STATE OF NEW YORK

4455

2023-2024 Regular Sessions

IN ASSEMBLY

February 15, 2023

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Housing

AN ACT to amend the public housing law, in relation to maintaining a database of vacant residential housing units and establishing an affordable housing development program; to amend the real property tax law, in relation to imposing a tax on certain vacant residential housing units; and to amend the state finance law, in relation to establishing an affordable housing development fund

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

Section 1. Section 14 of the public housing law is amended by adding two new subdivisions 8 and 9 to read as follows:

8. (a) The commissioner shall establish and maintain a public database of all residential dwelling units, in multiple dwellings containing six or more separate units, that have been vacant for at least one hundred eighty days in the state of New York.

(b) The owner of any multiple dwelling with at least six separate residential dwelling units shall register with the database, under penalty of perjury, all units:

(i) that have been vacant for at least one hundred eighty days;

(ii) whose last tenant paid a rent that was rent stabilized, rent controlled, administered by a state or local section eight administering agency, or an amount of rent which was charged with the approval of a federal, state or local governmental agency; and

(iii) that the owner is not offering for rent at a legal rate or less.

9. The commissioner shall establish an "affordable housing development program", which shall use monies received by the commissioner from the affordable housing development fund pursuant to paragraph (b) of subdivision three of section ninety-nine-qq of the state finance law, for the following purposes:

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

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(a) to provide rental subsidies for individuals age sixty-two or older and rental subsidies for households with a combined household income of fifty thousand dollars or less; and

(b) the acquisition and rehabilitation of multi-unit buildings, in which at least one-third of residential units are unoccupied, for affordable housing, and the operation of such buildings acquired and/or rehabilitated under such program.

§ 2. The real property tax law is amended by adding a new section 307-b to read as follows:

§ 307-b. Additional tax on vacant residential housing units. 1. Generally. Notwithstanding any provision of any general, special, or local law to the contrary, an annual real property tax surcharge shall be imposed in accordance with this section on each owner that owns a multiple dwelling containing one or more vacant residential housing units.

2. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Dwelling" means any building or structure or portion thereof that is occupied in whole or in part as the home, residence or sleeping place of one or more human beings.

(b) "Multiple dwelling" means a dwelling that is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of six or more individuals or groups of individuals living independently of each other. A "multiple dwelling" shall not be deemed to include a class B multiple dwelling as defined by section four of the multiple dwelling law, or a hospital, convent, monastery, residential care facility, or a building used wholly for commercial purposes.

(c) "Owner" means any individual, partnership, business, corporation or hedge fund, that owns a multiple dwelling or residential unit within a multiple dwelling subject to the provisions of this section.

(d) "Residential housing unit" means a room or group of rooms within a multiple dwelling that is designated as the living quarters for an individual or group of individuals living independently from other individuals occupying such multiple dwelling.

(e) "Vacancy exclusion period" means days falling within any of the following periods:

(i) the period beginning upon the date that an application for a permit for repair, rehabilitation, or construction of a residential housing unit is filed pursuant to state or local law, ordinance, or regulation, and ending upon approval or denial of such application;

(ii) the period during which a permit for repair, rehabilitation, or construction of a residential housing unit issued pursuant to state or local law, ordinance, or regulation is valid;

(iii) the one-year period following the construction, repair, or rehabilitation of any new residential housing unit;

(iv) the two-year period following the date that a residential housing unit was severely damaged and made uninhabitable or unusable due to fire, natural disaster, or other catastrophic event;

(v) the period during which a residential housing unit is the principal place of residence of any owner of such residential housing unit;

(vi) any period covered under the terms of a lease agreement between the owner and a tenant or tenants;

(vii) the one-year period following the death of any owner or tenant of a residential housing unit; or

(viii) any days falling within the same year an owner took or transferred ownership of a residential housing unit.

(f) "Vacant" means unoccupied, uninhabited, or unused for more than one hundred eighty days, whether consecutive or nonconsecutive, in a tax year.

(g) "Vacant residential housing unit tax" means the additional real property tax surcharge imposed pursuant to paragraph (a) of subdivision three of this section.

3. Additional vacant residential housing unit tax. (a) For the fiscal year beginning in two thousand twenty-five, and each year thereafter, there shall be imposed on any owner of a multiple dwelling an annual real property tax surcharge for each vacant residential housing unit in such multiple dwelling of three thousand dollars.

(b) The vacant residential housing unit tax shall be payable by the owner or owners of the vacant residential unit subject to such real property tax surcharge. Not more than one such real property tax surcharge shall be imposed under this section for a single vacant residential unit for a tax year by reason of multiple liable owners. If there are multiple liable owners under this subdivision, each such owner shall be jointly and severally liable for the vacant residential housing unit tax, which shall be the highest amount of such tax payable by any owner for the vacant residential housing unit subject to such real property tax surcharge.

4. Payment of tax; presumption of vacancy. (a) Each person required to pay a vacant residential housing unit tax under this section shall pay such tax to the appropriate collecting officer, in the manner that shall be prescribed by the commissioner, and any local laws, rules, or regulations authorized by the commissioner.

(b) Each owner of a multiple dwelling shall report annually the vacancy status of any residential housing units in such multiple dwelling in a manner to be prescribed by the commissioner. The failure of an owner to report such vacancy status shall result in a presumption of vacancy for the applicable residential housing units. Such owner may rebut such presumption of vacancy by producing satisfactory evidence that such residential unit was not vacant for the relevant tax year.

5. Exemptions and exclusions. (a) In determining whether an owner has kept a residential housing unit vacant for the purposes of this section, days falling within a vacancy exclusion period shall not be considered.

(b) The following entities shall be exempt from the vacant residential housing unit tax:

(i) any organization that is exempt from income taxation under section 501 (c) (3) of the United States Internal Revenue code, as amended; or

(ii) the state or any county, city, town, village or other municipality within the state, or any agency, department, division, office, or other body thereof.

6. Revenues. Revenues received from payment of the vacant residential housing unit tax shall be paid into the affordable housing development fund created pursuant to section ninety-nine-qq of the state finance law.

7. Administration. The commissioner shall promulgate any rules and regulations, and authorize any local laws, regulations or ordinances, necessary for the administration of this section.

§ 3. The state finance law is amended by adding a new section 99-qq to read as follows:

§ 99-qq. Affordable housing development fund. 1. There is hereby established in the joint custody of the state comptroller, the commissioner of housing and community renewal and the commissioner of taxation

and finance a fund to be known as the "affordable housing development fund".

2. Such fund shall consist of all real property tax revenues received by the commissioner of taxation and finance pursuant to section three hundred seven-b of the real property tax law and all other monies transferred to such fund pursuant to law. Any interest earned by the investment of monies in such fund shall be added to such fund, become a part of such fund, and be used for the purpose of such fund.

3. (a) Monies of such fund shall be expended first by the commissioner of taxation and finance, as needed, to cover the costs of administration of the vacant residential housing unit tax under section three hundred seven-b of the real property tax law, and refunds of any overpayments made under such section.

(b) Remaining monies of such fund, after appropriate expenditures have been made under paragraph (a) of this subdivision, shall be expended by the commissioner of housing and community renewal for the operation of the affordable housing development program under subdivision nine of section fourteen of the public housing law.

4. Monies shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of taxation and finance or the commissioner of housing and community renewal.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.