

STATE OF NEW YORK

568--A

2023-2024 Regular Sessions

IN SENATE

January 5, 2023

Introduced by Sens. KAVANAGH, BAILEY, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, GIANARIS, GONZALEZ, GOUNARDES, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, 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 -- 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:

Section 1. The public housing law is amended by adding a new article 14-A to read as follows:

ARTICLE 14-A

HOUSING ACCESS VOUCHER PROGRAM

Section 605. Legislative findings.

606. Definitions.

607. Housing access voucher program.

608. Eligibility.

609. Funding allocation and distribution.

610. Payment of housing vouchers.

611. Leases and tenancy.

612. Rental obligation.

613. Monthly assistance payment.

614. Inspection of units.

615. Rent.

616. Vacated units.

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

618. Verification of income.

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

LBD01985-02-3

619. Division of an assisted family.

620. Maintenance of effort.

621. Vouchers statewide.

622. Applicable codes.

623. Housing choice.

§ 605. Legislative findings. The legislature finds that it is in the public interest of the state to ensure that individuals and families are not rendered homeless because of an inability to pay the cost of housing, and to aid individuals and families who are homeless or face an imminent loss of housing in obtaining and maintaining suitable permanent housing in accordance with the provisions of this article.

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

1. "Homeless" means lacking a fixed, regular, and adequate nighttime residence; having a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, campground, or other place not meant for human habitation; living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by federal, state or local government programs for low-income individuals or by charitable organizations, congregate shelters, or transitional housing); exiting an institution where an individual or family has resided and lacking a regular fixed and adequate nighttime residence upon release or discharge; individuals released or scheduled to be released from incarceration and lacking a regular fixed and adequate nighttime residence upon release or discharge; being a homeless family with children or unaccompanied youth defined as homeless under 42 U.S.C. § 11302(a); having experienced a long-term period without living independently in permanent housing or having experienced persistent instability as measured by frequent moves and being reasonably expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, multiple barriers to employment, or other dangerous or life-threatening conditions, including conditions that relate to violence against an individual or a family member.

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

1 member alleging such abuse and loss of housing shall be sufficient to
2 establish eligibility.

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

8 4. "Section 8 local administrator" means a public housing agency that
9 administers the Section 8 Housing Choice Voucher program under section 8
10 of the United States housing act of 1937 within a community, county or
11 region, or statewide, on behalf of and under contract with the housing
12 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. In the city
18 of New York, the housing access voucher local administrator shall be the
19 New York city department of housing preservation and development, or the
20 New York city housing authority, or both.

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

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

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

36 9. "Income" shall mean the same as it is defined by 24 CFR § 5.609 and
37 any amendments thereto.

38 10. "Adjusted income" shall mean the same as it is defined by 24 CFR §
39 5.611 and any amendments thereto.

40 11. "Reasonable rent" means rent not more than the rent charged on
41 comparable units in the private unassisted market and rent charged for
42 comparable unassisted units in the premises.

43 12. "Fair market rent" means the fair market rent for each rental area
44 as promulgated annually by the United States department of housing and
45 urban development pursuant to 42 U.S.C. 1437f.

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

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

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

- 3 (a) under the age of eighteen;
4 (b) a person with a disability; or
5 (c) a full-time student.

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

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

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

12 19. "Disability" means:

13 (a) the inability to engage in any substantial gainful activity by
14 reason of any medically determinable physical or mental impairment which
15 can be expected to result in death or which has lasted or can be
16 expected to last for a continuous period of not less than twelve months;
17 or

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

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

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

25 (ii) substantially impedes his or her ability to live independently;
26 and

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

29 (d) a developmental disability that is a severe, chronic disability of
30 an individual that:

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

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

34 (iii) is likely to continue indefinitely;

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

37 (A) self-care;

38 (B) receptive and expressive language;

39 (C) learning;

40 (D) mobility;

41 (E) self-direction;

42 (F) capacity for independent living; or

43 (G) economic self-sufficiency; and

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

48 § 607. Housing access voucher program. The commissioner, subject to
49 the appropriation of funds for this purpose, shall implement a program
50 of rental assistance in the form of housing vouchers for eligible indi-
51 viduals and families who are homeless or who face an imminent loss of
52 housing in accordance with the provisions of this article. The housing
53 trust fund corporation shall issue vouchers pursuant to this article,
54 subject to appropriation of funds for this purpose, and may contract
55 with the division of housing and community renewal to administer any
56 aspect of this program in accordance with the provisions of this arti-

1 cle. The commissioner shall designate housing access voucher local
2 administrators in the state to make vouchers available to such individ-
3 uals and families and to administer other aspects of the program in
4 accordance with the provisions of this article.

