

STATE OF NEW YORK

3566--B

2023-2024 Regular Sessions

IN SENATE

February 1, 2023

Introduced by Sens. CLEARE, GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Housing, Construction and Community Development in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law and the real property 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

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

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1 satisfied that the preservation plan as amended discloses the informa-
2 tion necessary for a reasonable investor to make his or her purchase
3 decision and that the preservation plan is otherwise complete, current
4 and accurate.

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

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

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

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

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

37 (g) "Eligible disabled persons". Non-purchasing tenants who have an
38 impairment which results from anatomical, physiological or psychological
39 conditions, other than addiction to alcohol, gambling, or any controlled
40 substance, which are demonstrable by medically acceptable clinical and
41 laboratory diagnostic techniques, and which are expected to be permanent
42 and which prevent the tenant from engaging in any substantial gainful
43 employment on the date the preservation plan is submitted to the depart-
44 ment of law or on the date the attorney general has accepted the preser-
45 vation plan for filing, and the spouses of any such tenants on such
46 date, and who have elected, within sixty days of the date the preserva-
47 tion plan is submitted to the department of law or on the date the
48 attorney general has accepted the preservation plan for filing, on forms
49 promulgated by the attorney general and presented to such tenants by the
50 offeror, to become non-purchasing tenants under the provisions of this
51 section; provided, however, that if the disability first occurs after
52 acceptance of the preservation plan for filing, then such election may
53 be made within sixty days following the onset of such disability unless
54 during the period subsequent to sixty days following the acceptance of
55 the preservation plan for filing but prior to such election, the offeror
56 accepts a written agreement to purchase the apartment from a bona fide

1 purchaser; and provided further that such election shall not preclude
2 any such tenant from subsequently purchasing the dwelling unit if it is
3 not an income-restricted rental unit on the terms then offered to
4 tenants in occupancy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (s) "Qualified owner". A qualified owner refers to the entity approved
56 by the relevant housing finance agency on or before the date of

1 submission of a preservation plan to the department of law that will
2 own, operate and maintain the income-restricted rental unit or units
3 that are in the building, group of buildings or development that are the
4 subject of the preservation plan. The entity which is a qualified owner
5 shall only be either: (i) a housing development fund company incorpo-
6 rated pursuant to article eleven of the private finance housing law; or
7 (ii) a community land trust or other charitable corporation organized
8 under the not-for-profit corporation law that has as its primary chari-
9 table purpose the ownership, operation and maintenance of multifamily
10 housing for persons and families of low income as defined by subdivision
11 nineteen of section two of the private finance housing law.

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

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

25 (v) "Rent stabilization". Rent stabilization shall mean, collectively,
26 the rent stabilization law of nineteen sixty-nine, the rent stabiliza-
27 tion code, the emergency tenant protection act of nineteen seventy-
28 four, and the housing stability and tenant protection act of two thou-
29 sand nineteen, together with any other successor statutes thereto.

30 (w) "Substantial government assistance". Substantial government
31 assistance shall refer to either (i) low income housing tax credits
32 under section forty-two of the internal revenue code or (ii) bond
33 financing under section one hundred forty-two of the internal revenue
34 code.

35 (x) "Zoning resolution". Zoning resolution shall refer to the zoning
36 resolution of the city of New York.

37 2. The attorney general shall refuse to accept for submission a pres-
38 ervation plan for the conversion of a building or group of buildings or
39 development if the relevant housing finance agency has not confirmed
40 that the preservation plan is for an eligible project, which shall be
41 defined as a building or group of buildings or development that meets
42 the definition of an eligible project and one or more of the following
43 requirements as of the date of submission of the preservation plan:

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

50 (b) The preservation plan is for a building or group of buildings or
51 development that (i) receives low income housing tax credits pursuant to
52 section forty-two of the internal revenue code, (ii) contains income-
53 restricted rental units, (iii) is not subject to any agreement providing
54 for a right of first refusal with a not-for-profit corporation unless
55 evidence deemed satisfactory to the department of law has been provided
56 that such right of first refusal has either expired or that such not-

1 for-profit declined to exercise such right, and (iv) is not subject to
2 an existing regulatory agreement that prohibits the conversion of the
3 dwelling units to condominium ownership; or

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

10 (d) The preservation plan is for a building or group of buildings or
11 development, that (i) contains one or more inclusionary housing units,
12 (ii) is not subject to an existing regulatory agreement that prohibits
13 the conversion of the dwelling units to condominium ownership, and (iii)
14 contains a representation that an agreement has been reached with the
15 relevant housing finance agency to increase the total number of income-
16 restricted rental units in the building or group of buildings or devel-
17 opment to thirty percent for the extended affordability term upon
18 consummation of the preservation plan.

