

STATE OF NEW YORK

9674--A

IN ASSEMBLY

March 28, 2022

Introduced by M. of A. VANEL, J. A. GIGLIO -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to certain real estate syndication offerings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 4 of section 157 of the general business law, as added by chapter 754 of the laws of 1990, is amended to read as follows:

4. "Time share" means an interest in any arrangement, plan, scheme, or similar device, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, whereby [~~three or~~] more than ten purchasers, in exchange for a consideration, receive ownership rights in or a right to use the same accommodations or facilities in real property, or both, for different intervals of less than a full year during any given year, but not necessarily for consecutive years, and which extend for a period of more than three years or which, for nominal consideration, may be renewed to continue for a period of more than three years.

§ 2. Paragraph (a) of subdivision 1 of section 352-e of the general business law, as amended by chapter 1085 of the laws of 1968, is amended to read as follows:

(a) It shall be illegal and prohibited for any person, partnership, corporation, company, trust or association, or any agent or employee thereof, to make or take part in a public offering or sale in or from the state of New York of securities constituted of participation interests or investments in real estate, mortgages or leases, including stocks, bonds, debentures, evidences of interest or indebtedness, limited partnership interests or other security or securities as defined in section three hundred fifty-two of this article, when such securities consist primarily of participation interests or investments in one or more real estate ventures, including cooperative interests in realty,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

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1 unless and until there shall have been filed with the department of law,
2 prior to such offering, a written statement or statements, to be known
3 as an "offering statement" or "prospectus" concerning the contemplated
4 offering which shall contain the information and representations
5 required by paragraph (b) of this subdivision unless the security offer-
6 ing is exempted hereunder or under subdivision two of section three
7 hundred fifty-nine-f[~~subdivision two~~] of this article by rule or
8 action of the attorney general. Provided however, for purposes of this
9 section timesharing plans involving ten or fewer purchasers shall be
10 exempted from filing requirements under this section if such purchasers
11 obtain use rights or ownership rights in a single property or unit, the
12 sale price of which exceeds two times the median sales price for resi-
13 dential real property for the county in which such property or unit is
14 located, as determined by the commissioner of taxation and finance,
15 except that, for a single property or unit located in a city having a
16 population in excess of one million, to receive such exemption, the sale
17 price of such single property or unit shall exceed three million
18 dollars, provided that such sale price is adjusted annually beginning
19 March first, two thousand twenty-four and by each March first thereafter
20 by the average quarterly value of the housing price index for New York-
21 Jersey City-White Plains, NY-NJ, or any successor metropolitan statis-
22 tical area containing New York city, published by the United States
23 federal housing finance agency for the previous calendar year. The term
24 "real estate" as used in [~~the~~] this paragraph shall not include mineral,
25 oil or timber leases or properties, or buildings, structures, land or
26 other realty housing or containing business offices or industry, owned
27 or leased by the issuer, where the issuer is not primarily engaged in
28 the business of buying and selling such building, timesharing plans
29 involving ten or fewer purchasers if such purchasers obtain use rights
30 or ownership rights in a single property or unit, the sale price of
31 which exceeds two times the median sales price for residential real
32 property for the county in which such property or unit is located, as
33 determined by the commissioner of taxation and finance, except that, for
34 a single property or unit located in a city having a population in
35 excess of one million, the sale price of such single property or unit
36 shall exceed three million dollars, provided that such sale price is
37 adjusted annually beginning March first, two thousand twenty-four and by
38 each March first thereafter by the average quarterly value of the hous-
39 ing price index for New York-Jersey City-White Plains, NY-NJ, or any
40 successor metropolitan statistical area containing New York city,
41 published by the United States federal housing finance agency for the
42 previous calendar year, or other realty or leases or interests therein.
43 The circulation or dissemination of a non-firm offer (including circu-
44 lation or dissemination of a preliminary prospectus pursuant to section
45 ten (b) of the securities act of nineteen hundred thirty-three, and the
46 rules thereto appertaining) shall not constitute making or taking part
47 in a public offering within the meaning of this section.

48 § 3. This act shall take effect on the ninetieth day after it shall
49 have become a law. Effective immediately, the addition, amendment
50 and/or repeal of any rule or regulation necessary for the implementation
51 of this act on its effective date are authorized to be made and
52 completed on or before such effective date.