

# STATE OF NEW YORK

934

2023-2024 Regular Sessions

## IN ASSEMBLY

January 11, 2023

Introduced by M. of A. VANEL -- read once and referred to the Committee on Consumer Affairs and 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 more than ten purchasers, or, in a city  
8 with a population of one million or more, three or more purchasers, in  
9 exchange for a consideration, receive ownership rights in or a right to  
10 use the same accommodations or facilities in real property, or both, for  
11 different intervals of less than a full year during any given year, but  
12 not necessarily for consecutive years, and which extend for a period of  
13 more than three years or which, for nominal consideration, may be  
14 renewed to continue for a period of more than three years.

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

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

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

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1 consist primarily of participation interests or investments in one or  
2 more real estate ventures, including cooperative interests in realty,  
3 unless and until there shall have been filed with the department of law,  
4 prior to such offering, a written statement or statements, to be known  
5 as an "offering statement" or "prospectus" concerning the contemplated  
6 offering which shall contain the information and representations  
7 required by paragraph (b) of this subdivision unless the security offer-  
8 ing is exempted hereunder or under subdivision two of section three  
9 hundred fifty-nine-f[, ~~subdivision two,~~] of this article by rule or  
10 action of the attorney general. Provided however, for purposes of this  
11 section, except in a city with a population of one million or more,  
12 timesharing plans involving ten or fewer purchasers shall be exempted  
13 from filing requirements under this section if such purchasers obtain  
14 use rights or ownership rights in a single property or unit, the sale  
15 price of which exceeds two times the median sales price for residential  
16 real property for the county in which such property or unit is located,  
17 as determined by the commissioner of taxation and finance. The term  
18 "real estate" as used in [~~the~~] this paragraph shall not include mineral,  
19 oil or timber leases or properties, or buildings, structures, land or  
20 other realty housing or containing business offices or industry, owned  
21 or leased by the issuer, where the issuer is not primarily engaged in  
22 the business of buying and selling such building, except in a city with  
23 a population of one million or more, timesharing plans involving ten or  
24 fewer purchasers if such purchasers obtain use rights or ownership  
25 rights in a single property or unit, the sale price of which exceeds two  
26 times the median sales price for residential real property for the coun-  
27 ty in which such property or unit is located, as determined by the  
28 commissioner of taxation and finance, or other realty or leases or  
29 interests therein. The circulation or dissemination of a non-firm offer  
30 (including circulation or dissemination of a preliminary prospectus  
31 pursuant to section ten (b) of the securities act of nineteen hundred  
32 thirty-three, and the rules thereto appertaining) shall not constitute  
33 making or taking part in a public offering within the meaning of this  
34 section.

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