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

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. V. LOPEZ, COOK, DINOWITZ -- Multi-Sponsored by -- M. of A. BRENNAN, CLARK, GLICK, JACOBS, MAYERSOHN, PHEFFER, PRETLOW, WRIGHT -- read once and referred to the Committee on Housing

AN ACT to amend the general business law, in relation to conversion of residential property to cooperative or condominium ownership; expanding provisions applicable in Nassau, Westchester and Rockland counties to other cities, towns and villages located outside the city of New York; raising percentage needed to declare non-eviction plans effective and delineating tenant's exclusive right to purchase; providing for establishment of certain reserve funds; and changing the computation of excessive vacancies which prevents conversion

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

Section 1. Legislative findings and declaration of intent. The legislature hereby finds that additional protections are needed in the laws governing the conversion of rental housing to cooperative and condominium ownership in order to: protect tenants in possession who do not desire or who are unable to afford to purchase their units from unreasonable rent increases and imminent eviction during the conversion process; insure that scarce rental housing units are not deliberately held off the market in preparation for such conversions at a time when many areas of the state are experiencing a critical shortage of affordable rental housing; insure that housing converted to cooperative and condominium ownership is managed with a degree of participation and control by cooperators and individual condominium owners who live in their buildings; and require that residents of buildings undergoing conversion are notified of all outstanding code violations and that funds are set aside in such buildings for the purpose of making capital repairs, replacements and improvements. The legislature declares that the provisions of this act are intended to accomplish these purposes, to insure that the conversion of rental housing to cooperative and condo-

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

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minium ownership will be carried out in a way which protects non-purchasing tenants, cooperators and condominium owners, and the general public, and to prevent profiteering, speculation and other disruptive practices which threaten the public health, safety and general welfare.

S 2. Subdivision 7 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:

7. The provisions of this section shall only be applicable in the cities, towns and villages located [in the counties of Nassau, Westchester and Rockland] OUTSIDE THE CITY OF NEW YORK which by resolution adopted by the respective local legislative body of such city, town or village, elect that the provisions hereof shall be applicable therein. A certified copy of such resolution shall be filed in the office of the attorney general at Albany and shall become effective on the date of such filing.

S 3. 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 4. 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 5. Paragraph (c) of subdivision 2 of section 352-eee of the general business law is amended by adding a new subparagraph (viii) 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 SIX MONTHS 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 6. 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 WITH NO discriminatory repurchase agreements or other discriminatory inducements.

S 7. 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 WITH NO discriminatory repurchase agreements or other discriminatory inducements.

S 8. Paragraph (c) of subdivision 2 of section 352-eeee of the general business law is amended by adding a new subparagraph (viii) 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 SIX MONTHS 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 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 9. 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 PLAN PROVIDES THAT WITHIN THIRTY DAYS AFTER THE CLOSING OF A CONVERSION PURSUANT TO THIS SECTION, 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 REPAIRS, REPLACEMENTS AND IMPROVEMENTS NECESSARY FOR THE HEALTH AND SAFETY OF THE RESIDENTS OF THE BUILDING OR GROUP OF BUILDINGS OR DEVELOPMENT. SUCH RESERVE FUND SHALL BE EXCLUSIVE OF ANY OTHER FUNDS REQUIRED TO BE RESERVED UNDER THE PLAN OR APPLICABLE LAW OR REGULATION OF THE ATTORNEY GENERAL, EXCEPT A FUND FOR CAPITAL REPAIRS, REPLACEMENTS AND IMPROVEMENTS SUBSTANTIALLY SIMILAR IN PURPOSE TO AND IN AN AMOUNT NOT LESS THAN THE RESERVE FUND MANDATED BY THIS PARAGRAPH. SUCH RESERVE FUND ALSO SHALL BE EXCLUSIVE OF ANY WORKING CAPITAL FUND AND SHALL NOT BE SUBJECT TO REDUCTION FOR CLOSING APPORTIONMENTS.

