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Affordable Housing Alert

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New York State budget prohibits discrimination in insurance for affordable housing

By Deborah VanAmerongen

New York's FY2025 budget includes a measure to ban insurance carriers from discriminating against affordable housing properties.



What's the impact?

- Insurance rates for multifamily affordable properties have skyrocketed in recent years.
- This new law will prohibit insurance companies from taking factors solely related to a property's affordability into account in setting insurance rates.

Over the weekend, the New York State Legislature passed the FY2025 budget, which Governor Hochul signed immediately. One of the provisions of most interest to the affordable housing community will block discrimination by insurance carriers against affordable housing properties.

In recent years, rental housing providers nationwide have confronted increased insurance costs — but the impact on affordable housing providers has been particularly acute. Premiums and

deductibles for policies required by mortgage lenders and governmental agencies have shot up two- to three-fold over the last five or more years.

This unanticipated increase in insurance costs has had a dramatic impact on many affordable housing communities. Affordable housing developments are typically underwritten at very narrow profit margins so large, unanticipated increases in expenses can easily threaten the stability of properties. This can lead to disinvestment and, ultimately, deterioration of these properties. Governmental agencies are often forced to step in with additional resources to keep properties viable.

The affordable housing community has been raising alarms for several years over what they believe are discriminatory practices by insurance carriers. In New York, the affordable housing community pushed for action by the state government. In 2021, a law was passed calling for a study of the issue by the New York State Department of Financial Services, the state agency that oversees the insurance industry. While the 2022 findings of that report were not definitive, it did point out that no state law prohibited insurance companies from asking policyholders about a property's characteristics, including any affordability restrictions.

The change in law adopted in this year's state budget will seek to rectify that. The statutory language will prevent insurers from inquiring about, canceling, or refusing to renew, or increasing the premium of a policy based upon:

- / A property having a regulatory restriction that limits occupancy to specific income levels;
- / A property or residents receiving rental assistance, including, but not limited to, Section 8;
- / The level or source of income of a property's residents; or
- / Ownership of a property by a limited-equity cooperative, public housing agency, or other affordable cooperative corporations.

The affordable housing community is hopeful that this change in state law will have a positive impact on affordable housing properties that have been unable, or have struggled, to obtain required insurance coverage at a reasonable rate.

This is the third in a series of alerts regarding changes to state law enacted in [New York's FY2025 budget](#) and related [housing regulations](#)—be on the lookout for additional alerts in the coming days.

Nixon Peabody's [Affordable Housing team](#) regularly works with owners and developers in New York City and beyond, and are equipped to handle a range of transactional, regulatory, and litigation needs. For more information on the content of this alert, please contact your Nixon Peabody attorney or:



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