (or other entity, as provided in section
21 six hundred seventeen of this article) shall, for each assisted dwelling
22 unit, make inspections not less often than annually during the term of
23 the housing assistance payments contract for the unit to determine
24 whether the unit is maintained in accordance with the requirements under
25 subdivision one of this section.

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

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

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

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

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

44 6. Upon notification to the housing access voucher local administra-
45 tor, by an individual or family (on whose behalf tenant-based rental
46 assistance is provided under this article) or by a government official,
47 that the dwelling unit for which such assistance is provided does not
48 comply with the housing quality standards under subdivision two of this
49 section, the housing access voucher local administrator shall inspect
50 the dwelling unit:

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

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

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

6 7. The commissioner shall establish procedural guidelines and perform-
7 ance standards to facilitate inspections of dwelling units and conform
8 such inspections with practices utilized in the private housing market.
9 Such guidelines and standards shall take into consideration variations
10 in local laws and practices and shall provide flexibility to the housing
11 access voucher local administrator appropriate to facilitate efficient
12 provision of assistance under this section.

13 § 615. Rent. 1. The rent for dwelling units for which a housing
14 assistance payment contract is established under this article shall be
15 reasonable in comparison with rents charged for comparable dwelling
16 units in the private, unassisted local market.

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

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

36 4. Each housing access voucher local administrator shall make timely
37 payment of any amounts due to a dwelling unit owner under this section,
38 subject to appropriation of funds for this purpose. The housing assist-
39 ance payment contract between the owner and the housing access voucher
40 local administrator may provide for penalties for the late payment of
41 amounts due under the contract, which shall be imposed on the housing
42 access voucher local administrator in accordance with generally accepted
43 practices in the local housing market.

44 5. Unless otherwise authorized by the commissioner, each housing
45 access voucher local administrator shall pay any penalties from adminis-
46 trative fees collected by the housing access voucher local administra-
47 tor, except that no penalty shall be imposed if the late payment is due
48 to factors that the commissioner determines are beyond the control of
49 the housing access voucher local administrator.

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

55 § 617. Leasing of units owned by a housing access voucher local admin-
56 istrator. 1. If an eligible individual or family assisted under this

1 article leases a dwelling unit (other than a public housing dwelling
2 unit) that is owned by a housing access voucher local administrator
3 administering assistance to that individual or family under this
4 section, the commissioner shall require the unit of general local
5 government or another entity approved by the commissioner, to make
6 inspections required under section six hundred fourteen of this article
7 and rent determinations required under section six hundred fifteen of
8 this article. The housing access voucher local administrator shall be
9 responsible for any expenses of such inspections and determinations,
10 subject to the appropriation of funds for this purpose.

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

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

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

- 51 (a) which of the new units has custody of dependent children;
52 (b) which family member was the head of household when the voucher was
53 initially issued as listed on the initial application;
54 (c) the composition of the new units and which unit includes elderly
55 or disabled members;

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

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

4 (f) recommendations of social service professionals.

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

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

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

26 § 622. Applicable codes. Housing eligible for participation in the
27 housing access voucher program shall comply with applicable state and
28 local health, housing, building and safety codes.

29 § 623. Housing choice. 1. The commissioner shall administer the hous-
30 ing access voucher program under this article to promote housing choice
31 for voucher holders. The commissioner shall affirmatively promote fair
32 housing to the extent possible under this program.

33 2. Nothing in this article shall lessen or abridge any fair housing
34 obligations promulgated by municipalities, localities, or any other
35 applicable jurisdiction.

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