

# STATE OF NEW YORK

2707--B

2025-2026 Regular Sessions

## IN ASSEMBLY

January 22, 2025

Introduced by M. of A. TAYLOR, TAPIA, LEVENBERG, REYES, ALVAREZ, DE LOS SANTOS -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Housing in accordance with Assembly Rule 3, sec. 2 -- 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 enacting the housing development fund company fairness, preservation, and affordability act

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 "housing development fund company fairness, preservation, and  
3 affordability act".

4 § 2. Legislative findings and declarations. 1. In 1966, the legisla-  
5 ture enacted article 11 of the private housing finance law. Article 11  
6 authorized the development of rental and cooperative housing that is  
7 subject to certain income restrictions. The type of income-restricted  
8 housing is referred to as housing development fund companies (HDFCs).

9 2. Beginning in the early 1980s, New York city adopted the HDFC form  
10 of housing cooperative as a means to divest itself of -- and revitalize  
11 -- its tax-foreclosed multi-family housing stock. At the time the city  
12 was experiencing large-scale abandonment of its private low and middle-  
13 income multi-family housing stock. In response to this housing crisis,  
14 the city determined to turn over the ownership and management of many  
15 city-owned tax-foreclosed multifamily buildings to the existing tenants  
16 in the form of HDFC co-ops.

17 3. Previously, the city sold at auction nearly all of its tax-forec-  
18 closed multi-family property to private investors - and that traditional  
19 approach to disposing of tax foreclosed property had led to an acceler-

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

LBD02813-07-5

1 ating cycle of housing disinvestment and abandonment. The city's HDFC  
2 initiative was in the city's own interests: it enabled the city to avoid  
3 the counterproductive private auction process and to return the build-  
4 ings to the tax rolls.

5 4. Over the past four decades the city's HDFC initiative proved to be  
6 one of New York's most enduring housing success stories. Tens of thou-  
7 sands of resident-shareholders of HDFCs played an important role in the  
8 stabilization and preservation of New York city's multi-family housing  
9 stock in the period following the city's fiscal crisis of the 1970s and  
10 1980s. The city's large-scale creation of HDFC co-ops was a major policy  
11 innovation and was an important part of the city's response to the hous-  
12 ing crisis of that era. Today, there are over 1,100 HDFC co-ops in New  
13 York city.

14 5. All government and community stakeholders benefitted from the  
15 large-scale creation of HDFCs. The city benefitted by reducing its enor-  
16 mous portfolio of tax-foreclosed apartment buildings at a time when the  
17 buildings were a substantial burden to the city and when there was  
18 little in the way of a private market for these properties. The resi-  
19 dents benefitted by the preservation and upgrading of their own build-  
20 ings and by becoming homeowners for the first time. And the surrounding  
21 communities benefitted by the stabilization of the neighborhood, the  
22 upgrading of housing and by the transformation of a rental community  
23 into a homeownership community.

24 6. When the city imposed regulatory controls on the city-sponsored  
25 HDFCs, the regulatory controls placed on HDFCs were time-limited.  
26 Consequently, the HDFCs that were created in the 1980s and 1990s have  
27 regulatory controls that already have expired or will soon expire. For  
28 this class of HDFCs, there is a great deal of uncertainty as to their  
29 financial future.

30 7. This legislation clarifies the legal status of HDFCs with expired  
31 regulatory controls in a way that promotes their continuing affordabili-  
32 ty while protecting their autonomy and self-governance.

33 8. An important feature of city-sponsored HDFCs is the city's use of  
34 its authority to enter into a "regulatory agreement" with the HDFC.  
35 Under section 576 of the private housing finance law, either the state  
36 or the municipal "supervisory agency" (i.e., HPD) may enter into a regu-  
37 latory agreement with an HDFC if the agency advances public funds to the  
38 HDFC. Under such section of the private housing finance law, every HDFC  
39 regulatory agreement must provide that:

40 (1) Households must meet income eligibility guidelines, which are  
41 defined by statute as six times the annual rent plus six percent of the  
42 shareholder's "original investment" in the HDFC. See paragraph b of  
43 subdivision 1 of section 576 of the private housing finance law.

44 (2) Profits must be used only for capital improvements or to reduce  
45 rent/maintenance. Dividends cannot be paid to owners. See paragraphs c  
46 and d of subdivision 1 of section 576 of the private housing finance  
47 law.