5 § 608. Eligibility. The commissioner shall promulgate standards for
6 determining eligibility for assistance under this program. Individuals
7 and families who meet the standards shall be eligible regardless of
8 immigration status. Eligibility shall be limited to individuals and
9 families who are homeless or facing imminent loss of housing. Housing
10 access voucher local administrators may rely on a certification from a
11 social services provider serving homeless individuals, including, but
12 not limited to, homeless shelters to determine whether an applicant
13 qualifies as a homeless individual or family.

14 1. An individual or family shall be eligible for this program if they
15 are homeless or facing imminent loss of housing and have an income of no
16 more than fifty percent of the area median income, as defined by the
17 United States department of housing and urban development.

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

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

28 4. Income eligibility shall be verified prior to a housing access
29 voucher local administrator's initial determination to provide rental
30 assistance for this program and upon determination of such eligibility,
31 an individual or family shall annually certify their income for the
32 purpose of determining continued eligibility and any adjustments to such
33 rental assistance.

34 5. The commissioner may collaborate with the office of temporary and
35 disability assistance and other state and city agencies to allow a hous-
36 ing access voucher local administrator to access income information for
37 the purpose of determining an individual's or family's initial and
38 continued eligibility for the program.

39 6. Reviews of income shall be made no less frequently than annually.

40 § 609. Funding allocation and distribution. 1. Subject to appropri-
41 ation, funding shall be allocated by the commissioner in each county
42 except for those counties located within the city of New York, the
43 initial allocation shall be in proportion to the number of households in
44 each county or the city of New York who are severely rent burdened based
45 on data published by the United States census bureau. Funding for coun-
46 ties located within the city of New York shall be allocated directly to
47 the New York city department of housing preservation and development
48 and/or the New York city housing authority, as appropriate, in propor-
49 tion to the number of households in New York city as compared to the
50 rest of the state of New York who are severely rent burdened based on
51 data published by the United States census bureau.

52 2. The commissioner shall be responsible for distributing the funds
53 allocated in each county not located within the city of New York among
54 housing access voucher local administrators operating in each county or
55 in the city of New York.

1 3. Priority shall be given to applicants who are homeless. The commis-
2 sioner shall have the discretion to establish further priorities as
3 appropriate.

4 4. Up to ten percent of the funds allocated may be used by the commis-
5 sioner and the housing access voucher local administrator for adminis-
6 trative expenses attributable to administering the housing access vouch-
7 er program.

8 § 610. Payment of housing vouchers. The housing voucher shall be paid
9 directly to any owner under a contract between the owner of the dwelling
10 unit to be occupied by the voucher recipient and the appropriate housing
11 access voucher local administrator. The commissioner shall determine the
12 form of the housing assistance payment contract and the method of
13 payment. A housing assistance payment contract entered into pursuant to
14 this section shall establish the payment standard (including utilities
15 and all maintenance and management charges) which the owner is entitled
16 to receive for each dwelling unit with respect to which such assistance
17 payments are to be made. The payment standard shall not exceed one
18 hundred twenty percent nor be less than ninety percent of the fair
19 market rent for the rental area in which it is located. Fair market
20 rent shall be determined pursuant to the procedures and standards as set
21 forth in the Federal Housing Choice voucher program, as set forth in the
22 applicable sections of Part 888 of Title 24 of the Code of Federal Regu-
23 lations. Fair market rent for a rental area shall be published not less
24 than annually by the commissioner and shall be made available on the
25 website of New York state homes and community renewal.

