

1013

2009-2010 Regular Sessions

I N S E N A T E

January 22, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the general business law, in relation to the conversion of residential property to cooperative or condominium ownership

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (b) of subdivision 1 of section 352-eee of the
2 general business law, as added by chapter 402 of the laws of 1983, is
3 amended to read as follows:

4 (b) "Non-eviction plan". A plan which may not be declared effective
5 until at least [fifteen] TWENTY-FIVE percent of those bona fide tenants
6 in occupancy of all dwelling units in the building or group of buildings
7 or development on the date the plan [is declared effective] WAS ACCEPTED
8 FOR FILING BY THE ATTORNEY GENERAL shall have executed and delivered
9 written agreements to purchase under the plan[. As to tenants who were
10 in occupancy on the date a letter was issued by the attorney general
11 accepting the plan for filing, the purchase agreement shall be executed
12 and delivered] pursuant to an offering made in good faith without fraud
13 and WITH NO discriminatory repurchase agreements or other discriminatory
14 inducements.

15 S 2. Subdivision 1 of section 352-eee of the general business law is
16 amended by adding two new paragraphs (h) and (i) to read as follows:

17 (H) "TOTAL PRICE". (I) WITH RESPECT TO COOPERATIVE CONVERSIONS, THE
18 NUMBER OF ALL SHARES IN THE OFFERING MULTIPLIED BY THE LAST PRICE PER
19 SHARE WHICH WAS OFFERED TO TENANTS IN OCCUPANCY PRIOR TO THE EFFECTIVE
20 DATE OF THE PLAN REGARDLESS OF NUMBER OF SALES MADE;

21 (II) WITH RESPECT TO CONDOMINIUM CONVERSIONS, THE SUM OF THE COST OF
22 ALL UNITS IN THE OFFERING AT THE LAST PRICE WHICH WAS OFFERED TO TENANTS
23 IN OCCUPANCY PRIOR TO THE EFFECTIVE DATE OF THE PLAN REGARDLESS OF
24 NUMBER OF SALES MADE.

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

LBD06551-01-9

1 (I) "CAPITAL REPLACEMENT". A BUILDING-WIDE REPLACEMENT OF A MAJOR
2 COMPONENT OF ANY OF THE FOLLOWING SYSTEMS:

3 (I) ELEVATOR;

4 (II) HEATING, VENTILATION AND AIR CONDITIONING;

5 (III) PLUMBING;

6 (IV) WIRING;

7 (V) ROOF;

8 (VI) WINDOWS;

9 OR, A MAJOR STRUCTURAL REPLACEMENT TO THE BUILDING; PROVIDED, HOWEVER,
10 THAT REPLACEMENTS MADE TO CURE CODE VIOLATIONS OF RECORD SHALL NOT BE
11 INCLUDED.

12 S 3. Subparagraph (i) of paragraph (c) of subdivision 2 of section
13 352-eee of the general business law, as added by chapter 402 of the laws
14 of 1983, is amended to read as follows:

15 (i) The plan may not be declared effective until at least [fifteen]
16 TWENTY-FIVE percent of those bona fide tenants in occupancy of all
17 dwelling units in the building or group of buildings or development on
18 the date the plan [is declared effective] WAS ACCEPTED FOR FILING BY THE
19 ATTORNEY GENERAL shall have executed and delivered written agreements to
20 purchase under the plan[. As to tenants who were in occupancy on the
21 date a letter was issued by the attorney general accepting the plan for
22 filing, the purchase agreement shall be executed and delivered] pursuant
23 to an offering made in good faith without fraud and WITH NO discrimina-
24 tory repurchase agreements or other discriminatory inducements.

25 S 4. Paragraph (c) of subdivision 2 of section 352-eee of the general
26 business law is amended by adding two new subparagraphs (viii) and (ix)
27 to read as follows:

28 (VIII) THE TENANTS IN OCCUPANCY ON THE DATE THE ATTORNEY GENERAL
29 ACCEPTS THE PLAN FOR FILING SHALL HAVE THE EXCLUSIVE RIGHT TO PURCHASE
30 THEIR DWELLING UNITS OR THE SHARES ALLOCATED THERETO FOR NINETY DAYS
31 AFTER THE PLAN IS ACCEPTED FOR FILING BY THE ATTORNEY GENERAL AND
32 PRESENTED TO THE TENANTS, DURING WHICH TIME A TENANT'S DWELLING UNIT
33 SHALL NOT BE SHOWN TO A THIRD PARTY UNLESS HE HAS, IN WRITING, WAIVED
34 HIS RIGHT TO PURCHASE; SUBSEQUENT TO THE EXPIRATION OF SUCH NINETY DAY
35 PERIOD, A TENANT IN OCCUPANCY OF A DWELLING UNIT WHO HAS NOT PURCHASED
36 SHALL BE GIVEN THE EXCLUSIVE RIGHT FOR AN ADDITIONAL PERIOD OF ONE YEAR
37 FROM SAID EXPIRATION DATE TO PURCHASE SAID DWELLING UNIT OR THE SHARES
38 ALLOCATED THERETO ON THE SAME TERMS AND CONDITIONS AS ARE CONTAINED IN
39 AN EXECUTED CONTRACT TO PURCHASE, SUBJECT TO THE PROVISIONS OF THIS
40 PARAGRAPH, SAID DWELLING UNIT OR SHARES ENTERED INTO BY A BONA FIDE
41 PURCHASER, SUCH EXCLUSIVE RIGHT TO BE EXERCISABLE WITHIN FIFTEEN DAYS
42 FROM THE DATE OF MAILING BY REGISTERED MAIL OF NOTICE OF THE EXECUTION
43 OF A CONTRACT OF SALE TOGETHER WITH A COPY OF SAID EXECUTED CONTRACT TO
44 SAID TENANT.

45 (IX) THE PLAN INCLUDES A COPY OF THE AFFIDAVIT, IN A FORM TO BE ESTAB-
46 LISHED BY THE ATTORNEY GENERAL, WHICH SHALL BE SIGNED BY THE PURCHASER
47 OF ANY DWELLING UNIT OR THE SHARES ALLOCATED THERETO OCCUPIED BY A RESI-
48 DENTIAL TENANT. SUCH AFFIDAVIT SHALL SPECIFY THE RENT REGULATORY LAW, IF
49 ANY, TO WHICH THE UNIT IS SUBJECT AND SHALL CONTAIN AN ACKNOWLEDGMENT OF
50 SUCH RENT REGULATED STATUS OF THE UNIT AS WELL AS THE PURCHASER'S DUTY
51 TO ABIDE BY THE MAXIMUM LEGAL RENT STANDARDS, RENT REGISTRATION REQUIRE-
52 MENTS, MAINTENANCE OF SERVICES REQUIREMENTS AND ALL OTHER REQUIREMENTS
53 OF APPLICABLE HOUSING LAWS AND REGULATIONS. EACH SUCH PURCHASER SHALL
54 AT THE TIME OF PURCHASE SIGN TWO COPIES OF THE AFFIDAVIT, ONE OF WHICH
55 SHALL BE DELIVERED BY THE OFFEROR TO THE TENANT IN OCCUPANCY AND THE
56 OTHER TO THE DIVISION OF HOUSING AND COMMUNITY RENEWAL.

1 S 5. Paragraph (e) of subdivision 2 of section 352-eee of the general
2 business law, as added by chapter 402 of the laws of 1983, is amended to
3 read as follows:

4 (e) The attorney general finds that an excessive number of [long-term]
5 vacancies did not exist on the date THAT IS ONE HUNDRED TEN DAYS SUBSE-
6 QUENT TO THE DATE that the offering statement or prospectus was first
7 submitted to the department of law. ["Long-term vacancies"] "VACANCIES"
8 shall mean dwelling units not leased or occupied by bona fide tenants
9 [for more than five months prior to the date of such submission to the
10 department of law] ON SUCH ONE HUNDRED TENTH DAY. "Excessive" shall
11 mean a vacancy rate in excess of [the greater of (i) ten percent and
12 (ii) a percentage that is double the normal average vacancy rate for]
13 FIVE PERCENT OF THE TOTAL NUMBER OF DWELLING UNITS IN the building or
14 group of buildings or development [for two years prior to the January
15 preceding the date the offering statement or prospectus was first
16 submitted to the department of law] OFFERED UNDER THE PLAN, EXCEPT THAT
17 IN A BUILDING OR GROUP OF BUILDINGS OR DEVELOPMENT CONTAINING LESS THAN
18 TWENTY UNITS, "EXCESSIVE" SHALL MEAN MORE THAN ONE VACANT DWELLING UNIT.