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

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

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

29 (c) The operating expenses and revenues applicable to the income-res-
30 tricted rental units, which shall be reflected in the updated Schedule A
31 and Schedule B for the first year of operation of the condominium, the
32 allocation of common interests, projected common charges, estimated real
33 estate taxes, and rents to be collected from each income-restricted
34 rental unit, and the allocation of common expenses under section three
35 hundred thirty-nine-m of the real property law, applicable to the
36 income-restricted rental units, which shall be used to limit certain
37 condominium expenses allocable to the income-restricted rental units and
38 to cover any shortfall in the revenue from rent to cover the costs of
39 operation of the income-restricted rental units;

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

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

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

54 (g) A description of the contemplated structure of the board of manag-
55 ers of the condominium, including specifically an explanation as to how

1 the interests of the qualified owner of the income-restricted rental
2 units are to be adequately represented;

3 (h) A description of the building-wide amenities and a representation
4 that the declaration and by-laws for the condominium shall require that
5 tenants of the income-restricted rental units be provided an opportunity
6 to use commonly accessible amenities of the condominium and not unique
7 to an individual unit, including but not limited to: pools, fitness
8 centers, storage spaces, parking, and roofs or gardens accessible on a
9 building-wide basis, and that the tenants of the income-restricted
10 rental units may only be charged a nominal and reasonable fee for such
11 use, which shall not be treated as rent under any rental agreement;

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

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

21 (k) A representation by offeror that the regulatory agreement includes
22 and accounts for (i) all of the existing on-site income-restricted
23 rental units in an existing building or group of buildings or develop-
24 ment, or (ii) all of the income-restricted rental units associated with
25 an existing building or group of buildings or development located on a
26 zoning lot where one or more buildings were set aside as affordable
27 housing for purposes of qualifying for a partial property tax exemption
28 pursuant to section four hundred twenty-one-a of the real property tax
29 law;

30 (l) To the extent not already subject thereto prior to the consum-
31 mation of the preservation plan, a representation by offeror that the
32 regulatory agreement shall require all income restricted rental units be
33 subject to rent stabilization during the extended affordability term,
34 and that no income-restricted rental units may be removed from rent
35 stabilization pursuant to the exemption for units owned as a condominium
36 under sections 2520.11 and 2500.9 of the rent stabilization code or
37 section 26-504 of the administrative code of the city of New York; and

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

42 4. Upon submission of the preservation plan to the department of law,
43 each tenant in the building or group of buildings or development of a
44 dwelling unit being offered for sale shall be provided with a written
45 notice stating that such preservation plan has been submitted to the
46 department of law. Written notice to each tenant in occupancy shall
47 contain or be accompanied by:

48 (a) a copy of the preservation plan;

49 (b) a statement that tenants of the dwelling units being offered for
50 sale pursuant to the preservation plan or their representatives may
51 physically inspect the premises at any time subsequent to the submission
52 of the preservation plan to the department of law, during normal busi-
53 ness hours, upon written request made by them to the offeror, provided
54 such representatives are registered architects or professional engineers
55 licensed by the office of the professions of the education department of
56 the state of New York; and

1 (c) a statement that tenants of the income-restricted rental units are
2 not being offered for sale the dwelling units they occupy, but their
3 tenancies shall continue undisturbed during and after the conversion of
4 the property to condominium ownership. The statement shall also disclose
5 that all income-restricted rental units shall be subject to rent
6 stabilization throughout the extended affordability term.

7 5. The tenants in occupancy of dwelling units being offered for sale
8 on the date the attorney general accepts the preservation plan for
9 filing shall have the exclusive right to purchase their dwelling units
10 for ninety days after the preservation plan has been accepted for filing
11 by the attorney general, during which time the offering price available
12 to the tenant in occupancy may not be increased and a tenant's dwelling
13 unit shall not be shown to a third party unless he or she has, in writ-
14 ing, waived his or her right to purchase. Subsequent to the expiration
15 of such ninety-day period, a tenant in occupancy of a dwelling unit who
16 has not purchased shall be given the exclusive right for an additional
17 six months from said expiration date to purchase said dwelling unit on
18 the same terms and conditions as are contained in any executed contract
19 to purchase said dwelling unit entered into by a purchaser under the
20 preservation plan, such exclusive right to be exercisable within fifteen
21 days from the date of mailing by registered mail of notice of the
22 execution of a contract of sale together with a copy of said executed
23 purchase agreement to said tenant.