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

29 1. that the lease between the tenant and the owner shall be for a term
30 of not less than one year, except that the housing access voucher local
31 administrator may approve a shorter term for an initial lease between
32 the tenant and the dwelling unit owner if the housing access voucher
33 local administrator determines that such shorter term would improve
34 housing opportunities for the tenant and if such shorter term is consid-
35 ered to be a prevailing local market practice;

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

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

40 (b) contain terms and conditions that:

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

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

44 (c) shall provide that during the term of the lease, the owner shall
45 not terminate the tenancy except for serious or repeated violation of
46 the terms and conditions of the lease, for violation of applicable state
47 or local law, or for other good cause, including, but not limited to,
48 the non-payment of the tenant's portion of the rent owed, and in the
49 case of an owner who is an immediate successor in interest pursuant to
50 foreclosure during the term of the lease vacating the property prior to
51 sale shall not constitute other good cause, except that the owner may
52 terminate the tenancy effective on the date of transfer of the unit to
53 the owner if the owner:

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

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

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

5 3. that any unit under an assistance contract originated under this
6 article shall only be occupied by the individual or family designated in
7 said contract and shall be the designated individual or family's primary
8 residence. Contracts shall not be transferable between units and shall
9 not be transferable between recipients. A family or individual may
10 transfer their voucher to a different unit under a new contract pursuant
11 to this article;

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

14 § 612. Rental obligation. The monthly rental obligation for an indi-
15 vidual or family receiving housing assistance pursuant to the housing
16 access voucher program shall be the greater of:

17 1. thirty percent of the monthly adjusted income of the family or
18 individual; or

19 2. If the family or individual is receiving payments for welfare
20 assistance from a public agency and a part of those payments, adjusted
21 in accordance with the actual housing costs of the family, is specif-
22 ically designated by that agency to meet the housing costs of the fami-
23 ly, the portion of those payments that is so designated. These payments
24 include, but are not limited to any shelter assistance or housing
25 assistance administered by any federal, state or local agency.

26 § 613. Monthly assistance payment. 1. The amount of the monthly
27 assistance payment with respect to any dwelling unit shall be the
28 difference between the maximum monthly rent which the contract provides
29 that the owner is to receive for the unit and the rent the individual or
30 family is required to pay under section six hundred twelve of this arti-
31 cle.

32 2. The commissioner shall establish maximum rent levels for different
33 sized rentals in each rental area in a manner that promotes the use of
34 the program in all localities based on the fair market rent of the
35 rental area. Rental areas shall be determined by the commissioner. The
36 commissioner may rely on data or other information promulgated by any
37 other state or federal agency in determining the rental areas and fair
38 market rent.

39 3. The payment standard for each size of dwelling unit in a rental
40 area shall not be less than ninety percent and shall not exceed one
41 hundred twenty percent of the fair market rent established in section
42 six hundred six of this article for the same size of dwelling unit in
43 the same rental area, except that the commissioner shall not be required
44 as a result of a reduction in the fair market rent to reduce the payment
45 standard applied to a family continuing to reside in a unit for which
46 the family was receiving assistance under this article at the time the
47 fair market rent was reduced.

48 § 614. Inspection of units. Inspection of units shall be conducted
49 pursuant to the procedures and standards of the Federal Housing Choice
50 voucher program, as set forth in the applicable sections of Part 982 of
51 Title 24 of the Code of Federal Regulations.

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

2. A housing access voucher local administrator (or other entity, as provided in section six hundred seventeen of this article) may, at the request of an individual or family receiving assistance under this article, assist that individual or family in negotiating a reasonable rent with a dwelling unit owner. A housing access voucher local administrator (or other such entity) shall review the rent for a unit under consideration by the individual or family (and all rent increases for units under lease by the individual or family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a housing access voucher local administrator (or other such entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the housing access voucher local administrator (or other such entity) shall not make housing assistance payments to the owner under this subdivision with respect to that unit.

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

4. Each housing access voucher local administrator shall make timely payment of any amounts due to a dwelling unit owner under this section, subject to appropriation of funds for this purpose.

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

§ 617. Leasing of units owned by a housing access voucher local administrator. 1. If an eligible individual or family assisted under this article leases a dwelling unit (other than a public housing dwelling unit) that is owned by a housing access voucher local administrator administering assistance to that individual or family under this section, the commissioner shall require the unit of general local government or another entity approved by the commissioner, to make inspections required under section six hundred fourteen of this article and rent determinations required under section six hundred fifteen of this article. The housing access voucher local administrator shall be responsible for any expenses of such inspections and determinations, subject to the appropriation of funds for this purpose.

2. For purposes of this section, the term "owned by a housing access voucher local administrator" means, with respect to a dwelling unit, that the dwelling unit is in a project that is owned by such administrator, by an entity wholly controlled by such administrator, or by a limited liability company or limited partnership in which such administrator (or an entity wholly controlled by such administrator) holds a controlling interest in the managing member or general partner. A dwelling unit shall not be deemed to be owned by a housing access voucher local administrator for purposes of this section because such administrator holds a fee interest as ground lessor in the property on which the unit is situated, holds a security interest under a mortgage or deed of trust on the unit, or holds a non-controlling interest in an entity which owns the unit or in the managing member or general partner of an entity which owns the unit.