19 S 6. Subparagraph (ix) of paragraph (d) of subdivision 2 of section
20 352-eee of the general business law, as added by chapter 402 of the laws
21 of 1983, is amended to read as follows:

22 (ix) The tenants in occupancy on the date the attorney general accepts
23 the plan for filing shall have the exclusive right to purchase their
24 dwelling units or the shares allocated thereto for ninety days after the
25 plan is accepted for filing by the attorney general AND PRESENTED TO THE
26 TENANTS, during which time a tenant's dwelling unit shall not be shown
27 to a third party unless he has, in writing, waived his OR HER right to
28 purchase; subsequent to the expiration of such ninety day period, a
29 tenant in occupancy of a dwelling unit who has not purchased shall be
30 given the exclusive right for an additional period of [six months] ONE
31 YEAR from said expiration date to purchase said dwelling unit or the
32 shares allocated thereto on the same terms and conditions as are
33 contained in an executed contract to purchase, SUBJECT TO THE PROVISIONS
34 OF THIS PARAGRAPH, said dwelling unit or shares entered into by a bona
35 fide purchaser, such exclusive right to be exercisable within fifteen
36 days from the date of mailing by registered mail of notice of the
37 execution of a contract of sale together with a copy of said executed
38 contract to said tenant.

39 S 7. Subdivision 2 of section 352-eee of the general business law is
40 amended by adding a new paragraph (g) to read as follows:

41 (G) THE ATTORNEY GENERAL FINDS THAT AT THE TIME WHEN THE PLAN WAS
42 SUBMITTED FOR FILING, THE AGENCY OF THE MUNICIPALITY WHICH IS CHARGED
43 WITH THE ENFORCEMENT OF BUILDING OR HOUSING CODES WAS NOTIFIED OF THE
44 SUBMISSION OF THE PLAN AND THE NECESSITY FOR A CODE COMPLIANCE
45 INSPECTION AND THAT PRIOR TO THE PLAN BEING DECLARED TO BE IN EFFECT,
46 THE BUILDING OR GROUP OF BUILDINGS SHALL BE CERTIFIED IN WRITING BY THE
47 MUNICIPALITY AS BEING FREE OF ANY BUILDING OR HOUSING CODE VIOLATIONS
48 AND THE PLAN PROVIDES FOR SUCH RECERTIFICATION WITHIN ONE MONTH PRIOR TO
49 THE PLAN BEING DECLARED EFFECTIVE.

50 S 8. Section 352-eee of the general business law is amended by adding
51 a new subdivision 4-a to read as follows:

52 4-A. (A) WITHIN THIRTY DAYS AFTER THE CLOSING OF A CONVERSION PURSUANT
53 TO AN OFFERING PLAN THE OFFEROR SHALL ESTABLISH AND TRANSFER TO THE
54 COOPERATIVE CORPORATION OR CONDOMINIUM BOARD OF MANAGERS, A RESERVE FUND
55 TO BE USED EXCLUSIVELY FOR MAKING CAPITAL REPLACEMENTS NECESSARY FOR THE
56 HEALTH AND SAFETY OF THE RESIDENTS OF SUCH BUILDINGS. SUCH RESERVE FUND

1 SHALL BE EXCLUSIVE OF ANY OTHER FUNDS REQUIRED TO BE RESERVED UNDER THE
2 PLAN OR APPLICABLE LAW OR REGULATION OF THE STATE ATTORNEY GENERAL,
3 EXCEPT A FUND FOR CAPITAL REPLACEMENTS SUBSTANTIALLY SIMILAR IN PURPOSE
4 TO AND IN AN AMOUNT NOT LESS THAN THE RESERVE FUND MANDATED BY THIS
5 SUBDIVISION. SUCH RESERVE FUND ALSO SHALL BE EXCLUSIVE OF ANY WORKING
6 CAPITAL FUND AND SHALL NOT BE SUBJECT TO REDUCTION FOR CLOSING APPOR-
7 TIONMENTS.

