

# STATE OF NEW YORK

11059

## IN ASSEMBLY

April 24, 2026

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

AN ACT to amend the private housing finance law, in relation to limiting the liability of low-income housing providers who receive government assistance, and establishing a temporary insurance stabilization program for such entities; and providing for the repeal of certain provisions upon the expiration thereof

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

1 Section 1. The private housing finance law is amended by adding a new  
2 article 33 to read as follows:

### ARTICLE XXXIII

#### LOW-INCOME HOUSING LIABILITY STANDARDS

##### Section 1300. Definitions.

##### 1301. Limitation of liability for low-income housing providers.

7 § 1300. Definitions. As used in this article, the following terms  
8 shall have the following meanings:

9 1. "Covered low-income housing provider" means an entity that:

10 (a) is a nonprofit organization that:

11 (i) qualifies as an appropriate nonprofit organization as defined in  
12 section twelve hundred eighty-one of this chapter; and

13 (ii) holds an ownership stake in the housing property it manages of at  
14 least forty-five percent;

15 (b) is an entity that meets the definition of housing company as  
16 defined in subdivision three of section three of the public housing law;  
17 or

18 (c) is an entity that:

19 (i) provides low rent housing as such term is defined in subdivision  
20 twenty-three of section three of the public housing law; and

21 (ii) receives some combination of federal, state, or municipal funding  
22 to effectuate the provision of such low rent housing, such that the  
23 housing qualifies as a project as defined in subdivision fourteen of  
24 section three of the public housing law.

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

LBD15392-01-6

1 2. "Non-medical damages" means any compensatory damages, including a  
 2 non-economic loss as such term is defined in section sixteen hundred of  
 3 the civil practice law and rules, sought by a plaintiff and resulting  
 4 from the willful, wanton or grossly negligent conduct of the defendant,  
 5 but shall not include medical expense damages described in paragraph (d)  
 6 of subdivision three of this section.

7 3. "Qualified civil liability action" means a civil action or proceed-  
 8 ing brought by any person against a covered low-income housing provider,  
 9 but shall not include an action where:

10 (a) the defendant's conduct giving rise to such action was willful,  
 11 wanton, or grossly negligent;

12 (b) punitive damages are not sought by the plaintiff, nor awarded by  
 13 the court;

14 (c) non-medical damages sought do not exceed five hundred thousand  
 15 dollars; and

16 (d) medical expense damages sought do not exceed the reimbursement  
 17 rates in effect for such care under the schedule set forth by the chair  
 18 of the workers' compensation board pursuant to section thirteen of the  
 19 workers' compensation law.

20 § 1301. Limitation of liability for low-income housing providers.  
 21 Notwithstanding any other provision of law to the contrary, no qualified  
 22 civil liability action may be brought in any court in the state.

23 § 2. The private housing finance law is amended by adding a new arti-  
 24 cle 34 to read as follows:

#### ARTICLE XXXIV

##### TEMPORARY INSURANCE STABILIZATION PROGRAM

27 Section 1310. Legislative findings and purpose.

28 1311. Definitions.

29 1312. Joint underwriting association.

30 1313. Plan of operation and procedures.

31 1314. Rating plans.

32 1315. Participation and assessments.

33 1316. Annual aggregate loss limitation.

34 1317. Annual statements.

35 1318. Examinations.

36 1319. Study and determination.

37 § 1310. Legislative findings and purpose. It is hereby declared and  
 38 found that the availability of affordable housing in this state remains  
 39 an important priority in the public interest. It is further found that  
 40 there exists in the state a diminishing and seriously inadequate supply  
 41 of safe and sanitary dwelling accommodations, particularly for persons  
 42 of low-income; that existing providers of low-income housing must shoul-  
 43 der unlimited liability despite being limited in the rents they must  
 44 charge; that such providers of low-income housing must also bear rising  
 45 liability insurance costs due to numerous factors beyond their control;  
 46 that the rising costs of such insurance may lead to such providers exit-  
 47 ing the affordable housing business altogether, further exacerbating the  
 48 affordable housing crisis; and that the unlimited liability borne by  
 49 such providers runs directly counter to the goals of the numerous feder-  
 50 al, state, and municipal grant programs intended to address the afforda-  
 51 ble housing crisis.

