



The Mitchell-Lama Conversion Protection Bill – Intro. 523

*Introduced into the Council of the City of New York
August 19, 2003*

KEY PROVISION	DESCRIPTION	COMMENT
<i>BUILDINGS COVERED</i>	<p>The bill applies <i>only</i> to Mitchell-Lama (M-L) developments which:</p> <ul style="list-style-type: none"> • Are supervised by the City's Department of Housing Preservation and Development (HPD); • Provide rental apartments; • Were constructed <i>after</i> January 1, 1974 – meaning that if these apartments were not part of the M-L program, they would <i>not</i> be subject to rent regulation when protections under the M-L program are removed; and, • That seek to prematurely exit the M-L program and convert the units to unregulated market-rate rents. 	<p>This bill would apply to at least 65 buildings containing over 25,000 apartment units – located in all five boroughs.</p> <p>This bill does not apply to State-supervised Mitchell-Lama developments.</p> <p>“Opt-outs” are permitted in most cases after twenty (20) years, although underlying mortgages generally have 40 or 50-year terms.</p>

Campaign to Preserve Affordable Housing Endorsers

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<i>EXTENDED NOTICE</i>	The bill would require that a limited-profit housing company wanting to “opt out” of the Mitchell-Lama program must give eighteen (18) months notice to HPD (as the supervising agency), and to the tenants.	Earlier this year, HPD extended the notification period to twelve (12) months.

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ADMINISTRATIVE FEE	<p>The bill sets an administrative fee payable to HPD of \$1,000 per unit to offset the City's costs of overseeing the "opt out" and sets a schedule for this payment.</p>	<p>Although administrative fees are permitted under law, HPD has never imposed them – despite substantial costs incurred in overseeing the M-L program and exits from it.</p> <p>Administrative fees are levied by the State for buildings seeking to exit the State's M-L program.</p>
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COMMUNITY IMPACT STUDY	<p>HPD would be required to do a “Mitchell-Lama community impact study” to assess the effects on the tenants of the building’s exit from the M-L program. At a minimum, the study must examine:</p> <ul style="list-style-type: none"> • Market rents in the area around the development and probable rent increases if the “opt out” happens; • The number of units, if any, that would remain as “affordable housing” (defined as housing for which no more than 30% of annual gross household income); • The availability of similar affordable units in the area; and, 	<p>A public review process is established, supplemented by review by the Department of City Planning.</p> <p>The initiation of the study could be delayed up to ninety days, if both parties advise HPD that substantial progress towards a settlement agreement is being made. (see below)</p>

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COMMUNITY IMPACT STUDY (cont.)	<ul style="list-style-type: none"> • An analysis of the families likely to be displaced as a result of higher rents. • The owner would then have to either put into a segregated HPD account the amount of money necessary to mitigate the adverse effects found by the study or mitigate those effects directly. 	
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<p><i>ENCOURAGEMENT TO MAINTAIN AFFORDABLE HOUSING:</i></p> <p><i>Option of a “Comprehensive Conversion Settlement”</i></p>	<p>The bill authorizes owners and tenants to enter into a voluntary “comprehensive conversion settlement” with the intention of maximizing the preservation of affordable housing units.</p> <p>The agreements must, at a minimum, require sustaining or exceeding existing services and maintenance levels and must keep all of the development’s units as affordable units for so long as any tenant who resided in the development at the time of the “opt out” continues to reside in the development.</p>	<p>Tenants and owners, with supervision by HPD, are encouraged to consider options that would maintain a building desiring to exit the M-L program as affordable for existing and future tenants. Options are unspecified, but might include:</p> <ul style="list-style-type: none"> • Protecting existing tenants for the duration of their tenancy; • Providing relocation subsidies to certain tenants. • Purchase of the property by a nonprofit entity, with a covenant to maintain affordability.

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KEY PROVISION	DESCRIPTION	COMMENT
<i>Substantial Compliance Before Exiting the M-L Program</i>	<p>Prior to final approval of a buy-out request, HPD would be required to make a determination that the owner of the M-L building has substantially complied with the program's requirements.</p> <p>To make such a finding, HPD must conduct an investigation to determine whether the owner had complied with the essential elements of any contracts or agreements with the City and applicable statutes, laws, rules and regulations, including those relating to physical maintenance, management of tenant eligibility lists, tenant safety and the awarding of contracts.</p>	<p>This provision ensures the integrity of the buy-out and conversion process, on behalf of both tenants and taxpayers.</p> <p>Because owners of M-L buildings have benefited from various public subsidies for at least twenty years, this bill finds a compelling public interest in insuring that those seeking to exit the M-L program have substantially complied with the program's rules and regulations.</p> <p>To date, HPD's supervisory efforts over M-L buildings have been modest, with limited oversight during the buy-out and conversion process.</p>

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<p><i>Substantial Compliance Before Exiting the M-L Program (cont.)</i></p>	<p>If HPD determines that the owner did not substantially comply with the M-L program's requirement, and either the tenants or the City materially suffered, then a civil penalty would be imposed equal to the greater of (i) three times the amount of damages suffered by the tenants or the City, or (ii) the amount required to comply with any of the essential requirements.</p>	
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<i>Effective Date and General Applicability</i>	<p>The bill would take effect as of August 19, 2003 – the date on which the bill was introduced for consideration by the Council.</p> <p>The bill would apply to developments that have not yet received final approval to exist the M-L program at the time of adoption, including those owners who may have initiated the buy-out and conversion process by submitting a “notice of intent” to HPD.</p>	<p>The enactment period recognizes that HPD may need to prepare and issue regulations regarding one or more sections of the bill.</p> <p>The bill recognizes that until a building has formally and fully exited the M-L program it remains within the supervisory authority of HPD – including the provisions of this bill and any regulations that may be required for its prompt implementation.</p>

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