8 (B) SUCH FUND SHALL BE ESTABLISHED IN AN AMOUNT EQUAL TO EITHER (I)
9 TEN PERCENT OF THE TOTAL PRICE OR, (II) (A) TEN PERCENT OF THE ACTUAL
10 SALES PRICE OF ALL COOPERATIVE SHARES OR CONDOMINIUM UNITS SOLD BY THE
11 OFFEROR AT THE TIME THE PLAN IS DECLARED EFFECTIVE, PROVIDED, HOWEVER,
12 THAT IF SUCH AMOUNT IS LESS THAN THREE PERCENT OF THE TOTAL PRICE, THEN
13 THE FUND SHALL BE ESTABLISHED AS A MINIMUM OF THREE PERCENT OF THE TOTAL
14 PRICE; PLUS (B) SUPPLEMENTAL CONTRIBUTIONS TO BE MADE BY THE OFFEROR AT
15 A RATE OF TEN PERCENT OF THE ACTUAL SALES PRICE OF COOPERATIVE SHARES OR
16 CONDOMINIUM UNITS FOR EACH UNIT OF ITS ALLOCABLE SHARES HELD BY THE
17 OFFEROR AND SOLD TO BONA FIDE PURCHASERS SUBSEQUENT TO THE EFFECTIVE
18 DATE OF THE PLAN AND WITHIN FIVE YEARS OF THE CLOSING OF THE CONVERSION
19 PURSUANT TO SUCH PLAN NOTWITHSTANDING THAT THE TOTAL AMOUNT CONTRIBUTED
20 MAY EXCEED TEN PERCENT OF THE TOTAL PRICE; AND PROVIDED, FURTHER, THAT
21 IF FIVE YEARS FROM THIRTY DAYS AFTER THE CLOSING OF THE CONVERSION
22 PURSUANT TO SUCH PLAN THE TOTAL CONTRIBUTIONS BY THE OFFEROR TO THE FUND
23 ARE LESS THAN TEN PERCENT OF THE TOTAL PRICE THE OFFEROR SHALL PAY THE
24 DIFFERENCE BETWEEN THE AMOUNT CONTRIBUTED AND TEN PERCENT OF THE TOTAL
25 PRICE. SUPPLEMENTAL CONTRIBUTIONS SHALL BE MADE WITHIN THIRTY DAYS OF
26 EACH SALE.

27 (C) THE CONTRIBUTIONS REQUIRED PURSUANT TO THIS SUBDIVISION MAY BE
28 MADE EARLIER OR IN AN AMOUNT GREATER THAN SO PROVIDED. AN OFFEROR MAY
29 CLAIM AND RECEIVE CREDIT AGAINST THE MANDATORY INITIAL CONTRIBUTION TO
30 THE RESERVE FUND FOR THE ACTUAL COST OF CAPITAL REPLACEMENTS WHICH HE
31 HAS BEGUN AFTER THE PLAN IS SUBMITTED FOR FILING TO THE ATTORNEY GENERAL
32 AND BEFORE THE PLAN IS DECLARED EFFECTIVE; PROVIDED, HOWEVER, THAT ANY
33 SUCH REPLACEMENTS MUST BE SET FORTH IN THE PLAN TOGETHER WITH THEIR
34 ACTUAL OR ESTIMATED COSTS AND FURTHER PROVIDED, THAT SUCH CREDIT SHALL
35 NOT EXCEED THE LESSER OF THE ACTUAL COST OF THE CAPITAL REPLACEMENTS OR
36 ONE PERCENT OF THE TOTAL PRICE.

37 (D) ANY BUILDING, CONSTRUCTION OF WHICH WAS COMPLETED WITHIN THREE
38 YEARS PRIOR TO THE CLOSING OF A CONVERSION PURSUANT TO AN OFFERING PLAN,
39 SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS SUBDIVISION.

40 (E) THE COOPERATIVE CORPORATION OR CONDOMINIUM BOARD OF MANAGERS SHALL
41 REPORT TO SHAREHOLDERS AND UNIT OWNERS ON A SEMI-ANNUAL BASIS WITH
42 RESPECT TO ALL DEPOSITS INTO AND WITHDRAWALS FROM THE RESERVE FUND
43 MANDATED BY THIS SUBDIVISION.

44 S 9. Paragraph (b) of subdivision 1 of section 352-eeee of the gener-
45 al business law, as added by chapter 555 of the laws of 1982, is amended
46 to read as follows:

47 (b) "Non-eviction plan". A plan which may not be declared effective
48 until [written purchase agreements have been executed and delivered for]
49 at least [fifteen] TWENTY-FIVE percent of THE BONA FIDE TENANTS IN OCCU-
50 PANCY OF all dwelling units in the building or group of buildings or
51 development [by bona fide tenants in occupancy or bona fide purchasers
52 who represent that they intend that they or one or more members of their
53 immediate family intend to occupy the unit when it becomes vacant. As to
54 tenants who were in occupancy on the date a letter was issued by the
55 attorney general accepting the plan for filing, the purchase agreement
56 shall be executed and delivered] ON THE DATE THE OFFERING STATEMENT OR

1 PROSPECTUS WAS ACCEPTED FOR FILING BY THE ATTORNEY GENERAL SHALL HAVE
2 EXECUTED AND DELIVERED WRITTEN AGREEMENTS TO PURCHASE UNDER THE PLAN
3 pursuant to an offering made in good faith without fraud and discrimina-
4 tory repurchase agreements or other discriminatory inducements.

