

# STATE OF NEW YORK

6921--A

2023-2024 Regular Sessions

## IN ASSEMBLY

May 9, 2023

Introduced by M. of A. EPSTEIN, SIMONE, GLICK, AUBRY, COLTON, LUCAS, DAVILA, REYES -- Multi-Sponsored by -- M. of A. SIMON -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, the real property law and the state finance law, in relation to providing expanded homeownership opportunities from the conversion of certain residential rental buildings to condominium status by property owners that commit to the stewardship of permanently affordable units and the preservation of expiring affordable housing inventory in the city of New York; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The general business law is amended by adding a new section  
2 352-eeee to read as follows:

3 § 352-eeee. Conversions to condominium ownership for the preservation  
4 of expiring affordable housing in the city of New York. 1. As used in  
5 this section, the following words and terms shall have the following  
6 meanings:

7 (a) "Annual update amendment". An annual update amendment is an amend-  
8 ment to the preservation plan that shall be submitted to the attorney  
9 general every year that a dwelling unit is unsold, with the first such  
10 annual update amendment due within forty-five days of the anniversary of  
11 the acceptance of the post-closing amendment to the preservation plan.  
12 An annual update amendment shall supply the evidence, data and informa-  
13 tion required in this section, and such other information as the attor-  
14 ney general's regulations shall require, so that the attorney general is  
15 satisfied that the preservation plan as amended discloses the informa-  
16 tion necessary for a reasonable investor to make his or her purchase

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

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1 decision and that the preservation plan is otherwise complete, current  
2 and accurate.

3 (b) "Bona fide purchaser". A bona fide purchaser is either (i) a  
4 tenant in occupancy who enters into a purchase agreement for a dwelling  
5 unit pursuant to his, her, or its exercise of one of the rights accorded  
6 to tenants in occupancy in subdivision five of this section, or (ii) a  
7 bona fide non-tenant purchaser.

8 (c) "Bona fide non-tenant purchaser". A bona fide non-tenant purchaser  
9 is a purchaser of a dwelling unit who has represented that he, she, or  
10 they or a member or members of his, her or their immediate family intend  
11 to occupy the dwelling unit when it becomes vacant.

12 (d) "Commercially reasonable good faith effort". A commercially  
13 reasonable good faith effort on the part of an offeror of a preservation  
14 plan shall, at minimum, include (i) the filing of an annual update  
15 amendment to the preservation plan; (ii) all of the condominium's dwell-  
16 ing units other than any income-restricted rental units as the units  
17 being offered for sale under the preservation plan, each at an offering  
18 price that is consistent with comparable dwelling units recently sold  
19 within the locality; and (iii) entering into a written agreement with a  
20 licensed real estate broker or selling agent in connection with the sale  
21 of dwelling units offered for sale under the preservation plan. For the  
22 avoidance of doubt, a commercially reasonable good faith effort shall  
23 not require an offeror to sell dwelling units at a price substantially  
24 below the market-rate for comparable units recently sold within the  
25 locality, nor shall it require an offeror to offer for sale dwelling  
26 units that are occupied by non-purchasing tenants.

27 (e) "Condominium". A condominium shall also include a qualified lease-  
28 hold condominium as defined in subdivision twelve of section three  
29 hundred thirty-nine-e of the real property law.

30 (f) "Consummation of the preservation plan". Consummation of the pres-  
31 ervation plan shall refer to the filing of the declaration for the  
32 condominium and the first transfer of title to at least one purchaser  
33 under the preservation plan following a declaration of effectiveness by  
34 the department of law declaring the preservation plan effective.

35 (g) "Eligible disabled persons". Non-purchasing tenants who have an  
36 impairment which results from anatomical, physiological or psychological  
37 conditions, other than addiction to alcohol, gambling, or any controlled  
38 substance, which are demonstrable by medically acceptable clinical and  
39 laboratory diagnostic techniques, and which are expected to be permanent  
40 and which prevent the tenant from engaging in any substantial gainful  
41 employment on the date the preservation plan is submitted to the depart-  
42 ment of law or on the date the attorney general has accepted the preser-  
43 vation plan for filing, and the spouses of any such tenants on such  
44 date, and who have elected, within sixty days of the date the preserva-  
45 tion plan is submitted to the department of law or on the date the  
46 attorney general has accepted the preservation plan for filing, on forms  
47 promulgated by the attorney general and presented to such tenants by the  
48 offeror, to become non-purchasing tenants under the provisions of this  
49 section; provided, however, that if the disability first occurs after  
50 acceptance of the preservation plan for filing, then such election may  
51 be made within sixty days following the onset of such disability unless  
52 during the period subsequent to sixty days following the acceptance of  
53 the preservation plan for filing but prior to such election, the offeror  
54 accepts a written agreement to purchase the apartment from a bona fide  
55 purchaser; and provided further that such election shall not preclude  
56 any such tenant from subsequently purchasing the dwelling unit if it is

1 not an income-restricted rental unit on the terms then offered to  
2 tenants in occupancy.

3 (h) "Eligible project". An eligible project shall refer to a building  
4 or group of buildings or development built after nineteen hundred nine-  
5 ty-six that is the subject of a preservation plan under this section,  
6 which shall meet the criteria set forth in subdivision three of this  
7 section. An eligible project shall not include any building or group of  
8 buildings or development owned under article two, four or five of the  
9 private housing finance law. For the avoidance of doubt, no building,  
10 group of buildings or development other than an eligible project may  
11 convert to condominium status under this section, the status of which  
12 shall be confirmed by the relevant housing finance agency prior to the  
13 date of submission of the preservation plan.

14 (i) "Eligible senior citizens". Non-purchasing tenants who are sixty-  
15 two years of age or older on the date the preservation plan is submitted  
16 to the department of law or on the date the attorney general has  
17 accepted the preservation plan for filing, and the spouses of any such  
18 tenants on such date, and who have elected, within sixty days of the  
19 date the preservation plan is submitted to the department of law or on  
20 the date the attorney general has accepted the preservation plan for  
21 filing, on forms promulgated by the attorney general and presented to  
22 such tenants by the offeror, to become non-purchasing tenants under the  
23 provisions of this section; provided that such election shall not  
24 preclude any such tenant from subsequently purchasing the dwelling unit  
25 on the terms then offered to tenants in occupancy.

26 (j) "Extended affordability term". The extended affordability term for  
27 the income-restricted rental units shall be in perpetuity for so long as  
28 the building or group of buildings or development are in existence, and  
29 subject to any obligation to rebuild in the event of condemnation,  
30 damage or destruction required by the regulatory agreement with the  
31 relevant housing finance agency.

32 (k) "Inclusionary housing unit". An inclusionary housing unit is an  
33 income-restricted rental unit that is located within a building that  
34 received an increase in the maximum permitted floor area pursuant to  
35 sections 23-154 and 23-90 of the zoning resolution or is located in a  
36 mandatory inclusionary housing area.

37 (l) "Inclusionary housing designated area". An inclusionary housing  
38 designated area is a specified area in which the inclusionary housing  
39 program (also known as the voluntary inclusionary housing program) is  
40 applicable, pursuant to the regulations set forth for such areas in  
41 section 23-90 of the zoning resolution. The locations of inclusionary  
42 housing designated areas are identified in either (i) appendix "F" of  
43 the zoning resolution or (ii) in a special purpose district as described  
44 in section 15-011 of the zoning resolution.