48 (3) The property may not be sold or transferred without HPD approval  
49 for so long as the regulatory agreement remains in effect and/or unless  
50 and until any funds or mortgages owed to the city are paid in full. See  
51 paragraph e of subdivision 1 of section 576 of the private housing  
52 finance law.

53 9. The city applied its section 576 authority to HDFCs in two ways:  
54 i.e. (1) some of the terms of the section 576 "regulatory agreement"  
55 were incorporated into various HDFC incorporation documents and in the  
56 deed conveying title to the property; and (2) a regulatory agreement was

1 incorporated into mortgage documents when the city made loans to HDFCs  
2 to finance capital improvements. In each case the city imposed resale  
3 restrictions that had a fixed term. At the inception of the HDFC program  
4 in the early 1980s, city-sponsored resale restrictions imposed by the  
5 sale documents expired in ten years. By the late 1980s, city-sponsored  
6 resale restrictions imposed by the sale documents ran for 25 years.  
7 Furthermore, resale restrictions that were made a part of city-sponsored  
8 rehabilitation loans to HDFCs ran for the life of the loan -- i.e.,  
9 usually 15 to 25 years.

10 10. Thus, the city used section 576 of the private housing finance law  
11 as a means to impose additional terms and conditions (including resale  
12 restrictions) on the operation of the HDFC for a fixed term following  
13 the establishment of the housing cooperative or during the life of a  
14 city-sponsored loan to the HDFC. For the vast majority of HDFCs, these  
15 restrictions have expired.

16 11. There are presently over 1,100 HDFCs in New York city containing  
17 approximately 25,000 apartments. Of these HDFCs, approximately 20  
18 percent are subject to regulatory agreements. A substantial number of  
19 non-regulated HDFCs date from the 1980s and 1990s. These older HDFCs are  
20 no longer subject to city resale restrictions that expired after either  
21 ten years or 25 years following the incorporation of the HDFCs.

22 12. A city-established HDFC is eligible to receive a partial real  
23 estate tax exemption granted by the city pursuant to section 577 of the  
24 private housing finance law. Pursuant to this authority, the city in  
25 1989 enacted a partial tax exemption for most city-sponsored HDFCs. The  
26 tax exemption is generally referred to as the "Division of Alternative  
27 Management Programs" tax exemption, or "DAMP tax exemption".

28 13. The current HDFC tax exemption for most city-sponsored HDFCs  
29 co-ops is scheduled to expire in 2029. Already, many financial insti-  
30 tutions have indicated a reluctance to lend to HDFCs in light of the  
31 financial uncertainty associated with the scheduled expiration of the  
32 HDFC tax exemption in four years. This legislation will eliminate this  
33 uncertainty by providing a permanent tax incentive for HDFCs.

34 14. Currently, HDFC co-ops receive a partial tax exemption - known as  
35 "the DAMP tax benefit". The DAMP tax benefit takes the form of a cap on  
36 assessed valuation per dwelling unit - currently \$12,542. As previously  
37 noted, this legislation removes the sunseting of the DAMP tax exemption  
38 and makes the tax exemption permanent. Furthermore, the legislation  
39 allows HDFC co-ops to receive the greater of the DAMP tax exemption or  
40 twice the tax abatement that most market-rate co-ops presently currently  
41 receive under section 467-a of the real property tax law (but which HDFC  
42 co-ops presently are ineligible to receive). This alternative tax bene-  
43 fit to HDFCs is a recognition that income-restricted HDFC co-ops are  
44 entitled to greater benefits than market-rate co-ops. This alternative  
45 tax benefit is a vital means to promote and protect housing affordabili-  
46 ty and to provide financial stability to HDFCs. It is especially impor-  
47 tant to the HDFCs with an assessed valuation below the current cap of  
48 \$12,542, which are not currently eligible to receive the DAMP tax  
49 exemption.

