



Affordable Friday Series

Date: April 21, 2023

Time: 12:00 pm

Legislation Impacting Affordable Housing and Investment

STAY CONNECTED WITH NYMBA



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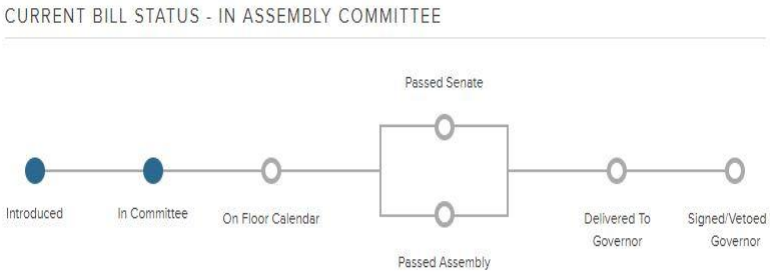
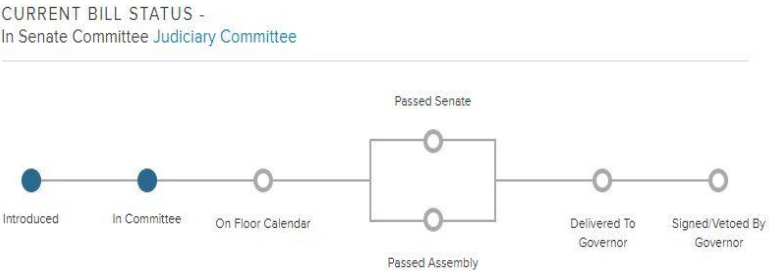
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Today's Legislative Topics

Senate Bill S305

2023-2024 Legislative Session

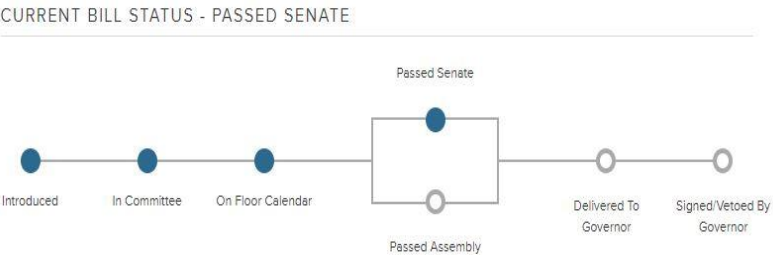
Prohibits eviction without good cause



Senate Bill S101

2023-2024 Legislative Session

Relates to manufactured homes certificate of title and the conveyance and encumbrance of manufactured homes as real property



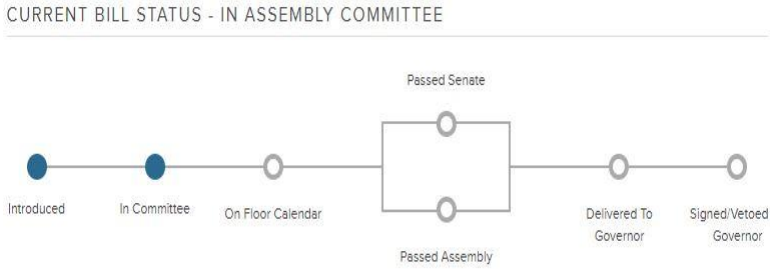
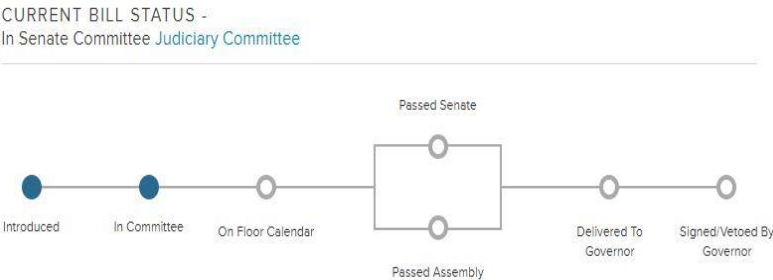
A01703 Actions:

BILL NO	A01703A
01/17/2023	referred to judiciary
04/05/2023	amend and recommit to judiciary
04/05/2023	print number 1703a

Senate Bill S5172A

2023-2024 Legislative Session

Establishes an accessory dwelling unit incentive program



What is the purpose of good cause eviction law?