45 (m) "Income-restricted rental unit". An income-restricted rental unit  
46 shall refer to a dwelling unit located in a building or group of build-  
47 ings or development of an eligible project that is the subject of a  
48 preservation plan submitted to the attorney general pursuant to this  
49 section, and such dwelling unit:

50 (i) meets the definition of a "low-income unit" as such term is  
51 defined in section forty-two of the internal revenue code and is subject  
52 to a regulatory agreement with a relevant housing finance agency; or

53 (ii) meets the definition of a "low-income unit" as such term is  
54 defined in subdivision (d) of section one hundred forty-two of the  
55 internal revenue code and is subject to a regulatory agreement with a  
56 relevant housing finance agency; or

1 (iii) previously met the definition of "low-income unit" pursuant to  
2 subparagraph (i) or (ii) of this paragraph, and notwithstanding the  
3 expiration of a regulatory agreement with a relevant housing finance  
4 agency, the owner of such dwelling unit affirms, under the penalty of  
5 perjury, that it has continuously operated and rented the dwelling unit  
6 (A) as if it remained an income-restricted rental unit and (B) as if all  
7 of the restrictions of the expired regulatory agreement had continuously  
8 been extended or otherwise remained in effect; or

9 (iv) is a dwelling unit located within a building or group of build-  
10 ings or development that, in accordance with provisions of subdivision  
11 fifteen of section four hundred twenty-one-a of the real property tax  
12 law, the local housing agency shall have required to be a unit afforda-  
13 ble to families of low and moderate income; or

14 (v) is a dwelling unit that is rented to persons of low income or  
15 families of low income as defined in subdivision nineteen of section two  
16 of the private housing finance law or as otherwise required by a feder-  
17 al, state, or local law or mandate.

18 (n) "Mandatory inclusionary housing area". A mandatory inclusionary  
19 housing area is a specified area in which the inclusionary housing  
20 program is applicable, pursuant to the regulations set forth for such  
21 areas in section 23-90 of the zoning resolution. The locations of manda-  
22 tory inclusionary housing areas are identified in either (i) appendix  
23 "F" of the zoning resolution or (ii) in a special purpose district as  
24 described in section 15-011 of the zoning resolution.

25 (o) "Non-purchasing tenant". A person who has not purchased under the  
26 preservation plan from offeror and who is a tenant entitled to  
27 possession at the time the preservation plan is declared effective or a  
28 person to whom a dwelling unit is rented from offeror after the preser-  
29 vation plan was declared effective. A person who sublets a dwelling unit  
30 from a purchaser under the preservation plan shall not be deemed a non-  
31 purchasing tenant. A tenant entitled to possession of an income-res-  
32 tricted rental unit at the time the preservation plan is declared effec-  
33 tive is a non-purchasing tenant, notwithstanding that the  
34 income-restricted rental units are not offered for sale pursuant to such  
35 preservation plan.

36 (p) "Post-closing amendment". A post-closing amendment is an amendment  
37 to a preservation plan filed with the attorney general confirming that  
38 the preservation plan has been consummated.

39 (q) "Preservation plan". An offering statement or prospectus submitted  
40 to the department of law pursuant to this section for the conversion of  
41 a building or group of buildings or development of an eligible project  
42 from rental status to condominium ownership, wherein the offeror docu-  
43 ments that it has agreed to an extended affordability term for the  
44 income-restricted rental units with a relevant housing finance agency.

45 (r) "Purchaser under the preservation plan". A purchaser under the  
46 preservation plan is a person who purchases a dwelling unit from offeror  
47 pursuant to the terms of a preservation plan that has been accepted for  
48 filing by the attorney general. A person or entity that acquires dwell-  
49 ing units and assumes certain obligations of offeror shall not be  
50 considered a purchaser under the preservation plan.

51 (s) "Qualified owner". A qualified owner refers to the entity approved  
52 by the relevant housing finance agency on or before the date of  
53 submission of a preservation plan to the department of law that will  
54 own, operate and maintain the income-restricted rental unit or units  
55 that are in the building, group of buildings or development that are the  
56 subject of the preservation plan. The entity which is a qualified owner

1 shall only be either: (i) a housing development fund company incorpo-  
2 rated pursuant to article eleven of the private finance housing law; or  
3 (ii) a community land trust or other charitable corporation organized  
4 under the not-for-profit corporation law that has as its primary chari-  
5 table purpose the ownership, operation and maintenance of multifamily  
6 housing for persons and families of low income as defined by subdivision  
7 nineteen of section two of the private finance housing law.

8 (t) "Relevant housing finance agency". Relevant housing finance agency  
9 shall refer to a city or state agency with oversight over income-res-  
10 tricted rental units due to the receipt of substantial government  
11 assistance prior to the date of submission of a preservation plan. For  
12 purposes of this section, a relevant housing finance agency shall also  
13 refer to the city or state agency that will continue to have oversight  
14 of income-restricted rental units after consummation of the preservation  
15 plan.

16 (u) "Regulatory agreement". A regulatory agreement shall refer to the  
17 written agreement with a relevant housing finance agency that restricts  
18 the income and rents of income-restricted rental units that is either:  
19 (i) in effect prior to the date of submission of a preservation plan; or  
20 (ii) in effect after consummation of the preservation plan.

21 (v) "Substantial government assistance". Substantial government  
22 assistance shall refer to either (i) low income housing tax credits  
23 under section forty-two of the internal revenue code or (ii) bond  
24 financing under section one hundred forty-two of the internal revenue  
25 code.

26 (w) "Zoning resolution". Zoning resolution shall refer to the zoning  
27 resolution of the city of New York.

28 2. The attorney general shall refuse to accept for submission a pres-  
29 ervation plan for the conversion of a building or group of buildings or  
30 development if the relevant housing finance agency has not confirmed  
31 that the preservation plan is for an eligible project, which shall be  
32 defined as a building or group of buildings or development that meets  
33 the definition of an eligible project and one or more of the following  
34 requirements as of the date of submission of the preservation plan:

35 (a) The preservation plan is for a building or group of buildings or  
36 development that (i) receives a partial property tax exemption pursuant  
37 to subdivision fifteen of section four hundred twenty-one-a of the real  
38 property tax law, (ii) contains income-restricted rental units, and  
39 (iii) is not subject to an existing regulatory agreement that prohibits  
40 the conversion of the dwelling units to condominium ownership; or

41 (b) The preservation plan is for a building or group of buildings or  
42 development that (i) receives low income housing tax credits pursuant to  
43 section forty-two of the internal revenue code, (ii) contains income-  
44 restricted rental units, (iii) is not subject to any agreement providing  
45 for a right of first refusal with a not-for-profit corporation unless  
46 evidence deemed satisfactory to the department of law has been provided  
47 that such right of first refusal has either expired or that such not-  
48 for-profit declined to exercise such right, and (iv) is not subject to  
49 an existing regulatory agreement that prohibits the conversion of the  
50 dwelling units to condominium ownership; or

51 (c) The preservation plan is for a building or group of buildings or  
52 development that (i) receives bond financing under subdivision (d) of  
53 section one hundred forty-two of the internal revenue code, (ii)  
54 contains income-restricted rental units, and (iii) is not subject to an  
55 existing regulatory agreement that prohibits the conversion of the  
56 dwelling units to condominium ownership; or

1 (d) The preservation plan is for a building or group of buildings or  
2 development, that (i) contains one or more inclusionary housing units,  
3 (ii) is not subject to an existing regulatory agreement that prohibits  
4 the conversion of the dwelling units to condominium ownership, and (iii)  
5 contains a representation that an agreement has been reached with the  
6 relevant housing finance agency to increase the total number of income-  
7 restricted rental units in the building or group of buildings or devel-  
8 opment to thirty percent for the extended affordability term upon  
9 consummation of the preservation plan.

