



## Legislation Text

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**File #:** Res 0968-2005, **Version:** \*

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### Res. No. 968

Resolution granting additional real property tax exemptions for certain affordable housing developments built on real property leased from the Educational Construction Fund.

By The Speaker (Council Member Miller) and Council Members Comrie, Fidler, Gerson, Gonzalez, Jackson, James, Nelson, Perkins, Seabrook, Stewart, Weprin and Rivera

Whereas, Certain housing developments owned, operated or maintained by limited-profit housing companies organized under Article II of the Private Housing Finance Law, currently receive real property tax exemptions from the City pursuant to applicable provisions of the Private Housing Finance Law or received such real property tax exemptions but those real property tax exemptions have expired; and

Whereas, The State Legislature, by the enactment of Chapter 389 of the Laws of 2003, has authorized the local legislative body of the City of New York to grant additional periods of real property tax exemptions with respect to such housing developments; and

Whereas, Such additional real property tax exemptions may be granted for a period of up to fifty years from the expiration of the current real property tax exemption period or until such time as the housing development is no longer operated under the restrictions and for the purposes set forth in the applicable provisions of the Private Housing Finance Law, whichever is sooner; and

Whereas, An additional real property tax exemption may also be granted for the same period of time and under the same conditions with respect to a housing development whose real property tax exemption has expired, but which has continued to be operated under the restrictions and for the purposes set forth in the provisions of the Private Housing Finance Law as were applicable during the period when the real property tax exemption was in effect, and as such provisions of law may have been amended; and

Whereas, Certain Mitchell-Lama housing developments were built on real property leased by limited-profit housing companies (collectively referred to as the "Housing Companies") from the New York City Educational Construction Fund ("ECF"), a public benefit corporation created by state law in order to facilitate the timely construction of elementary and secondary school buildings in combination with other compatible and lawful uses, such as affordable housing; and

Whereas, Education Law §460(2)(b) states, *inter alia*, that leases between ECF and an owner or developer providing for the construction of non-school improvements shall also provide for payment to ECF of amounts equal to the real property taxes that would otherwise have been paid or payable with respect to such interests, and further provides that, with the approval of the City, the sums to be paid may be greater or less than the amount of real property taxes that would otherwise have been paid or payable; and

Whereas, In accordance with Education Law §460(2)(b), the Board of Estimate adopted resolutions providing for shelter rent tax exemptions for these Housing Companies for a thirty-year period; and

Whereas, When these Housing Companies refinanced their mortgages in 1978, they received a statutory tax exemption pursuant to Private Housing Finance Law §33(1)(d) because they were financed with mortgage loans pursuant to Private Housing Finance Law Articles II or III and (i) there was a participation, new loan, or investment pursuant to Private Housing Finance Law §23-b, or (ii) the mortgage loan was assigned, modified or satisfied pursuant to Private Housing Finance Law §23-a, §44-b, or §654(22-a), and this statutory tax exemption continues so long as a mortgage is insured or held by the federal government, the project is owned by the federal government, or any residual indebtedness is outstanding, whichever is longer; and

Whereas, The Council of the City of New York ("Council") the local legislative body of the City, has determined that it is in the best interests of the City to assist these Housing Companies to maintain affordable rents and carrying charges by granting an additional real property tax exemption with respect to housing developments owned, operated or maintained by such Housing Companies; and

Whereas, The Council wishes to provide an inducement to the Housing Companies to remain in the

programs by which affordable rents and carrying charges are maintained; now, therefore, be it

Resolved, That the Council hereby approves for each of the Housing Companies listed in Attachment A, which is deemed a part hereof, an additional real property tax exemption for a period of fifty years to take effect upon the expiration of the current real property tax exemption until such time as the housing development owned, operated or maintained by such Housing Company is no longer operated under the restrictions and for the purposes set forth in the applicable provisions of the Private Housing Finance Law, or until such time as the additional real property tax exemption is otherwise terminated as provided for in this Resolution, whichever is sooner; and, be it further,

Resolved, That such additional real property tax exemption for a housing development set forth in Attachment A shall be provided in accordance with the formula currently in effect, as the amount of such real property tax exemption may be limited by section 33 of the Private Housing Finance Law; and, be it further

Resolved, That the additional real property tax exemption shall be granted upon the condition that when the New York City Department of Housing Preservation and Development, the New York State Division of Housing and Community Renewal or the United States Department of Housing and Urban Development, as is applicable, deems it appropriate, an existing regulatory agreement or contract shall be extended or modified or a new agreement or contract be executed and, be it further,

Resolved, That such additional real property tax exemption is further conditioned upon compliance with the applicable provisions of the Private Housing Finance Law and the applicable rules, regulations or other requirements of the New York City Department of Housing Preservation and Development, the New York State Division of Housing and Community Renewal or the United States Department of Housing and Urban Development, as is applicable, whether or not any regulatory agreement or contract is in effect; and, be it further,

Resolved, That in the event any Housing Company for which an additional tax exemption is granted pursuant to this Resolution fails to comply with the applicable provisions of the Private Housing

Finance Law, the applicable rules, regulations or other requirements of the New York City Department of Housing Preservation and Development, the New York State Division of Housing and Community Renewal or the United States Department of Housing and Urban Development, as is applicable, or the terms of any regulatory agreement or contract, the City is authorized to terminate the additional real property tax exemption herein approved for such Housing Company.

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