<https://legislation.nysenate.gov/pdf/bills/2023/s305> (S. 305 and A. 4454)

The Bill provides that no landlord of a housing accommodation can evict a Tenant, subtenant or occupant of a housing accommodation, without showing good cause – even if the occupant does not have a valid lease. The occupant cannot be evicted except with a court order and a showing of "good cause for removal" and eviction requires a judicial warrant of eviction against their tenant.

Under a good cause eviction statute, "good cause" includes failure to pay rent unless the tenant received a rent increase that was "unreasonable," which is presumed to be an annual increase of more than 3 percent or 1.5 times the increase in the region specific Consumer Price Index (whichever is greater), as established the August preceding the calendar year in question.

What are the proposed grounds for eviction?

NO LANDLORD SHALL REMOVE A TENANT FROM ANY HOUSING ACCOMMODATION, OR ATTEMPT SUCH REMOVAL OR EXCLUSION FROM POSSESSION, NOTWITHSTANDING THAT THE TENANT HAS NO WRITTEN LEASE OR THAT THE LEASE OR OTHER RENTAL AGREEMENT HAS EXPIRED OR OTHERWISE TERMINATED, EXCEPT UPON ORDER OF A COURT OF COMPETENT JURISDICTION ENTERED IN AN APPROPRIATE JUDICIAL ACTION OR PROCEEDING IN WHICH THE PETITIONER OR PLAINTIFF HAS ESTABLISHED ONE OF THE FOLLOWING GROUNDS AS GOOD CAUSE FOR REMOVAL OR EVICTION:

The proposed grounds for eviction are as follows:

- a tenant's failure to pay rent;
- a tenant's substantive lease violation and failure to cure within 10 days of written notice;
- a tenant's unreasonable refusal to allow their landlord access to the unit or premises;
- a tenant's illegal use of a unit or the premises in violation of an order;
- a tenant's persistent nuisance activity in the unit or on the premises;
- a tenant's criminal or illegal activity in the unit or on the premises;
- a landlord's recovery of the premises, subject to conditions – 1 unit allowed if property is 6-12 units,
- a landlord's entry into an enforceable, arms-length contract for sale of the property where a condition of the sale requires the property to be unoccupied at the time of the transfer of ownership;
- and a landlord's receipt of a tenant's prior consent to vacate the premises at least five months prior to the vacate date, so long as the landlord has entered into a bona fide lease agreement for the premises with a new tenant.

Summary of the “Pro” Good Cause Arguments:

- Good Cause eviction legislation provides tenants with greater stability and security in their homes, which can help prevent displacement and homelessness.
- By requiring landlords to have a valid reason for eviction, the legislation can help reduce unjustified evictions, which can be costly and traumatic for tenants.
- The legislation can help prevent landlords from using evictions as a means of retaliating against tenants who assert their rights, such as by complaining about maintenance issues or joining a tenants' organization.
- The legislation can help promote stable communities by preventing high levels of turnover and allowing tenants to put down roots in their neighborhoods.

Summary of the Arguments “Against” Good Cause:

- Landlord reliance on Law Enforcement, and the Judicial System will substantially increase.
- Higher costs and logistical complications for buyers and sellers of rental property across NY.
- Good Cause eviction legislation will make it more difficult for landlords to manage their properties, as they are required to provide a sufficient evidence for eviction and may be subject to legal challenges. = Higher Costs
- The legislation may reduce the incentive for landlords to invest in rental properties or to maintain them properly, as they will have less control over their properties.
- Just cause eviction legislation will increase the risk for landlords, as they may be stuck with problem tenants who engage in subjectively destructive behavior.
- The legislation may lead to higher rents for tenants, as landlords offset the risks associated with good cause eviction protections.

Message from National MBA via. Mortgage Action Alliance (MAA)

As a real estate finance professional who works and lives in your district, I urge you to oppose S. 305 and A. 4454 or “Good Cause Eviction,” which is currently included in the separate New York Assembly and Senate proposed budget plans.

While well intentioned, enacting this proposal would further constrain the development of much needed affordable housing in our state by enacting sweeping rent control measures that will limit a landlord’s ability to properly manage his/her properties. Rent control legislation enacted in New York has only exacerbated housing shortages and disproportionately benefits higher-income households – ultimately hurting the families that need the most help. Rent control discourages investors from entering the housing market, effectively caps capital flows, and pushes rents higher.

The enactment of “Good Cause Eviction” will only further harm the ability to create and preserve affordable housing in New York.

