

STATE OF NEW YORK

5971

2021-2022 Regular Sessions

IN ASSEMBLY

March 4, 2021

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

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 Southern
7 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 destabilized
17 housing, loss of employment and income, closure of business and
18 schools and financial insecurity in the state of New York. The legislature
19 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
24 their June rent payment. The share was higher among Black tenants (41%),
25 Latinx tenants (41%) and tenants earning less than \$50K (34%).

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

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

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

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

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

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

38 ARTICLE 7-C

39 TENANT OPPORTUNITY TO PURCHASE ACT

40 Section 799. Definitions.

41 799-a. Authority.

42 799-b. Applicability.

43 799-c. Exemptions.

44 799-d. First right to purchase.

45 799-e. Tenant decision-making; tenant organizations.

46 799-f. Qualified purchasers.

47 799-g. Supportive partners.

48 799-h. Assignment of rights.

49 799-i. Waiver of rights.

50 799-j. Notice requirements.

51 799-k. Right of first offer.

52 799-l. Right of first refusal.

53 799-m. Third-party rights.

54 799-n. Right to appraisal.

55 799-o. Purchase contract negotiation.

56 799-p. No selling of rights.

799-g. 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 of a tenant organization and the rights and obligations of its members, which shall include provisions on the tenant organization's decision-

1 making processes and appointing officers and other authorized agents to
2 act on its behalf.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 21. "Sale" or "sell" means the transfer, in exchange for money or any
55 other thing of economic value, of a present interest in the rental hous-
56 ing accommodation, including beneficial use, where the value of the

1 present interest is the fee interest in the rental housing accommo-
2 dation, or substantially equal to the value of that fee interest. For
3 purposes of this definition, a "transfer" may include those completed in
4 one transaction or a series of transactions over a period of time.

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

9 23. "Supportive partner" means a "supportive partner" meeting the
10 criteria set forth in section seven hundred ninety-nine-g of this arti-
11 cle.

12 24. "Tenant" means one or more renter, tenant, subtenant, lessee, sub
13 lessee, or other person entitled to the possession, occupancy, or bene-
14 fits of a rental unit within a rental housing accommodation. "Tenant"
15 shall not include transient guests who use or occupy a unit for less
16 than fourteen consecutive days.

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

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

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

28 (a) Can acquire an interest in real property;

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

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

34 (d) Has appointed officers and any other authorized agents specif-
35 ically designated to execute contracts or act on its behalf.

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

40 29. "TOPA buyer" means a tenant, tenant organization, or qualified
41 purchaser that is purchasing or has purchased a rental housing accommo-
42 dation from an owner under this article.

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

48 § 799-a. Authority. HCR and their designees shall be authorized to
49 enforce the provisions of this article, and for such purposes, shall
50 have the powers of a law enforcement officer. HCR shall be authorized to
51 establish standards, policies, and procedures for the implementation of
52 the provisions of this article to further the purpose set forth in this
53 article.

54 § 799-b. Applicability. TOPA shall apply to all rental housing accom-
55 modations unless otherwise exempted by this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (i) A spouse, domestic partner, parent, child, grandparent, grand-
43 child; and

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

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

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

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

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

53 (g) A transfer of a residential building to a tenant organization or
54 qualified purchaser pursuant to a transfer agreement in effect on the
55 effective date of this article, except that any renewal, modification,

1 or amendment of such agreement occurring on or after the effective date
2 of this article shall be subject to the provisions of this article.

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

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

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

22 § 799-d. First right to purchase. This section shall be construed to
23 confer upon each tenant a first right to purchase a rental housing
24 accommodation, subject to the exemptions in section seven hundred nine-
25 ty-nine-c of this article, in a manner consistent with this section. The
26 first right to purchase shall consist of both a right of first offer, as
27 set forth in section seven hundred ninety-nine-k of this article, and a
28 right of first refusal, as set forth in section seven hundred ninety-
29 nine-l of this article. The first right to purchase shall be conferred
30 to each tenant but shall be exercised collectively pursuant to section
31 seven hundred ninety-nine-e of this article. The first right to purchase
32 shall include the right to assign such rights to a qualified purchaser
33 as set forth in section seven hundred ninety-nine-h of this article. The
34 first right to purchase shall be conferred where the owner intends to
35 sell the rental housing accommodation. This section shall not be
36 construed to limit any right of first offer or first refusal provided
37 under any law.

38 § 799-e. Tenant decision-making; tenant organizations. 1. Tenant
39 decision-making. Except in the case of a duly formed tenant organiza-
40 tion with its own adopted governing document, any action required of
41 tenants under this article shall be approved by one of the following
42 decision-making standards:

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

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

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

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

54 (i) Form a tenant organization, approved by the requirements described
55 in subdivision one of this section, unless such a tenant organization
56 already exists in a form approved by the tenants. If there is only one

1 tenant household in a rental housing accommodation, the tenant household
2 may exercise the right of first offer and right of first refusal without
3 forming a tenant organization; however, such tenant household shall
4 still comply with section seven hundred ninety-nine-g of this article.

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

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

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

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

16 (C) a copy of the governing document;

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

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

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

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

28 § 799-f. Qualified purchasers. 1. Qualified purchaser criteria. (a)
29 HCR shall establish an administrative process for certifying purchasers
30 that shall include, but not be limited to, the following minimum crite-
31 ria:

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

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

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

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

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

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

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

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

53 (ix) The purchaser has acquired or partnered with another housing
54 development organization or nonprofit organization to acquire at least
55 one residential building using any public or community funding, or has
56 entered into a written memorandum of understanding with another housing

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

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

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

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

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

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

35 § 799-g. Supportive partners. 1. Supportive partner criteria. HCR
36 shall establish an administrative process for certifying individuals or
37 organizations that meet the following minimum criteria:

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

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

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

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

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

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

1 partners shall be eligible to apply for renewed certification as
2 supportive partners.

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

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

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

31 § 799-h. Assignment of rights. 1. A tenant or tenant organization may
32 assign rights under this section in compliance with subdivision one of
33 section seven hundred ninety-nine-e to a qualified purchaser of their
34 choice.

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

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

45 § 799-i. Waiver of rights. 1. Tenants may affirmatively waive their
46 rights before the time periods specified in sections seven hundred nine-
47 ty-nine-k and seven hundred ninety-nine-l of this article elapse, by
48 notifying the owner in writing, signed by the tenants and in compliance
49 with section seven hundred ninety-nine-e of this article.

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

54 § 799-j. Notice requirements. Any notices required or permitted by
55 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 purchas-
20 er 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 dations 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.