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:

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

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

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

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

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

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

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

ARTICLE 31-A

JOBS AND HOUSING ACT

Section 1283. Short title.
1284. Definitions.
1285. Jobs and housing pilot program.
1286. Housing rental and tenant eligibility.

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

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

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

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

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

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

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

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

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

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

§ 1285. Jobs and housing pilot program. 1. Within amounts appropriated or otherwise available therefor, the division shall develop and administer a jobs and housing pilot program to develop or redevelop housing that is affordable to individuals eligible for housing pursuant to this article. The division is hereby authorized to take administrative actions when necessary, including but not limited to hiring administrators, to comply with the requirements within this article.

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

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

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

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

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

(b) redevelop affordable cooperative housing developments.

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

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

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

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

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

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

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

7. To be eligible for funding and access to land pursuant to the program, proposed development projects shall meet the following criteria:

(a) Projects shall be either:

(i) an affordable cooperative housing development in existing state and local housing programs for affordable and workforce housing including, but not limited to, Mitchell-Lama housing. Such affordable cooperative housing developments shall be eligible for rehabilitation and sustainability retrofit funds, with priority to existing developments sponsored by a labor organization or an affiliate of a labor organization; or

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

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

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

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

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

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

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

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

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

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

(v) to make a classification by craft, trade or other generally recognized occupational category of the building service employees and to determine whether such work has been performed by the building service employees in such classification; and

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

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

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

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

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

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

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

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

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

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

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

5. An affordable housing unit shall not be:

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

(b) held off the market for a period longer than is reasonably necessary to perform repairs needed to make such affordable housing unit available for occupancy.

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

7. The division may establish by rule such requirements as the division deems necessary or appropriate for:

(a) the marketing of affordable housing units, both upon initial occupancy and upon any vacancy;

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

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

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

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

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

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

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

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

liated nonprofits seeking to contract projects that meet the requirements of this act; and

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

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

§ 5. This act shall take effect immediately.