

# STATE OF NEW YORK

8993--A

## IN SENATE

April 8, 2024

Introduced by Sens. RAMOS, COMRIE, PARKER, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 declined by 7.2% in New York state since 2019. Workers are squeezed by  
2 skyrocketing housing costs on the one hand, and stagnant real wages on  
3 the other. Historically, union careers in the construction industry have  
4 been a pathway to the middle class for thousands of New Yorkers, partic-  
5 ularly immigrant workers, workers of color, and workers without college  
6 degrees, but since 2019, the industry lost over 44,400 jobs due to the  
7 pandemic. Public spending on residential housing construction is urgent-  
8 ly needed to close the gap by creating good jobs for working people in  
9 New York state, which will result in a virtuous cycle of increased  
10 consumer spending to sustain economic growth.

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

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

26 § 3. The private housing finance law is amended by adding a new arti-  
27 cle 31-A to read as follows:

#### ARTICLE 31-A

#### JOBS AND HOUSING ACT

30 Section 1283. Short title.

31 1284. Definitions.

32 1285. Jobs and housing pilot program.

33 1286. Housing rental and tenant eligibility.

34 § 1283. Short title. This article shall be known and may be cited as  
35 the "jobs and housing pilot program".

36 § 1284. Definitions. For the purposes of this article:

37 1. "Division" shall mean the state division of housing and community  
38 renewal.

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

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

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

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

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

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

1 8. "Building service employee" shall mean any person who is regularly  
2 employed at, and performs work in connection with the care or mainte-  
3 nance of, an eligible multiple dwelling, including, but not limited to a  
4 watchman, guard, doorman, building cleaner, porter, handyman, janitor,  
5 gardener, groundskeeper, elevator operator and starter, and window  
6 cleaner; provided, however, that building service employee shall not  
7 include persons regularly scheduled to work fewer than eight hours per  
8 week.

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

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

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

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

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

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

46 (b) redevelop affordable cooperative housing developments.

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

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

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

53 (c) attest to responsibility for ensuring that all demolition,  
54 construction, rehabilitation, renovation, retrofit or repair work is  
55 subject to article eight of the labor law, including the applicable  
56 prevailing wage pursuant to section two hundred twenty of the labor law.

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

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

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

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

28 (a) Projects shall be either:

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

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

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

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

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

50 9. (a) To certify compliance with eligibility requirements for  
51 projects, the division shall designate the comptroller of the city of  
52 New York as the fiscal officer for projects in the city of New York and  
53 the commissioner of the department of labor as the fiscal officer for  
54 projects outside the city of New York. The fiscal officer shall be party  
55 to contracts that award funding for development and shall be designated  
56 to certify by signature on all award contracts, and shall certify ongo-

1 ing compliance through an annual review, that project sponsors have  
2 established contracts with investors, contractors, and subcontractors  
3 that demonstrate adherence to eligibility requirements. Project spon-  
4 sors, their contractors, and subcontractors, shall comply with and  
5 submit all documentation to the fiscal officer requested for the  
6 purposes of certifying compliance. The fiscal officer shall have the  
7 power:

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

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

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

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

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

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

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

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

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

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

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

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

54 2. A property containing any affordable units shall be restricted  
55 using a mechanism such as a declaration of restrictive covenants or a  
56 regulatory agreement with a local or state agency that shall ensure that

1 the affordable units shall remain subject to affordable regulations for  
2 the life of the building. Such covenants shall require that the unit be  
3 the primary residence of the household selected to occupy the unit. Upon  
4 approval, such declaration or regulatory agreement shall be recorded  
5 against the property containing the affordable unit prior to the issu-  
6 ance of a certificate of occupancy for the development.

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

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

16 5. An affordable housing unit shall not be:

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

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

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

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

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

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

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

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

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

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

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

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

55 e. Twenty-five million dollars (\$25,000,000) of such funds shall be  
56 used for capacity-building grants for labor organizations or union-affi-

1 liated nonprofits seeking to contract projects that meet the require-  
2 ments of this act; and

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

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

9 § 5. This act shall take effect immediately.