

# STATE OF NEW YORK

7091--A

2021-2022 Regular Sessions

## IN SENATE

May 28, 2021

Introduced by Sens. THOMAS, GAUGHRAN, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- 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:

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

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

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

17 (a) It shall be illegal and prohibited for any person, partnership,  
18 corporation, company, trust or association, or any agent or employee  
19 thereof, to make or take part in a public offering or sale in or from  
20 the state of New York of securities constituted of participation inter-  
21 ests or investments in real estate, mortgages or leases, including  
22 stocks, bonds, debentures, evidences of interest or indebtedness, limit-  
23 ed partnership interests or other security or securities as defined in  
24 section three hundred fifty-two of this article, when such securities

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

LBD11588-02-2

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

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