

# STATE OF NEW YORK

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3157

2021-2022 Regular Sessions

## IN SENATE

January 27, 2021

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Introduced by Sen. MYRIE -- 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 real property actions and proceedings law, in relation to establishing the tenant opportunity to purchase act

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "tenant opportunity to purchase act".

3 § 2. Legislative findings. The legislature finds that there is a  
4 significant unmet need for affordable housing for low-income people and  
5 families. Almost half of all New York State tenants -- in both urban and  
6 suburban areas -- are rent-burdened. In the Hudson Valley and the South-  
7 ern Tier, and in non-municipal Green and Suffolk counties, more than 60%  
8 of New Yorkers are paying over 30% of their income toward rent. More-  
9 over, between 2012 and 2017, New York State lost more than 160,000  
10 affordable rental homes, almost 55,000 of them outside of New York City,  
11 Westchester and Long Island. This has led to an increase in an already  
12 escalating homelessness crisis. According to HUD's 2019 Point in Time  
13 Estimate, approximately 79,000 people were homeless in New York State.

14 The legislature recognizes that New York's rental housing market has  
15 become even more threatened by the outbreak of novel coronavirus,  
16 COVID-19, which, as of the date of this legislation, created destabi-  
17 lized housing, loss of employment and income, closure of business and  
18 schools and financial insecurity in the state of New York. The legisla-  
19 ture finds that the loss of employment, illness and deaths caused by the  
20 COVID-19 outbreak have rendered many individuals and families unable to  
21 pay for the costs of housing and other life necessities. U.S. Census'  
22 Household Pulse survey shows that in the last week of May 2020, 29% of  
23 all NYS tenants showed little to no confidence in being able to make

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

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1 their June rent payment. The share was higher among Black tenants (41%),  
2 Latinx tenants (41%) and tenants earning less than \$50K (34%).

3 The legislature finds that the sudden decline in rent payments as a  
4 result of COVID-19--particularly on properties overloaded with debt --  
5 coupled with the ensuing economic recession will lead to evictions and  
6 speculation, resulting in the loss of vital and irreplaceable affordable  
7 housing as well as the decline in affordable community-ownership and  
8 home-ownership opportunities for New Yorkers. This was evident in the  
9 Great Recession of 2008. Before and in the immediate aftermath of that  
10 crisis, multinational private equity firms had access to capital and  
11 low-interest rates at a time when many New Yorkers were losing employ-  
12 ment and income. With that uneven access, they were able to enter a  
13 modest and localized multi-family rental market, purchasing 100,000  
14 units in New York City alone, which represented 10% of all rent-regulat-  
15 ed housing. Only a few years after the crisis, between 2014 and 2017,  
16 rents for vacant units increased 29.9% above inflation, exacerbating an  
17 existing housing and homelessness crisis and displacing tenants in crit-  
18 ical need of affordable housing.

19 The legislature further finds that in order to prevent increased  
20 displacement of lower-income tenants and preserve New York's affordable  
21 housing market, it is necessary and appropriate to require that, in the  
22 cases defined herein, owners of rental properties in the State offer  
23 tenants the first opportunity to purchase and qualified purchasers the  
24 second opportunity to purchase the property before it may be sold on the  
25 market to a third-party purchaser.

26 The legislature further finds that such action is necessary in order  
27 to prevent exactions of unjust, unreasonable and oppressive rental  
28 agreements and evictions, and to forestall profiteering, speculation and  
29 other disruptive practices tending to produce further threats to public  
30 health; that the normal market of free bargaining between landlord and  
31 tenant, while still the objective of state policy, must be administered  
32 with due regard for the uncertainty, hardship and dislocation caused by  
33 the current health, housing and unemployment crises.

34 The legislature therefore declares that the provisions of this act are  
35 necessary and designed to protect the public health, safety and general  
36 welfare of New Yorkers, as well as the economic stability and viability  
37 of neighborhoods.

38 § 3. The real property actions and proceedings law is amended by  
39 adding a new article 7-C to read as follows:

40 ARTICLE 7-C

41 TENANT OPPORTUNITY TO PURCHASE ACT

42 Section 799. Definitions.

43 799-a. Authority.

44 799-b. Applicability.

45 799-c. Exemptions.

46 799-d. First right to purchase.

47 799-e. Tenant decision-making; tenant organizations.

48 799-f. Qualified purchasers.

49 799-g. Supportive partners.

50 799-h. Assignment of rights.

51 799-i. Waiver of rights.

52 799-j. Notice requirements.

53 799-k. Right of first offer.

54 799-l. Right of first refusal.

55 799-m. Third-party rights.

56 799-n. Right to appraisal.

799-o. Purchase contract negotiation.  
799-p. No selling of rights.  
799-q. Tenant protections.  
799-r. Price stabilization.  
799-s. Incentives.  
799-t. Enforcement.  
799-u. Statutory construction.  
799-v. Administration and reports.  
799-w. Severability.

§ 799. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "AMI" or "area median income" means area median income established by the U.S. department of housing and urban development (HUD), pursuant to 42 U.S.C. § 1427 et seq., to establish local income classification levels.

2. "Appraised value" means the value of the rental housing accommodation as of the date of the appraisal, based on an objective, independent property valuation, performed according to professional appraisal industry standards.

3. "Bona fide offer of sale" means an offer of sale for a rental housing accommodation that is either:

(a) For a price and other material terms at least as favorable to a tenant, tenant organization, and qualified purchaser as those that the owner has offered, accepted, or is considering offering or accepting, from a purchaser in an arm's length third-party purchase contract; or

(b) In the absence of an arm's length third-party purchase contract, an offer of sale containing a sales price less than or equal to a price and other material terms comparable to that at which a willing seller and a willing buyer would sell and purchase the rental housing accommodation, or an appraised value.

4. "CPI" or "consumer price index" means the consumer price index published by the United States department of labor, bureau of labor statistics for the northeast census region. If publication of the consumer price index ceases, or if it is otherwise unavailable or is altered in a way as to be unusable, HCR shall determine the use of an appropriate substitute index published by the United States department of labor, bureau of labor statistics or any successor agency.

5. "Community land trust" means a nonprofit corporation organized pursuant to section 501 (c) (3) of the U.S. Internal Revenue Code that satisfies all of the following criteria:

(a) Such nonprofit corporation's primary purpose is the creation and maintenance of permanently affordable single-family or multifamily residences;

(b) All dwellings and units on the land owned by the nonprofit corporation are sold to a qualified owner to be occupied as the qualified owner's primary residence or rented to persons and families of low income as defined in subdivision ten of section twelve of the private housing finance law; and

(c) The land owned by the nonprofit corporation, on which a dwelling or unit sold to a qualified owner is situated, is leased by such corporation to the qualified owner for the convenient occupation and use of such dwelling or unit for a renewable term of ninety-nine years.

5-a. "Days" shall mean business days unless otherwise indicated.

6. "Governing document" means a constitution, articles, bylaws, operating agreement, or other writings that govern the purpose and operation

1 of a tenant organization and the rights and obligations of its members,  
2 which shall include provisions on the tenant organization's decision-  
3 making processes and appointing officers and other authorized agents to  
4 act on its behalf.

5 7. "Governing principles" means the governance and management princi-  
6 ples stated in a tenant organization's governing documents.

7 8. "HCR" means New York state homes and community renewal, or its  
8 successor agency.

9 9. "Highest and best use" means the reasonably probable legal use of a  
10 property that is physically possible, appropriately supported, and  
11 financially feasible and that results in the highest value of the prop-  
12 erty.

13 10. "Limited equity housing cooperative" means a limited equity coop-  
14 erative organized as a nonprofit housing development fund company pursu-  
15 ant to article eleven of the private housing finance law.

16 11. "Majority" means an affirmative vote of more than fifty percent  
17 required for decision-making under this article.

18 12. "Matter-of-right" means a land use, development density, or struc-  
19 tural dimension to which a property owner is entitled by current zoning  
20 regulations or law.

21 13. "Owner" means one or more persons, corporation, partnership,  
22 limited liability company, trustee, or any other entity, who is the  
23 owner of record of a rental housing accommodation at the time of giving  
24 notice of intention to sell, and each person, corporation, partnership,  
25 limited liability company, trustee, or any other entity, who, directly  
26 or indirectly, owns fifty percent or more of the equity interests in  
27 such rental housing accommodation at the time of giving notice of inten-  
28 tion to sell. For purposes of complying with the notice requirements  
29 described in this article, "owner" may refer to any person acting as an  
30 authorized agent of the owner.