10 3. At the time of submission of the preservation plan, the offeror  
11 shall confirm that it has reached an agreement with a relevant housing  
12 finance agency regarding the income-restricted rental units during the  
13 extended affordability term, and shall include the following disclosures  
14 in the preservation plan:

15 (a) A list of the proposed income-restricted rental units;

16 (b) The proposed qualified owner of the income-restricted rental  
17 units, which qualified owner shall take title to the income-restricted  
18 rental units no later than three hundred sixty-five days from the date  
19 of consummation of the preservation plan;

20 (c) The operating expenses and revenues applicable to the income-res-  
21 tricted rental units, which shall be reflected in the updated Schedule A  
22 and Schedule B for the first year of operation of the condominium, the  
23 allocation of common interests, projected common charges, estimated real  
24 estate taxes, and rents to be collected from each income-restricted  
25 rental unit, and the allocation of common expenses under section three  
26 hundred thirty-nine-m of the real property law, applicable to the  
27 income-restricted rental units, which shall be used to limit certain  
28 condominium expenses allocable to the income-restricted rental units and  
29 to cover any shortfall in the revenue from rent to cover the costs of  
30 operation of the income-restricted rental units;

31 (d) A description of any financing encumbering the income-restricted  
32 rental units, and whether a tax exemption or abatement is in place to  
33 reduce real estate taxes for the income-restricted rental units;

34 (e) A description of any regulatory agreement or agreements to be  
35 recorded against the income-restricted rental units and the term thereof  
36 and the relevant housing finance agency or agencies with supervisory  
37 oversight;

38 (f) A description of the provisions of the declaration and by-laws for  
39 the condominium that provides for the special allocation of common  
40 expenses in accordance with section three hundred thirty-nine-m of the  
41 real property law, and any specific requirements set forth in a regula-  
42 tory agreement requiring unit owners in the condominium to cover any  
43 shortfall in the revenue from rent to cover the costs of operation of  
44 the income-restricted rental units;

45 (g) A description of the contemplated structure of the board of manag-  
46 ers of the condominium, including specifically an explanation as to how  
47 the interests of the qualified owner of the income-restricted rental  
48 units are to be adequately represented;

49 (h) A description of the building-wide amenities and a representation  
50 that the declaration and by-laws for the condominium shall require that  
51 tenants of the income-restricted rental units be provided an opportunity  
52 to use commonly accessible amenities of the condominium and not unique  
53 to an individual unit, including but not limited to: pools, fitness  
54 centers, storage spaces, parking, and roofs or gardens accessible on a  
55 building-wide basis, and that the tenants of the income-restricted

1 rental units may only be charged a nominal and reasonable fee for such  
2 use, which shall not be treated as rent under any rental agreement;

3 (i) The name, address and contact details for the relevant housing  
4 finance agency or agencies with supervisory oversight of the income-res-  
5 tricted rental units and the occupants within;

6 (j) That the regulatory agreement contains a provision which requires  
7 that once a vacancy occurs of an income-restricted rental unit, after  
8 consummation of the preservation plan, then said unit may only be leased  
9 to low income households whose annual household income is not greater  
10 than sixty percent of area median income at the time of the initial  
11 lease;

12 (k) A representation by offeror that the regulatory agreement includes  
13 and accounts for (i) all of the existing on-site income-restricted  
14 rental units in an existing building or group of buildings or develop-  
15 ment, or (ii) all of the income-restricted rental units associated with  
16 an existing building or group of buildings or development located on a  
17 zoning lot where one or more buildings were set aside as affordable  
18 housing for purposes of qualifying for a partial property tax exemption  
19 pursuant to section four hundred twenty-one-a of the real property tax  
20 law;

21 (l) The income-restricted rental units may not be removed from rent  
22 stabilization pursuant to the exemption for units owned as a condominium  
23 under sections 2520.11 and 2500.9 of the rent stabilization code or  
24 section 26-504 of the administrative code of the city of New York; and

25 (m) The recording of the condominium declaration and commencement of  
26 condominium operations does not modify the requirement under section  
27 four hundred twenty-one-a of the real property tax law that all residen-  
28 tial rental apartments are subject to rent stabilization laws.

29 4. Upon submission of the preservation plan to the department of law,  
30 each tenant in the building or group of buildings or development of a  
31 dwelling unit being offered for sale shall be provided with a written  
32 notice stating that such preservation plan has been submitted to the  
33 department of law. Written notice to each tenant in occupancy shall  
34 contain or be accompanied by:

35 (a) a copy of the preservation plan;

36 (b) a statement that tenants of the dwelling units being offered for  
37 sale pursuant to the preservation plan or their representatives may  
38 physically inspect the premises at any time subsequent to the submission  
39 of the preservation plan to the department of law, during normal busi-  
40 ness hours, upon written request made by them to the offeror, provided  
41 such representatives are registered architects or professional engineers  
42 licensed by the office of the professions of the education department of  
43 the state of New York; and

44 (c) a statement that tenants of the income-restricted rental units are  
45 not being offered for sale the dwelling units they occupy, but their  
46 tenancies shall continue undisturbed during and after the conversion of  
47 the property to condominium ownership. The statement shall also disclose  
48 that the income-restricted rental units shall remain subject to the rent  
49 stabilization code for the duration of the current tenant's occupancy of  
50 an income-restricted rental unit, and for all future tenants of an  
51 income-restricted rental unit, throughout the extended affordability  
52 term.

53 5. The tenants in occupancy of dwelling units being offered for sale  
54 on the date the attorney general accepts the preservation plan for  
55 filing shall have the exclusive right to purchase their dwelling units  
56 for ninety days after the preservation plan has been accepted for filing

1 by the attorney general, during which time the offering price available  
2 to the tenant in occupancy may not be increased and a tenant's dwelling  
3 unit shall not be shown to a third party unless he or she has, in writ-  
4 ing, waived his or her right to purchase. Subsequent to the expiration  
5 of such ninety-day period, a tenant in occupancy of a dwelling unit who  
6 has not purchased shall be given the exclusive right for an additional  
7 six months from said expiration date to purchase said dwelling unit on  
8 the same terms and conditions as are contained in any executed contract  
9 to purchase said dwelling unit entered into by a purchaser under the  
10 preservation plan, such exclusive right to be exercisable within fifteen  
11 days from the date of mailing by registered mail of notice of the  
12 execution of a contract of sale together with a copy of said executed  
13 purchase agreement to said tenant.

14 6. The preservation plan shall also disclose that the offeror shall:

15 (a) market and sell all the dwelling units (other than the income-res-  
16 tricted rental units) in the building or group of buildings or develop-  
17 ment, as each such dwelling unit becomes vacant, to a purchaser under  
18 the preservation plan through the use of commercially reasonable good  
19 faith efforts;

20 (b) fund the reserve fund and dedicated capital fund in the manner and  
21 amounts as provided in section three hundred thirty-nine-mm of the real  
22 property law;

23 (c) file an annual update amendment every year which shall include an  
24 updated Schedule A of all dwelling units being offered for sale under  
25 the preservation plan; and

26 (d) exercise commercially reasonable good faith efforts to sell at  
27 least fifty-one percent of the total number of dwelling units offered  
28 for sale under the preservation plan (excluding any income-restricted  
29 rental units not offered for sale) within five years from the date of  
30 the post-closing amendment.