AS USED IN THIS PARAGRAPH, "CAPITAL REPLACEMENT" SHALL MEAN A BUILDING-WIDE REPLACEMENT OF A MAJOR COMPONENT OF THE HEATING, VENTILATION, AIR CONDITIONING, PLUMBING, WIRING, ELEVATOR OR WINDOW SYSTEM, OR A MAJOR STRUCTURAL REPLACEMENT TO THE BUILDING; PROVIDED HOWEVER, THAT REPLACEMENTS MADE TO CURE CODE VIOLATIONS OF RECORD SHALL NOT BE INCLUDED. "TOTAL PRICE" SHALL MEAN, 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; AND SHALL MEAN, 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) SUCH FUND SHALL BE ESTABLISHED IN AN AMOUNT EQUAL TO EITHER THREE PERCENT OF THE TOTAL PRICE OR, THREE 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 ONE PERCENT OF THE TOTAL PRICE, THEN THE FUND SHALL BE ESTABLISHED AS A MINIMUM OF ONE PERCENT OF THE TOTAL PRICE; PLUS SUPPLEMENTAL CONTRIBUTIONS TO BE MADE BY THE OFFEROR AT A RATE OF THREE PERCENT OF THE ACTUAL SALES PRICE OF COOPERATIVE SHARES OR CONDOMINIUM UNITS FOR EACH UNIT OR 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 THREE 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 THREE PERCENT OF THE TOTAL PRICE THE OFFEROR SHALL PAY THE DIFFERENCE BETWEEN THE AMOUNT CONTRIBUTED AND THREE PERCENT OF THE TOTAL PRICE. SUPPLEMENTAL CONTRIBUTIONS SHALL BE MADE WITHIN THIRTY DAYS OF EACH SALE.

(II) THE CONTRIBUTIONS REQUIRED PURSUANT TO THIS SECTION 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 OR SHE 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.

(III) ANY BUILDING, CONSTRUCTION OF WHICH WAS COMPLETED WITHIN THREE YEARS PRIOR TO THE CLOSING OF A CONVERSION PURSUANT TO THIS SECTION, SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS PARAGRAPH.

(IV) 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 PARAGRAPH.

(V) THE OFFEROR, NOT LATER THAN THE THIRTIETH DAY FOLLOWING THE ACCEPTANCE OF A PLAN FOR FILING BY THE ATTORNEY GENERAL PURSUANT TO THIS SECTION AND UNTIL THE CLOSING OF THE CONVERSION PURSUANT TO SUCH PLAN, SHALL POST AND MAINTAIN IN A PROMINENT PLACE, ACCESSIBLE TO ALL TENANTS IN EACH BUILDING COVERED BY THE PLAN, A LISTING OF ALL VIOLATIONS OF RECORD AGAINST SUCH BUILDINGS AS DETERMINED BY THE LOCAL DEPARTMENT OF BUILDINGS OR SIMILAR AGENCY OF APPROPRIATE JURISDICTION. ALL NEWLY ISSUED VIOLATIONS SHALL BE POSTED WITHIN FORTY-EIGHT HOURS OF THEIR ISSUANCE AND MAINTAINED AS DESCRIBED ABOVE. THE OFFEROR MAY SATISFY THE REQUIREMENTS OF THIS SECTION BY DESIGNATING AN AGENT ON THE PREMISES WITH WHOM SUCH LISTING SHALL BE MADE AVAILABLE FOR INSPECTION BY THE TENANTS.

(VI) WHERE, PURSUANT TO LAW OR REGULATION OF THE ATTORNEY GENERAL, AN OFFEROR IS REQUIRED TO FILE A REPORT WITH THE ATTORNEY GENERAL DESCRIBING THE CONDITION OF THE PHYSICAL ASPECTS OF THE PREMISES TO BE CONVERTED AND THE SURROUNDING NEIGHBORHOOD A COPY OF SUCH REPORT SHALL BE SUBMITTED SIMULTANEOUSLY TO THE LOCAL COMMISSIONER OF BUILDINGS OR SIMILAR AGENCY OF APPROPRIATE JURISDICTION.

(VII) ANY PROVISION PURPORTING TO WAIVE THE PROVISIONS OF THIS PARAGRAPH IN ANY CONTRACT TO PURCHASE OR AGREEMENT BETWEEN AN OFFEROR AND THE COOPERATIVE CORPORATION OR THE CONDOMINIUM BOARD OF MANAGERS PURSUANT TO A CONVERSION PLAN SHALL BE VOID AS AGAINST PUBLIC POLICY.

(VIII) ENFORCEMENT. (1) EXCEPT AS OTHERWISE PROVIDED BELOW, ANY PERSON WHO VIOLATES OR ASSISTS IN THE VIOLATION OF THIS PARAGRAPH SHALL BE SUBJECT TO A CIVIL PENALTY OF ONE HUNDRED DOLLARS PER DAY PER UNIT FOR EACH DAY THAT A BUILDING IS NOT IN COMPLIANCE WITH THE PROVISIONS OF SUCH PARAGRAPH, PROVIDED, HOWEVER, THAT SUCH CIVIL PENALTY SHALL NOT EXCEED ONE THOUSAND DOLLARS PER UNIT.

