

STATE OF NEW YORK

8993

IN SENATE

April 8, 2024

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the private housing finance law, in relation to establishing a jobs and housing pilot program to create jobs in the construction industry and address the housing crisis; and making an appropriation therefor

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "jobs and housing act".

3 § 2. Legislative intent. 1. The legislature finds and declares that
4 New York state is in the midst of a jobs and housing crisis. More than
5 half of renters statewide are rent-burdened, spending more than 30% of
6 their income on rent. Over 60,000 New Yorkers are homeless. Home owner-
7 ship has slipped out of reach for an entire generation, cracking the
8 foundation of the American Dream and threatening to deepen the racial
9 wealth gap. The backbone of New York state's existing supply of afforda-
10 ble housing is in jeopardy; new unfunded renewable energy mandates
11 threaten to impose extraordinary capital costs on Mitchell-Lama and
12 similar limited equity cooperatives built by labor unions that will push
13 them out of affordability.

14 2. The housing crisis has also become a labor crisis due to shortages
15 of workforce housing. Over 500,000 people left New York state in 2022,
16 driven out of the state by high housing costs. Working families and
17 talented professionals are leaving New York in search of a path to
18 homeownership, or at least housing they can afford. In New York city,
19 civil service positions that require residency, once highly sought-after
20 as a ticket to middle-class stability, have now become harder to fill.
21 New York state must dramatically expand its supply of affordable housing
22 to remain competitive in the global economy.

23 3. The housing crisis is exacerbating a crisis of good jobs, which in
24 turn exacerbates the housing crisis. Median real household income has
25 declined by 7.2% in New York state since 2019. Workers are squeezed by
26 skyrocketing housing costs on the one hand, and stagnant real wages on

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

LBD14428-06-4

1 the other. Historically, union careers in the construction industry have
2 been a pathway to the middle class for thousands of New Yorkers, partic-
3 ularly immigrant workers, workers of color, and workers without college
4 degrees, but since 2019, the industry lost over 44,400 jobs due to the
5 pandemic. Public spending on residential housing construction is urgent-
6 ly needed to close the gap by creating good jobs for working people in
7 New York state, which will result in a virtuous cycle of increased
8 consumer spending to sustain economic growth.

9 4. The housing crisis threatens to deepen the racial wealth gap in New
10 York state. White households are more than twice as likely to own their
11 own homes than Black or Latino households in New York state. Decades of
12 racial discrimination through redlining, restrictive covenants, and most
13 recently, predatory lending have prevented Black and Latino families
14 from accessing the wealth-building engine of home ownership. This has
15 contributed to a massive racial wealth gap: in New York state, median
16 White household net worth is \$276,900, while Black median household net
17 worth is \$18,870. The housing crisis threatens to deepen this disparity
18 by pushing home ownership further out of reach for Black and Latino
19 households.

20 5. The current model of housing development is not working for working
21 people and threatens the economic vitality of our state. It is therefore
22 in the interests of the people of New York to pilot a new approach to
23 creating good jobs and affordable workforce housing.

24 § 3. The private housing finance law is amended by adding a new arti-
25 cle 32 to read as follows:

26 ARTICLE 32

27 JOBS AND HOUSING ACT

28 Section 1283. Short title.

29 1284. Definitions.

30 1285. Jobs and housing pilot program.

31 1286. Housing rental and tenant eligibility.

32 § 1283. Short title. This article shall be known and may be cited as
33 the "jobs and housing pilot program".

34 § 1284. Definitions. For the purposes of this article:

35 1. "Division" shall mean the state division of housing and community
36 renewal.

37 2. "Minority-owned business enterprise" shall have the same meaning as
38 defined in section three hundred ten of the executive law.

39 3. "Women-owned business enterprise" shall have the same meaning as
40 defined in section three hundred ten of the executive law.

41 4. "Labor organization" shall have the same meaning as defined in
42 section seven hundred one of the labor law; provided, however, that for
43 the purposes of this article, the term "labor organization" shall also
44 include umbrella organizations and state, local and central bodies
45 comprised solely of such labor organizations.

46 5. "Union-affiliated nonprofit" shall mean an organization that has
47 been designated as having tax-exempt status by the federal or state
48 government and that (a) has an existing partnership with a labor organ-
49 ization, or (b) has a contractual agreement with a labor organization
50 for the development of housing.