31 7. After the issuance of the letter from the attorney general stating  
32 that the preservation plan has been accepted for filing, the offeror  
33 shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth day after  
34 such date and at least once every thirty days until the preservation  
35 plan is declared effective or abandoned, as the case may be, and on the  
36 second day before the expiration of any exclusive purchase period  
37 provided in a substantial amendment to the preservation plan:

38 (a) file with the attorney general a written statement under oath  
39 setting forth the percentage of bona fide tenants in occupancy of all  
40 dwelling units in the building or group of buildings or development on  
41 the date the preservation plan was accepted for filing by the attorney  
42 general who have executed and delivered written agreements to purchase  
43 under the preservation plan as of the date of such written statement  
44 under oath; and

45 (b) before noon on the day such statement is filed post a copy of such  
46 written statement under oath in a prominent place accessible to all  
47 tenants in each building covered by the preservation plan.

48 8. A preservation plan may not be declared effective until written  
49 purchase agreements have been executed and delivered for at least  
50 fifteen percent of all dwelling units offered for sale in the building  
51 or group of buildings or development from either (a) bona fide tenants  
52 who were in occupancy on the date a letter was issued by the attorney  
53 general accepting the preservation plan for filing or (b) bona fide  
54 non-tenant purchasers. The purchase agreement shall be executed and  
55 delivered pursuant to an offering made in good faith without fraud and  
56 discriminatory repurchase agreements or other discriminatory induce-

1 ments. A negotiated reduction from the original offering price extended  
2 shall not, by itself, be deemed a discriminatory inducement.

3 9. Those written statements under oath that the offeror is required to  
4 file with the attorney general pursuant to subdivision seven of this  
5 section shall also include:

6 (a) the total number of written agreements to purchase under the pres-  
7 ervation plan received from bona fide non-tenant purchasers;

8 (b) the total number of written agreements to purchase under the pres-  
9 ervation plan received from all bona fide tenants in occupancy;

10 (c) the percentage of dwelling units under contract, calculated by  
11 adding the number of written purchase agreements for a unit that were  
12 received from (i) all bona fide tenants in occupancy plus (ii) all bona  
13 fide non-tenant purchasers and then dividing the sum of those two  
14 numbers by the total number of dwelling units offered for sale under the  
15 preservation plan;

16 (d) whether or not the offeror intends to claim a credit against the  
17 mandatory initial contribution the offeror is obligated to deposit into  
18 the condominium's reserve fund pursuant to subdivision three of section  
19 three hundred thirty-nine-mm of the real property law for the actual  
20 cost of capital replacements which the offeror has begun after the pres-  
21 ervation plan was submitted for filing to the department of law but  
22 before the preservation plan is declared effective, together with their  
23 actual or estimated costs which credit shall not exceed the actual cost  
24 of the credit;

25 (e) whether or not the offeror shall be making its reserve fund  
26 contributions required pursuant to section three hundred thirty-nine-mm  
27 earlier or in an amount greater than required; and

28 (f) a representation that no purchaser counted for purposes of declar-  
29 ing the preservation plan effective is the offeror, the selling agent or  
30 the managing agent, or is a principal of the offeror, the selling agent,  
31 or the managing agent or is related to any principal of the offeror, any  
32 principal of the selling agent or any principal of the managing agent by  
33 blood, marriage, or adoption, or is an affiliate, business associate, an  
34 employee, a shareholder, a member, a manager, a director, an officer, a  
35 limited partner of the offeror, selling agent or managing agent.

36 10. The preservation plan shall provide that it will be deemed aban-  
37 doned, void and of no effect if it does not become effective within  
38 fifteen months from the date of issue of the letter of the attorney  
39 general stating that the preservation plan has been accepted for filing  
40 and, in the event of such abandonment, no new plan for the conversion of  
41 such building or group of buildings or development shall be submitted to  
42 the attorney general for at least twelve months after such abandonment.

43 11. No closings of title of a dwelling unit to a purchaser under the  
44 preservation plan shall take place until the attorney general shall have  
45 also accepted for filing an amendment that declares the preservation  
46 plan effective. Within forty-five days of the first closing of title of  
47 a dwelling unit to a purchaser under the preservation plan, the offeror  
48 shall submit to the attorney general its post-closing amendment to the  
49 preservation plan. Thereafter, the preservation plan shall continually  
50 be updated with the filing of an annual update amendment, no later than  
51 thirty days from the anniversary of the date the attorney general  
52 accepted the post-closing amendment for filing. An offeror or successor  
53 offeror shall only be relieved of its obligation to file an annual  
54 update amendment to the preservation plan after the last dwelling unit  
55 offered for sale is conveyed to a purchaser under the preservation plan.

1 12. After the date of acceptance for filing of the post-closing amend-  
2 ment, the offeror shall continue to make commercially reasonable good  
3 faith efforts to sell the dwelling units it owns.

4 13. The attorney general shall refuse to accept for filing an annual  
5 update amendment to the preservation plan unless:

6 (a) The annual update amendment discloses, in addition to the other  
7 disclosures required elsewhere in this section or the regulations of the  
8 attorney general, the following data and information:

9 (i) an accounting of the dwelling units sold and closed by the offeror  
10 in the preceding twelve months, with an indication if the dwelling unit  
11 was conveyed to a purchaser under the preservation plan or to a succes-  
12 sor offeror;

13 (ii) an inventory of the offeror's unsold dwelling units at the end of  
14 the preceding twelve months, in form and substance as shall satisfy the  
15 attorney general; and

16 (iii) all the information, data and literature presented by the board  
17 of managers in its semi-annual reports on the status of the reserve fund  
18 as required under subdivision five of section three hundred thirty-nine-  
19 mm of the real property law.

20 (b) The annual update amendment shall be accompanied by an affidavit  
21 from a principal of the offeror attesting to the following data and  
22 information with respect to all the dwelling units the offeror then  
23 owns:

24 (i) the dwelling units' identifying information and general location;  
25 (ii) whether, on the date of submission of the annual update amend-  
26 ment, the unsold dwelling unit is subject to a fully executed purchase  
27 agreement, and if so, whether the purchaser is a purchaser under the  
28 preservation plan or otherwise;

29 (iii) whether, on the date of submission of the annual update amend-  
30 ment, the dwelling unit is occupied or vacant, and if occupied, an indi-  
31 cation that occupancy is:

- 32 (A) by a rent-regulated tenant;  
33 (B) by a market-rate tenant;  
34 (C) a month-to-month tenancy;  
35 (D) a tenancy at sufferance; or  
36 (E) other.

37 (iv) notwithstanding the occupancy status of a dwelling unit on the  
38 date of submission of the annual update amendment, an indication if the  
39 dwelling unit was vacant for more than one of the twelve preceding  
40 months. For each dwelling unit so indicated, the offeror shall also  
41 disclose:

- 42 (A) the date range that the dwelling unit was vacant;  
43 (B) the date range for any period of time that the dwelling unit was  
44 marketed for sale;  
45 (C) date of sale;  
46 (D) the date the dwelling unit was leased by a tenant; and  
47 (E) the date the lease is set to expire (if applicable).