50 15. The fact that market-rate co-ops are eligible to receive a tax  
51 abatement under section 467-a of the real property tax law, but that  
52 HDFC co-ops presently are ineligible to receive any such tax abatement,  
53 is an inequity that is corrected by this legislation. As stated above,  
54 the real property tax law section 467-a tax abatement is received by  
55 most housing cooperatives in New York City other than HDFCs. This tax  
56 abatement contains no income restrictions or similar eligibility

1 requirements. A luxury co-op on Park Avenue is eligible for a conven-  
2 tional co-op tax abatement. Currently, a conventional co-op that is  
3 assessed at \$50,000 per unit or less is eligible for a tax abatement of  
4 28.1 percent. A conventional co-op that is assessed above \$60,000 per  
5 unit - without any upper limit to assessed value - is subject to a 17.5  
6 percent tax abatement. However, under current law, HDFCs that receive  
7 the DAMP tax exemption are not eligible to receive either the 28.1  
8 percent real property tax law tax abatement or the 19 percent real prop-  
9 erty tax law tax abatement. See paragraph (b) of subdivision 2 of  
10 section 467-a of the real property tax law which provides that housing  
11 cooperatives that receive most other real estate tax incentives are not  
12 eligible to receive the conventional co-op tax abatement. This places  
13 many income-restricted HDFCs co-ops in the anomalous position of receiv-  
14 ing less of a tax benefit than a conventional co-op without any income  
15 restrictions whatsoever.

16 16. Although HDFCs do receive the DAMP tax exemption in lieu of the  
17 conventional co-op tax abatement, the application of the DAMP tax  
18 exemption to many HDFC co-ops is not nearly as valuable as would be the  
19 application of the real property tax law section 467-a tax abatement.  
20 For many HDFCs, especially those located in lower-income neighborhoods,  
21 the DAMP tax exemption provides no value at all. This is so because the  
22 real property tax law section 467-a tax abatement provides a dollar-for-  
23 dollar reduction in real estate tax liability. By contrast, the DAMP tax  
24 exemption merely provides a cap on assessed valuation, and thereby a cap  
25 on the resulting real estate tax liability. If an HDFC's assessment is  
26 already below the DAMP "cap," then the HDFC receives no tax benefit at  
27 all. Hence, many HDFCs located in low-income neighborhoods receive no  
28 tax benefit whatsoever. This is manifestly unfair.

29 17. This legislation remedies this anomaly by providing that HDFC  
30 co-ops are entitled to receive either the benefits of a conventional  
31 co-op tax abatement or the DAMP tax exemption. As a matter of fairness  
32 and equity, an HDFC income-restricted co-op should receive at least the  
33 tax benefit that a market-rate co-op receives. This legislation goes  
34 further and provides that HDFC co-ops are entitled to the greater of  
35 twice the conventional co-op tax abatement or the DAMP tax exemption. As  
36 previously stated, this increased benefit is a recognition that HDFC  
37 co-ops are entitled to greater benefits than market-rate co-ops as a  
38 vital means to promote and protect housing affordability in New York  
39 City and as a means to provide financial stability to HDFCs.

40 18. This legislation also establishes a mechanism to ensure that HDFCs  
41 that receive the tax benefit comply with the new affordability require-  
42 ments. As a condition of the continuing receipt of the tax benefit, each  
43 HDFC is required to file an annual certification stating that it has  
44 complied with the affordability requirements. HPD is authorized to  
45 review and audit the sales records of the HDFC in order to ensure  
46 compliance with these requirements. Furthermore, HPD has the right to  
47 suspend or revoke the tax exemption and tax abatement if HPD determines  
48 that HDFC has willfully not complied with the affordability require-  
49 ments.

50 19. For the vast majority of HDFC co-ops, the proposed enhanced real  
51 estate tax benefit -- together with the availability of below-market  
52 interest financing available through HPD -- would be sufficient to  
53 ensure both affordability and fiscal stability. However, for perhaps 10  
54 to 20 percent of HDFCs -- which are in fair to poor financial condition  
55 - something more is needed. In recognition of this special need of  
56 economically distressed HDFCs, the legislation extends the authority of

1 the city of New York to offer special tax relief to HDFC co-ops that are  
2 in severe fiscal distress and that are in danger of tax foreclosure by  
3 reason of unpaid real estate taxes. Such tax relief is conditioned on  
4 the HDFC co-op agreeing to enter into a special regulatory agreement in  
5 which the city exercises appropriate oversight and monitoring of the  
6 HDFC. Current legislation was enacted in 2002 and authorized tax  
7 forgiveness only for HDFCs that "(as of) January 1, 2002 had outstanding  
8 municipal real estate taxes relating to any period prior to January 1,  
9 2001." This baseline year for tax forgiveness (i.e., tax arrears as of  
10 2001) has never been updated to a more current tax year. The legislation  
11 updates the baseline year so that the city has the flexibility to offer  
12 tax forgiveness (in appropriate cases and subject to strict controls set  
13 forth in current law) for HDFC co-ops that are at risk of tax foreclo-  
14 sure. In this way an economically distressed HDFC co-op is saved from  
15 tax foreclosure, and may thereby provide sustainable and affordable  
16 housing for years to come. This is critically important - not just for  
17 the HDFC shareholders themselves - but also for neighborhood stability.