31 14. "Permanent affordability" means that future rents and future sales  
32 prices of a rental housing accommodation, or separate ownership inter-  
33 ests in such rental housing accommodation, shall be made affordable to  
34 households with targeted income levels.

35 15. "Purchase contract", a binding written agreement whereby an owner  
36 agrees to sell property including, without limitation, a purchase and  
37 sale agreement, contract of sale, purchase option or other similar  
38 instrument.

39 16. "Qualified purchaser" means a qualified purchaser meeting the  
40 criteria described in section seven hundred ninety-nine-f of this arti-  
41 cle.

42 17. "Rent" shall have the same meaning as in section seven hundred two  
43 of this chapter.

44 18. "Rental agreement" means an agreement, oral, written or implied,  
45 between an owner and a tenant for use or occupancy of a unit and for  
46 housing services.

47 19. "Rental housing accommodation" means any real property, including  
48 the land appurtenant thereto, containing one or more rental units and  
49 located in New York state.

50 20. "Rental unit" or "unit" means any unit in any real property,  
51 including the land appurtenant thereto, that is available for rent for  
52 residential use or occupancy, located in New York state, together with  
53 all housing services connected with the use or occupancy of such proper-  
54 ty such as common areas and recreational facilities held out for use by  
55 the tenant.

21. "Sale" or "sell" means the transfer, in exchange for money or any other thing of economic value, of a present interest in the rental housing accommodation, including beneficial use, where the value of the present interest is the fee interest in the rental housing accommodation, or substantially equal to the value of that fee interest. For purposes of this definition, a "transfer" may include those completed in one transaction or a series of transactions over a period of time.

22. "Single family home" means any rental housing accommodation comprised of no more than one rental unit, whether or not the rental unit has one or more tenant households. A single family home shall include a condominium dwelling.

23. "Supportive partner" means a "supportive partner" meeting the criteria set forth in section seven hundred ninety-nine-g of this article.

24. "Tenant" means one or more renter, tenant, subtenant, lessee, sublessee, or other person entitled to the possession, occupancy, or benefits of a rental unit within a rental housing accommodation. "Tenant" shall not include transient guests who use or occupy a unit for less than fourteen consecutive days.

25. "Tenant household" means one or more tenants, whether or not related by blood, marriage or adoption, sharing a dwelling unit in a living arrangement usually characterized by sharing living expenses, such as rent or mortgage payments, food costs and utilities, as well as maintaining a single lease or rental agreement for all members of the household and other similar characteristics indicative of a single household.

26. "Tenant-occupied unit" means any rental unit currently occupied by one or more tenants.

27. "Tenant organization" means tenants who have organized themselves as a legal entity that:

(a) Can acquire an interest in real property;

(b) Represents at least a majority of the tenant-occupied rental units in a rental housing accommodation as of the date of the owner's notice of intent to sell pursuant to section seven hundred ninety-nine-k of this article;

(c) Has adopted a governing document and governing principles; and

(d) Has appointed officers and any other authorized agents specifically designated to execute contracts or act on its behalf.

28. "Third-party purchaser" means any person or entity other than a tenant, tenant organization, or qualified purchaser, engaged or seeking to engage, in purchasing a rental housing accommodation from an owner under this article.

29. "TOPA buyer" means a tenant, tenant organization, or qualified purchaser that is purchasing or has purchased a rental housing accommodation from an owner under this article.

30. "Under threat of eminent domain" refers to the commencement of the process of eminent domain, including but not limited to, any formal or informal contact with the owner by the government or government agents regarding the potential or ongoing assertion of eminent domain, and any hearings or court proceedings regarding the same.

§ 799-a. Authority. HCR and their designees shall be authorized to enforce the provisions of this article, and for such purposes, shall have the powers of a law enforcement officer. HCR shall be authorized to establish standards, policies, and procedures for the implementation of the provisions of this article to further the purpose set forth in this article.

1     § 799-b. Applicability. TOPA shall apply to all rental housing accom-  
2 modations unless otherwise exempted by this article.

3     § 799-c. Exemptions. 1. Residential property types exempted. The  
4 following residential properties shall not be considered covered proper-  
5 ties for purposes of this article:

6         (a) Properties owned by the municipal, state, or federal governments.

7         (b) Properties owned by and operated as a hospital, convent, monas-  
8 tery, extended care facility, convalescent home, or dormitories owned by  
9 educational institutions.

10        (c) Single-unit properties that are not owned by a corporation or a  
11 limited liability company in which at least one member is a corporation.

12        (d) Properties properly licensed as a hotel or motel.

13        (e) Residential properties that an owner is refinancing in order to  
14 maintain ownership of such properties.

15        (f) Multiple dwelling units or groups of multiple dwelling units  
16 managed together under the same private ownership in which the majority  
17 of dwelling units therein that will continue to be subject to federal,  
18 state, or city income eligibility restrictions and in which rents for  
19 such dwelling units are controlled, regulated, or assisted by a federal,  
20 state, or city agency pursuant to a regulatory agreement or rental  
21 assistance agreement designed to make such dwelling units affordable on  
22 a project-based basis. Assisted rental housing programs shall include:

23           (i) any program created, administered, or supervised by the city or  
24 state under article two, four, or eleven of the private housing finance  
25 law, but shall not include any multiple dwelling owned or operated by a  
26 company organized under article two or four of the private housing  
27 finance law that was occupied prior to January first, nineteen hundred  
28 seventy-four;

29           (ii) any program providing project-based assistance under section  
30 eight of the United States housing act of 1937, as amended; and

31           (iii) housing programs governed by sections 202, 207, 221, 232, 236,  
32 or 811 of the federal national housing act, 12 U.S.C. 1701 et seq., as  
33 amended.

34     2. Transfers exempted. The following transfers shall be exempted for  
35 the purposes of this article:

36        (a) An inter-vivos transfer, even when transferred in exchange for  
37 consideration, between spouses, domestic partners, parent and child,  
38 siblings, grandparent and grandchild.

39        (b) A transfer for consideration, by a decedent's estate to members of  
40 the decedent's family if the consideration arising from the transfer  
41 will pass from the decedent's estate to, or solely for the benefit of,  
42 charity. For the purposes of this paragraph, the term "members of the  
43 decedent's family" shall include:

44           (i) A spouse, domestic partner, parent, child, grandparent, grand-  
45 child; and

46           (ii) A trust for the primary benefit of a spouse, domestic partner,  
47 parent, child, grandparent, or grandchild.

48        (c) A transfer of bare legal title into a revocable trust, without  
49 actual consideration for the transfer, where the transferor is the  
50 current beneficiary of the trust.

51        (d) A transfer to a named beneficiary of a revocable trust by reason  
52 of the death of the grantor of the revocable trust.

53        (e) A transfer pursuant to court order or court-approved settlement.

54        (f) A transfer by eminent domain or under threat of eminent domain.

55        (g) A transfer of a residential building to a tenant organization or  
56 qualified purchaser pursuant to a transfer agreement in effect on the



1 effective date of this article, except that any renewal, modification,  
2 or amendment of such agreement occurring on or after the effective date  
3 of this article shall be subject to the provisions of this article.

4 3. Exemption procedures and burden of proof. (a) The burden of proof  
5 to establish that a property type or planned transaction is exempt under  
6 this article shall be on the owner of the rental housing accommodation.

7 (b) The owner of a rental housing accommodation who believes that they  
8 should be granted an exemption under this article shall comply with  
9 procedures that HCR shall create for claiming such an exemption.

10 4. Voluntary election to participate. An owner whose property or  
11 planned transaction is exempt from this article pursuant to sections  
12 seven hundred ninety-nine-b or seven hundred ninety-nine-c of this arti-  
13 cle may elect to subject his or her property to this article by comply-  
14 ing with procedures that HCR shall promulgate through regulations,  
15 provided that the owner who voluntarily subjects his or her property to  
16 this article shall comply with this article in its entirety. Each tenant  
17 living in such property shall be granted all of the rights described in  
18 this article, including the opportunity to decide whether to exercise  
19 their first right of purchase under section seven hundred ninety-nine-d  
20 of this article. No owner shall be eligible for incentives described in  
21 section seven hundred ninety-nine-t of this article without complying  
22 with this article in its entirety.