51 6. "Affordable cooperative housing" shall mean housing developments
52 regulated under articles two, four, five and eleven of this chapter.

53 7. "Project labor agreement" shall have the same meaning as defined in
54 section two hundred twenty-two of the labor law.

55 8. "Building service employee" shall mean any person who is regularly
56 employed at, and performs work in connection with the care or mainte-

1 nance of, an eligible multiple dwelling, including, but not limited to a
2 watchman, guard, doorman, building cleaner, porter, handyman, janitor,
3 gardener, groundskeeper, elevator operator and starter, and window
4 cleaner; provided, however, that building service employee shall not
5 include persons regularly scheduled to work fewer than eight hours per
6 week.

7 § 1285. Jobs and housing pilot program. 1. Within amounts appropriated
8 or otherwise available therefor, the division shall develop and adminis-
9 ter a jobs and housing pilot program to develop or redevelop housing
10 that is affordable to individuals eligible for housing pursuant to this
11 article. The division is hereby authorized to take administrative
12 actions when necessary, including but not limited to hiring administra-
13 tors, to comply with the requirements within this article.

14 2. In coordination with necessary state agencies, the division shall
15 create a list of available state-owned land eligible for residential
16 housing development. Such list shall be created and available no later
17 than one hundred eighty days after the effective date of this article.
18 Such list shall include the location, zoning requirements, agency desig-
19 nation, and estimated value in regards to the current housing market of
20 such land. The division shall, in consultation with relevant local hous-
21 ing authorities, rank such list in accordance with the following
22 factors: (a) the feasibility of establishing a residential housing
23 development on such land; (b) the area median income, prioritizing low
24 income areas with a high need for affordable housing development; (c)
25 the number of residential units to be potentially built, prioritizing
26 large units; and (d) the cost to the state. Such list shall be utilized
27 by the division in the decision for development of new residential hous-
28 ing for the purposes of this article.

29 3. After creation of the list pursuant to subdivision two of this
30 section, the division shall, based on available funds, determine which
31 location or locations shall be developed for the program and enter into
32 an agreement pursuant to this article with an eligible applicant that
33 has submitted an application pursuant to subdivision five of this
34 section.

35 4. The division shall issue an initial notice of fund availability and
36 request for contractor applications within forty-five business days of
37 the effective date of this article.

38 5. The division shall post on its website the request for applications
39 pursuant to subdivision four of this section for eligible developments
40 to apply for funding to:

41 (a) develop new residential housing on state-owned land, land owned by
42 an existing cooperative, land owned by a religious institution, or other
43 privately-owned land which meets all of the criteria of this section; or

44 (b) redevelop affordable cooperative housing developments.

45 6. In order to qualify for the program, the applicant shall:

46 (a) meet the requirements of subdivision seven of this section;

47 (b) demonstrate a history of promoting workforce development through
48 the use of contractors that participate in apprenticeship programs
49 registered with the state or the federal department of labor and a
50 commitment to meeting local hiring goals;

51 (c) attest to responsibility for ensuring that all demolition,
52 construction, rehabilitation, renovation, retrofit or repair work is
53 subject to article eight of the labor law, including the applicable
54 prevailing wage pursuant to section two hundred twenty of the labor law.
55 As part of such attestation, the applicant shall agree to joint and
56 several responsibility for any penalties assessed under article eight of

1 the labor law that are against any contractor or subcontractor on the
2 applicant's development under this program. Where the applicant agrees
3 to enter into a project labor agreement with a bona fide building and
4 construction trades labor organization which has established itself as
5 the collective bargaining representative for all persons who will
6 perform work on such a project, article eight of the labor law shall not
7 apply;

8 (d) where the state maintains a proprietary interest in a development
9 that receives funding or land through the program, agree to enter into a
10 project labor agreement with a bona fide building and construction
11 trades labor organization which has established itself as the collective
12 bargaining representative for all persons who will perform work on such
13 a project; and

14 (e) attest to responsibility for ensuring that all building service
15 employees employed by the applicant for a project or redevelopment
16 subject to this article shall receive the applicable prevailing wage for
17 the duration of the benefit period, regardless of whether such benefits
18 provided pursuant to this section are revoked or terminated. As part of
19 such attestation, the applicant shall agree to joint and several respon-
20 sibility for any penalties assessed under article nine of the labor law
21 that are against any contractor or subcontractor on the applicant's
22 development under this program.