18 20. In summary, this legislation provides a much needed permanent tax  
19 incentive for HDFCs -- as well as targeted tax relief for economically  
20 distressed HDFCs. The permanent tax benefit will eliminate the current  
21 uncertainty surrounding the expiration of the DAMP tax exemption in 2029  
22 - and will thereby ease the availability of mortgage financing for  
23 HDFCs.

24 § 3. Section 576 of the private housing finance law is amended by  
25 adding a new subdivision 4 to read as follows:

26 4. A housing development fund company that is no longer subject either  
27 to a regulatory agreement or to deed restrictions entered into with the  
28 commissioner or supervisory agency shall continue to be subject to the  
29 oversight of the commissioner or supervisory agency, subject to the  
30 limitation set forth in paragraph (d) of subdivision one of section five  
31 hundred seventy-seven of this article, provided that the housing devel-  
32 opment fund company receives a tax exemption and/or tax abatement pursu-  
33 ant to section five hundred seventy-seven of this article.

34 § 4. Subdivision 1 of section 577 of the private housing finance law,  
35 as amended by chapter 658 of the laws of 1967, paragraph (a) as amended  
36 by chapter 428 of the laws of 1980, paragraph (c) as added by chapter  
37 494 of the laws of 1995, and paragraph (d) as added by chapter 73 of the  
38 laws of 2009, is amended to read as follows:

39 1. (a) The local legislative body of any municipality in which a  
40 project of a housing development fund company is or is to be located may  
41 exempt and abate the real property in such project from local and munic-  
42 ipal taxes including school taxes, other than assessments for local  
43 improvements, to the extent of all or part of the value of the property  
44 included in the completed project. The tax exemption and tax abatement  
45 shall operate and continue for [~~such period as may be provided by such~~  
46 ~~local legislative body, but in no event for a period of more than forty~~  
47 ~~years, commencing~~] so long as a housing development fund company remains  
48 in compliance with the requirements of this section, and shall commence  
49 in each instance from the date on which the benefits of such exemption  
50 first became available and effective. The tax exemption and tax abate-  
51 ment shall be applied to:

52 (i) newly created housing development fund companies that are subject  
53 to regulatory agreement and/or contractual or deed restrictions imposed  
54 by the commissioner or supervisory agency;

1 (ii) housing development fund companies that are presently subject to  
2 a regulatory agreement and/or contractual or deed restrictions imposed  
3 by the commissioner or supervisory agency; and

4 (iii) housing development fund companies that are not presently  
5 subject to a regulatory agreement and are not presently subject to  
6 contractual or deed restrictions imposed by the commissioner or supervi-  
7 sory agency but that agree to the conditions of the tax exemption and  
8 tax abatement as hereinafter described in paragraph (b) of this subdivi-  
9 sion.

10 (b) In order for a housing development fund company described in  
11 subparagraph (iii) of paragraph (a) of this subdivision to be eligible  
12 for a tax exemption and tax abatement pursuant to this section, such  
13 company shall be required, for so long as it receives such tax exemption  
14 and tax abatement, to not approve a sale of an apartment unless the  
15 purchaser of the apartment provides satisfactory proof of income and  
16 unless the income of the purchaser is no greater than the income limita-  
17 tion specified herein. Such income limitation shall be, at the election  
18 of the housing development fund company, either (i) the apartment resale  
19 requirement of paragraph b of subdivision one of section five hundred  
20 seventy-six of this article; or (ii) a requirement that the income of a  
21 purchaser of an apartment not exceed one hundred sixty-five percent of  
22 the area median income, as determined from time to time by the United  
23 States department of housing and urban development. As a condition of  
24 the continuing receipt of such tax exemption and tax abatement, the  
25 housing development fund company shall file an annual certification with  
26 the commissioner or supervisory agency that the company has complied  
27 with the requirements of this section. Such certification shall be  
28 limited to a listing of apartments sold or transferred in the prior  
29 twelve months and a statement that the income of the purchaser or trans-  
30 feree of the apartment complies with the income requirement of this  
31 paragraph, except that a transferee who is a member of the transferor's  
32 family or household need not comply with such requirement.