23 § 799-d. First right to purchase. This section shall be construed to  
24 confer upon each tenant a first right to purchase a rental housing  
25 accommodation, subject to the exemptions in section seven hundred nine-  
26 ty-nine-c of this article, in a manner consistent with this section. The  
27 first right to purchase shall consist of both a right of first offer, as  
28 set forth in section seven hundred ninety-nine-k of this article, and a  
29 right of first refusal, as set forth in section seven hundred ninety-  
30 nine-l of this article. The first right to purchase shall be conferred  
31 to each tenant but shall be exercised collectively pursuant to section  
32 seven hundred ninety-nine-e of this article. The first right to purchase  
33 shall include the right to assign such rights to a qualified purchaser  
34 as set forth in section seven hundred ninety-nine-h of this article. The  
35 first right to purchase shall be conferred where the owner intends to  
36 sell the rental housing accommodation. This section shall not be  
37 construed to limit any right of first offer or first refusal provided  
38 under any law.

39 § 799-e. Tenant decision-making; tenant organizations. 1. Tenant  
40 decision-making. Except in the case of a duly formed tenant organiza-  
41 tion with its own adopted governing document, any action required of  
42 tenants under this article shall be approved by one of the following  
43 decision-making standards:

44 (a) In the case of a rental housing accommodation with more than one  
45 tenant-occupied unit, at least a majority of tenant-occupied units.

46 (b) In the case of a rental housing accommodation with only one  
47 tenant-occupied unit but multiple tenant households, at least a majority  
48 of tenant households.

49 (c) In the case of a rental housing accommodation with only one tenant  
50 household, the tenant household.

51 2. Tenant organizations. (a) In order to submit an offer of purchase  
52 pursuant to section seven hundred ninety-nine-k of this article and  
53 respond to the owner's offer of sale pursuant to section seven hundred  
54 ninety-nine-l of this article, tenants shall:

55 (i) Form a tenant organization, approved by the requirements described  
56 in subdivision one of this section, unless such a tenant organization

1 already exists in a form approved by the tenants. If there is only one  
2 tenant household in a rental housing accommodation, the tenant household  
3 may exercise the right of first offer and right of first refusal without  
4 forming a tenant organization; however, such tenant household shall  
5 still comply with section seven hundred ninety-nine-g of this article.

6 (ii) Select a supportive partner, meeting the criteria described in  
7 section seven hundred ninety-nine-g of this article.

8 (iii) Deliver an application for registration of the tenant organiza-  
9 tion, or the tenant household, if applicable, to HCR, and deliver a copy  
10 of such application to the owner, by hand or by certified mail on or  
11 before the deadline of submitting an offer of purchase pursuant to  
12 section seven hundred ninety-nine-k of this article. Such application  
13 shall include:

14 (A) the name, address, and phone number of tenant officers and the  
15 supportive partner;

16 (B) a copy of the formation document, as filed;

17 (C) a copy of the governing document;

18 (D) documented approval that the tenant organization represents a  
19 majority under paragraph (a) or (b) of subdivision one of this section  
20 as of the time of registration; and

21 (E) such other information as HCR may reasonably require.

22 (b) Tenants may form and register the tenant organization with HCR  
23 pursuant to this subdivision at any time, provided that this section  
24 shall not be construed to alter the time periods within which a tenant  
25 organization may exercise the rights afforded by this article.

26 (c) Upon registration with HCR, the tenant organization shall consti-  
27 tute the sole representative of the tenants for purposes of this arti-  
28 cle.

29 § 799-f. Qualified purchasers. 1. Qualified purchaser criteria. (a)  
30 HCR shall establish an administrative process for certifying purchasers  
31 that shall include, but not be limited to, the following minimum crite-  
32 ria:

33 (i) The purchaser is a bona fide nonprofit, as evidenced by the fact  
34 that it is exempt from federal income tax under 26 U.S.C. § 501(c)(3);

35 (ii) The purchaser has demonstrated a commitment to either:

36 (iii) democratic residential control, as evidenced by its ownership  
37 and governance structure and relationship with residents; or

38 (iv) a commitment to community engagement, as evidenced by relation-  
39 ships with neighborhood-based organizations or tenant counseling organ-  
40 izations;

41 (v) The purchaser has agreed to transfer ownership of the rental hous-  
42 ing accommodation to the tenants when feasible if its tenants request  
43 such transfer of ownership;

44 (vi) The purchaser has demonstrated a commitment to the provision of  
45 affordable housing for low, very low, and extremely low income New York  
46 state residents, and to prevent the displacement of such residents;

47 (vii) The purchaser has agreed to obligate itself and any successors  
48 in interest to maintain the permanent affordability of the rental hous-  
49 ing accommodation, in accordance with section seven hundred  
50 ninety-nine-r of this article;

51 (viii) The purchaser has demonstrated the capacity, including, but not  
52 limited to, the legal and financial capacity, to effectively acquire and  
53 manage residential real property in New York state;

54 (ix) The purchaser has acquired or partnered with another housing  
55 development organization or nonprofit organization to acquire at least  
56 one residential building using any public or community funding, or has



1 entered into a written memorandum of understanding with another housing  
2 development organization or nonprofit organization for the purpose of  
3 partnering with a housing development organization or nonprofit organ-  
4 ization to acquire residential buildings using public or community fund-  
5 ing; and

6 (x) The purchaser has agreed to attend mandatory training to be deter-  
7 mined, from time to time, by HCR.

8 (b) Notwithstanding any other requirement of this article, municipal  
9 housing authorities established pursuant to the municipal housing  
10 authority law by any county, city, or first class village of the state  
11 shall be deemed qualified purchaser for purposes of this article.

12 2. Certification, term, and renewal. Purchasers that HCR certifies as  
13 having met the criteria in subdivision one of this section shall be  
14 known as "qualified purchasers". A purchaser's certification as a qual-  
15 ified purchaser shall be valid for four years. HCR shall solicit new  
16 applications for qualified purchaser status at least once each calendar  
17 year, at which time existing qualified purchasers shall be eligible to  
18 apply for renewed certification as qualified purchasers.

19 3. Existence and publication of qualified purchasers list. HCR shall  
20 publish on its website, and make available upon request, a list of qual-  
21 ified purchasers. In addition to such other information as HCR may  
22 include, such list shall include contact information for each qualified  
23 purchaser. Such contact information shall include, but need not be  
24 limited to, a mailing address, an e-mail address that the qualified  
25 purchaser monitors regularly, and a telephone number.

26 4. Disqualification of qualified purchaser and conflicts of interest.  
27 HCR shall promptly investigate any complaint alleging that a qualified  
28 purchaser has failed to comply with this section. Subject to regulations  
29 promulgated by HCR, if, after providing the qualified purchaser with  
30 notice and opportunity to be heard, HCR determines that a purchaser  
31 listed as a qualified purchaser has failed to comply with this section,  
32 HCR may suspend or revoke that purchaser's certification as a qualified  
33 purchaser. HCR shall establish a process for addressing potential and  
34 actual conflicts of interests that may arise among supportive partners,  
35 qualified purchasers, and tenants through promulgation of regulations.

36 § 799-g. Supportive partners. 1. Supportive partner criteria. HCR  
37 shall establish an administrative process for certifying individuals or  
38 organizations that meet the following minimum criteria:

39 (a) The individual or organization has demonstrated ability and capac-  
40 ity to guide and support tenants in forming a tenant organization;

41 (b) The individual or organization has demonstrated ability and capac-  
42 ity to assist tenants in understanding and exercising their rights under  
43 this article;

44 (c) The individual or organization has demonstrated expertise, or  
45 existing partnerships with other organizations with demonstrated exper-  
46 tise, to counsel tenants on first-time homeownership and collective  
47 ownership structures;

48 (d) The individual or organization has a demonstrated commitment to  
49 creating democratic resident-controlled housing; and

50 (e) The individual or organization has agreed to attend mandatory  
51 trainings, to be determined, from time to time, by HCR.

52 2. Certification, term, and renewal. Individuals and organizations  
53 that HCR certifies as having met the criteria in subdivision one of this  
54 section shall be known as "supportive partners". An individual or organ-  
55 ization's certification as a supportive partner shall be valid for four  
56 years. HCR shall solicit new applications for supportive partner status

1 at least once each calendar year, at which time existing supportive  
2 partners shall be eligible to apply for renewed certification as  
3 supportive partners.

4 3. Purpose of supportive partner. A supportive partner shall function  
5 in a supportive role to assist tenants in exercising their rights under  
6 this article. This article shall not confer any rights to a supportive  
7 partner. A supportive partner shall be distinct from a qualified  
8 purchaser that is conferred subordinated rights under this article as  
9 described in section seven hundred ninety-nine-d of this article. HCR  
10 may determine that a qualified purchaser described in section seven  
11 hundred ninety-nine-f of this article that meets the criteria in subdi-  
12 vision one of this section shall also be eligible to serve as a support-  
13 ive partner. HCR may also serve as a supportive partner.