48 14. No eviction proceedings shall be commenced at any time against  
49 non-purchasing tenants for failure to purchase or for any other reason  
50 applicable to expiration of tenancy; provided that such proceedings may  
51 be commenced for non-payment of rent, illegal use or occupancy of the  
52 premises, refusal of reasonable access to the owner or a similar breach  
53 by the non-purchasing tenant of his, her or their obligations to the  
54 owner of the dwelling unit; and provided further that an owner of a unit  
55 may not commence an action to recover possession of a dwelling unit from  
56 a non-purchasing tenant on the grounds that he, she or they seek the

1 dwelling unit for the use and occupancy of himself or herself or his,  
2 her or their family's use and occupancy.

3 15. No eviction proceedings shall be commenced, except as provided in  
4 this subdivision, at any time against either eligible senior citizens or  
5 eligible disabled persons. The rentals of eligible senior citizens and  
6 eligible disabled persons who reside in dwelling units not subject to  
7 government regulation as to rentals and continued occupancy and eligible  
8 senior citizens and eligible disabled persons who reside in dwelling  
9 units with respect to which government regulation as to rentals and  
10 continued occupancy is eliminated or becomes inapplicable after the  
11 preservation plan has been accepted for filing shall not be subject to  
12 unconscionable increases beyond ordinary rentals for comparable apart-  
13 ments during the period of their occupancy considering, in determining  
14 comparability, such factors as building services, level of maintenance  
15 and operating expenses; provided that such proceedings may be commenced  
16 against such tenants for non-payment of rent, illegal use or occupancy  
17 of the premises, refusal of reasonable access to the owner or a similar  
18 breach by the tenant of his, her or their obligations to the owner of  
19 the dwelling unit.

20 16. Eligible senior citizens and eligible disabled persons who reside  
21 in dwelling units subject to government regulation as to rentals and  
22 continued occupancy shall continue to be subject thereto.

23 17. The rights granted under the preservation plan to eligible senior  
24 citizens and eligible disabled persons may not be abrogated or reduced  
25 notwithstanding any expiration of, or amendment to, this section.

26 18. Any offeror who disputes the election by a person to be an eligi-  
27 ble senior citizen or an eligible disabled person shall apply to the  
28 attorney general within thirty days of the receipt of the election forms  
29 for a determination by the attorney general of such person's eligibil-  
30 ity. The attorney general shall, within thirty days thereafter, issue a  
31 determination of eligibility. The foregoing shall, in the absence of  
32 fraud, be the sole method for determining a dispute as to whether a  
33 person is an eligible senior citizen or an eligible disabled person. The  
34 determination of the attorney general shall be reviewable only through a  
35 proceeding under article seventy-eight of the civil practice law and  
36 rules, which proceeding shall be commenced within thirty days after such  
37 determination by the attorney general becomes final.

38 19. Non-purchasing tenants who reside in dwelling units subject to  
39 government regulation as to rentals and continued occupancy prior to the  
40 conversion of the building or group of buildings or development to  
41 condominium ownership shall continue to be subject thereto.

42 20. The rentals of non-purchasing tenants who reside in dwelling units  
43 not subject to government regulation as to rentals and continued occu-  
44 pancy and non-purchasing tenants who reside in dwelling units with  
45 respect to which government regulation as to rentals and continued occu-  
46 pancy is eliminated or becomes inapplicable after the preservation plan  
47 has been accepted for filing by the attorney general shall not be  
48 subject to unconscionable increases beyond ordinary rentals for compara-  
49 ble apartments during the period of their occupancy. In determining  
50 comparability, consideration shall be given to such factors as building  
51 services, level of maintenance and operating expenses.

52 21. The rights granted under the preservation plan to purchasers under  
53 the preservation plan and to non-purchasing tenants may not be abrogated  
54 or reduced notwithstanding any expiration of, or amendment to, this  
55 section.

1 22. Any local legislative body may adopt local laws and any agency,  
2 officer or public body may prescribe rules and regulations with respect  
3 to the continued occupancy by tenants of dwelling units which are  
4 subject to regulation as to rentals and continued occupancy pursuant to  
5 law, provided that in the event that any such local law, rule or regu-  
6 lation shall be inconsistent with the provisions of this section, the  
7 provisions of this section shall control.

8 23. The attorney general shall refuse to accept for filing a preserva-  
9 tion plan when the attorney general determines: (a) that one or more of  
10 the income-restricted rental units within the building, group of build-  
11 ings or development was vacant on the date of submission; or (b) of the  
12 dwelling units that are not income-restricted rental units, an excessive  
13 number of long-term vacancies did not exist on the date that the preser-  
14 vation plan was first submitted to the department of law. For purposes  
15 of this subdivision, "long-term vacancies" shall mean dwelling units not  
16 leased or occupied by bona fide tenants for more than five months prior  
17 to the date of such submission to the department of law; and "excessive"  
18 shall mean a vacancy rate in excess of the greater of (i) ten percent  
19 and (ii) a percentage that is double the normal average vacancy rate for  
20 the building or group of buildings or development for two years prior to  
21 the January preceding the date the preservation plan was first submitted  
22 to the department of law.

23 24. All dwelling units occupied by non-purchasing tenants shall be  
24 managed by the same managing agent who manages all other dwelling units  
25 in the building or group of buildings or development. Such managing  
26 agent shall provide to non-purchasing tenants all services and facili-  
27 ties required by law on a non-discriminatory basis. The offeror shall  
28 guarantee the obligation of the managing agent to provide all such  
29 services and facilities until such time as the offeror surrenders  
30 control of the board of managers, at which time the board of managers of  
31 the condominium shall assume responsibility for the provision of all  
32 services and facilities required by law on a non-discriminatory basis.

33 25. It shall be unlawful for any person to engage in any course of  
34 conduct, including, but not limited to, interruption or discontinuance  
35 of essential services, which substantially interferes with or disturbs  
36 the comfort, repose, peace or quiet of any tenant in his, her or their  
37 use or occupancy of his, her or their dwelling unit or the facilities  
38 related thereto. The attorney general may apply to a court of competent  
39 jurisdiction for an order restraining such conduct and, if he deems it  
40 appropriate, an order restraining the owner from selling the dwelling  
41 unit itself or from proceeding with the preservation plan of conversion;  
42 provided that nothing contained herein shall be deemed to preclude the  
43 tenant from applying on his, her or their own behalf for similar relief.

44 26. Any provision of a lease or other rental agreement which purports  
45 to waive a tenant's rights under this section or rules and regulations  
46 promulgated pursuant hereto shall be void as contrary to public policy.