(2) ANY PERSON WHO KNOWINGLY VIOLATES OR ASSISTS IN THE VIOLATION OF SUCH PARAGRAPH SHALL ALSO BE SUBJECT TO A CIVIL PENALTY OF ONE THOUSAND DOLLARS PER DAY FOR EACH DAY THAT THE RESERVE FUND IS NOT ESTABLISHED; PROVIDED, HOWEVER, THAT SUCH CIVIL PENALTY SHALL NOT EXCEED THE AMOUNT REQUIRED TO BE RESERVED PURSUANT TO THIS PARAGRAPH.

(3) ANY ACTION OR PROCEEDING IN ANY COURT OF COMPETENT JURISDICTION THAT MAY BE APPROPRIATE OR NECESSARY FOR THE ENFORCEMENT OF THE PROVISIONS OF THIS PARAGRAPH MAY BE BROUGHT IN THE NAME OF THE CITY, TOWN OR VILLAGE WHEREIN SUCH BUILDING OR BUILDINGS ARE LOCATED, INCLUDING ACTIONS TO SECURE PERMANENT INJUNCTIONS ENJOINING ANY ACTS OR PRACTICES WHICH CONSTITUTE A VIOLATION OF ANY PROVISION OF THIS PARAGRAPH, MANDATING COMPLIANCE WITH THE PROVISIONS OF THIS PARAGRAPH OR FOR SUCH OTHER RELIEF AS MAY BE APPROPRIATE. IN ANY SUCH ACTION OR PROCEEDING THE CITY, TOWN OR VILLAGE MAY APPLY TO ANY COURT OF COMPETENT JURISDICTION, OR TO A JUDGE OR JUSTICE THEREOF, FOR A TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION ENJOINING AND RESTRAINING ALL PERSONS FROM

VIOLATING ANY PROVISION OF THIS PARAGRAPH MANDATING COMPLIANCE WITH THE PROVISIONS OF THIS PARAGRAPH OR FOR SUCH OTHER RELIEF AS MAY BE APPROPRIATE UNTIL THE HEARING AND DETERMINATION OF SUCH ACTION OR PROCEEDING AND THE ENTRY OF FINAL JUDGMENT OR ORDER THEREIN. THE COURT, OR JUDGE OR JUSTICE THEREOF, TO WHOM SUCH APPLICATION IS MADE, IS HEREBY AUTHORIZED FORTHWITH TO MAKE ANY OR ALL OF THE ORDERS ABOVE SPECIFIED, AS MAY BE REQUIRED IN SUCH APPLICATION, WITH OR WITHOUT NOTICE, AND TO MAKE SUCH OTHER OR FURTHER ORDERS OR DIRECTIONS AS MAY BE NECESSARY TO RENDER THE SAME EFFECTUAL. NO UNDERTAKING SHALL BE REQUIRED AS A CONDITION OF THE GRANTING OR ISSUING OF SUCH ORDER, OR BY REASON THEREOF.

(IX) NOTHING CONTAINED IN THIS PARAGRAPH SHALL IMPAIR ANY RIGHTS, REMEDIES OR CAUSES OF ACTION ACCRUED OR ACCRUING TO PURCHASERS OF COOPERATIVE SHARES OR CONDOMINIUM UNITS.

S 10. 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 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. PROVIDED, HOWEVER, THAT THE ATTORNEY GENERAL MAY ISSUE A LETTER STATING THAT THE OFFERING STATEMENT HAS BEEN ACCEPTED FOR FILING NOTWITHSTANDING THE EXISTENCE OF AN EXCESSIVE NUMBER OF VACANCIES UPON APPLICATION OF THE OFFEROR FOR GOOD CAUSE SHOWN.

S 11. 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. PROVIDED, HOWEVER, THAT THE ATTORNEY GENERAL MAY ISSUE A LETTER STATING THAT THE OFFERING STATEMENT HAS BEEN ACCEPTED FOR FILING NOTWITHSTANDING THE EXISTENCE OF AN

EXCESSIVE NUMBER OF VACANCIES UPON APPLICATION OF THE OFFEROR FOR GOOD CAUSE SHOWN.

S 12. This act shall take effect immediately and shall apply to every offering statement or prospectus containing a conversion plan to which section 352-eee or 352-eeee of the general business law as amended by this act, is applicable and which is accepted for filing by the attorney general on or after the effective date of this act; provided that the amendments to section 352-eee of the general business law made by sections two, three, four, five, nine and ten of this act shall expire on the same date as such section expires and shall not affect the expiration of such section as provided in section 4 of chapter 402 of the laws of 1983, as from time to time amended and provided further, that the amendments to section 352-eeee of the general business law made by sections six, seven, eight and eleven of this act shall expire on the same date as such section expires and shall not affect the expiration of such section as provided in section 10 of chapter 555 of the laws of 1982, as from time to time amended.