14 4. Existence and publication of supportive partners list. HCR shall  
15 publish on its website, and make available upon request, a list of  
16 supportive partners. In addition to such other information as HCR may  
17 include, this list shall include contact information for each supportive  
18 partner. Such contact information shall include, but need not be limited  
19 to, a mailing address, an e-mail address that the supportive partner  
20 monitors regularly, and a telephone number.

21 5. Disqualification of supportive partner and conflicts of interest.  
22 HCR shall promptly investigate any complaint alleging that a supportive  
23 partner has failed to comply with this section. Subject to regulations  
24 promulgated by HCR, if, after providing the supportive partner with  
25 notice and opportunity to be heard, HCR determines that an individual or  
26 organization listed as a supportive partner has failed to comply with  
27 this section, HCR may suspend or revoke such individual or organiza-  
28 tion's certification as a supportive partner. HCR shall establish a  
29 process for addressing potential and actual conflicts of interests that  
30 may arise among supportive partners, qualified purchasers, and tenants  
31 through promulgation of regulations.

32 § 799-h. Assignment of rights. 1. A tenant or tenant organization may  
33 assign rights under this section in compliance with subdivision one of  
34 section seven hundred ninety-nine-e to a qualified purchaser of their  
35 choice.

36 2. Subject to regulations promulgated by HCR, the assignment of rights  
37 described in this section shall occur prior to the tenant or tenant  
38 organization waiving their rights pursuant to section seven hundred  
39 ninety-nine-i of this article, and only during the process provided in  
40 section seven hundred ninety-nine-k of this article. Except as provided  
41 in section seven hundred ninety-nine-i of this article, the waiver and  
42 assignment of rights shall be made in a written agreement executed by  
43 the tenant or tenant organization and the qualified purchaser.

44 3. Qualified purchasers shall not accept any payment, consideration,  
45 or reward in exchange for the assignment of rights under this section.

46 § 799-i. Waiver of rights. 1. Tenants may affirmatively waive their  
47 rights before the time periods specified in sections seven hundred nine-  
48 ty-nine-k and seven hundred ninety-nine-l of this article elapse, by  
49 notifying the owner in writing, signed by the tenants and in compliance  
50 with section seven hundred ninety-nine-e of this article.

51 2. Tenants' failure to complete actions required under sections seven  
52 hundred ninety-nine-k and seven hundred ninety-nine-l of this article  
53 within the allotted time periods, and any extensions thereof, shall be  
54 deemed an implied waiver of such tenants' rights.

55 § 799-j. Notice requirements. Any notices required or permitted by  
56 this article shall also comply with regulations promulgated by HCR.

1     § 799-k. Right of first offer. 1. General construction. Before an  
2 owner of a rental housing accommodation may offer such rental housing  
3 accommodation for sale to, solicit any offer to purchase from, or accept  
4 any unsolicited offer to purchase from, any third-party purchaser, such  
5 owner shall give the tenant of such rental housing accommodation the  
6 first opportunity to make an offer as set forth by this section.

7     2. Joint notification. (a) In accordance with section seven hundred  
8 ninety-nine-j of this article, the owner shall:

9     (i) Notify each tenant eighteen years of age and over of the owner's  
10 intent to sell the rental housing accommodation by certified mail and by  
11 posting a copy of the notice in a conspicuous place in common areas of  
12 the rental housing accommodation.

13     (A) Such notice shall be in the top three languages spoken at home  
14 within the property's census tract based on the latest United States  
15 census bureau's American community survey.

16     (B) Such notice shall include, at a minimum:

17     (1) A statement that the owner intends to sell the rental housing  
18 accommodation;

19     (2) A statement of the rights of tenants and qualified purchasers and  
20 the accompanying timelines described in this section;

21     (3) A statement that the owner shall make the related disclosures  
22 described in this section available to the tenant; and

23     (4) A statement stating that if the tenant requires the notice in a  
24 language not provided, they can contact HCR and request the notice in  
25 their requested language and/or the assistance of an interpreter.

26     (ii) Notify HCR of the owner's intent to sell the rental housing  
27 accommodation by sending a copy of the notice provided to tenants to an  
28 e-mail address designated by HCR and posting the notice on a website to  
29 be designated by HCR.

30     (b) HCR shall update the website at least daily and shall include  
31 disclaimers to the effect that (i) where a notice is provided on the  
32 website, such notice usually will not be provided in any other manner to  
33 individuals or entities other than tenants eighteen years of age and  
34 over in the rental housing accommodation; and (ii) it is the responsi-  
35 bility of any person or entity interested in receiving such notice to  
36 monitor the website for such notices.

37     3. Related disclosures. When the owner, pursuant to this section,  
38 notifies each tenant and qualified purchaser of its intent to sell a  
39 rental housing accommodation, the owner shall also provide each tenant  
40 and qualified purchaser with the following information, at minimum:

41     (a) A floor plan of the property;

42     (b) An itemized list of monthly operating expenses, utility consump-  
43 tion rates, real property taxes and capital expenditures for each of the  
44 two preceding calendar years;

45     (c) A list of any known defects and hazards, and any related costs for  
46 repair;

47     (d) The most recent rent roll, a list of occupied units and list of  
48 vacant units, including the rate of rent for each unit, and any esca-  
49 lations and lease expirations;

50     (e) Covenants, conditions, and restrictions and reserves, in the case  
51 of a condominium dwelling;

52     (f) HCR rent registrations;

53     (g) Regulatory agreements;

54     (h) Any mortgages and notes and any documentation of any other finan-  
55 cial commitments that affect the financial operations of the building,  
56 including but not limited to obligations to equity investors; and

1 (i) Any other disclosures required by New York state law or HCR regu-  
2 lation.

3 4. Time to submit a statement of interest. (a) Upon receipt of the  
4 notice and disclosures described in subdivisions two and three of this  
5 section, tenants shall deliver one statement of interest to the owner on  
6 behalf of the rental housing accommodation.

7 (b) Tenants shall have twenty days in a rental housing accommodation  
8 comprised of one or two units, and thirty days in a rental housing  
9 accommodation with three or more units, to deliver the statement of  
10 interest. Tenants in a rental housing accommodation with thirty or more  
11 units shall be granted one extension of up to fifteen days upon request,  
12 for a total of forty-five days. If the tenants waive their rights in  
13 accordance with section seven hundred ninety-nine-i of this article,  
14 qualified purchasers shall have the remaining time or a minimum of five  
15 days, whichever is greater, to deliver a statement of interest to the  
16 owner.

17 (c) The statement of interest shall be a clear expression from the  
18 tenants that they intend to further consider making an offer to purchase  
19 the rental housing accommodation or further consider assigning their  
20 rights to a qualified purchaser.

21 (d) The statement of interest shall include documentation demonstrat-  
22 ing that the tenants' decision was supported by the standard described  
23 in section seven hundred ninety-nine-e of this article.

24 (e) If the tenants waive their rights in accordance with section seven  
25 hundred ninety-nine-i of this article, the owner shall notify all quali-  
26 fied purchasers, via e-mail, on the same day that tenants waive their  
27 rights, of the right of each qualified purchaser to submit a statement  
28 of interest to the owner.

29 (f) Upon receipt of the notice, a qualified purchaser that intends to  
30 further consider making an offer to purchase the rental housing accommo-  
31 dation shall deliver a statement of interest to the owner and every  
32 other qualified purchaser via e-mail within the time periods provided by  
33 this subdivision.

34 (g) The statement of interest shall be a clear expression that the  
35 qualified purchaser intends to further consider making an offer to  
36 purchase the rental housing accommodation.

37 (h) If a qualified purchaser has delivered a statement of interest  
38 consistent with this subdivision, the owner shall, subject to seeking  
39 tenant approval for disclosure of any confidential or personal informa-  
40 tion, disclose to each such qualified purchaser, via e-mail, the names  
41 of tenants in each occupied unit of the rental housing accommodation, as  
42 well as any available contact information for each tenant.

43 (i) If tenants and qualified purchasers do not deliver a statement of  
44 interest within the time periods specified in this subdivision, the  
45 owner may immediately proceed to offer the rental housing accommodation  
46 for sale to, and solicit offers of purchase from, prospective third-par-  
47 ty purchasers, subject to the right of first refusal provided by section  
48 seven hundred ninety-nine-l of this article.