47 27. Notwithstanding the requirements of this section regarding the  
48 preservation of an income-restricted rental unit or units as permanently  
49 affordable, and to the extent permitted under existing law as it relates  
50 to the income-restricted rental unit or units, the income-restricted  
51 rental unit or units in a building or group of buildings or development  
52 of an eligible project may be converted to a limited equity housing  
53 cooperative pursuant to article eleven of the private housing finance  
54 law under a separate offering statement or prospectus, if the relevant  
55 housing finance agency ensures that the proposed offering statement or  
56 prospectus discloses that the regulatory agreement provides as follows:

1 (a) the offering prices are affordable to the existing tenants and/or  
2 the qualified low-income purchasers who meet the definition of persons  
3 of low income or families of low income as defined by subdivision nine-  
4 teen of section two of the private housing finance law;

5 (b) any tenant of an income-restricted rental unit that chooses not to  
6 buy the income-restricted rental unit he or she occupies shall continue  
7 to be protected under the rent stabilization laws and code throughout  
8 the process of conversion to a limited equity housing cooperative and  
9 thereafter, and that no existing tenant of an income-restricted rental  
10 unit shall be evicted solely due to his or her decision not to purchase  
11 his or her income-restricted rental unit;

12 (c) the regulatory agreement and certificate of incorporation of the  
13 limited equity housing cooperative shall ensure that the income-res-  
14 tricted rental units converted to a limited equity housing cooperative  
15 shall be reserved for occupancy by persons of low income and families of  
16 low income in perpetuity;

17 (d) the relevant housing finance agency shall have oversight authority  
18 over the limited equity housing cooperative in the regulatory agreement,  
19 condominium declaration, condominium by-laws and certificate of incorpo-  
20 ration of the limited equity housing cooperative, including the ability  
21 to appoint a new board of directors of the limited equity housing coop-  
22 erative in the event of a violation of a term of, or an event of default  
23 by the limited equity housing cooperative under any of its governing  
24 documents; and

25 (e) that the ownership of the dedicated capital account by the quali-  
26 fied owner, and the funding of the dedicated capital account by the  
27 offeror of the preservation plan, shall each be subject to the oversight  
28 authority of the relevant housing finance agency as provided in section  
29 three hundred thirty-nine-mm of the real property law.

30 28. It shall be unlawful for an offeror, its designees and/or succes-  
31 sors to have or exercise voting control of the condominium's board of  
32 managers for more than ninety days from the fifth anniversary date of  
33 the first closing of title to a dwelling unit, or whenever the unsold  
34 dwelling units constitute less than fifty percent of the common inter-  
35 ests appurtenant to all dwelling units, whichever is sooner.

36 29. The attorney general may, in his or her discretion, waive the  
37 requirement in paragraph (d) of subdivision six of this section that an  
38 offeror sell at least fifty-one percent of the dwelling units offered  
39 for sale under the preservation plan when the offeror provides proof  
40 satisfactory to the attorney general that five years of commercially  
41 reasonable good faith efforts did not result in the sale of fifty-one  
42 percent of the dwelling units. If such waiver is granted, the offeror  
43 shall be required to disclose the new date by which it will sell at  
44 least fifty-one percent of the dwelling units offered for sale under the  
45 preservation plan in its subsequent annual update amendment. Any waiver  
46 granted hereunder shall not alleviate an offeror, its designees and/or  
47 successors of the obligation set forth in subdivision twenty-eight of  
48 this section.

49 30. Within ninety days of the effective date of this section, the  
50 attorney general shall submit a notice of proposed rulemaking for publi-  
51 cation in the state register which shall contain the suitable rules  
52 necessary to carry out the provisions of this section. The authority of  
53 the attorney general to promulgate, adopt, publish, notify, review,  
54 amend, modify, reconsider, or rescind any rule or regulation as may be  
55 conferred anywhere within this section shall comply with the state  
56 administrative procedure act in all respects.

1 31. For any offering statement or prospectus (including, without limi-  
2 tation, a preservation plan and any amended filings thereto), submitted  
3 to the department of law pursuant to this section, the filing fees set  
4 forth in paragraph (a) of subdivision seven of section three hundred  
5 fifty-two-e of this article shall not apply. Instead, an offeror shall  
6 tender the following filing fee with and for its submission:

7 (a) seven hundred fifty dollars for every offering not in excess of  
8 two hundred fifty thousand dollars;

9 (b) for every offering in excess of two hundred fifty thousand  
10 dollars, four-tenths of one percent of the total amount of the offering  
11 but not in excess of sixty thousand dollars, of which one-half of said  
12 amount shall be a nonrefundable deposit paid at the time of submitting  
13 the preservation plan to the department of law for review and the  
14 balance payable upon the attorney general's issuance of a letter of  
15 acceptance of the preservation plan for filing;

16 (c) two hundred twenty-five dollars for each price change amendment to  
17 a preservation plan;

18 (d) seven hundred fifty dollars for any other amendment to a preserva-  
19 tion plan; and

20 (e) seven hundred fifty dollars for each such application, and an  
21 additional seven hundred fifty dollars for each and every amendment  
22 submitted in furtherance of such an application to permit an offeror to  
23 solicit public interest prior to the filing of a preservation plan to  
24 the department of law.

25 § 2. Section 339-e of the real property law is amended by adding nine  
26 new subdivisions 1-a, 6-a, 7-a, 8-a, 10-a, 11-a, 12-a, 12-b and 13-a to  
27 read as follows:

28 1-a. "Capital replacement" means a building-wide replacement of a  
29 major component of any of the following systems:

30 (a) elevator;

31 (b) heating, ventilation and air conditioning;

32 (c) environmental and sustainability upgrades;

33 (d) plumbing;

34 (e) wiring;

35 (f) window; or

36 (g) a major structural replacement to the building; provided, however,  
37 that major structural replacements made to cure code violations of  
38 record shall not be included.

39 6-a. "Consummation of the preservation plan" means, in the context of  
40 a preservation plan for the conversion of residential rental property to  
41 condominium ownership that has been accepted for filing by the depart-  
42 ment of law pursuant to section three hundred fifty-two-eeeeee of the  
43 general business law and subsequently amended to disclose that said  
44 preservation plan has been declared effective, (i) the recording of the  
45 declaration for the condominium and (ii) the closing of title to a  
46 dwelling unit with a purchaser under the preservation plan.

47 7-a. "Income-restricted rental unit", as used in section three hundred  
48 thirty-nine-mm of this article, means a unit that also meets the defi-  
49 nition of "income-restricted rental unit" set forth in section three  
50 hundred fifty-two-eeeeee of the general business law.

51 8-a. "Offeror", as used in section three hundred thirty-nine-mm of  
52 this article, means the offeror of a preservation plan to convert resi-  
53 dential rental property to condominium ownership pursuant to section  
54 three hundred fifty-two-eeeeee of the general business law, together with  
55 his, her or its nominees, assignees and successors in interest.

1 10-a. "Preservation plan", as used in section three hundred thirty-  
2 nine-mm of this article, means an offering statement or prospectus  
3 submitted to the department of law pursuant to section three hundred  
4 fifty-two-eeee of the general business law for the conversion of a  
5 building or group of buildings or development from rental status to  
6 condominium ownership, wherein the offeror documents that it has agreed  
7 to an extended affordability term for the income-restricted rental units  
8 with a relevant housing finance agency.

9 11-a. "Purchaser under the preservation plan", when used in section  
10 three hundred thirty-nine-mm of this article, means a purchaser under  
11 the preservation plan shall refer to a person who purchases a dwelling  
12 unit from the offeror pursuant to the terms of a preservation plan that  
13 has been accepted for filing by the attorney general. A person or entity  
14 that acquires dwelling units and assumes certain obligations of the  
15 offeror shall not be considered a purchaser under the preservation plan.

16 12-a. "Qualified owner", as used in section three hundred thirty-nine-  
17 mm of this article, shall refer to a unit owner that also meets the  
18 definition of "qualified owner" as set forth in section three hundred  
19 fifty-two-eeee of the general business law.

20 12-b. "Relevant housing finance agency", as used in section three  
21 hundred thirty-nine-mm of this article, shall have the same meaning as  
22 set forth in section three hundred fifty-two-eeee of the general busi-  
23 ness law.

