S T A T E O F N E W Y O R K

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:

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

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

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

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

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

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

LBD06551-01-9

(I) "CAPITAL REPLACEMENT". A BUILDING-WIDE REPLACEMENT OF A MAJOR COMPONENT OF ANY OF THE FOLLOWING SYSTEMS:
(I) ELEVATOR;
(II) HEATING, VENTILATION AND AIR CONDITIONING;
(III) PLUMBING;
(IV) WIRING;
(V) ROOF;
(VI) WINDOWS;
OR, A MAJOR STRUCTURAL REPLACEMENT TO THE BUILDING; PROVIDED, HOWEVER, THAT REPLACEMENTS MADE TO CURE CODE VIOLATIONS OF RECORD SHALL NOT BE INCLUDED.

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

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

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

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

(IX) THE PLAN INCLUDES A COPY OF THE AFFIDAVIT, IN A FORM TO BE ESTABLISHED BY THE ATTORNEY GENERAL, WHICH SHALL BE SIGNED BY THE PURCHASER OF ANY DWELLING UNIT OR THE SHARES ALLOCATED THERETO OCCUPIED BY A RESIDENTIAL TENANT. SUCH AFFIDAVIT SHALL SPECIFY THE RENT REGULATORY LAW, IF ANY, TO WHICH THE UNIT IS SUBJECT AND SHALL CONTAIN AN ACKNOWLEDGMENT OF SUCH RENT REGULATED STATUS OF THE UNIT AS WELL AS THE PURCHASER'S DUTY TO ABIDE BY THE MAXIMUM LEGAL RENT STANDARDS, RENT REGISTRATION REQUIREMENTS, MAINTENANCE OF SERVICES REQUIREMENTS AND ALL OTHER REQUIREMENTS OF APPLICABLE HOUSING LAWS AND REGULATIONS. EACH SUCH PURCHASER SHALL AT THE TIME OF PURCHASE SIGN TWO COPIES OF THE AFFIDAVIT, ONE OF WHICH SHALL BE DELIVERED BY THE OFFEROR TO THE TENANT IN OCCUPANCY AND THE OTHER TO THE DIVISION OF HOUSING AND COMMUNITY RENEWAL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) ELEVATOR;

(II) HEATING, VENTILATION AND AIR CONDITIONING;

(III) PLUMBING;

(IV) WIRING;

(V) ROOF;

(VI) WINDOWS;

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

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

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

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

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

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

(IX) THE PLAN INCLUDES A COPY OF THE AFFIDAVIT, IN A FORM TO BE ESTABLISHED BY THE ATTORNEY GENERAL, WHICH SHALL BE SIGNED BY THE PURCHASER OF ANY DWELLING UNIT OF THE SHARES ALLOCATED THERETO OCCUPIED BY A RESIDENTIAL TENANT. SUCH AFFIDAVIT SHALL SPECIFY THE RENT REGULATORY LAW, IF ANY, TO WHICH THE UNIT IS SUBJECT AND SHALL CONTAIN AN ACKNOWLEDGMENT OF SUCH RENT REGULATED STATUS OF THE UNIT AS WELL AS THE PURCHASER'S DUTY TO ABIDE BY THE MAXIMUM LEGAL RENT STANDARDS, RENT REGISTRATION REQUIREMENTS, MAINTENANCE OF SERVICES REQUIREMENTS AND ALL OTHER REQUIREMENTS OF APPLICABLE HOUSING LAWS AND REGULATIONS. EACH SUCH PURCHASER SHALL AT THE TIME OF PURCHASE SIGN TWO COPIES OF THE AFFIDAVIT, ONE OF WHICH SHALL BE DELIVERED BY THE OFFEROR TO THE TENANT IN OCCUPANCY AND THE OTHER TO THE DIVISION OF HOUSING AND COMMUNITY RENEWAL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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