49 5. Time to submit offer. (a) The following procedures shall apply to  
50 offers to purchase a rental housing accommodation with only one tenant  
51 household:

52 (i) Upon receipt of a statement of interest from tenants consistent  
53 with subdivision four of this section, an owner shall afford the tenants  
54 an additional twenty-one days to select a supportive partner and submit  
55 an offer to purchase the rental housing accommodation. If the tenants  
56 wave their rights in accordance with section seven hundred

1 ninety-nine-i of this article, qualified purchasers shall have the  
2 remaining time or a minimum of five days, whichever is greater, to  
3 submit an offer to the owner.

4 (ii) If the tenants waive their rights in accordance with section  
5 seven hundred ninety-nine-i of this article, the owner shall notify all  
6 qualified purchasers, via e-mail, of their rights to submit an offer.  
7 Upon receipt of this notice, each qualified purchaser that intends to  
8 purchase the rental housing accommodation shall submit an offer to the  
9 owner within the time period specified in subparagraph (i) of this para-  
10 graph.

11 (b) The following procedures shall apply to offers to purchase a  
12 rental housing accommodation with two units or a single family home with  
13 multiple tenant households, unless subject to paragraph (a) of this  
14 subdivision:

15 (i) Upon receipt of a statement of interest from tenants consistent  
16 with subdivision four of this section, an owner shall afford the tenants  
17 an additional forty-five days to form a tenant organization, select a  
18 supportive partner, and deliver an offer to purchase the rental housing  
19 accommodation. If the tenants waive their rights in accordance with  
20 section seven hundred ninety-nine-i of this article, qualified purchas-  
21 ers shall have the remaining time or a minimum of five days, whichever  
22 is greater, to deliver an offer to the owner.

23 (ii) If the tenants waive their rights in accordance with section  
24 seven hundred ninety-nine-i of this article, the owner shall notify all  
25 qualified purchasers, via e-mail, of their rights to submit an offer.  
26 Upon receipt of this notice, each qualified purchaser that intends to  
27 purchase the rental housing accommodation shall deliver an offer within  
28 the time period specified in subparagraph (i) of this paragraph.

29 (c) The following procedures shall apply to offers to purchase a  
30 rental housing accommodation with three or more units, unless subject to  
31 paragraph (a) of this subdivision.

32 (i) Upon receipt of a statement of interest from tenants consistent  
33 with subdivision four of this section, an owner shall afford tenants an  
34 additional sixty days to form a tenant organization, select a supportive  
35 partner, and deliver an offer to purchase the rental housing accommo-  
36 dation. Tenants in a rental housing accommodation with ten to twenty-  
37 nine units shall be granted one extension of up to thirty days upon  
38 request, for a total of ninety days to submit an offer to the owner.  
39 Tenants in a rental housing accommodation with thirty or more units  
40 shall be granted two extensions of up to thirty days each, for a total  
41 of one hundred twenty days to deliver an offer to the owner. If the  
42 tenants waive their rights in accordance with section seven hundred  
43 ninety-nine-i of this article, qualified purchasers shall have the  
44 remaining time within these time periods and any extensions thereof, or  
45 a minimum of five days, whichever is greater, to deliver an offer to the  
46 owner.

47 (ii) If the tenants waive their rights in accordance with section  
48 seven hundred ninety-nine-i of this article, the owner shall notify all  
49 qualified purchasers, via e-mail, of their rights to submit an offer.  
50 Upon receipt of this notice, each qualified purchaser that intends to  
51 purchase the rental housing accommodation shall deliver an offer within  
52 the time period specified in subparagraph (i) of this paragraph.

53 (d) Within the timeframes provided by paragraphs (a), (b), and (c) of  
54 this subdivision for submitting an offer, the tenant, tenant organiza-  
55 tion, or qualified purchaser that submits an offer to the owner shall  
56 also submit an agreement to HCR pursuant to subdivision two of section



1 seven hundred ninety-nine-r of this article, agreeing to be bound by  
2 requirements of such section.

3 6. Owner free to accept or reject offer. The owner shall be free to  
4 accept or reject any offer of purchase from a tenant, tenant organiza-  
5 tion or qualified purchaser. Any such acceptance or rejection shall be  
6 communicated in writing.

7 (a) Incentives to accept offer. If the owner accepts any such offer of  
8 purchase from a tenant, tenant organization or a qualified purchaser,  
9 the owner may be eligible to receive incentives pursuant to section  
10 seven hundred ninety-nine-s of this article.

11 (b) Rejection of offer. If the owner rejects all such offers of  
12 purchase, the owner may immediately offer the rental housing accommo-  
13 dation for sale to, and solicit offers of purchase from, prospective  
14 third-party purchasers, subject to the right of first refusal described  
15 in section seven hundred ninety-nine-l of this article.

16 (c) Lapse of time. If ninety days elapse from the date of an owner's  
17 rejection of an offer from a tenant, tenant organization or a qualified  
18 purchaser, and the owner has not provided an offer of sale as described  
19 in section seven hundred ninety-nine-l of this article, the owner shall  
20 comply anew with this section.

21 7. Time to secure financing. (a) The following procedures shall apply  
22 to a purchase of a single family home with only one tenant household.

23 (i) The owner shall afford the tenant or qualified purchaser thirty  
24 days after the date of the entering into a purchase contract to secure  
25 financing.

26 (ii) If, within thirty days after the date of contracting, the tenant  
27 or qualified purchaser presents the owner with the written decision of a  
28 lending institution or agency that states that the institution or agency  
29 estimates that a decision with respect to financing or financial assist-  
30 ance will be made within forty-five days after the date of contracting,  
31 the owner shall afford the tenant or qualified purchaser an extension of  
32 time consistent with the written estimate.

33 (iii) If the tenant or qualified purchaser does not secure financing  
34 and close the transaction within the timeframes described in this subdivi-  
35 sion and subdivision eight of this section, and any extensions there-  
36 of, the owner may immediately proceed to offer the rental housing accom-  
37 modation for sale to, and to solicit offers of purchase from prospective  
38 third party purchasers other than the tenant or qualified purchaser.

39 (b) The following procedures shall apply to a purchase of a rental  
40 housing accommodation with two units or a single family home with multi-  
41 ple tenant households.

42 (i) The owner shall afford the tenant organization or qualified  
43 purchaser ninety days after the date of entering into a purchase  
44 contract to secure financing.

45 (ii) If, within ninety days after the date of contracting, the tenant  
46 organization or qualified purchaser presents the owner with the written  
47 decision of a lending institution or agency that states that the insti-  
48 tution or agency estimates that a decision with respect to financing or  
49 financial assistance will be made within one hundred twenty days after  
50 the date of contracting, the owner shall afford the tenant organization  
51 or qualified purchaser an extension of time consistent with the written  
52 estimate.

53 (iii) If the tenant organization or qualified purchaser does not  
54 secure financing and close the transaction within the timeframes  
55 described in this subdivision and subdivision eight of this section, and  
56 any extensions thereof, the owner may immediately proceed to offer the

1 rental housing accommodation for sale to, and to solicit offers of  
2 purchase from prospective third-party purchasers other than the tenant  
3 organization or qualified purchaser.

4 (c) The following procedures shall apply to purchases of rental hous-  
5 ing accommodations with three or more units.

6 (i) The owner shall afford the tenant organization or qualified  
7 purchaser one hundred twenty days after the date of entering into a  
8 purchase contract to secure financing.

9 (ii) If, within one hundred twenty days after the date of contracting,  
10 the tenant organization or qualified purchaser presents the owner with  
11 the written decision of a lending institution or agency that states that  
12 the institution or agency estimates that a decision with respect to  
13 financing or financial assistance will be made within one hundred sixty  
14 days after the date of contracting, the owner shall afford the tenant  
15 organization or qualified purchaser an extension of time consistent with  
16 the written estimate.

17 (iii) If the tenant organization or qualified purchaser does not  
18 secure financing and close the deal within the timeframes described in  
19 this subdivision and subdivision eight of this section, and any exten-  
20 sions thereof, the owner may immediately proceed to offer the rental  
21 housing accommodation for sale to, and to solicit offers of purchase  
22 from prospective third-party purchasers other than the tenant organiza-  
23 tion or qualified purchaser.