§ 618. Verification of income. The commissioner shall establish procedures which are appropriate and necessary to assure that income data provided to the housing access voucher local administrator and owners by

1 individuals and families applying for or receiving assistance under this
2 article is complete and accurate. In establishing such procedures, the
3 commissioner shall randomly, regularly, and periodically select a sample
4 of families to authorize the commissioner to obtain information on these
5 families for the purpose of income verification, or to allow those fami-
6 lies to provide such information themselves. Such information may
7 include, but is not limited to, data concerning unemployment compen-
8 sation and federal income taxation and data relating to benefits made
9 available under the social security act, 42 U.S.C. 301 et seq., the food
10 and nutrition act of 2008, 7 U.S.C. 2011 et seq., or title 38 of the
11 United States Code. Any such information received pursuant to this
12 section shall remain confidential and shall be used only for the purpose
13 of verifying incomes in order to determine eligibility of individuals
14 and families for benefits (and the amount of such benefits, if any)
15 under this article.

16 § 619. Division of an assisted family. 1. In those instances where a
17 family assisted under this article becomes divided into two otherwise
18 eligible individuals or families due to divorce, legal separation or the
19 division of the family, where such individuals or families cannot agree
20 as to which such individual or family should continue to receive the
21 assistance, and where there is no determination by a court, the housing
22 access voucher local administrator shall consider the following factors
23 to determine which of the individuals or families will continue to be
24 assisted:

25 (a) which of such individuals or families has custody of dependent
26 children;

27 (b) which such individual was the head of household when the voucher
28 was initially issued as listed on the initial application;

29 (c) the composition of such individuals and families and which such
30 family includes elderly or disabled members;

31 (d) whether domestic violence was involved in the breakup of such
32 family;

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

34 (f) recommendations of social services professionals.

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

39 § 620. Maintenance of effort. Any funds made available pursuant to
40 this article shall not be used to offset or reduce the amount of funds
41 previously expended for the same or similar programs in a prior year in
42 any county or in the city of New York, but shall be used to supplement
43 any prior year's expenditures. The commissioner may grant an exception
44 to this requirement if any county, municipality, or other governmental
45 entity or public body can affirmatively show that such amount of funds
46 previously expended is in excess of the amount necessary to provide
47 assistance to all individuals and families within the area in which the
48 funds were previously expended who are homeless or facing an imminent
49 loss of housing.

50 § 621. Vouchers statewide. Notwithstanding section six hundred eleven
51 of this article, any voucher issued pursuant to this article may be used
52 for housing anywhere in the state. The commissioner shall inform voucher
53 holders that a voucher may be used anywhere in the state and, to the
54 extent practicable, the commissioner shall assist voucher holders in
55 finding housing in the area of their choice. Provided further, however,
56 that a voucher must be used in the county in which it was issued, or

1 within the city of New York, if the voucher was issued within the city
2 of New York, for no less than one year before it can be used in a
3 different jurisdiction, unless the issuing housing access voucher local
4 administrator grants a waiver, or the voucher holder, or a family member
5 thereof, is or has been the victim of domestic violence, dating
6 violence, sexual assault, or stalking.

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

10 § 623. Housing choice. 1. The commissioner shall administer the hous-
11 ing access voucher program under this article to promote housing choice
12 for voucher holders. The commissioner shall affirmatively promote fair
13 housing to the extent possible under this program.

14 2. Nothing in this article shall lessen or abridge any fair housing
15 obligations promulgated by municipalities, localities, or any other
16 applicable jurisdiction.

17 § 2. This act shall take effect on the ninetieth day after it shall
18 have become a law. Effective immediately, the addition, amendment and/or
19 repeal of any rule, regulation, plan or guidance document necessary for
20 the implementation of this act on its effective date are authorized to
21 be made and completed on or before such effective date; provided further
22 that any rule, regulation, plan or guidance document shall apply only to
23 those counties located outside of the city of New York. The New York
24 city department of housing preservation and development and the New York
25 city housing authority, as applicable, shall promulgate or release
26 rules, regulations, plans or guidance documents as necessary for the
27 implementation of this act within the city of New York.