24 13-a. "Total price", when used in section three hundred thirty-nine-mm  
25 of this article, means the sum of the cost of all units in the offering,  
26 but excluding any income-restricted rental units owned or to be trans-  
27 ferred to a qualified owner, at the last price which was offered to  
28 tenants in occupancy prior to the effective date of the preservation  
29 plan regardless of the number of sales made.

30 § 3. The real property law is amended by adding a new section 339-mm  
31 to read as follows:

32 § 339-mm. Establishment of reserve fund and dedicated capital fund for  
33 buildings converting to condominium ownership under section three  
34 hundred fifty-two-eeee of the general business law. 1. Within thirty  
35 days after the consummation of a preservation plan, the offeror thereof  
36 (and/or its designee or designees and/or successor or successors) shall  
37 establish and transfer:

38 (a) to the condominium board of managers a reserve fund to be used  
39 exclusively for making capital repairs, replacements and improvements  
40 necessary for the health and safety of the residents (including resi-  
41 dents of the income-restricted rental units) of such building or group  
42 of buildings or development. Such reserve fund shall be exclusive of  
43 any other funds required to be reserved under the preservation plan or  
44 applicable law or regulation of the attorney general, except a fund for  
45 capital repairs, replacements and improvements substantially similar in  
46 purpose to and in an amount not less than the reserve fund mandated by  
47 this section. Such reserve fund shall also be exclusive of any working  
48 capital fund or dedicated capital fund and shall not be subject to  
49 reduction for closing apportionments.

50 (b) to the qualified owner of the income-restricted rental units, and  
51 subject to the oversight of the relevant housing finance agency set  
52 forth in a regulatory agreement, a dedicated capital fund to be used  
53 exclusively for making unit repairs, replacements and improvements  
54 necessary for the health and safety of the residents of an income-res-  
55 tricted rental unit or units of such building or group of buildings or  
56 development. Such dedicated capital fund shall be exclusive and supple-

1 mental of any other funds required to be reserved under the preservation  
2 plan or applicable law or regulation. Such dedicated capital fund shall  
3 also be exclusive and supplemental of any reserve fund or working capi-  
4 tal fund and shall not be subject to reduction for closing apportion-  
5 ments. The dedicated capital fund shall not be used towards any build-  
6 ing-wide capital replacement, and instead shall be used solely for unit  
7 repairs, replacements and improvements of the income-restricted rental  
8 units.

9 2. (a) Such reserve fund shall be established in an amount equal to  
10 either (i) three percent of the total price or, (ii) (A) three percent  
11 of the actual sales price of all condominium units sold by the offeror  
12 at the time the preservation plan is declared effective, provided,  
13 however, that if such amount is less than one percent of the total  
14 price, then the fund shall be established as a minimum of one percent of  
15 the total price; plus (B) supplemental contributions to be made by the  
16 offeror at a rate of three percent of the actual sales price of condo-  
17 minium units for each unit held by the offeror and sold to bona fide  
18 purchasers subsequent to the effective date of the preservation plan and  
19 within five years of the consummation of the preservation plan, notwith-  
20 standing that the total amount contributed may exceed three percent of  
21 the total price; and provided, further, that if five years from thirty  
22 days after the consummation of the preservation plan the total contrib-  
23 utions by the offeror to the fund are less than three percent of the  
24 total price the offeror shall pay the difference between the amount  
25 contributed and three percent of the total price. Supplemental contrib-  
26 utions shall be made within thirty days of each sale.

27 (b) Such dedicated capital fund shall be established in an amount  
28 equal to one-half of one percent of the total price, and shall be trans-  
29 ferred in full within thirty days of the date of consummation of the  
30 preservation plan into an account at a financial institution regulated  
31 by the department of financial services of the state of New York that  
32 shall have been opened by, and shall at all times be subject to the  
33 oversight authority of the relevant housing finance agency of the quali-  
34 fied owner of the income-restricted rental unit or units.

35 3. The contributions required pursuant to this section may be made  
36 earlier or in an amount greater than so provided. An offeror may claim  
37 and receive credit against the mandatory initial contribution to the  
38 reserve fund for the actual cost of capital replacements which he or she  
39 has begun after the preservation plan is submitted for filing to the  
40 department of law and before the preservation plan is declared effec-  
41 tive; provided, however, that any such replacements shall be set forth  
42 in the preservation plan together with their actual or estimated costs  
43 and further provided, that such credit shall not exceed the lesser of  
44 the actual cost of the capital replacements or one and a half percent of  
45 the total price.

46 4. Any building, construction of which was completed within three  
47 years prior to the consummation of the preservation plan, shall be  
48 exempt from the reserve fund requirements of this section but not the  
49 dedicated capital fund requirements of this section.

50 5. The condominium board of managers shall report to unit owners on a  
51 semi-annual basis with respect to all deposits into and withdrawals from  
52 the reserve fund mandated by paragraph (a) of subdivision two of this  
53 section.

54 6. The offeror, not later than the thirtieth day following the accept-  
55 ance of a preservation plan for filing by the department of law pursuant  
56 to section three hundred fifty-two-eeeeee of the general business law and

1 until the consummation of the preservation plan, shall post and maintain  
2 in a prominent place, accessible to all tenants in each building covered  
3 by the preservation plan, a listing of all violations of record against  
4 such buildings as determined by the department of buildings of the city  
5 of New York and the department of housing preservation and development  
6 of the city of New York. All newly issued violations shall be posted  
7 within forty-eight hours of their issuance and maintained as described  
8 in this subdivision. The offeror may satisfy the requirements of this  
9 section by designating an agent on the premises with whom such listing  
10 shall be made available for inspection by the tenants.

11 7. Any provision purporting to waive the provisions of this section in  
12 any contract to purchase, any agreement between an offeror and a unit  
13 purchaser, any agreement between an offeror and the condominium board of  
14 managers created under a preservation plan, any agreement between an  
15 offeror and the owner of the income-restricted rental unit or units  
16 shall be void as against public policy.

17 8. (a) Except as otherwise provided in paragraph (b) of this subdivi-  
18 sion, any person who knowingly violates or assists in the violation of  
19 any provision of this section shall be subject to a civil penalty of one  
20 hundred dollars per day per unit for each day that a building is not in  
21 compliance with the provisions of such section; provided, however, that  
22 such civil penalty shall not exceed one thousand dollars per unit.

23 (b) Any person who violates or assists in the violation of subdivision  
24 two of this section shall also be subject to a civil penalty of one  
25 thousand dollars per day for each day that the reserve fund required by  
26 subdivision two of this section is not established; provided, however,  
27 that such civil penalty shall not exceed the amount required to be  
28 reserved pursuant to subdivision two of this section.

29 (c) Any other action or proceeding in any court of competent jurisdic-  
30 tion that may be appropriate or necessary for the enforcement of the  
31 provisions of this section may be brought in the name of the people of  
32 the state of New York by the attorney general, including actions to  
33 secure permanent injunctions enjoining any acts or practices which  
34 constitute a violation of any provision of this section, mandating  
35 compliance with the provisions of this section or for such other relief  
36 as may be appropriate. In any such action or proceeding, the attorney  
37 general may apply to any court of competent jurisdiction, or to a judge  
38 or justice thereof, for a temporary restraining order or preliminary  
39 injunction enjoining and restraining all persons from violating any  
40 provision of this section, mandating compliance with the provisions of  
41 this section, or for such other relief as may be appropriate, until the  
42 hearing and determination of such action or proceeding and the entry of  
43 final judgment or order therein. The court, or judge or justice thereof,  
44 to whom such application is made, is hereby authorized to make any or  
45 all of the orders specified in this paragraph, as may be required in  
46 such application, with or without notice, and to make such other or  
47 further orders or directions as may be necessary to render the same  
48 effectual. No undertaking shall be required as a condition of the grant-  
49 ing or issuing of such order, or by reason thereof.

