§ 402-b. Power of authority to enter into mixed-finance transactions to continue viability of public housing. 1. Legislative findings and declaration. The legislature finds and declares that the state has a vital interest in the continued viability of public housing. It is necessary to ensure that public housing continues to serve low-income individuals and families who would otherwise face homelessness or be forced into unsafe or unsanitary housing. Public housing functions as a safety net for persons most in need of safe, decent and affordable housing. The legislature further finds that the New York city housing authority has made, and continues to make, a concerted effort to provide public housing to individuals and families in need. Certain projects owned by the New York city housing authority have suffered deterioration over time, and the housing authority does not have sufficient resources to address this deterioration. An infusion of private capital is necessary to ensure the continued success and long term viability of these projects. The legislature further finds that bringing state financed public housing operated by the New York city housing authority within the public housing subsidized by the federal government, by utilizing the federal American Recovery and Reinvestment Act of 2009, will allow the New York city housing authority to enter into mixed finance transactions, which will result in receiving new operating and capital subsidies from the federal government and preserve the units as public housing. The legislature also finds that tenants living in the projects that have been financed by the city of New York, commonly known as Marble Hill Houses, St. Mary's Park Houses, Bay View Houses, Boulevard Houses, Linden Houses and Samuel Houses, located in the city of New York, counties of Bronx, Kings and New York, will, through multiple contracts and agreements among the New York city housing authority, investment partners and the federal government, be afforded the same protections as tenants living in the projects listed in subdivision two of this section. The legislature therefore finds and declares that enactment of this section would enable redevelopment and rehabilitation of those certain New York state and New York city financed projects owned by the New York city housing authority, and the continued operation of said projects for persons and families of low income.

2. Upon approval by the commissioner of the division of housing and community renewal, the New York city housing authority is hereby authorized to sell or lease all or part of the residential buildings within the projects commonly known as Marlboro Houses, Chelsea Houses, Castle Hill Houses, 344 East 28th Street, Amsterdam Addition, Bushwick Houses, Stephen Wise Towers, Arthur H. Murphy Houses, Baychester Houses, Jonathan Williams Plaza, Drew-Hamilton Houses, Independence Towers, Rutgers Houses, Stapleton Houses and Manhattanville Houses, located in the city of New York, counties of Bronx, Kings, New York and Richmond, upon such terms and conditions and in such manner as the New York city housing authority may deem appropriate and in compliance with the provisions of this section. The commissioner of the division of housing and community renewal shall not grant such approval unless he or she makes a finding that such sale or lease will enable the projects to be redeveloped and operated in such manner as to provide decent, safe and sanitary housing within the financial reach of persons and families of low income and a further finding that new federal assistance is significantly more likely to be available to the projects listed in this section if such approval is granted. There shall be no requirement for a finding by the commissioner of the division of housing and community renewal that provisions have been made to pay or otherwise assure payment or retirement of all bonds, notes and other obligations heretofore issued to finance the projects or a portion thereof, provided that the sale or lease of the projects is part of a comprehensive plan of rehabilitation and/or restructuring which includes the provision of housing for persons and families of low income. The sale or lease of all or part of the residential buildings within the projects enumerated in this section shall be made subject to all pertinent federal statutory, executive orders, consent orders and regulatory requirements, as those requirements may be amended from time to time, and contracts and agreements which shall be recorded against and which shall run with the land, including a regulatory and operating agreement and a declaration of restrictive covenants requiring the operation and maintenance of such residential projects in compliance with federal requirements, and amendments to a certain mixed-finance amendment to the consolidated annual contributions contract between the New York city housing authority and the United States department of housing and urban

development (collectively, the "applicable public housing requirements").

3. (a) All applicable public housing requirements pertaining to federal public housing projects shall apply to the projects listed in subdivision two of this section, including but not limited to all procedural and substantive due process requirements, restrictions on evictions except for just cause, the right to automatic renewals of leases, and the right to meaningful input in matters concerning tenants; Section 8 units shall be subject to the voluntary conversion agreement and management plan approved by the United States department of housing and urban development on September eleventh, two thousand eight, and as it may be amended from time to time. The public housing and Section 8 leases of tenants in occupancy of the projects listed in subdivision two of this section on the date of sale or lease of such projects shall remain in effect, except as such leases may be modified or assigned to reflect changes in the ownership of project buildings. Each such tenant shall enjoy the same rights and obligations as other tenants with public housing leases occupying dwelling units in the housing projects owned and operated by the New York city housing authority that are not listed in subdivision two of this section, or pursuant to Section 8 leases supported by Section 8 vouchers, except as provided by paragraph (b) of this subdivision. Each project owner and the New York city housing authority shall be jointly and severally obligated to provide and protect the rights set forth herein.