5 S 10. Subdivision 1 of section 352-eeee of the general business law is
6 amended by adding two new paragraphs (h) and (i) to read as follows:

7 (H) "TOTAL PRICE". (I) WITH RESPECT TO COOPERATIVE CONVERSIONS, THE
8 NUMBER OF ALL SHARES IN THE OFFERING MULTIPLIED BY THE LAST PRICE PER
9 SHARE WHICH WAS OFFERED TO TENANTS IN OCCUPANCY PRIOR TO THE EFFECTIVE
10 DATE OF THE PLAN REGARDLESS OF NUMBER OF SALES MADE;

11 (II) WITH RESPECT TO CONDOMINIUM CONVERSIONS, THE SUM OF THE COST OF
12 ALL UNITS IN THE OFFERING AT THE LAST PRICE WHICH WAS OFFERED TO TENANTS
13 IN OCCUPANCY PRIOR TO THE EFFECTIVE DATE OF THE PLAN REGARDLESS OF
14 NUMBER OF SALES MADE.

15 (I) "CAPITAL REPLACEMENT". A BUILDING-WIDE REPLACEMENT OF A MAJOR
16 COMPONENT OF ANY OF THE FOLLOWING SYSTEMS:

17 (I) ELEVATOR;

18 (II) HEATING, VENTILATION AND AIR CONDITIONING;

19 (III) PLUMBING;

20 (IV) WIRING;

21 (V) ROOF;

22 (VI) WINDOWS;

23 OR, A MAJOR STRUCTURAL REPLACEMENT TO THE BUILDING; PROVIDED, HOWEVER,
24 THAT REPLACEMENTS MADE TO CURE CODE VIOLATIONS OF RECORD SHALL NOT BE
25 INCLUDED.

26 S 11. Subparagraph (i) of paragraph (c) of subdivision 2 of section
27 352-eeee of the general business law, as added by chapter 555 of the
28 laws of 1982, is amended to read as follows:

29 (i) The plan may not be declared effective until [written purchase
30 agreements have been executed and delivered for] at least [fifteen]
31 TWENTY-FIVE percent of THE BONA FIDE TENANTS IN OCCUPANCY OF all dwell-
32 ing units in the building or group of buildings or development
33 [subscribed for by bona fide tenants in occupancy or bona fide purchas-
34 ers who represent that they intend that they or one or more members of
35 their immediate family occupy the dwelling unit when it becomes vacant.
36 As to tenants who were in occupancy on the date a letter was issued by
37 the attorney general accepting the plan for filing, the purchase agree-
38 ment shall be executed and delivered] ON THE DATE THE OFFERING STATEMENT
39 OR PROSPECTUS WAS ACCEPTED FOR FILING BY THE ATTORNEY GENERAL SHALL HAVE
40 EXECUTED AND DELIVERED WRITTEN AGREEMENTS TO PURCHASE UNDER THE PLAN
41 pursuant to an offering made IN GOOD FAITH without FRAUD AND discrimina-
42 tory repurchase agreements or other discriminatory inducements.

43 S 12. Paragraph (c) of subdivision 2 of section 352-eeee of the
44 general business law is amended by adding two new subparagraphs (viii)
45 and (ix) to read as follows:

46 (VIII) THE TENANTS IN OCCUPANCY ON THE DATE THE ATTORNEY GENERAL
47 ACCEPTS THE PLAN FOR FILING SHALL HAVE THE EXCLUSIVE RIGHT TO PURCHASE
48 THEIR DWELLING UNITS OR THE SHARES ALLOCATED THERETO FOR NINETY DAYS
49 AFTER THE PLAN IS ACCEPTED FOR FILING BY THE ATTORNEY GENERAL AND
50 PRESENTED TO THE TENANTS, DURING WHICH TIME A TENANT'S DWELLING UNIT
51 SHALL NOT BE SHOWN TO A THIRD PARTY UNLESS HE OR SHE HAS, IN WRITING,
52 WAIVED HIS OR HER RIGHT TO PURCHASE; SUBSEQUENT TO THE EXPIRATION OF
53 SUCH NINETY DAY PERIOD, A TENANT IN OCCUPANCY OF A DWELLING UNIT WHO HAS
54 NOT PURCHASED SHALL BE GIVEN THE EXCLUSIVE RIGHT FOR AN ADDITIONAL PERI-
55 OD OF ONE YEAR FROM SAID EXPIRATION DATE TO PURCHASE SAID DWELLING UNIT
56 OR THE SHARES ALLOCATED THERETO ON THE SAME TERMS AND CONDITIONS AS ARE

1 CONTAINED IN AN EXECUTED CONTRACT TO PURCHASE, SUBJECT TO THE PROVISIONS
2 OF THIS PARAGRAPH, SAID DWELLING UNIT OR SHARES ENTERED INTO BY A BONA
3 FIDE PURCHASER, SUCH EXCLUSIVE RIGHT TO BE EXERCISABLE WITHIN FIFTEEN
4 DAYS FROM THE DATE OF MAILING BY REGISTERED MAIL OF NOTICE OF THE
5 EXECUTION OF A CONTRACT OF SALE TOGETHER WITH A COPY OF SAID EXECUTED
6 CONTRACT TO SAID TENANT.

7 (IX) THE PLAN INCLUDES A COPY OF THE AFFIDAVIT, IN A FORM TO BE ESTAB-
8 LISHED BY THE ATTORNEY GENERAL, WHICH SHALL BE SIGNED BY THE PURCHASER
9 OF ANY DWELLING UNIT OF THE SHARES ALLOCATED THERETO OCCUPIED BY A RESI-
10 DENTIAL TENANT. SUCH AFFIDAVIT SHALL SPECIFY THE RENT REGULATORY LAW, IF
11 ANY, TO WHICH THE UNIT IS SUBJECT AND SHALL CONTAIN AN ACKNOWLEDGMENT OF
12 SUCH RENT REGULATED STATUS OF THE UNIT AS WELL AS THE PURCHASER'S DUTY
13 TO ABIDE BY THE MAXIMUM LEGAL RENT STANDARDS, RENT REGISTRATION REQUIRE-
14 MENTS, MAINTENANCE OF SERVICES REQUIREMENTS AND ALL OTHER REQUIREMENTS
15 OF APPLICABLE HOUSING LAWS AND REGULATIONS. EACH SUCH PURCHASER SHALL
16 AT THE TIME OF PURCHASE SIGN TWO COPIES OF THE AFFIDAVIT, ONE OF WHICH
17 SHALL BE DELIVERED BY THE OFFEROR TO THE TENANT IN OCCUPANCY AND THE
18 OTHER TO THE DIVISION OF HOUSING AND COMMUNITY RENEWAL.

19 S 13. Subparagraph (ix) of paragraph (d) of subdivision 2 of section
20 352-eeee of the general business law, as added by chapter 555 of the
21 laws of 1982, is amended to read as follows:

22 (ix) The tenants in occupancy on the date the attorney general accepts
23 the plan for filing shall have the exclusive right to purchase their
24 dwelling units or the shares allocated thereto for ninety days after the
25 plan is accepted for filing by the attorney general AND PRESENTED TO THE
26 TENANTS, during which time a tenant's dwelling unit shall not be shown
27 to a third party unless he OR SHE has, in writing, waived his right to
28 purchase; subsequent to the expiration of such ninety day period, a
29 tenant in occupancy of a dwelling unit who has not purchased shall be
30 given the exclusive right for an additional period of [six months] ONE
31 YEAR from said expiration date to purchase said dwelling unit or the
32 shares allocated thereto on the same terms and conditions as are
33 contained in an executed contract to purchase, SUBJECT TO THE PROVISIONS
34 OF THIS PARAGRAPH, said dwelling unit or shares entered into by a bona
35 fide purchaser, such exclusive right to be exercisable within fifteen
36 days from the date of mailing by registered mail of notice of the
37 execution of a contract of sale together with a copy of said executed
38 contract to said tenant.