24 8. Time to close. In addition to the time periods in subdivision seven  
25 of this section, the owner shall afford each tenant, tenant organiza-  
26 tion, or qualified purchaser with an additional fourteen days to close.  
27 So long as the tenant, tenant organization, or qualified purchaser is  
28 diligently pursuing the close, the owner shall afford them a reasonable  
29 extension beyond this fourteen-day period to close.

30 § 799-1. Right of first refusal. 1. General construction. This section  
31 shall be construed to confer a right of first refusal only upon each  
32 tenant, tenant organization, and qualified purchaser that exercised the  
33 right of first offer pursuant to section seven hundred ninety-nine-k of  
34 this article.

35 2. Offer of sale to tenant, tenant organizations, and qualified  
36 purchasers. Before an owner of a rental housing accommodation may sell a  
37 rental housing accommodation, the owner shall give each tenant, tenant  
38 organization, or qualified purchaser that previously made an offer to  
39 purchase such rental housing accommodation pursuant to section seven  
40 hundred ninety-nine-k of this article an opportunity to purchase such  
41 rental housing accommodation at a price and terms that represent a bona  
42 fide offer of sale.

43 (a) The owner's offer of sale shall include, at minimum:

44 (i) The asking price and terms of the sale. The terms and conditions  
45 shall be consistent with the applicable timeframes described in subdivi-  
46 sions three and four of this section;

47 (ii) A statement as to whether a purchase contract with a third-party  
48 purchaser exists for the sale of the rental housing accommodation, and  
49 if so, a copy of such purchase contract; and

50 (iii) A statement in English and Spanish stating that if the tenant  
51 requires the offer of sale in a language other than English, they may  
52 contact HCR and request the offer of sale in their requested language  
53 and/or the assistance of an interpreter.

54 (b) If a tenant or tenant organization is receiving the offer of sale,  
55 the owner shall deliver a written copy of the offer of sale to each  
56 tenant or tenant organization by certified mail.

1 (c) If a qualified purchaser is receiving the offer of sale, the owner  
2 shall deliver the offer of sale to each qualified purchaser that previ-  
3 ously made an offer to purchase the rental housing accommodation. The  
4 owner shall submit an offer of sale to each such qualified purchaser on  
5 the same day, and to the extent possible, at the same time, by e-mail.

6 (d) If the owner has a purchase contract with a third-party purchaser  
7 for the sale of the rental housing accommodation, the owner shall deliv-  
8 er the offer of sale to each tenant, tenant organization or qualified  
9 purchaser within two days of entering into a purchase contract with the  
10 third-party purchaser.

11 (e) The owner shall also provide HCR with a written copy of the offer  
12 of sale and a statement certifying that the items described by paragraph  
13 (a) of this subdivision were delivered to each tenant, tenant organiza-  
14 tion, or qualified purchaser.

15 3. Time to accept offer. (a) The following procedures shall apply to a  
16 rental housing accommodation with only one tenant household: Upon  
17 receipt of the offer of sale from the owner, a tenant or qualified  
18 purchaser shall have ten days to accept the offer of sale, provided,  
19 however, that the deadline to accept any offer of sale shall be extended  
20 to allow the tenant or qualified purchaser to exercise their right to an  
21 appraisal pursuant to section seven hundred ninety-nine-n of this arti-  
22 cle, if they believe that the offer of sale is not a bona fide offer of  
23 sale.

24 (b) The following procedures shall apply to a rental housing accommo-  
25 dation with multiple tenant households:

26 (i) Upon receipt of the offer of sale from the owner, a tenant organ-  
27 ization shall have forty-five days to accept the offer of sale.

28 (ii) Upon receipt of the offer of sale from the owner, a qualified  
29 purchaser shall have thirty days to accept the offer of sale.

30 (iii) The deadline to accept any offer of sale shall be extended to  
31 allow the tenant or qualified purchaser to exercise their right to an  
32 appraisal pursuant to section seven hundred ninety-nine-n of this arti-  
33 cle, if they believe that the offer of sale is not a bona fide offer of  
34 sale.

35 (c) If, during these time periods, any qualified purchaser that has  
36 received such offer of sale decides to accept the owner's offer of sale,  
37 such qualified purchaser shall notify the owner and every other quali-  
38 fied purchaser of such decision by e-mail. After a qualified purchaser  
39 notifies the owner of its decision to accept the owner's offer of sale,  
40 meaning before any other qualified purchaser so notified the owner, such  
41 qualified purchaser shall be deemed to have accepted the offer of sale,  
42 and no other qualified purchaser shall accept the owner's offer of sale,  
43 whether or not the time periods in this subdivision have elapsed.

44 4. Time to secure financing and close. If a tenant, tenant organiza-  
45 tion, or qualified purchaser accepts an owner's offer of sale in accord-  
46 ance with this article, the owner shall afford such tenant, tenant  
47 organization, or qualified purchaser time to secure financing and close,  
48 consistent with this article.

49 5. Rejection of offer. If each tenant, tenant organization, and quali-  
50 fied purchaser that received an offer of sale consistent with this arti-  
51 cle, rejects such offer of sale or fails to respond within the timelines  
52 described in this section, the owner may immediately proceed with the  
53 sale of the rental housing accommodation to a third-party purchaser  
54 consistent with the price and material terms of that offer of sale.

55 § 799-m. Third-party rights. The right of a third-party to purchase a  
56 rental housing accommodation shall be conditional upon the exercise of

1 tenant, tenant organization, and qualified purchaser rights under this  
2 article. The time periods for submitting and accepting an offer, secur-  
3 ing financing, and closing under this article shall be minimum periods,  
4 and the owner may afford any tenant, tenant organization, and qualified  
5 purchaser a reasonable extension of such period, without liability under  
6 a third-party purchase contract. Third-party purchasers shall be  
7 presumed to act with full knowledge of the rights of tenants, tenant  
8 organizations, and qualified purchasers and public policy under this  
9 article.

10 § 799-n. Right to appraisal. 1. Right to appraisal. This section shall  
11 apply whenever an offer of sale is made to a tenant, tenant organiza-  
12 tion, or qualified purchasers as required by this article and the offer  
13 is made in the absence of an arm's-length third-party purchase contract.

14 2. Request for appraisal. The tenant, tenant organization, or quali-  
15 fied purchaser that receives an owner's offer of sale may challenge such  
16 offer of sale as not being a bona fide offer of sale, and request an  
17 appraisal to determine the fair market value of the rental housing  
18 accommodation. The party requesting the appraisal shall be deemed the  
19 "petitioner" for purposes of this section. The petitioner shall deliver  
20 the written request for an appraisal to HCR and the owner by hand or by  
21 certified mail within five days of receiving the offer of sale.

22 3. Time for appraisal. Beginning with the date of receipt of a written  
23 request for an appraisal, and for each day thereafter until the peti-  
24 tioner receives the appraisal, the time periods described in subdivision  
25 three of section seven hundred ninety-nine-1 of this article shall be  
26 extended by an additional time of up to ten business days.

27 4. Selection of appraiser. The petitioner shall select an appraiser  
28 from a list of independent, qualified appraisers, that HCR shall main-  
29 tain. HCR-approved appraisers shall hold an active appraiser license  
30 issued by the New York state board of real estate appraisal and shall be  
31 able to conduct an objective, independent property valuation, performed  
32 according to professional industry standards. All appraisers shall  
33 undergo training organized by HCR before they are approved and added to  
34 the HCR's list.

35 5. Cost of appraisal. The petitioner shall be responsible for one-  
36 third and the owner shall be responsible for two-thirds of the total  
37 cost of the appraisal.

38 6. Appraisal procedures and standards. The owner shall give the  
39 appraiser full, unfettered access to the property. The owner shall  
40 respond within three days to any request for information from the  
41 appraiser. The petitioner may give the appraiser information relevant to  
42 the valuation of the property. The appraisal shall be completed expe-  
43 ditiously according to standard industry timeframes. An appraised value  
44 shall only be based on rights an owner has as a matter-of-right as of  
45 the date of the alleged bona fide offer of sale, including any existing  
46 right an owner may have to convert the property to another use. Within  
47 the restrictions in this subdivision, an appraised value may take into  
48 consideration the highest and best use of the property.

