



Legislation Text

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Res. No. 36

Resolution calling upon the State Legislature to introduce and pass, and the Governor to sign, legislation extending the authority of the New York City Department of Housing Preservation and Development to enter into a regulatory agreement with certain housing development fund companies to suspend their obligations to pay real property tax arrears.

By Council Member Cabrera

Whereas, A housing development fund company (“HDFC”), as defined by the New York State Private Housing Finance Law (“PHFL”), is an entity that has been incorporated as an organization to develop low-income housing projects, the income of which must be used exclusively for corporate purposes, and that is authorized to enter into a regulatory agreement with the supervising agency providing for certain controls over the use of the property; and

Whereas, In New York City, the supervising agency referenced in the PHFL is the City’s Department of Housing Preservation and Development (“HPD”); and

Whereas, Section 577-b of the PHFL, permits HDFC cooperatives in New York City that, as of January 1, 2002, had outstanding real property taxes relating to any period prior to January 1, 2001, to enter into a regulatory agreement with HPD pursuant to which the obligation to pay real property tax arrears attributable to such property may be suspended and later forgiven; and

Whereas, In exchange for having the arrears suspended and forgiven, the HDFC must agree in the regulatory agreement to certain controls on the use of the property, such as restriction of sales to low-income households, restrictions on subletting, and certain financial controls; and

Whereas, Such regulatory agreements are a vehicle for the City to ensure the preservation of affordable housing; and

Whereas, Under section 577-b, the regulatory agreement must include certain provisions, such as 1) a term of thirty years; 2) that the suspension of the obligation to pay arrears will continue provided that the HDFC complies with the terms of the regulatory agreement; 3) that all suspended arrears will be forgiven provided that the HDFC complies with the regulatory agreement for an initial period of ten years; 4) that any suspended obligations which have not been forgiven may be reinstated if the HDFC fails to comply with the regulatory agreement; 5) that all new real property taxes must be paid on time; and 6) that HPD will be authorized to assume control of the HDFC if the HDFC fails to comply with the agreement; and

Whereas, The PHFL does not currently permit HPD to enter into these types of regulatory agreements for the suspension and forgiveness of tax arrears accrued by HDFCs on or after January 1, 2001; and

Whereas, According to the Memorandum in Support of Chapter 315 of the Laws of 2002, the State law which originally enacted section 577-b of the PHFL, the purpose of the law was to provide relief that would alleviate the financial burdens of HDFC cooperatives that had tax arrears with rapidly accumulating interest charges that the buildings could not afford to pay; and

Whereas, When section 577-b of the PHFL was first enacted, it applied only to HDFC cooperatives that were sold by the City to tenant cooperatives through the Tenant Interim Lease program; and

Whereas, In 2004, the State expanded the definition of eligible HDFC cooperative to include all HDFC cooperatives in New York City, regardless of how they were initially established; and

Whereas, The initial enactment of the law and the subsequent expansion demonstrates the State's recognition of the significance of HDFCs in providing essential, tenant-managed affordable housing in New York City and the value of ensuring their continued financial viability; and

Whereas, According to a July 20, 2015 article in the Wall Street Journal entitled "*New York's Struggling 'Low-Income' Co-ops*," many HDFC cooperatives today continue to have difficulty staying current with their property tax bills with nearly one-third of the estimated 1,000 in the City struggling to do so; and

Whereas, The same principles which led the State to grant HPD the authority to enter into regulatory

agreements suspending an HDFC cooperative's obligation to pay real property tax arrears still exist today; and

Whereas, The State should amend the PHFL to allow HPD to provide assistance to HDFC cooperatives with real property tax arrears that arose on or after January 1, 2001, as well; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the State Legislature to introduce and pass, and the Governor to sign, legislation extending the authority of the New York City Department of Housing Preservation and Development to enter into a regulatory agreement with certain housing development fund companies to suspend their obligations to pay real property tax arrears.

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