

# STATE OF NEW YORK

7743

2019-2020 Regular Sessions

## IN ASSEMBLY

May 17, 2019

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Housing

AN ACT to amend the general business law, the multiple dwelling law, the private housing finance law and the administrative code of the city of New York, in relation to conversion to cooperative or condominium ownership; and to repeal certain provisions of the general business law and the administrative code of the city of New York relating thereto

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

Section 1. Subdivision 2-a of section 352-e of the general business law is REPEALED and a new subdivision 2-a is added to read as follows:

2-a. (a) As used in this subdivision, the following words and terms shall have the following meanings:

(i) "Plan". Every offering statement or prospectus submitted to the department of law pursuant to this section for the conversion of a building or group of buildings or development from residential rental status to cooperative or condominium ownership or other form of cooperative interest in realty, other than an offering statement or prospectus for such conversion pursuant to article two, eight or eleven of the private housing finance law.

(ii) "Non-eviction plan". A plan which may not be declared effective until written purchase agreements have been executed and delivered for at least fifty-one percent of all dwelling units in the building or group of buildings or development by bona fide tenants in occupancy. 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 discriminatory repurchase agreements or other discriminatory inducements.

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

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1 (iii) "Purchaser under the plan". A person who owns the shares allo-  
2 cated to a dwelling unit or who owns such dwelling unit itself.

3 (iv) "Non-purchasing tenant". A person who has not purchased under the  
4 plan and who is a tenant entitled to possession at the time the plan is  
5 declared effective or a person to whom a dwelling unit is rented subse-  
6 quent to the effective date. A person who sublets a dwelling unit from a  
7 purchaser under the plan shall not be deemed a non-purchasing tenant.

8 (b) The attorney general shall refuse to issue a letter stating that  
9 the offering statement or prospectus required in subdivision one of this  
10 section has been filed whenever it appears that the offering statement  
11 or prospectus offers for sale residential cooperative apartments or  
12 condominium units pursuant to a plan unless:

13 (i) The plan provides that it will be deemed abandoned, void and of no  
14 effect if it does not become effective within twelve months from the  
15 date of issue of the letter of the attorney general stating that the  
16 offering statement or prospectus has been accepted for filing and, in  
17 the event of such abandonment, no new plan for the conversion of such  
18 building or group of buildings or development shall be submitted to the  
19 attorney general for at least fifteen months after such abandonment.

20 (ii) The plan provides a non-eviction plan, and provides further as  
21 follows:

22 (1) The plan may not be declared effective until at least fifty-one  
23 percent of those bona fide tenants in occupancy of all dwelling units in  
24 the building or group of buildings or development on the date the plan  
25 is declared effective shall have executed and delivered written agree-  
26 ments to purchase under the plan. As to tenants who were in occupancy on  
27 the date a letter was issued by the attorney general accepting the plan  
28 for filing, the purchase agreement shall be executed and delivered  
29 pursuant to an offering made in good faith without fraud and discrimina-  
30 tory repurchase agreements or other discriminatory inducements.

31 (2) No eviction proceedings will be commenced at any time against  
32 non-purchasing tenants for failure to purchase or any other reason  
33 applicable to expiration of tenancy; provided that such proceedings may  
34 be commenced for non-payment of rent, illegal use or occupancy of the  
35 premises, refusal of reasonable access to the owner or a similar breach  
36 by the non-purchasing tenant of such tenant's obligations to the owner  
37 of the dwelling unit or the shares allocated thereto; and provided  
38 further that an owner of a unit or of the shares allocated thereto may  
39 not commence an action to recover possession of a dwelling unit from a  
40 non-purchasing tenant on the grounds that such tenant seeks the dwelling  
41 unit for the use and occupancy of such tenant or the family of such  
42 tenant.

43 (3) Non-purchasing tenants who reside in dwelling units subject to  
44 government regulation as to rentals and continued occupancy prior to the  
45 conversion of the building or group of buildings or development to coop-  
46 erative or condominium ownership shall continue to be subject thereto.