39 S 14. Paragraph (e) of subdivision 2 of section 352-eeee of the
40 general business law, as added by chapter 555 of the laws of 1982, is
41 amended to read as follows:

42 (e) The attorney general finds that an excessive number of [long-term]
43 vacancies did not exist on the date THAT IS ONE HUNDRED TEN DAYS AFTER
44 THE DATE that the offering statement or prospectus was first submitted
45 to the department of law. ["Long-term vacancies"] "VACANCIES" shall
46 mean dwelling units not leased or occupied by bona fide tenants [for
47 more than five months prior to the date of such submission to the
48 department of law] ON SUCH ONE HUNDRED TENTH DAY. "Excessive" shall
49 mean a vacancy rate in excess of [the greater of (i) ten percent and
50 (ii) a percentage that is double the normal average vacancy rate for]
51 FIVE PERCENT OF THE TOTAL NUMBER OF DWELLING UNITS IN the building or
52 group of buildings or development [for two years prior to the January
53 preceding the date the offering statement or prospectus was first
54 submitted to the department of law] OFFERED UNDER THE PLAN, EXCEPT THAT
55 IN A BUILDING OR GROUP OF BUILDINGS OR DEVELOPMENT CONTAINING LESS THAN
56 TWENTY UNITS, "EXCESSIVE" SHALL MEAN MORE THAN ONE VACANT DWELLING UNIT.

1 S 15. Subdivision 2 of section 352-eeee of the general business law is
2 amended by adding a new paragraph (g) to read as follows:

3 (G) THE ATTORNEY GENERAL FINDS THAT AT THE TIME WHEN THE PLAN WAS
4 SUBMITTED FOR FILING, THE AGENCY OF THE MUNICIPALITY WHICH IS CHARGED
5 WITH THE ENFORCEMENT OF BUILDING OR HOUSING CODES WAS NOTIFIED OF THE
6 SUBMISSION OF THE PLAN AND THE NECESSITY FOR A CODE COMPLIANCE
7 INSPECTION AND THAT PRIOR TO THE PLAN BEING DECLARED TO BE IN EFFECT,
8 THE BUILDING OR GROUP OF BUILDINGS SHALL BE CERTIFIED IN WRITING BY THE
9 MUNICIPALITY AS BEING FREE OF ANY BUILDING OR HOUSING CODE VIOLATIONS
10 AND THE PLAN PROVIDES FOR SUCH RECERTIFICATION WITHIN ONE MONTH PRIOR TO
11 THE PLAN BEING DECLARED EFFECTIVE.

12 S 16. Section 352-eeee of the general business law is amended by
13 adding a new subdivision 4-a to read as follows:

14 4-A. (A) WITHIN THIRTY DAYS AFTER THE CLOSING OF A CONVERSION PURSUANT
15 TO AN OFFERING PLAN THE OFFEROR SHALL ESTABLISH AND TRANSFER TO THE
16 COOPERATIVE CORPORATION OR CONDOMINIUM BOARD OF MANAGERS, A RESERVE FUND
17 TO BE USED EXCLUSIVELY FOR MAKING CAPITAL REPLACEMENTS NECESSARY FOR THE
18 HEALTH AND SAFETY OF THE RESIDENTS OF SUCH BUILDINGS. SUCH RESERVE FUND
19 SHALL BE EXCLUSIVE OF ANY OTHER FUNDS REQUIRED TO BE RESERVED UNDER THE
20 PLAN OR APPLICABLE LAW OR REGULATION OF THE STATE ATTORNEY GENERAL,
21 EXCEPT A FUND FOR CAPITAL REPLACEMENTS SUBSTANTIALLY SIMILAR IN PURPOSE
22 TO AND IN AN AMOUNT NOT LESS THAN THE RESERVE FUND MANDATED BY THIS
23 SUBDIVISION. SUCH RESERVE FUND ALSO SHALL BE EXCLUSIVE OF ANY WORKING
24 CAPITAL FUND AND SHALL NOT BE SUBJECT TO REDUCTION FOR CLOSING APPOR-
25 TIONMENTS.