Message from National MBA via. Mortgage Action Alliance (MAA) continued

Effective alternatives to rent control are available. I encourage you to support efforts to increase the supply of affordable housing through public-private partnerships and reform of burdensome local zoning laws and complex application processes. I also recommend that you support direct assistance to renters, as this strategy has proven to be more effective and efficient than rent control, because it ties assistance to a renter rather than a rental unit.

New York needs to take concrete steps to address affordable housing and increase production and affordability. Unfortunately, this bill could reverse any progress and discourage the preservation and production of more affordable housing.

Sound housing policies should address both the affordability and availability of housing. We urge you and your colleagues to reject policies like price controls and pursue effective evidence-based alternatives.

Thank you. I look forward to your response.

Link to MAA: <https://www.mba.org/advocacy-and-policy/mortgage-action-alliance-maa>

S.101 / A01703 “New York Land-Home Property Act”

<https://www.nysenate.gov/legislation/bills/2023/s101>

An act to amend the vehicle and traffic law and the real property law, in relation to manufactured home certificates of title, and the conveyance and encumbrance of manufactured homes as real property

Current New York law does not provide a procedure for a surrender of the certificate of title. This amendment makes the necessary changes to allow lenders to comply with the investor requirements that the manufactured home be real property under state law, making it possible for investors to purchase New York Land-Home Mortgages without exception.

S.101 / A01703 “New York Land-Home Property Act”

Currently, forty-three states utilize a certificate of title process to establish ownership of, and to perfect a security interest in, a manufactured home. All but New York also provide a formal statutory procedure for electing to convey and encumber a home as real property. Satisfying this conversion procedure legally converts the home to real property for all purposes.

Opposition to this bill is extremely low.

This legislative change will have a positive impact on homeownership and affordable housing across NY!

Accessory Dwelling Unit (ADU) Incentive Program Bill S5172A / A5342A

<https://legislation.nysenate.gov/pdf/bills/2023/A5342A>

An act to amend the real property law, in relation to establishing an accessory dwelling unit incentive program looks to:

Amend the executive law, in relation to including an accessory dwelling unit in the term housing accommodations in the human rights law.

Amend the real property tax law, in relation to providing a tax exemption on the increase in value of property resulting from the addition of an accessory dwelling unit. (ADU Capital Improvement exemption with proposed structured decay over 5 years)

Accessory Dwelling Unit (ADU) Incentive Program

Bill S5172A / A5342A

- ADUs are smaller, secondary homes on the same lot as a primary dwelling. ADUs are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation.
- ADUs can take many forms: a small "in-law unit," a garage conversion, a backyard cottage, a basement apartment, or a converted attic.
- Based on their small footprint and lower cost of construction, ADUs can provide more affordable housing options than existing alternatives.
- Local Municipalities can Opt-In to participate (Opting in = \$\$...)

Accessory Dwelling Unit (ADU) Incentive Program Bill S5172A / A5342A

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL
will execute and manage program provisions.

THE DIVISION;

Shall establish a lending program to assist low-moderate income
homeowners in securing financing for the creation of Accessory
Dwelling Units.

Accessory Dwelling Unit (ADU) Incentive Program Bill S5172A / A5342A

Benefits:

In the midst of the affordable housing crisis, New Yorkers can create new, cost effective homes and the opportunity to earn income that comes with a new ADU rental on their property.

ADUs can provide more housing options for aging parents, adult children, or other family members who may prefer to live near their relatives but also desire their own separate living space.

ADUs can be built relatively quickly and affordably compared to larger-scale housing developments, which can help address immediate housing needs in a community.

Accessory Dwelling Unit (ADU) Incentive Program Bill S5172A / A5342A

Potential Negative Considerations:

ADU incentive programs may face opposition from neighbors who are concerned about the impact of new units on parking, traffic, and the character of the neighborhood.

May primarily benefit wealthier homeowners who have the resources to construct additional housing units on their property, rather than lower-income renters who are most in need of affordable housing.

ADUs may not be suitable for all neighborhoods or properties, as some lots may not have adequate space, access, or infrastructure to support a new housing unit.