47 (4) The rentals of non-purchasing tenants who reside in dwelling units  
48 not subject to government regulation as to rentals and continued occu-  
49 pancy and non-purchasing tenants who reside in dwelling units with  
50 respect to which government regulation as to rentals and continued occu-  
51 pancy is eliminated or becomes inapplicable after the plan has been  
52 accepted for filing by the attorney general shall not be subject to  
53 unconscionable increases beyond ordinary rentals for comparable apart-  
54 ments during the period of their occupancy. In determining comparabili-  
55 ty, consideration shall be given to such factors as building services,  
56 level of maintenance and operating expenses.

1     (5) The rights granted under the plan to purchasers under the plan and  
2 to non-purchasing tenants may not be abrogated or reduced notwithstanding  
3 any expiration of, or amendment to, this section.

4     (6) After the issuance of the letter from the attorney general stating  
5 that the offering statement or prospectus required in subdivision one of  
6 this section has been filed, the offeror shall, on the thirtieth, sixtieth,  
7 eighty-eighth and ninetieth day after such date and at least once  
8 every thirty days until the plan is declared effective or is abandoned,  
9 as the case may be, and on the second day before the expiration of any  
10 exclusive purchase period provided in a substantial amendment to the  
11 plan, (A) file with the attorney general a written statement, under  
12 oath, setting forth the percentage of bona fide tenants in occupancy of  
13 all dwelling units in the building or group of buildings or development  
14 who have executed and delivered written agreements to purchase under the  
15 plan as of the date of such statement, (B) before noon on the day such  
16 statement is filed post a copy of such statement in a prominent place  
17 accessible to all tenants in each building covered by the plan.

18     (iii) The attorney general finds that an excessive number of long-term  
19 vacancies did not exist on the date that the offering statement or pros-  
20 pectus was first submitted to the department of law. "Long-term vacan-  
21 cies" shall mean dwelling units not leased or occupied by bona fide  
22 tenants for more than five months prior to the date of such submission  
23 to the department of law. "Excessive" shall mean a vacancy rate in  
24 excess of the greater of (1) ten percent and (2) a percentage that is  
25 double the normal average vacancy rate for the building or group of  
26 buildings or development for two years prior to the January preceding  
27 the date the offering statement or prospectus was first submitted to the  
28 department of law.

29     (iv) The attorney general finds that, following the submission of the  
30 offering statement or prospectus to the department of law, each tenant  
31 in the building or group of buildings or development was provided with a  
32 written notice stating that such offering statement or prospectus has  
33 been submitted to the department of law for filing. Such notice shall be  
34 accompanied by a copy of the offering statement or prospectus and a  
35 statement that the statements submitted pursuant to clause six of  
36 subparagraph (ii) of this paragraph, whichever is applicable, will be  
37 available for inspection and copying at the office of the department of  
38 law where the submission was made and at the office of the offeror or a  
39 selling agent of the offeror. Such notice shall also be accompanied by a  
40 statement that tenants or their representatives may physically inspect  
41 the premises at any time subsequent to the submission of the plan to the  
42 department of law, during normal business hours, upon written request  
43 made by them to the offeror, provided such representatives are regis-  
44 tered architects or professional engineers licensed to practice in the  
45 state of New York. Such notice shall be sent to each tenant in occupancy  
46 on the date the plan is first submitted to the department of law and to  
47 the clerk of the municipality wherein such building or group of build-  
48 ings or development is located.

49     (c) All dwelling units occupied by non-purchasing tenants shall be  
50 managed by the same managing agent who manages all other dwelling units  
51 in the building or group of buildings or development. Such managing  
52 agent shall provide to non-purchasing tenants all services and facili-  
53 ties required by law on a non-discriminatory basis. The offeror shall  
54 guarantee the obligation of the managing agent to provide all such  
55 services and facilities until such time as the offeror surrenders  
56 control to the board of directors or board of managers, at which time

1 the cooperative corporation or the condominium association shall assume  
2 responsibility for the provision of all services and facilities required  
3 by law on a non-discriminatory basis.