52 In order to promote the purpose of existing housing grant programs and  
 53 provide for adequate protection of federal, state, and local investments  
 54 in affordable housing development, the creation of a temporary program  
 55 to ensure the availability of liability insurance for such providers is  
 56 necessary.

1 The necessity in the public interest for the provisions hereinafter  
2 enacted is hereby declared as a matter of legislative determination.

3 § 1311. Definitions. As used in this article, the following terms  
4 shall have the following meanings:

5 1. "Association" means the joint underwriting association established  
6 under this article.

7 2. "Covered low-income housing provider" means an entity that:

8 (a) is a nonprofit organization that:

9 (i) qualifies as an appropriate nonprofit organization as defined in  
10 section twelve hundred eighty-one of this chapter; and

11 (ii) holds an ownership stake in the housing property it manages of at  
12 least forty-five percent;

13 (b) is an entity that meets the definition of housing company as  
14 defined in subdivision three of section three of the public housing law;  
15 or

16 (c) is an entity that:

17 (i) provides low rent housing as such term is defined in subdivision  
18 twenty-three of section three of the public housing law; and

19 (ii) receives some combination of federal, state, or municipal funding  
20 to effectuate the provision of such low rent housing, such that the  
21 housing qualifies as a project as defined in subdivision fourteen of  
22 section three of the public housing law.

23 3. "Net direct premiums" means gross direct premiums written in this  
24 state for commercial general liability insurance, as computed by the  
25 superintendent, less return premiums or the unused or unabsorbed  
26 portions of premium deposits.

27 4. "Plan of operation" or "plan" means the plan of operation complying  
28 with section thirteen hundred thirteen of this article.

29 5. "Superintendent" means the superintendent of the department of  
30 financial services.

31 § 1312. Joint underwriting association. 1. A joint underwriting asso-  
32 ciation known as the New York housing insurance stabilization associ-  
33 ation is hereby established, consisting of all insurers, including  
34 captive insurers, authorized to write and engaged in writing within this  
35 state, on a direct basis, commercial general liability insurance. Every  
36 such insurer shall be and remain a member of the association as a condi-  
37 tion of its authority to continue to transact commercial general liabil-  
38 ity insurance in the state.

39 2. The association shall be governed by a board of thirteen directors,  
40 ten of whom shall be elected annually by cumulative voting by the  
41 members of the association, whose votes in such election shall be  
42 weighted in accordance with each member's net direct premiums written  
43 during the preceding calendar year. The remaining three directors shall  
44 be appointed annually by the superintendent and be duly licensed insur-  
45 ance agents or brokers representative of broad segments of the public  
46 obtaining insurance through the association.

47 3. The association shall, pursuant to the provisions of this article  
48 and the plan of operation, make commercial general liability insurance  
49 available through the association, and shall have the power on behalf of  
50 its members:

51 (a) to cause policies of insurance to be issued to eligible appli-  
52 cants;

53 (b) to assume reinsurance from its members, including members that are  
54 captive insurers; and

55 (c) to cede reinsurance.

1 § 1313. Plan of operation and procedures. 1. The association shall  
2 adhere to a plan of operation, consistent with the provisions of this  
3 article, approved by the superintendent after consultation with affected  
4 individuals and organizations. The plan shall provide for economical,  
5 fair and non-discriminatory administration and prompt and efficient  
6 provision of commercial general liability insurance to eligible appli-  
7 cants. Such plan shall contain other matters including, but not limited  
8 to, provision for necessary facilities, management of the association,  
9 assessment of members to defray losses and expenses, commission arrange-  
10 ments, reasonable and objective underwriting standards, acceptance and  
11 cession of reinsurance, and procedures for determining amounts of insur-  
12 ance to be provided by the association.