23 7. To be eligible for funding and access to land pursuant to the
24 program, proposed development projects shall meet the following crite-
25 ria:

26 (a) Projects shall be either:

27 (i) an affordable cooperative housing development in existing state
28 and local housing programs for affordable and workforce housing includ-
29 ing, but not limited to, Mitchell-Lama housing. Such affordable cooper-
30 ative housing developments shall be eligible for rehabilitation and
31 sustainability retrofit funds, with priority to existing developments
32 sponsored by a labor organization or an affiliate of a labor organiza-
33 tion; or

34 (ii) a new construction project to be built on state-owned land, land
35 owned by an existing cooperative, land owned by a religious institution,
36 or other privately-owned land which meets all of the criteria of this
37 section.

38 (b) Projects shall be financed by a labor organization's pension fund
39 or a commingled fund of pension fund investments with a demonstrated
40 track record of successful investment in both new construction and
41 substantial rehabilitation of affordable housing.

42 (c) The project's housing shall be affordable to individuals under the
43 requirements of section twelve hundred eighty-six of this article.

44 8. The division shall award projects to eligible applicants pursuant
45 to subdivisions six and seven of this section and shall prioritize
46 applicants that are minority- or women-owned business enterprises for
47 such projects.

48 9. (a) To certify compliance with eligibility requirements for
49 projects, the division shall designate the comptroller of the city of
50 New York as the fiscal officer for projects in the city of New York and
51 the commissioner of the department of labor as the fiscal officer for
52 projects outside the city of New York. The fiscal officer shall be party
53 to contracts that award funding for development and shall be designated
54 to certify by signature on all award contracts, and shall certify ongo-
55 ing compliance through an annual review, that project sponsors have
56 established contracts with investors, contractors, and subcontractors

1 that demonstrate adherence to eligibility requirements. Project spon-
2 sors, their contractors, and subcontractors, shall comply with and
3 submit all documentation to the fiscal officer requested for the
4 purposes of certifying compliance. The fiscal officer shall have the
5 power:

6 (i) to investigate or cause an investigation to be made to determine
7 the prevailing wages as determined in article eight of the labor law and
8 for building service employees, and in making such investigation, the
9 fiscal officer may utilize wage and fringe benefit data from various
10 sources, including, but not limited to, data and determinations of
11 federal, state or other governmental agencies;

12 (ii) to institute and conduct inspections at the site of the work or
13 elsewhere;

14 (iii) to examine the books, documents and records pertaining to the
15 wages paid to, and the hours of work performed by, employees subject to
16 article eight of the labor law and building service employees;

17 (iv) to hold hearings and, in connection therewith, to issue subpoe-
18 nas, the enforcement of which shall be regulated by the civil practice
19 law and rules, administer oaths and examine witnesses;

20 (v) to make a classification by craft, trade or other generally recog-
21 nized occupational category of the building service employees and to
22 determine whether such work has been performed by the building service
23 employees in such classification; and

24 (vi) to require the applicant to file with the fiscal officer a record
25 of the wages actually paid by such applicant to employees subject to
26 article eight of the labor law and the building service employees and of
27 their hours of work.

28 (b) For each violation of this article, the fiscal officer may require
29 the payment of: (i) back wages and fringe benefits; (ii) liquidated
30 damages up to three times the amount of the back wages and fringe bene-
31 fits for willful violations; and (iii) reasonable attorneys' fees. If
32 the fiscal officer finds that the applicant has failed to comply with
33 the provisions of this subdivision, the fiscal officer shall present
34 evidence of such non-compliance to the division.