4 (d) It shall be unlawful for any person to engage in any course of  
5 conduct, including, but not limited to, interruption or discontinuance  
6 of essential services, which substantially interferes with or disturbs  
7 the comfort, repose, peace or quiet of any tenant in his use or occupan-  
8 cy of his dwelling unit or the facilities related thereto. The attorney  
9 general may apply to a court of competent jurisdiction for an order  
10 restraining such conduct and, if he deems it appropriate, an order  
11 restraining the owner from selling the shares allocated to the dwelling  
12 unit or the dwelling unit itself or from proceeding with the plan of  
13 conversion; provided that nothing contained herein shall be deemed to  
14 preclude the tenant from applying on his own behalf for similar relief.

15 (e) Any local legislative body may adopt local laws and any agency,  
16 officer or public body may prescribe rules and regulations with respect  
17 to the continued occupancy by tenants of dwelling units which are  
18 subject to regulation as to rentals and continued occupancy pursuant to  
19 law, provided that in the event that any such local law, rule or regu-  
20 lation shall be inconsistent with the provisions of this section, the  
21 provisions of this section shall control.

22 (f) Any provision of a lease or other rental agreement which purports  
23 to waive a tenant's rights under this subdivision or rules and regu-  
24 lations promulgated pursuant hereto shall be void as contrary to public  
25 policy.

26 § 2. Section 352-eee of the general business law is REPEALED.

27 § 3. Section 352-eeee of the general business law is REPEALED.

28 § 4. Paragraph 7 of subdivision a of section 26-408 of the administra-  
29 tive code of the city of New York is REPEALED.

30 § 5. The opening paragraph of subdivision a and subdivision c of  
31 section 26-504 of the administrative code of the city of New York,  
32 subdivision c as amended by chapter 289 of the laws of 1985, are amended  
33 to read as follows:

34 Class A multiple dwellings not owned as a cooperative or as a condo-  
35 minium, except as provided in section three hundred [~~fifty-two-eeee~~]  
36 fifty-two-e of the general business law, containing six or more dwelling  
37 units which:

38 c. Dwelling units in a building or structure receiving the benefits of  
39 section 11-243 or section 11-244 of the code or article eighteen of the  
40 private housing finance law, not owned as a cooperative or as a condo-  
41 minium, except as provided in section three hundred [~~fifty-two-eeee~~]  
42 fifty-two-e of the general business law and not subject to chapter three  
43 of this title. Upon the expiration or termination for any reason of the  
44 benefits of section 11-243 or section 11-244 of the code or article  
45 eighteen of the private housing finance law any such dwelling unit shall  
46 be subject to this chapter until the occurrence of the first vacancy of  
47 such unit after such benefits are no longer being received or if each  
48 lease and renewal thereof for such unit for the tenant in residence at  
49 the time of the expiration of the tax benefit period has included a  
50 notice in at least twelve point type informing such tenant that the unit  
51 shall become subject to deregulation upon the expiration of such tax  
52 benefit period and states the approximate date on which such tax benefit  
53 period is scheduled to expire, such dwelling unit shall be deregulated  
54 as of the end of the tax benefit period; provided, however, that if such  
55 dwelling unit would have been subject to this chapter or the emergency  
56 tenant protection act of nineteen seventy-four in the absence of this

1 subdivision, such dwelling unit shall, upon the expiration of such bene-  
2 fits, continue to be subject to this chapter or the emergency tenant  
3 protection act of nineteen seventy-four to the same extent and in the  
4 same manner as if this subdivision had never applied thereto.

5 § 6. Section 26-701 of the administrative code of the city of New York  
6 is amended to read as follows:

7 § 26-701 Application. The provisions of this chapter shall apply to  
8 conversions from rental to cooperative or condominium status of a build-  
9 ing or a group of buildings or a development for which a plan must be  
10 filed with the state department of law pursuant to section three hundred  
11 ~~[fifty-two-eeee]~~ fifty-two-e of the general business law.

