

STATE OF NEW YORK

2964--A

2023-2024 Regular Sessions

IN SENATE

January 26, 2023

Introduced by Sens. KAVANAGH, ADDABBO, COMRIE, HARCKHAM, HINCHEY, MAYER, PALUMBO, SANDERS, SEPULVEDA, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to the timing of decisions for the sales of cooperative apartments

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

Section 1. Legislative findings. The legislature hereby finds and declares that residential cooperative purchasers are subject to processes and conditions that do not also apply to the purchases of other single-family residences. The provisions of this act are not intended and do not diminish the duty of cooperative boards to uphold their established fiduciary duties. It is the intent of this act to significantly improve the transparency of the cooperative purchase process to the benefit of all parties involved in the transaction.

§ 2. The real property law is amended by adding a new article 11 to read as follows:

ARTICLE 11

COOPERATIVE CORPORATIONS; TIMING OF DECISIONS

Section 360. Short title.

361. Definitions.

362. Requirements for determination.

363. Acknowledgement of receipt of application.

364. Time for determination.

365. Tolling of time.

366. Construction.

§ 360. Short title. This article shall be known and may be cited as the "fairness in cooperative homeownership act".

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

LBD02825-04-3

1 § 361. Definitions. As used in this article, unless the context other-
2 wise requires:

3 1. "Application" means the set of documents utilized by a cooperative
4 corporation to facilitate a prospective purchaser's acquisition of
5 certificates of stock, a proprietary lease, or other evidence of an
6 ownership interest in such cooperative corporation.

7 2. "Cooperative corporation" means any corporation governed by the
8 requirements of the state cooperative corporation law or the general
9 business law, which among other things, grants persons the right to
10 reside in a cooperative apartment, that right existing by such person's
11 ownership of certificates of stock, proprietary lease, or other evidence
12 of ownership of an interest in such entity.

13 3. "Proprietary lease" means the lease or occupancy agreement by which
14 a cooperative corporation permits a person to occupy an apartment in the
15 premises owned by the cooperative corporation.

16 4. "Prospective purchaser" means a person who has entered into a
17 contract of sale to purchase the proprietary lease and the ownership
18 interest in a cooperative corporation from a prospective seller.

19 5. "Prospective seller" means a person who has a proprietary lease and
20 an ownership interest in a cooperative corporation and who has entered
21 into a contract of sale to sell the person's proprietary lease and
22 ownership interest in a cooperative corporation to a prospective
23 purchaser.

24 6. "Sale" means the transfer of a person's ownership interest in a
25 cooperative corporation and that person's proprietary lease to another
26 person.

27 § 362. Requirements for determination. 1. The board of directors or
28 managing agent of each cooperative corporation shall maintain a stand-
29 ardized application and list of requirements for all cooperative apart-
30 ments subject to the by-laws or proprietary lease of such corporation.

31 2. The board of directors or managing agent of every cooperative
32 corporation shall provide the corporation's standardized application and
33 list of requirements to any prospective purchasers and prospective sell-
34 ers, or their respective real estate agents, promptly upon request, and
35 shall include instructions as to where and how to submit the required
36 materials including the mailing address and designated email address for
37 the cooperative corporation.

38 § 363. Acknowledgement of receipt of application. 1. A prospective
39 purchaser shall submit an application via registered mail, and such
40 application shall include a mailing address and email address. Within
41 ten business days of receiving an application from a prospective
42 purchaser, a cooperative corporation shall provide to a prospective
43 purchaser via electronic mail and registered mail a written acknowledg-
44 ment of the receipt of such application. Electronic mail delivery shall
45 serve as an additional notice, but shall not replace the requirement for
46 delivery by registered mail. The requirements of this subdivision shall
47 apply both to a prospective purchaser's initial submission and to any
48 subsequent submissions the prospective purchaser may make.

49 2. An acknowledgement of receipt shall set forth with specificity
50 whether the application submitted fully satisfies the requirements
51 therefor and list of the requirements provided for in section three
52 hundred sixty-two of this article, the way or ways the submitted appli-
53 cation failed to comply with the cooperative corporation's list of
54 requirements maintained and provided by the cooperative corporation
55 pursuant to such section, and if additional materials are requested for

1 clarification of a previously submitted application, what materials are
2 desired.

3 3. Failure by a cooperative corporation to provide a written acknowl-
4 edgement pursuant to this section within ten business days from the date
5 of receipt of the submission of an application shall result in the
6 application being deemed to be complete.

7 § 364. Time for determination. 1. Following the submission of a
8 completed application containing the information and documents contained
9 in the list required to be maintained and provided pursuant to section
10 three hundred sixty-two of this article and any additional materials
11 requested for clarification, a cooperative corporation shall inform a
12 prospective purchaser whether its consent to a sale is granted or wheth-
13 er its consent to a sale is denied within forty-five days.

14 2. The time period provided in subdivision one of this section may be
15 extended at any time with the consent of the prospective purchaser. The
16 cooperative corporation shall be entitled to one fourteen day extension
17 without the consent of the purchaser after sending notice to the
18 prospective purchaser via registered mail within forty-five days of
19 receiving a completed application.

20 3. If after the forty-five day period for determination and any appli-
21 cable extensions, the cooperative corporation does not act on an appli-
22 cation, a prospective purchaser may inform the board of such corporation
23 that if no action is taken within ten days then the failure to act will
24 constitute consent by the cooperative corporation to the sale.

25 4. If no action is taken following the ten day notice period pursuant
26 to subdivision three of this section, the cooperative corporation shall
27 be deemed to have consented to the sale.

28 5. Nothing in this section shall be construed to prohibit a cooper-
29 ative corporation from lawfully denying its consent to a sale at any
30 time prior to the expiration of the forty-five day determination period
31 and ten day notice period, provided that notice is given to the prospec-
32 tive purchaser stating the reason for denial.

33 § 365. Tolling of time. If a cooperative corporation's board of direc-
34 tors has placed a memorandum or other writing in its files stating that
35 such board does not ordinarily meet in the months of July and August,
36 then such board of directors or managing agent shall have sixty calendar
37 days or until the tenth of September, whichever is later, after receiv-
38 ing an application to acknowledge receipt thereof and begin the determi-
39 nation process for any application received on or after July first but
40 before September tenth of any calendar year.

41 § 366. Construction. Nothing in this article shall be construed or
42 interpreted to limit or restrict the rights and remedies granted by any
43 other provision of law.

44 § 3. This act shall take effect on the one hundred twentieth day after
45 it shall have become a law and shall apply to applications submitted and
46 received on or after such date. Effective immediately the state commis-
47 sioner of human rights is authorized to take any actions necessary prior
48 to such effective date for the implementation of the provisions of this
49 act on its effective date including, but not limited to, establishing
50 guidelines and promulgating rules.