(b) All units in projects listed in subdivision two of this section where there has been an allocation of federal low-income housing tax credits, during the required federal regulatory compliance periods applicable to such federal low-income housing tax credits, shall upon vacancy be rented by persons or families whose income does not exceed sixty percent of area median income at a rent, including utilities, not to exceed thirty percent of the household's adjusted gross income. All other units shall upon vacancy be rented by persons or families whose income does not exceed eighty percent of area median income at a rent, including utilities, not to exceed thirty percent of the household's adjusted gross income. All income guidelines applicable to federal public housing projects shall apply to projects listed in subdivision

two of this section. Each such tenant shall enjoy the same rights and obligations as other tenants with public housing leases occupying dwelling units in the housing projects owned and operated by the New York city housing authority that are not listed in subdivision two of this section, or pursuant to Section 8 leases supported by Section 8 vouchers, except as provided by this paragraph.

(c) All tenants who reside in the housing projects listed in subdivision two of this section prior to the sale or lease of such project shall be entitled to remain in their current apartments, provided that such tenant or tenants comply with the terms and conditions of their leases and meet all applicable federal income guidelines. Each such tenant shall enjoy the same rights and obligations as other tenants with public housing leases occupying dwelling units in the housing projects owned and operated by the New York city housing authority that are not listed in subdivision two of this section, or pursuant to Section 8 leases supported by Section 8 vouchers, except as provided by paragraph (b) of this subdivision.

(d) For each project listed in subdivision two of this section, all units occupied by persons of low income shall be physically integrated with all other units in the project. They shall share common means of access, services and amenities equally with all other units and shall in no way be physically or otherwise set apart from all other units in the project.

(e) All prospective public housing and Section 8 tenants shall be selected from a waiting list which shall be maintained by the New York city housing authority in compliance with the federal public housing and Section 8 laws and all applicable rules and regulations. The New York city housing authority and each respective project owner shall screen tenants and jointly have final approval over tenant selection all in accordance with aforementioned laws, rules and regulations. All prospective public housing tenants shall be taken from the waiting list in the order in which they applied for the size appropriate unit, subject however to preferences and priorities provided for in the public housing law and all applicable rules and regulations.

(f) The entity that acts as the managing member or general partner of the respective owner of each project listed in subdivision two of this section following transfer of such project, shall at all times be a

not-for-profit housing development fund corporation wholly owned by the New York city housing authority and shall be established under article eleven of the private housing finance law. The board of directors of such housing development fund corporation shall be composed of the chairperson of the New York city housing authority and the duly appointed members of such authority.

(g) The entity that owns any project or assists in the management of any project may include an entity exempt from federal income taxes under section 501(c)3 of the Internal Revenue Code of 1986 as amended, or its wholly owned subsidiary.

(h) The provisions of this section may be enforced by any party aggrieved by a violation of such provisions.

(i) In the case where there is an allocation of federal low income housing tax credits in connection with a sale or lease of the project, the fee payable to the project developer shall not exceed twelve percent of the total development cost, provided however, that the fee payable to such developer may be increased to the maximum percentage permitted under regulations promulgated by the division of housing and community renewal if the developer assumes additional financial risk. Such increase shall not be granted (i) for risk the developer is customarily required to assume or guarantees which the developer is customarily required to provide by industry practice, (ii) for any risks or guarantees which parties other than the developer would ultimately bear, or (iii) if the cost of such risks or guarantees would be paid from governmental grants, loans, subsidies or other governmental funds. The foregoing limitation shall not apply to any portion of a developer fee paid to the housing authority.

(j) The provisions of this section shall be applicable to each of the projects delineated in subdivision two of this section commencing on the closing date of the sale or lease of each respective project in compliance with applicable law and shall be binding on all owners and operators of such project.

4. State subsidies available to the projects listed in subdivision two of this section in connection with the bonds, notes or other obligations heretofore issued to finance the cost thereof may, subject to annual appropriation and upon compliance with the provisions of this section,

continue to be used to pay the debt service on such bonds, notes or other obligations, subject to such terms and conditions as the commissioner of the division of housing and community renewal may deem appropriate.

5. The New York city housing authority shall be required to develop and circulate a notice to all tenants of public housing projects listed in subdivisions one and two of this section. The notice shall contain information regarding the transfer and federalization process, as well as notice that tenants' rights to occupancy and due process shall continue as they existed prior to the transfer.

6. The New York city housing authority, shall provide the commissioner of the division of housing and community renewal, the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly, the minority leader of the senate, the chair of the assembly housing committee, and the chair of the senate housing, construction, and community development committee copies of the annual project activity report or any substantially similar annual report that it is required to submit to the United States department of housing and urban development that is related to the projects listed in subdivisions one and two of this section.