STATE OF NEW YORK

7091--B

2021-2022 Regular Sessions

IN SENATE

May 28, 2021

Introduced by Sens. THOMAS, BOYLE, GAUGHRAN, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

(a) It shall be illegal and prohibited for any person, partnership, corporation, company, trust or association, or any agent or employee thereof, to make or take part in a public offering or sale in or from

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

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the state of New York of securities constituted of participation interests or investments in real estate, mortgages or leases, including stocks, bonds, debentures, evidences of interest or indebtedness, limited partnership interests or other security or securities as defined in section three hundred fifty-two of this article, when such securities consist primarily of participation interests or investments in one or more real estate ventures, including cooperative interests in realty, unless and until there shall have been filed with the department of law, prior to such offering, a written statement or statements, to be known as an "offering statement" or "prospectus" concerning the contemplated offering which shall contain the information and representations required by paragraph (b) of this subdivision unless the security offering is exempted hereunder or under **subdivision two of** section three hundred fifty-nine-f[~~, subdivision two,~~] of this article by rule or action of the attorney general. **Provided however, for purposes of this section, except in a city with a population of one million or more, timesharing plans involving ten or fewer purchasers shall be exempted from filing requirements under this section if such purchasers obtain use rights or ownership rights in a single property or unit, the sale price of which exceeds two times the median sales price for residential real property for the county in which such property or unit is located, as determined by the commissioner of taxation and finance.** The term "real estate" as used in [~~the~~] **this** paragraph shall not include mineral, oil or timber leases or properties, or buildings, structures, land or other realty housing or containing business offices or industry, owned or leased by the issuer, where the issuer is not primarily engaged in the business of buying and selling such building**, except in a city with a population of one million or more, timesharing plans involving ten or fewer purchasers if such purchasers obtain use rights or ownership rights in a single property or unit, the sale price of which exceeds two times the median sales price for residential real property for the county in which such property or unit is located, as determined by the commissioner of taxation and finance,** or other realty or leases or interests therein. The circulation or dissemination of a non-firm offer (including circulation or dissemination of a preliminary prospectus pursuant to section ten (b) of the securities act of nineteen hundred thirty-three, and the rules thereto appertaining) shall not constitute making or taking part in a public offering within the meaning of this section.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.