Forward Looking Legislation

Financial Literacy – Michigan - House Bill 5190

<https://www.michigan.gov/whitmer/news/press-releases/2022/06/16/whitmer-signs-bill-updating-michigan-curriculum-to-include-financial-literacy-course>

Michigan's new law requires a half-credit course

- Michigan's legislation requires that all high school students take a half-credit course in personal finance before they graduate. That course can count as a math, arts, language or language other than English requirement at the discretion of local school boards.
- The law will go into effect for students starting eighth grade in the 2023-24 school year.

Forward Looking Legislation

- **First Time Homebuyer - First Year 100% Property & School Tax Abatement in LMI Census Tracts?**
- **Workforce Development Tax Credit – Targeting Skilled Labor and Scalable across NY**
- **Enhancements to the 2022 Bill #S8564/A8809B** making it easier for tenants and apartment dwellers to purchase their homes and landlords to sell un-rented units by allowing streamlined conversion of multi-unit property to cooperative or condominium ownership.

Federal Legislation – Neighborhood Homes Investment Act (S. 657)

Neighborhood Homes Investment Act

- Neighborhood Homes is based on the successful Low Income Housing Tax Credit, which supports affordable rental housing, but is not designed to build or rehabilitate owner-occupied homes.
- Tax-exempt mortgage bonds and mortgage credit certificates assist homeowners by reducing mortgage payments, but they cannot cover the development financing gap.
- Neighborhood Homes would complement these other incentives, not duplicate them.

For Homes Developed or Substantially Rehabilitated for Sale

- Eligible purchasers must have incomes at or below 140% of the area/state median income.
- Tax credits are limited to the gap between development costs and net sales proceeds, up to 35% of the lesser of (1) eligible costs or (2) 80% of the national median new home sales price. Eligible costs include construction, rehabilitation, land and building acquisition, demolition, and environmental remediation.
- Sales prices are limited to four times the metro area or state median family income (MFI). Example: if MFI is \$90,000, the sales price limit would be \$360,000. Higher limits apply to homes with 2-4 units.

For Rehabilitation of Homes with Current Owner Occupants

- Eligible homeowners must have incomes at or below the area/state median income.
- The tax credit equals the lowest of: (1) 50% of rehab cost; (2) rehab cost minus any homeowner repayments; and (3) \$50,000.
- Limitations on eligible neighborhoods, tax credit amounts, sale prices, homeowner incomes, and short term resales, as well as project selection criteria, support revitalization without gentrification.
- A homeowner who sells a home within five years of buying the home will repay part of the gain (profit) to the state to support additional similar activity: 50% in year 1, phased down to 10% in year 5.

How It Would Work

- States allocate tax credits on a competitive basis.
- Each state can annually allocate credits totaling \$7 per resident (\$9 million minimum), adjusted for inflation, plus unallocated amounts carried over from prior three years and credits previously allocated but not used within five years.
- States publish allocation plans. Project selection criteria include: (1) neighborhood need for new or rehabilitated homes; (2) neighborhood revitalization strategy and impact, including impact on community residents; (3) sponsor capability and prior performance; (4) likely long-term homeownership sustainability; and (5) any additional State criteria.
- States set standards for construction cost and quality and developer fees.
- States allow only the tax credits reasonably needed for financial feasibility.
- 10% of each state's allocation is set aside for nonprofit sponsors.

Estimated Impact Over 10 Years

- 500,000 homes built or substantially rehabilitated
- \$125 billion of total development activity
- 861,000 jobs in construction and construction-related industries
- \$56 billion in wages and salaries
- \$26 billion in federal tax revenue
- \$12 billion in state and local government revenue

LLPAs

- Hitting loans with higher DTIs will have largest impact on low and moderate income and minority borrowers
- Implementation of DTI LPA delayed until August
- Generally, the framework is lowering the cost for high LTV, low credit score borrowers by increasing LLPAs for other categories (higher credit, lower LTV, high balance, cash out refi, etc.)
- Urged to write to:

Sandra Thompson, Director Federal Housing Finance Agency

Constitution Center
400 7th Street, SW
Washington, D.C. 20219

Ban Use of Trigger Leads (H.R. 2656)

- A credit inquiry by a mortgage company is a trigger that notifies the credit bureau that the consumer is interested in applying for financing. Then the trigger lead is then sold by the credit bureau – including [Experian](#), [TransUnion](#) and [Equifax](#) – to data brokers, including competing mortgage companies, without the consumer's knowledge or approval.
- H.R. 2656 would ensure that no consumer reporting agency can provide a consumer report in connection with a credit transaction that is not initiated by a consumer

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Q&A

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