50 (d) Nothing contained in this section shall impair any rights, reme-  
51 dies or causes of action accrued or accruing to purchasers of condomin-  
52 ium units with regard to the funding of the reserve fund and capital  
53 fund under this section.

54 (e) The attorney general is empowered to enforce the provisions of  
55 this section.

1 § 4. Subdivision 2, subparagraph (i) of paragraph (a) of subdivision  
2 2-a, and paragraphs (a) and (c) of subdivision 7 of section 352-e of the  
3 general business law, subdivision 2 as amended by chapter 1042 of the  
4 laws of 1981, subparagraph (i) of paragraph (a) of subdivision 2-a as  
5 added by chapter 771 of the laws of 1983, paragraph (a) of subdivision 7  
6 as amended by section 1 of part BBB-1 of chapter 57 of the laws of 2008,  
7 and paragraph (c) of subdivision 7 as amended by chapter 637 of the laws  
8 of 1989, are amended to read as follows:

9 2. Unless otherwise provided by regulation issued by the attorney  
10 general, the offering statement or statements or prospectus required in  
11 subdivision one of this section shall be filed with the department of  
12 law at its office in the city of New York, prior to the public offering  
13 of the security involved. No offer, advertisement or sale of such secu-  
14 rities shall be made in or from the state of New York until the attorney  
15 general has issued to the issuer or other [~~offerer~~] offeror a letter  
16 stating that the offering has been filed. The attorney general, not  
17 later than thirty days after the submission of such filing, shall issue  
18 such a letter or, in the alternative, a notification in writing indicat-  
19 ing deficiencies in the offering statement, statements or prospectus;  
20 provided, however, that in the case of a building or group of buildings  
21 to be converted to cooperative or condominium ownership which is occu-  
22 pied in whole or in part for residential purposes and which is not the  
23 subject of a preservation plan submitted pursuant to section three  
24 hundred fifty-two-eeee of this article, such letter or notification  
25 shall be issued in not sooner than four months and not later than six  
26 months from the date of submission of such filing. The attorney general  
27 may also refuse to issue a letter stating that the offering statement or  
28 statements or prospectus has been filed whenever it appears that the  
29 offering statement or statements or prospectus does not clearly set  
30 forth the specific property or properties to be purchased, leased, mort-  
31 gaged, or otherwise to be acquired, financed or the subject of specific  
32 investment with a substantial portion of the offering proceeds.

33 (i) "Plan". Every offering statement or prospectus submitted to the  
34 department of law for the conversion of a building or group of buildings  
35 or development from residential rental status to cooperative or condo-  
36 minium ownership, other than a plan governed by the provisions of either  
37 section three hundred fifty-two-eee [~~ex~~], three hundred fifty-two-eee  
38 or section three hundred fifty-two-eeee of this [~~chapter~~] article, or a  
39 plan for such conversion pursuant to article two, eight or eleven of the  
40 private housing finance law.

41 (a) The department of law shall collect the following fees for the  
42 filing of each offering statement or prospectus as described in subdivi-  
43 sion one of this section: seven hundred fifty dollars for every offering  
44 not in excess of two hundred fifty thousand dollars; for every offering  
45 in excess of two hundred fifty thousand dollars, four-tenths of one  
46 percent of the total amount of the offering but not in excess of [~~thir-~~  
47 ~~ty~~] fifty thousand dollars of which one-half of said amount shall be a  
48 nonrefundable deposit paid at the time of submitting the offering state-  
49 ment to the department of law for review and the balance payable upon  
50 the issuance of a letter of acceptance for filing said offering state-  
51 ment. The department of law shall, in addition, collect a fee of two  
52 hundred twenty-five dollars for each price change amendment to an offer-  
53 ing statement and seven hundred fifty dollars for any other amendment to  
54 an offering statement. For each application granted by the department of  
55 law, which permits the applicant to solicit public interest or public  
56 funds preliminary to the filing of an offering statement or for the

1 issuance of a "no-filing required" letter and any amendment thereto, the  
2 department of law shall collect a fee of [~~two~~] seven hundred [~~twenty-~~  
3 ~~five~~] fifty dollars. [~~In the event the sponsor thereafter files an~~  
4 ~~offering statement, the fee paid for the preliminary application shall~~  
5 ~~be credited against the balance of the fee due and payable on filing.~~]

6 For each application granted pursuant to section three hundred fifty-  
7 two-g of this article, the department of law shall collect a fee of  
8 two-tenths of one percent of the amount of the offering of securities;  
9 however, the minimum fee shall be seven hundred fifty dollars, and the  
10 maximum fee shall be [~~thirty~~] fifty thousand dollars. All revenue from  
11 that portion of any fee imposed pursuant to this paragraph, which  
12 exceeds twenty thousand dollars for offering statements, and five  
13 hundred twenty-five dollars for all other filings, shall be paid by the  
14 department of law to the state comptroller to be deposited in and cred-  
15 ited to the real estate finance bureau fund, established pursuant to  
16 section eighty of the state finance law.

17 (c) Notwithstanding the provisions of paragraph (a) of this subdivi-  
18 sion, the department of law shall not collect any fees for the filing of  
19 an offering statement or prospectus or any amended filings thereto as  
20 described in subdivision one of this section whenever: (i) a conversion  
21 of a mobile home park, building or group of buildings or development  
22 from residential rental status to cooperative or condominium ownership  
23 is being made pursuant to article eleven, eighteen, nineteen or twenty  
24 of the private housing finance law; or (ii) the offering statement or  
25 prospectus or amendment thereto is submitted to the department of law  
26 pursuant to section three hundred fifty-two-eeee of this article. For  
27 submissions made pursuant to section three hundred fifty-two-eeee of  
28 this article, the department of law shall instead collect the fees set  
29 forth in subdivision thirty-one of such section. All revenue from that  
30 portion of any fee imposed pursuant to subdivision thirty-one of section  
31 three hundred fifty-two-eeee of this article shall be paid by the  
32 department of law to the state comptroller to be deposited in and cred-  
33 ited to the real estate finance bureau fund, established pursuant to  
34 section eighty of the state finance law.

35 § 5. Paragraph (a) of subdivision 1 of section 352-eeee of the general  
36 business law, as amended by section 1 of part N of chapter 36 of the  
37 laws of 2019, is amended to read as follows:

38 (a) "Plan". Every offering statement or prospectus submitted to the  
39 department of law pursuant to section three hundred fifty-two-e of this  
40 article for the conversion of a building or group of buildings or devel-  
41 opment from residential rental status to cooperative or condominium  
42 ownership or other form of cooperative interest in realty, other than an  
43 offering statement or prospectus for such conversion pursuant to section  
44 three hundred fifty-two-eeee of this article or article two, eight or  
45 eleven of the private housing finance law.

46 § 6. This act shall take effect on the one hundred eightieth day after  
47 it shall have become a law and shall expire and be deemed repealed 4  
48 years after such date.