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

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

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

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

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

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

48 (a) file with the attorney general a written statement under oath
49 setting forth the percentage of bona fide tenants in occupancy of all
50 dwelling units in the building or group of buildings or development on
51 the date the preservation plan was accepted for filing by the attorney
52 general who have executed and delivered written agreements to purchase
53 under the preservation plan as of the date of such written statement
54 under oath; and

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

4 8. A preservation plan may not be declared effective until written
5 purchase agreements have been executed and delivered for at least
6 fifteen percent of all dwelling units offered for sale in the building
7 or group of buildings or development from either (a) bona fide tenants
8 who were in occupancy on the date a letter was issued by the attorney
9 general accepting the preservation plan for filing or (b) bona fide
10 non-tenant purchasers. The purchase agreement shall be executed and
11 delivered pursuant to an offering made in good faith without fraud and
12 discriminatory repurchase agreements or other discriminatory induce-
13 ments. A negotiated reduction from the original offering price extended
14 shall not, by itself, be deemed a discriminatory inducement.

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

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

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

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

28 (d) whether or not the offeror intends to claim a credit against the
29 mandatory initial contribution the offeror is obligated to deposit into
30 the condominium's reserve fund pursuant to subdivision three of section
31 three hundred thirty-nine-mm of the real property law for the actual
32 cost of capital replacements which the offeror has begun after the pres-
33 ervation plan was submitted for filing to the department of law but
34 before the preservation plan is declared effective, together with their
35 actual or estimated costs which credit shall not exceed the actual cost
36 of the credit;

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

40 (f) a representation that no purchaser counted for purposes of declar-
41 ing the preservation plan effective is the offeror, the selling agent or
42 the managing agent, or is a principal of the offeror, the selling agent,
43 or the managing agent or is related to any principal of the offeror, any
44 principal of the selling agent or any principal of the managing agent by
45 blood, marriage, or adoption, or is an affiliate, business associate, an
46 employee, a shareholder, a member, a manager, a director, an officer, a
47 limited partner of the offeror, selling agent or managing agent.

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

55 11. No closings of title of a dwelling unit to a purchaser under the
56 preservation plan shall take place until the attorney general shall have

1 also accepted for filing an amendment that declares the preservation
2 plan effective. Within forty-five days of the first closing of title of
3 a dwelling unit to a purchaser under the preservation plan, the offeror
4 shall submit to the attorney general its post-closing amendment to the
5 preservation plan. Thereafter, the preservation plan shall continually
6 be updated with the filing of an annual update amendment, no later than
7 thirty days from the anniversary of the date the attorney general
8 accepted the post-closing amendment for filing. An offeror or successor
9 offeror shall only be relieved of its obligation to file an annual
10 update amendment to the preservation plan after the last dwelling unit
11 offered for sale is conveyed to a purchaser under the preservation plan.

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

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

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

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

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

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

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

35 (i) the dwelling units' identifying information and general location;

36 (ii) whether, on the date of submission of the annual update amend-
37 ment, the unsold dwelling unit is subject to a fully executed purchase
38 agreement, and if so, whether the purchaser is a purchaser under the
39 preservation plan or otherwise;

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

43 (A) by a rent-regulated tenant;

44 (B) by a market-rate tenant;

45 (C) a month-to-month tenancy;

46 (D) a tenancy at sufferance; or

47 (E) other.

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

53 (A) the date range that the dwelling unit was vacant;

54 (B) the date range for any period of time that the dwelling unit was
55 marketed for sale;

56 (C) date of sale;

1 (D) the date the dwelling unit was leased by a tenant; and

2 (E) the date the lease is set to expire (if applicable).