13 2. The plan of operation shall:

14 (a) authorize the association to issue commercial general liability  
15 insurance to covered low-income housing providers;

16 (b) provide for the provision of different per-occurrence limits and  
17 aggregate limits in coverage;

18 (c) provide for the use of premium installment plans;

19 (d) prohibit the association from issuing policies other than commer-  
20 cial general liability insurance policies; and

21 (e) provide procedures by which the association may assume reinsurance  
22 from its members and cede reinsurance to the private reinsurance market.

23 3. The directors of the association may, on their own initiative or at  
24 the request of the superintendent, amend the plan subject to approval by  
25 the superintendent.

26 4. The association shall, subject to the plan of operation, offer  
27 commercial general liability insurance to covered low-income housing  
28 providers at rates determined in pursuant to section thirteen hundred  
29 fourteen of this article for a period of five years following the effec-  
30 tive date of this article.

31 5. Any covered low-income housing provider, who has made a diligent  
32 effort in the normal insurance market to procure commercial general  
33 liability insurance, is entitled to apply to the association for such  
34 coverage. Such application may be made on behalf of an applicant by a  
35 broker or agent authorized by such applicant.

36 6. If the association determines that (a) the applicant is insurable  
37 in accordance with the plan, and (b) there is no unpaid, uncontested  
38 premium due from the applicant for prior insurance, as shown by the  
39 insured having failed to make written objection to charges within thirty  
40 days after billing, the association, upon receipt of the premium or  
41 portion prescribed in the plan, shall cause a policy of commercial  
42 general liability insurance to be issued for a term of one year.

43 7. Any member, including captive insurers, may cede commercial general  
44 liability insurance to the association as provided in the plan.

45 8. Any applicant to the association and any person insured pursuant to  
46 this article, or their representatives, or any affected insurer, may  
47 appeal to the superintendent within thirty days after any ruling, action  
48 or decision by or on behalf of the association, with respect to those  
49 items the plan of operation defines as appealable matters.

50 § 1314. Rating plans. 1. The rates, rating plans, rating rules and  
51 statistics applicable to insurance written by the association shall be  
52 subject to the relevant provisions of article twenty-three of the insur-  
53 ance law, except as otherwise provided in this section.

54 2. Annually, on a date set by the superintendent, the association  
55 shall estimate the actuarial rates sufficient to pay all valid claims  
56 and meet the expenses incurred by the association in writing and servic-

1 ing policies, and shall file such rates, on a form prescribed by the  
2 superintendent, with the department of financial services.

3 3. Not later than sixty days after the rating plan described in subdivi-  
4 vision two of this section is received, the superintendent, in consulta-  
5 tion with the commissioner, shall determine whether such rates are  
6 reasonable and affordable for covered low-income housing providers in  
7 light of the necessity of affordable housing and the importance of  
8 providing adequate protection for government housing investments.

9 4. If the superintendent and commissioner determine that the actuari-  
10 al-based rates described in subdivision two of this section are not  
11 affordable, the superintendent shall determine an appropriate subsidy to  
12 apply to such rates, and the association shall charge its policyholders  
13 the subsidized rates as approved by the superintendent.

14 § 1315. Participation and assessments. 1. Every member of the associ-  
15 ation shall participate in its writings, expenses, profits and losses in  
16 the proportion that the net direct premiums of the member, but excluding  
17 that portion of premiums attributable to the operation of the associ-  
18 ation, written during the preceding calendar year bear to the aggregate  
19 net direct premiums written in this state by all members of the associ-  
20 ation. Each member's participation in the association shall be deter-  
21 mined annually on the basis of such net direct premiums written during  
22 the preceding calendar year as disclosed in the annual statements and  
23 other reports filed by the member with the superintendent.

24 2. No member shall be obligated in any year to reimburse the associ-  
25 ation on account of its proportionate share in the deficit from oper-  
26 ations of the association in that year in excess of one percent of its  
27 surplus to policyholders. The aggregate amount not so reimbursed shall  
28 be reallocated among the remaining members in accordance with the method  
29 of determining participation prescribed in this section, after excluding  
30 from the computation the total net direct premiums of all members not  
31 sharing in such excess deficit. In the event that the deficit from oper-  
32 ations allocated to all members in any calendar year shall exceed one  
33 percent of their respective surplus to policyholders, the amount of such  
34 deficit shall be allocated to each member in accordance with the method  
35 of determining participation prescribed in this section.