26 (B) SUCH FUND SHALL BE ESTABLISHED IN AN AMOUNT EQUAL TO EITHER (I)
27 TEN PERCENT OF THE TOTAL PRICE OR, (II) (A) TEN PERCENT OF THE ACTUAL
28 SALES PRICE OF ALL COOPERATIVE SHARES OR CONDOMINIUM UNITS SOLD BY THE
29 OFFEROR AT THE TIME THE PLAN IS DECLARED EFFECTIVE, PROVIDED, HOWEVER,
30 THAT IF SUCH AMOUNT IS LESS THAN THREE PERCENT OF THE TOTAL PRICE, THEN
31 THE FUND SHALL BE ESTABLISHED AS A MINIMUM OF THREE PERCENT OF THE TOTAL
32 PRICE; PLUS (B) SUPPLEMENTAL CONTRIBUTIONS TO BE MADE BY THE OFFEROR AT
33 A RATE OF TEN PERCENT OF THE ACTUAL SALES PRICE OF COOPERATIVE SHARES OR
34 CONDOMINIUM UNITS FOR EACH UNIT OF ITS ALLOCABLE SHARES HELD BY THE
35 OFFEROR AND SOLD TO BONA FIDE PURCHASERS SUBSEQUENT TO THE EFFECTIVE
36 DATE OF THE PLAN AND WITHIN FIVE YEARS OF THE CLOSING OF THE CONVERSION
37 PURSUANT TO SUCH PLAN NOTWITHSTANDING THAT THE TOTAL AMOUNT CONTRIBUTED
38 MAY EXCEED TEN PERCENT OF THE TOTAL PRICE; AND PROVIDED, FURTHER, THAT
39 IF FIVE YEARS FROM THIRTY DAYS AFTER THE CLOSING OF THE CONVERSION
40 PURSUANT TO SUCH PLAN THE TOTAL CONTRIBUTIONS BY THE OFFEROR TO THE FUND
41 ARE LESS THAN TEN PERCENT OF THE TOTAL PRICE THE OFFEROR SHALL PAY THE
42 DIFFERENCE BETWEEN THE AMOUNT CONTRIBUTED AND TEN PERCENT OF THE TOTAL
43 PRICE. SUPPLEMENTAL CONTRIBUTIONS SHALL BE MADE WITHIN THIRTY DAYS OF
44 EACH SALE.

45 (C) THE CONTRIBUTIONS REQUIRED PURSUANT TO THIS SUBDIVISION MAY BE
46 MADE EARLIER OR IN AN AMOUNT GREATER THAN SO PROVIDED. AN OFFEROR MAY
47 CLAIM AND RECEIVE CREDIT AGAINST THE MANDATORY INITIAL CONTRIBUTION TO
48 THE RESERVE FUND FOR THE ACTUAL COST OF CAPITAL REPLACEMENTS WHICH HE
49 HAS BEGUN AFTER THE PLAN IS SUBMITTED FOR FILING WITH THE ATTORNEY
50 GENERAL AND BEFORE THE PLAN IS DECLARED EFFECTIVE; PROVIDED, HOWEVER,
51 THAT ANY SUCH REPLACEMENTS MUST BE SET FORTH IN THE PLAN TOGETHER WITH
52 THEIR ACTUAL OR ESTIMATED COSTS AND FURTHER PROVIDED, THAT SUCH CREDIT
53 SHALL NOT EXCEED THE LESSER OF THE ACTUAL COST OF THE CAPITAL REPLACE-
54 MENTS OR ONE PERCENT OF THE TOTAL PRICE.

1 (D) ANY BUILDING, CONSTRUCTION OF WHICH WAS COMPLETED WITHIN THREE
2 YEARS PRIOR TO THE CLOSING OF A CONVERSION PURSUANT TO AN OFFERING PLAN,
3 SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS SUBDIVISION.

4 (E) THE COOPERATIVE CORPORATION OR CONDOMINIUM BOARD OF MANAGERS SHALL
5 REPORT TO SHAREHOLDERS AND UNIT OWNERS ON A SEMI-ANNUAL BASIS WITH
6 RESPECT TO ALL DEPOSITS INTO AND WITHDRAWALS FROM THE RESERVE FUND
7 MANDATED BY THIS SUBDIVISION.

8 S 17. Severability. If any clause, sentence, paragraph, section or
9 part of this act shall be adjudged by any court of competent jurisdic-
10 tion to be invalid, such judgment shall not affect, impair or invalidate
11 the remainder thereof, but shall be confined in its operation to the
12 clause, sentence, paragraph, section, or part thereof directly involved
13 in the controversy in which such judgment shall have been rendered.

14 S 18. This act shall take effect immediately and shall apply to
15 conversion plans accepted for filing by the attorney general on or after
16 the date it shall have become a law; provided that the amendments to
17 sections 352-eee and 352-eeee of the general business law made by this
18 act shall not affect the expiration of such sections and shall expire
19 therewith.