33 (c) (i) The commissioner or supervisory agency may review and audit  
34 the sales records of a housing development fund company in order to  
35 ensure compliance with the requirements of this section. The commission-  
36 er or supervisory agency shall have the authority to suspend or revoke  
37 the tax exemption and tax abatement applicable to any housing develop-  
38 ment fund company, in proportion to the percentage of dwelling units at  
39 a housing development fund corporation not in compliance with this  
40 section, if the commissioner determines that the company has willfully  
41 violated the provisions of this section, so long as the housing develop-  
42 ment fund company is provided with prior written notification as to each  
43 specific instance of noncompliance and to which dwelling unit such non-  
44 compliance is alleged.

45 (ii) A housing development fund company shall have the right to rebut  
46 allegations of a willful violation of this section, and also to charge  
47 and collect additional monies from any shareholder, including successors  
48 and assigns, found by the commissioner or supervisory agency to have  
49 willfully not complied with the requirements of this section so as to  
50 recover expenses for all losses of tax exemptions and tax abatements and  
51 so as to recover all expenses associated with responding to such allega-  
52 tions by the commissioner or supervisory agency.

53 (iii) Any annual certification submitted pursuant to this section that  
54 has been accepted for filing and that has not been subject to a suspen-  
55 sion or revocation action by the commissioner or supervisory agency for

1 a period of five years shall be deemed correct and shall not be subject  
2 to further audit or review by the commissioner or supervisory agency.

3 (d) The conditions set forth in paragraph (b) of this subdivision  
4 shall be the sole and exclusive conditions governing the eligibility of  
5 a housing development fund company described in subparagraph (iii) of  
6 paragraph (a) of this subdivision for receipt of the tax exemption and  
7 tax abatement authorized in paragraph (e) of this subdivision.

8 (e) For each eligible housing development fund company, the annual  
9 amount of the tax exemption and tax abatement authorized pursuant to  
10 this section shall be the greater of:

11 (i) the net reduction in real estate taxes resulting from the tax  
12 exemption heretofore granted by the local legislative body pursuant to  
13 the provisions of this section, equivalent to a cap on assessed value  
14 per apartment of thirteen thousand two hundred ninety-five dollars in  
15 the two thousand twenty-five--two thousand twenty-six tax year, and  
16 which shall increase by two and a half percent per year in each subse-  
17 quent tax year; or

18 (ii) the net reduction in real estate taxes resulting from two hundred  
19 percent of the tax abatement for housing cooperatives authorized by  
20 section four hundred sixty-seven-a of the real property tax law.

21 (f) Where a municipality acts on behalf of another taxing jurisdiction  
22 in assessing real property for the purpose of taxation, or in levying  
23 taxes therefor, the action of the local legislative body of such munici-  
24 pality in granting such tax exemption shall have the effect of exempting  
25 the real property in such project from local and municipal taxes includ-  
26 ing school taxes, other than assessments for local improvements, levied  
27 by or in behalf of both such taxing jurisdictions.

28 ~~(e)~~ (g) The local legislative body of any municipality may grant an  
29 exemption under paragraph (a) of this subdivision to the real property  
30 of a project of any entity to which it is authorized to make a loan  
31 pursuant to section five hundred seventy-six-c of this article.

32 ~~(d)~~ (h) In a city having a population of one million or more, within  
33 one hundred twenty days following receipt of a written submission from  
34 the supervising agency requesting a tax exemption pursuant to paragraph  
35 (a) of this subdivision for the real property containing the project of  
36 a housing development fund company, the local legislative body shall  
37 approve or disapprove by resolution the requested tax exemption. If the  
38 local legislative body fails to take such action within one hundred  
39 twenty days following receipt of such written submission from such  
40 supervising agency, then the tax exemption requested by the supervising  
41 agency shall be deemed approved pursuant to paragraph (a) of this subdivi-  
42 vision.

43 § 5. Paragraph (b) of subdivision 1 of section 577-b of the private  
44 housing finance law, as amended by chapter 225 of the laws of 2004, is  
45 amended to read as follows:

46 (b) on January first, two thousand ~~two~~ twenty-five, had outstanding  
47 municipal real estate taxes relating to any period prior to January  
48 first, two thousand ~~one~~ twenty-four.

49 § 6. This act shall take effect on the first of January next succeed-  
50 ing the date on which it shall have become a law.