49 7. Validity of appraisal. The determination of the appraised value of  
50 the rental housing accommodation, in accordance with this section, shall  
51 become the sales price of the rental housing accommodation in the bona  
52 fide offer of sale, unless:

53 (a) The owner and the petitioner agree upon a different sales price of  
54 the rental housing accommodation; or

55 (b) The owner elects to withdraw the offer of sale altogether within  
56 fourteen days of receipt of the appraisal, in which case:

1 (i) the owner shall withdraw the offer of sale by delivering a written  
2 notice by hand or by certified mail to HCR and to the petitioner;

3 (ii) upon withdrawal, the owner shall reimburse the petitioner and HCR  
4 for their share of the cost of the appraisal within fourteen days of  
5 delivery of written notice of withdrawal; and

6 (iii) An owner who withdraws an offer of sale in accordance with this  
7 paragraph shall be precluded from proceeding to sell the rental housing  
8 accommodation to a third-party purchaser without complying with this  
9 section by honoring the first right of purchase of tenants and qualified  
10 purchasers; or

11 (c) The petitioner elects to withdraw the offer of sale altogether  
12 within fourteen days of receipt of the appraisal, in which case:

13 (i) the petitioner shall withdraw the offer of sale by delivering a  
14 written notice by hand or by certified mail to HCR and to the owner; and

15 (ii) upon withdrawal, the petitioner shall reimburse the owner and HCR  
16 for their share of the cost of the appraisal within fourteen days of  
17 delivery of written notice of withdrawal.

18 § 799-o. Purchase contract negotiation. 1. Bargaining in good faith.  
19 The owner and any tenant, tenant organization, and/or qualified purcha-  
20 ser shall bargain in good faith regarding the terms of any offer for  
21 sale. Any one of the following shall constitute prima facie evidence of  
22 bargaining without good faith:

23 (a) The failure of an owner to offer a tenant, tenant organization, or  
24 qualified purchaser a price and other material terms at least as favora-  
25 ble as that offered to a third-party purchaser;

26 (b) Any requirement by an owner that a tenant, tenant organization, or  
27 qualified purchaser waive any right under this article; or

28 (c) The intentional failure of an owner, tenant, tenant organization,  
29 or qualified purchaser to comply with the provisions of this article.

30 2. Reduced price. If the owner sells or contracts to sell the rental  
31 housing accommodation to a third-party purchaser for a price less than  
32 the price offered to the tenant, tenant organization, or qualified  
33 purchaser in the offer of sale, or for other terms, which would consti-  
34 tute bargaining without good faith, the owner shall comply anew with all  
35 requirements of this article, as applicable.

36 3. Termination of rights. The intentional failure of any tenant,  
37 tenant organization, or qualified purchaser to comply with the  
38 provisions of this article shall result in the termination of their  
39 rights under this article.

40 § 799-p. No selling of rights. 1. A tenant, tenant organization, or  
41 qualified purchaser shall not sell any rights under this article.

42 2. An owner shall not coerce a tenant or tenant organization to waive  
43 their rights under this article.

44 § 799-q. Tenant protections. 1. No tenant in the rental housing accom-  
45 modation, including tenants who do not exercise rights to purchase under  
46 this article, shall be evicted by the TOPA buyer, except for good cause.

47 2. Should the maximum allowable rent provision of the state's emergen-  
48 cy tenant protection regulations, and the state's rent stabilization  
49 code, promulgated by the division of housing and community renewal, TOPA  
50 buyers shall adjust the rent annually to allow an increase of no more  
51 than the increase in the CPI.

52 3. TOPA buyers shall not refuse to provide rental housing accommo-  
53 datations to any person based on the source of funds used to pay for the  
54 rental housing accommodations, including but not limited to any funds  
55 provided by Section 8 vouchers or any other subsidy program established  
56 by federal, state or municipal government, or any future rent subsidy



1 from a governmental entity made available to extremely low to moderate  
2 low income households for vacant units in the purchased rental housing  
3 accommodation.

4 § 799-r. Price stabilization. 1. Price stabilization. A rental housing  
5 accommodation purchased by a TOPA buyer under this article shall be  
6 subject to permanent affordability restrictions as set forth in this  
7 section and by regulations promulgated by HCR, which shall be promulgat-  
8 ed with the intent of fulfilling the purpose of this section.

9 2. Term. Subject to regulations promulgated by HCR, permanent affor-  
10 dability standards shall restrict the use of the rental housing accommo-  
11 dation to require that permanent affordability restrictions remain in  
12 force for ninety-nine years and with an option to renew at year one  
13 hundred. This subdivision shall not to be construed to apply only to  
14 community land trusts.

15 3. Permanent affordability. In exchange for the rights conferred under  
16 this section, each TOPA buyer shall agree to maintain the permanent  
17 affordability of the rental housing accommodation. No TOPA buyer shall  
18 be entitled to a purchase contract under this section without executing  
19 an agreement with HCR to limit the future appreciation of the rental  
20 housing accommodation and only sell, or rent, to income-eligible house-  
21 holds in accordance with this section, section seven hundred ninety-  
22 nine-q of this article and relevant standards and exemptions created by  
23 HCR through regulation. Under such agreement, each TOPA buyer shall  
24 represent to HCR that they agree to be bound by the permanent affor-  
25 dability requirements under this section. The TOPA buyer shall deliver  
26 such agreement to HCR no later than the deadline for submitting an offer  
27 provided under section seven hundred ninety-nine-k of this article.

28 4. Permanent affordability standards for tenants or tenant organiza-  
29 tions. For a tenant or tenant organization purchasing a rental housing  
30 accommodation, permanent affordability standards created by HCR shall:

31 (a) Restrict the resale price of the rental housing accommodation, or  
32 separate ownership interests in the rental housing accommodation, by  
33 limiting the annual market appreciation of the rental housing accommo-  
34 dation, or separate ownership interest, to a percentage increase as  
35 agreed upon by HCR or the regulating municipal housing agency, not to  
36 exceed an annual interest rate of three percent simple;

37 (b) Ensure that a unit in which a tenant determines to remain a renter  
38 following a purchase under this article shall be maintained as a unit  
39 subject to the requirements of section seven hundred ninety-nine-q of  
40 this article, unless HCR determines a valid exemption or alternative  
41 standard should apply for such unit assisted by HCR or other public  
42 subsidy program which is subject to separate permanent affordability  
43 requirements; and

44 (c) At minimum, make the restricted resale price of the rental housing  
45 accommodation, or ownership interests in the rental housing accommo-  
46 dation, available only to households with income at or below the average  
47 AMIs of the initial TOPA buyers as of the initial purchase date of the  
48 rental housing accommodation, as verified and recorded by HCR as of the  
49 initial purchase date and not to exceed eighty percent of AMI.

50 5. Permanent affordability standards for qualified purchasers. For  
51 qualified purchasers purchasing the rental housing accommodation, perma-  
52 nent affordability standards created by HCR shall:

53 (a) Restrict the resale price of the rental housing accommodation, or  
54 separate ownership interests in the rental housing accommodation, by  
55 limiting the annual appreciation of the rental housing accommodation, or  
56 separate ownership interest, to a percentage increase as agreed upon by

1 HCR or the regulating municipal housing agency, not to exceed an annual  
2 interest rate of three percent simple;

3 (b) Ensure that a unit in which a tenant determines to remain a renter  
4 following a purchase under this article shall be maintained as a unit  
5 subject to the requirements of section seven hundred ninety-nine-q of  
6 this article, unless HCR determines a valid exemption or alternative  
7 standard should apply for such unit assisted by HCR or other public  
8 subsidy program which is subject to separate permanent affordability  
9 requirement; and

10 (c) Prioritize making vacant or vacated units in the rental housing  
11 accommodation available to households with incomes at or below the aver-  
12 age neighborhood AMI at the time of purchase but not to exceed eighty  
13 percent of AMI.

14 6. Mechanism. Permanent affordability restrictions shall materialize  
15 as at least one of the following:

16 (a) A restrictive covenant placed on the recorded title deed to the  
17 rental housing accommodation that runs with the land and is enforceable  
18 by HCR against the TOPA buyer and its successors, and other affordabili-  
19 ty restrictions in land leases or other recorded documents not specif-  
20 ically listed in this subdivision, so long as HCR determines that such  
21 restrictions are enforceable and likely to be enforced such as a  
22 recorded mortgage promissory note and/or regulatory agreements with  
23 local housing agencies where government subsidies are involved; and

24 (b) A community land trust lease, which is a ninety-nine-year renewa-  
25 ble land lease with affordability and owner-occupancy restrictions.

26 7. Required recordings and filings. (a) All covenants created in  
27 accordance with section seven hundred ninety-nine-q of this article  
28 shall be recorded before or simultaneously with the close of escrow in  
29 the office of the county recorder where the rental housing accommodation  
30 is located and shall contain a legal description of the rental housing  
31 accommodation, indexed to the name of the TOPA buyer as grantee.