36 3. Annually, on a date set by the superintendent, the association  
37 shall estimate its deficit from operations, and calculate a factor, not  
38 to exceed one percent, by relating such deficit to net direct premiums  
39 written for the latest calendar year, subject to the approval of the  
40 superintendent. Such factor may be reflected in the determination of  
41 rates filed by the principal rating organization in this state and by  
42 members of the association for commercial general liability insurance.  
43 Any part of such deficit which exceeds one percent as so calculated,  
44 shall be defrayed by an increase in rates, based upon the association's  
45 related loss and expense experience together with other information the  
46 superintendent requires, in accordance with filings approved by the  
47 superintendent. Each member's share of the estimated deficit shall be  
48 collected by the association in accordance with the plan of operation.

49 4. Subject to approval by the superintendent, the association shall  
50 develop and implement an incentive plan for members which voluntarily  
51 write commercial general liability insurance policies for covered low-  
52 income housing providers. The purpose of these incentives shall be to  
53 encourage the writing of voluntary insurance policies and thereby reduc-  
54 ing the exposure of the association.

55 § 1316. Annual aggregate loss limitation. 1. Notwithstanding any other  
56 provision of federal or state law, the aggregate losses paid by the

1 association during a calendar year shall not exceed fifty million  
2 dollars.

3 2. Neither the association, nor any member of the association that has  
4 met its assessment obligations, shall be liable for the payment of any  
5 portion of the amount of losses that exceeds fifty million dollars.

6 3. Any losses in excess of fifty million dollars for which the associ-  
7 ation would otherwise be liable but for the limitation in this section,  
8 shall be paid by the New York state division of housing and community  
9 renewal, under procedures to be prescribed by the commissioner.

10 § 1317. Annual statements. 1. The association shall annually file a  
11 statement in the office of the superintendent on or before the first day  
12 of March. Such statement shall be in a form approved by and contain  
13 information required by the superintendent with respect to its trans-  
14 actions, condition, operations and affairs during the preceding year.

15 2. The superintendent may at any time require the association to  
16 furnish additional information which such superintendent considers to be  
17 material in evaluating the scope, operation and experience of the asso-  
18 ciation.

19 § 1318. Examinations. The superintendent may, in accordance with arti-  
20 cle three of the insurance law, make an examination into the affairs of  
21 the association whenever the superintendent deems it expedient. The  
22 expenses of every such examination shall be borne and paid by the asso-  
23 ciation in the manner prescribed by subsection (f) of section two  
24 hundred six of the financial services law.

25 § 1319. Study and determination. No later than three years after the  
26 effective date of this article, the superintendent shall, in consulta-  
27 tion with the commissioner:

28 1. conduct a study on the availability and affordability of liability  
29 insurance for low-income housing providers;

30 2. assess the potential impact on availability and affordability of  
31 such insurance if the association established under this article were to  
32 be disbanded; and

33 3. submit a report and recommendation to the governor regarding wheth-  
34 er the association established under this article should continue to  
35 operate.

36 § 3. This act shall take effect on the one hundred eightieth day after  
37 it shall have become a law; provided, however, that the provisions of  
38 section two of this act shall expire and be deemed repealed once the  
39 joint underwriting association established pursuant to article 34 of the  
40 private housing finance law as added by section two of this act has  
41 completed servicing all policies issued and fulfilled all obligations  
42 pursuant to such article; provided that the superintendent of financial  
43 services shall notify the legislative bill drafting commission upon the  
44 completion of servicing policies and fulfillment of obligations by the  
45 joint underwriting association, in order that the commission may main-  
46 tain an accurate and timely effective data base of the official text of  
47 the laws of the state of New York in furtherance of effectuating the  
48 provisions of section 44 of the legislative law and section 70-b of the  
49 public officers law. Effective immediately, the addition, amendment  
50 and/or repeal of any rule or regulation necessary for the implementation  
51 of this act on its effective date are authorized to be made and  
52 completed on or before such effective date.