

STATE OF NEW YORK

7091

2021-2022 Regular Sessions

IN SENATE

May 28, 2021

Introduced by Sen. THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to certain real estate syndication offerings

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

1 Section 1. Subdivision 4 of section 157 of the general business law,
2 as added by chapter 754 of the laws of 1990, is amended to read as
3 follows:

4 4. "Time share" means an interest in any arrangement, plan, scheme, or
5 similar device, whether by membership, agreement, tenancy in common,
6 sale, lease, deed, rental agreement, license, or right-to-use agreement
7 or by any other means, whereby [~~three or~~] more than ten purchasers, in
8 exchange for a consideration, receive ownership rights in or a right to
9 use the same accommodations or facilities in real property, or both, for
10 different intervals of less than a full year during any given year, but
11 not necessarily for consecutive years, and which extend for a period of
12 more than three years or which, for nominal consideration, may be
13 renewed to continue for a period of more than three years.

14 § 2. Paragraph (a) of subdivision 1 of section 352-e of the general
15 business law, as amended by chapter 1085 of the laws of 1968, is amended
16 to read as follows:

17 (a) It shall be illegal and prohibited for any person, partnership,
18 corporation, company, trust or association, or any agent or employee
19 thereof, to make or take part in a public offering or sale in or from
20 the state of New York of securities constituted of participation inter-
21 ests or investments in real estate, mortgages or leases, including
22 stocks, bonds, debentures, evidences of interest or indebtedness, limit-
23 ed partnership interests or other security or securities as defined in
24 section three hundred fifty-two of this article, when such securities
25 consist primarily of participation interests or investments in one or

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

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1 more real estate ventures, including cooperative interests in realty,
2 unless and until there shall have been filed with the department of law,
3 prior to such offering, a written statement or statements, to be known
4 as an "offering statement" or "prospectus" concerning the contemplated
5 offering which shall contain the information and representations
6 required by paragraph (b) of this subdivision unless the security offer-
7 ing is exempted hereunder or under subdivision two of section three
8 hundred fifty-nine-f[, ~~subdivision two,~~] of this article by rule or
9 action of the attorney general. Provided however, for purposes of this
10 section timesharing plans involving ten or fewer purchasers shall be
11 exempted from filing requirements under this section. The term "real
12 estate" as used in [~~the~~] this paragraph shall not include mineral, oil
13 or timber leases or properties, or buildings, structures, land or other
14 realty housing or containing business offices or industry, owned or
15 leased by the issuer, where the issuer is not primarily engaged in the
16 business of buying and selling such building, timesharing plans involv-
17 ing ten or fewer purchasers or other realty or leases or interests ther-
18 ein. The circulation or dissemination of a non-firm offer (including
19 circulation or dissemination of a preliminary prospectus pursuant to
20 section ten (b) of the securities act of nineteen hundred thirty-three,
21 and the rules thereto appertaining) shall not constitute making or
22 taking part in a public offering within the meaning of this section.
23 § 3. This act shall take effect on the ninetieth day after it shall
24 become a law. Effective immediately, the addition, amendment and/or
25 repeal of any rule or regulation necessary for the implementation of
26 this act on its effective date are authorized to be made and completed
27 on or before such effective date.