32 (b) Each TOPA buyer of the rental housing accommodation shall be  
33 required to file a document annually with HCR in which the TOPA buyer  
34 affirmatively states the rents and share price for each unit in the  
35 rental housing accommodation. HCR may engage a third-party monitoring  
36 agent to monitor the compliance of this subdivision, pursuant to HCR  
37 regulations.

38 § 799-s. Incentives. 1. Access to buyers. HCR shall endeavor to main-  
39 tain and publicize the list of qualified purchasers in a manner that, to  
40 the maximum extent feasible, promotes the existence of the qualified  
41 purchasers as a readily accessible pool of potential buyers for covered  
42 properties. HCR shall, to the maximum extent permitted by law and other-  
43 wise feasible, publicize the existence of this list in a manner intended  
44 to facilitate voluntary sales to qualified purchasers in a manner that  
45 avoids or minimizes the need for a broker, other search costs, or other  
46 transactions.

47 2. Partial transfer tax exemption. The tax rate shall be reduced in  
48 accordance with section fourteen hundred two of the tax law with respect  
49 to any deed, instrument, or writing that affects a transfer under this  
50 article.

51 3. Potential federal tax benefits. Any qualified purchaser that  
52 purchases a rental housing accommodation under the right of first offer  
53 set forth in section seven hundred ninety-nine-k of this article shall,  
54 to the maximum extent permitted by law and otherwise feasible, be  
55 obliged to work with the owner in good faith to facilitate an exchange  
56 of real property of the kind described in 26 U.S.C. § 1031, for the

1 purpose of facilitating the owner's realization of any federal tax bene-  
2 fits available under that section of the internal revenue code.

3 4. Information to owners. HCR shall produce an information sheet  
4 describing the benefits of an owner's decision to accept a tenants' or  
5 qualified purchaser's offer of purchase made in connection with the  
6 first right to purchase set forth in sections seven hundred  
7 ninety-nine-k and seven hundred ninety-nine-l of this article. The  
8 information sheet shall further explain that, even if an owner does not  
9 accept a tenant's or qualified purchaser's offer to purchase a rental  
10 housing accommodation pursuant to the right of first offer set forth in  
11 section seven hundred ninety-nine-k of this article, the rental housing  
12 accommodation will still be subject to the right of first refusal set  
13 forth in section seven hundred ninety-nine-l of this article. The infor-  
14 mation sheet shall contain a field in which the owner may acknowledge,  
15 in writing, that the owner, or the owner's authorized representative,  
16 has read and understood the information sheet. A tenant, tenant organ-  
17 ization, or qualified purchaser that makes an offer to purchase a rental  
18 housing accommodation under the right of first offer set forth in  
19 section seven hundred ninety-nine-k of this article, shall include a  
20 copy of, or link to, such information sheet with such offer of purchase,  
21 but any failure to comply with this section shall have no effect on a  
22 qualified purchaser's exercise of the right of first offer.

23 § 799-t. Enforcement. 1. Powers and duties of HCR. HCR shall be  
24 authorized to take all appropriate action, including but not limited to  
25 the actions specified in section seven hundred ninety-nine-a of this  
26 article, to implement and enforce this article.

27 2. Implementation. (a) HCR shall promulgate rules and regulations  
28 consistent with this article.

29 (b) HCR shall adopt regulations to implement a petition and hearing  
30 procedure for administering the enforcement of this article.

31 (c) HCR shall establish and make available standard documents to  
32 assist owners, tenants, tenant organizations, and qualified purchasers  
33 in complying with the requirements of this article through an online  
34 portal, provided that use of such documents does not necessarily estab-  
35 lish compliance.

36 (d) Owner certification and disclosures. Every owner of a residential  
37 property in the state shall, within fifteen days of the sale of such  
38 residential property, submit to HCR a signed declaration, under penalty  
39 of perjury, affirming that the sale of such residential property  
40 complied with the requirements of this article. Such declaration shall  
41 include the address of the relevant residential property and the name of  
42 each new owner of the rental housing accommodation. HCR shall publish  
43 all such addresses on its website. Failure to file a declaration  
44 required by this paragraph shall result in the penalty described in  
45 subparagraph (i) of paragraph (b) of subdivision three of this section.

46 3. Enforcement. (a) Civil action. Any party may seek enforcement of  
47 any right or provision under this article through a civil action filed  
48 with a court of competent jurisdiction and, upon prevailing, shall be  
49 entitled to remedies, including those described in paragraph (b) of this  
50 subdivision.

51 (b) Penalties and remedies.

52 (i) Civil penalties. An owner who willfully or knowingly violates any  
53 provision of this article shall be subject to a cumulative civil penalty  
54 imposed by HCR in the amount of up to one thousand dollars per day, per  
55 tenant-occupied unit in a rental housing accommodation, for each day

1 from the date the violation began until the requirements of this article  
2 are satisfied, payable to the New York housing trust fund.

3 (ii) Legal remedies. Remedies in civil action brought under this  
4 section shall include the following, which may be imposed cumulatively:

5 (A) Damages in an amount sufficient to remedy the harm to the plain-  
6 tiff;

7 (B) In the event that an owner sells a rental housing accommodation  
8 without complying with the requirements of this article, and if the  
9 owner's violation of this article was knowing or willful, mandatory  
10 civil penalties in an amount proportional to the culpability of the  
11 owner and the value of the rental housing accommodation. There shall be  
12 a rebuttable presumption that this amount is equal to ten percent of the  
13 sale price of the rental housing accommodation for a willful or knowing  
14 violation of this article, twenty percent of the sale price for a second  
15 willful or knowing violation, and thirty percent of the sale price for  
16 each subsequent willful or knowing violation. Civil penalties assessed  
17 under this paragraph shall be payable to the New York housing trust  
18 fund; and

19 (C) Reasonable attorneys' fees.

20 (iii) Equitable remedies. In addition to any other remedy or enforce-  
21 ment measure that a tenant, tenant organization, qualified purchaser, or  
22 HCR may seek under this section, any court of competent jurisdiction may  
23 enjoin any sale or other action of an owner that would be made in  
24 violation of this article.

25 § 799-u. Statutory construction. The purpose of this article shall be  
26 to prevent the displacement of lower-income tenants in New York and to  
27 preserve affordable housing by providing an opportunity for tenants to  
28 own or remain renters in the properties in which tenants reside as  
29 provided in this article. If a court finds ambiguity and there is any  
30 reasonable interpretation of this article that favors the rights of the  
31 tenant, then the court shall resolve ambiguity toward the end of  
32 strengthening the legal rights of the tenant or tenant organization to  
33 the maximum extent permissible under law.

34 § 799-v. Administration and reports. 1. HCR shall report annually on  
35 the status of the tenant opportunity to purchase act program to the  
36 legislature or to such legislative committee as the legislature may  
37 designate. Such reports shall include, but shall not be limited to the  
38 following:

39 (a) Statistics on the number and types of sales of tenant occupied  
40 properties;

41 (b) Statistics on the number of tenants and qualified purchasers that  
42 invoke action under this article;

43 (c) Number and types of units covered by this article; and

44 (d) Any other information the legislature or legislative committee may  
45 request.

46 2. HCR shall make available translation services in languages other  
47 than English, where requested in advance by a tenant, tenant organiza-  
48 tion, qualified purchaser, owner, or member of the public as it relates  
49 to TOPA, to interpret and translate documents and procedures as needed.

50 § 799-w. Severability. If any word, phrase, clause, sentence,  
51 subsection, section, or other portion of this article, or any applica-  
52 tion thereof to any person or circumstance is declared void, unconstitu-  
53 tional, or invalid for any reason by a decision of a court of competent  
54 jurisdiction, then such word, phrase, clause, sentence, subsection,  
55 section, or other portion, or the prescribed application thereof, shall  
56 be severable, and the remaining provisions of this article, and all

1 applications thereof, not having been declared void, unconstitutional or  
2 invalid, shall remain in full force and effect. The legislature hereby  
3 declares that it would have passed this article, and each section,  
4 subsection, sentence, clause, phrase, and word thereof, irrespective of  
5 the fact that any one or more sections, subsections, sentences, clauses,  
6 phrases, or words had been declared invalid or unconstitutional.

7 § 4. This act shall take effect on the one hundred eightieth day after  
8 it shall have become a law. Effective immediately, the addition, amend-  
9 ment and/or repeal of any rule or regulation necessary for the implemen-  
10 tation of this act on its effective date are authorized to be made and  
11 completed on or before such effective date.