35 § 1286. Housing rental and tenant eligibility. 1. Except for projects
36 subject to affordability requirements of existing affordable cooperative
37 housing regulations and laws, all new residential buildings constructed
38 pursuant to this article shall set aside:

39 (a) twenty-five percent of units for households earning below fifty
40 percent of the area median income, adjusted for family size, provided
41 that a minimum of ten percent of such units shall be affordable for
42 households earning below thirty percent of the area median income,
43 adjusted for family size;

44 (b) twenty-five percent of units for households earning below eighty
45 percent of the area median income, adjusted for family size;

46 (c) twenty-five percent of units for households earning below one
47 hundred twenty percent of the area median income, adjusted for family
48 size; and

49 (d) twenty-five percent of units for households earning below one
50 hundred sixty-five percent of the area median income, adjusted for fami-
51 ly size.

52 2. A property containing any affordable units shall be restricted
53 using a mechanism such as a declaration of restrictive covenants or a
54 regulatory agreement with a local or state agency that shall ensure that
55 the affordable units shall remain subject to affordable regulations for
56 the life of the building. Such covenants shall require that the unit be

1 the primary residence of the household selected to occupy the unit. Upon
2 approval, such declaration or regulatory agreement shall be recorded
3 against the property containing the affordable unit prior to the issu-
4 ance of a certificate of occupancy for the development.

5 3. For affordable homeownership units, the title to such units shall
6 be restricted so that in the event of any resale by the homeowner or any
7 successor homeowner, the resale price shall not exceed an amount afford-
8 able to a household at the specified percentage of the area median
9 income.

10 4. After the completion of any new residential housing development
11 pursuant to this article, the division shall set a maximum allowable
12 rent for each development which shall be thirty-five percent of the area
13 median income specified for the unit.

14 5. An affordable housing unit shall not be:

15 (a) rented to a corporation, partnership or other entity; or

16 (b) held off the market for a period longer than is reasonably neces-
17 sary to perform repairs needed to make such affordable housing unit
18 available for occupancy.

19 6. An affordable housing unit shall not be rented on a temporary,
20 transient or short-term basis. Every lease and renewal thereof for an
21 affordable housing unit shall be for a term of one or two years, at the
22 option of the tenant.

23 7. The division may establish by rule such requirements as the divi-
24 sion deems necessary or appropriate for:

25 (a) the marketing of affordable housing units, both upon initial occu-
26 pancy and upon any vacancy;

27 (b) monitoring compliance with the provisions of this subdivision; and

28 (c) the establishment of marketing bans for affordable housing units.

29 § 4. The sum of one billion fifty-nine million dollars
30 (\$1,059,000,000), or so much thereof as may be necessary, is hereby
31 appropriated to the division of housing and community renewal out of
32 moneys in the state treasury in the general fund to the credit of the
33 state purposes account, not otherwise appropriated, and made immediately
34 available, for the purposes of carrying out the provisions of this act.

35 a. Three hundred thirty-three million dollars (\$333,000,000) of such
36 funds shall be used as subsidies for at least five, but no more than
37 twenty-five, new affordable and workforce rental multifamily housing
38 developments through such programs as the division finds necessary,
39 provided that all disbursements meet the requirements of this act;

40 b. Three hundred thirty-three million dollars (\$333,000,000) of such
41 funds shall be used as subsidies for at least five, but no more than
42 twenty-five, new multifamily affordable cooperative housing develop-
43 ments, provided that all disbursements meet the requirements of this
44 act;

45 c. Three hundred thirty-three million dollars (\$333,000,000) of such
46 funds shall be used as subsidies for rehabilitation and sustainability
47 retrofits of at least five but no more than fifty existing affordable
48 cooperative housing developments across the state, provided that all
49 disbursements meet the requirements of this act;

50 d. Twenty-five million dollars (\$25,000,000) of such funds shall be
51 used for capacity-building grants for minority- and women-owned business
52 enterprises that meet the requirements of this act;

53 e. Twenty-five million dollars (\$25,000,000) of such funds shall be
54 used for capacity-building grants for labor organizations or union-affi-
55 liated nonprofits seeking to contract projects that meet the require-
56 ments of this act; and

1 f. Ten million dollars (\$10,000,000) of such funds shall be used by
2 the division of housing and community renewal for the administration of
3 the jobs and housing pilot program.

4 Such moneys shall be payable on the audit and warrant of the comp-
5 troller on vouchers certified or approved by the division of housing and
6 community renewal, as necessary and in the manner prescribed by law.

7 § 5. This act shall take effect immediately.