12 § 7. Section 26-705 of the administrative code of the city of New York  
13 is amended to read as follows:

14 § 26-705 Posting of violations. The offeror, not later than the thir-  
15 tieth day following the acceptance of a plan for filing by the state  
16 department of law pursuant to section three hundred ~~[fifty-two-eeee]~~  
17 fifty-two-e of the general business law and until the closing of the  
18 conversion pursuant to such plan, shall post and maintain in a prominent  
19 place, accessible to all tenants in each building covered by the plan, a  
20 listing of all violations of record against such buildings as determined  
21 by the department of buildings and the department of housing preserva-  
22 tion and development. All newly issued violations shall be posted within  
23 forty-eight hours of their issuance and maintained as described above.  
24 The offeror may satisfy the requirements of this section by designating  
25 an agent on the premises with whom such listing shall be made available  
26 for inspection by the tenants.

27 § 8. Subdivision 9 of section 286 of the multiple dwelling law, as  
28 added by chapter 349 of the laws of 1982, is amended to read as follows:

29 9. ~~[No eviction plan for conversion to cooperative or condominium  
30 ownership for a building which is, or a portion of which is an interim  
31 multiple dwelling shall be submitted for filing to the department of law  
32 pursuant to the general business law until a residential certificate of  
33 occupancy is obtained as required by this article, and the residential  
34 occupants qualified for protection pursuant to this article are offered  
35 one, two or three year leases, as elected by such persons, in accordance  
36 with the provisions for establishment of initial legal regulated rent  
37 contained herein.]~~ Non-eviction plans for such buildings may be submit-

38 ted for filing only if the sponsor remains responsible for compliance  
39 with article seven-B and for all work in common areas required to obtain  
40 a residential certificate of occupancy. Cooperative conversion shall be  
41 fully in accordance with section three hundred ~~[fifty-two-eeee]~~ fifty-  
42 two-e of the general business law, the requirements of the code of the  
43 local real estate industry stabilization association, and with the rules  
44 and regulations promulgated by the attorney general.

45 § 9. Paragraph (g) of subdivision 3 of section 1102 of the private  
46 housing finance law, as amended by chapter 121 of the laws of 1988, is  
47 amended to read as follows:

48 (g) In the case of a rental project, that the project shall be oper-  
49 ated initially as a rental property, and when located in the city of New  
50 York shall be subject to the rent stabilization law of nineteen hundred  
51 sixty-nine, and when located in a municipality which has elected to be  
52 covered by the provisions of the emergency tenant protection act of  
53 nineteen seventy-four, be subject to the provisions of such act. Any  
54 subsequent conversion to cooperative or condominium ownership during the  
55 period in which such property remains subject to the provisions of this  
56 article shall only be allowed with the consent of the corporation and if

1 done pursuant to section three hundred [~~fifty-two-eeee or three hundred~~  
2 ~~fifty-two-eee~~] fifty-two-e of the general business law shall only be  
3 allowed pursuant to a non-eviction plan. The conversion of a rental  
4 project to cooperative or condominium ownership shall make the cooper-  
5 ative or condominium subject to the provisions of this article for coop-  
6 erative or condominium projects for the remaining term which the rental  
7 project was to be subject to the provisions of this article.

8 § 10. Subdivision 8 of section 1152 of the private housing finance  
9 law, as added by chapter 639 of the laws of 1989, is amended to read as  
10 follows:

11 8. If the eligible project is a rental project, no conversion to a  
12 cooperative or condominium shall be permitted for a period of twenty  
13 years after initial occupancy, and unless (i) the agency's share of the  
14 loan is prepaid upon such conversion, (ii) the conversion shall be done  
15 pursuant to section three hundred [~~fifty-two-eeee~~] fifty-two-e of the  
16 general business law as a non-eviction plan, and (iii) apartments occu-  
17 pied by non-purchasing tenants continue to be subject to the rent  
18 stabilization law of nineteen hundred sixty-nine as amended, until the  
19 occurrence of a vacancy.

20 § 11. This act shall take effect on the thirtieth day after it shall  
21 have become a law; provided that the amendments to section 26-504 of  
22 chapter 4 of title 26 of the administrative code of the city of New York  
23 made by section five of this act shall expire on the same date as such  
24 law expires and shall not affect the expiration of such law as provided  
25 under section 26-520 of such law.