3 14. No eviction proceedings shall be commenced at any time against
4 non-purchasing tenants for failure to purchase or for any other reason
5 applicable to expiration of tenancy; provided that such proceedings may
6 be commenced for non-payment of rent, illegal use or occupancy of the
7 premises, refusal of reasonable access to the owner or a similar breach
8 by the non-purchasing tenant of his, her or their obligations to the
9 owner of the dwelling unit; and provided further that an owner of a unit
10 may not commence an action to recover possession of a dwelling unit from
11 a non-purchasing tenant on the grounds that he, she or they seek the
12 dwelling unit for the use and occupancy of himself or herself or his,
13 her or their family's use and occupancy.

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

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

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

37 18. Any offeror who disputes the election by a person to be an eligi-
38 ble senior citizen or an eligible disabled person shall apply to the
39 attorney general within thirty days of the receipt of the election forms
40 for a determination by the attorney general of such person's eligibil-
41 ity. The attorney general shall, within thirty days thereafter, issue a
42 determination of eligibility. The foregoing shall, in the absence of
43 fraud, be the sole method for determining a dispute as to whether a
44 person is an eligible senior citizen or an eligible disabled person. The
45 determination of the attorney general shall be reviewable only through a
46 proceeding under article seventy-eight of the civil practice law and
47 rules, which proceeding shall be commenced within thirty days after such
48 determination by the attorney general becomes final.

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

53 20. The rentals of non-purchasing tenants who reside in dwelling units
54 not subject to government regulation as to rentals and continued occu-
55 pancy and non-purchasing tenants who reside in dwelling units with
56 respect to which government regulation as to rentals and continued occu-

1 pancy is eliminated or becomes inapplicable after the preservation plan
2 has been accepted for filing by the attorney general shall not be
3 subject to unconscionable increases beyond ordinary rentals for compara-
4 ble apartments during the period of their occupancy. In determining
5 comparability, consideration shall be given to such factors as building
6 services, level of maintenance and operating expenses.

7 21. The rights granted under the preservation plan to purchasers under
8 the preservation plan and to non-purchasing tenants may not be abrogated
9 or reduced notwithstanding any expiration of, or amendment to, this
10 section.

11 22. Any local legislative body may adopt local laws and any agency,
12 officer or public body may prescribe rules and regulations with respect
13 to the continued occupancy by tenants of dwelling units which are
14 subject to regulation as to rentals and continued occupancy pursuant to
15 law, provided that in the event that any such local law, rule or regu-
16 lation shall be inconsistent with the provisions of this section, the
17 provisions of this section shall control.

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

33 24. All dwelling units occupied by non-purchasing tenants shall be
34 managed by the same managing agent who manages all other dwelling units
35 in the building or group of buildings or development. Such managing
36 agent shall provide to non-purchasing tenants all services and facili-
37 ties required by law on a non-discriminatory basis. The offeror shall
38 guarantee the obligation of the managing agent to provide all such
39 services and facilities until such time as the offeror surrenders
40 control of the board of managers, at which time the board of managers of
41 the condominium shall assume responsibility for the provision of all
42 services and facilities required by law on a non-discriminatory basis.

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

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

1 27. Notwithstanding the requirements of this section regarding the
2 preservation of an income-restricted rental unit or units as permanently
3 affordable, and to the extent permitted under existing law as it relates
4 to the income-restricted rental unit or units, the income-restricted
5 rental unit or units in a building or group of buildings or development
6 of an eligible project may be converted to a limited equity housing
7 cooperative pursuant to article eleven of the private housing finance
8 law under a separate offering statement or prospectus, if the relevant
9 housing finance agency ensures that the proposed offering statement or
10 prospectus discloses that the regulatory agreement provides as follows:

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

15 (b) any tenant of an income-restricted rental unit that chooses not to
16 buy the income-restricted rental unit he or she occupies shall continue
17 to be protected under rent stabilization throughout the process of
18 conversion to a limited equity housing cooperative and thereafter, and
19 that no existing tenant of an income-restricted rental unit shall be
20 evicted solely due to his or her decision not to purchase his or her
21 income-restricted rental unit;

22 (c) the regulatory agreement and certificate of incorporation of the
23 limited equity housing cooperative shall ensure that the income-res-
24 tricted rental units converted to a limited equity housing cooperative
25 shall be reserved for occupancy by persons of low income and families of
26 low income in perpetuity;

27 (d) the relevant housing finance agency shall have oversight authority
28 over the limited equity housing cooperative in the regulatory agreement,
29 condominium declaration, condominium by-laws and certificate of incorpo-
30 ration of the limited equity housing cooperative, including the ability
31 to appoint a new board of directors of the limited equity housing coop-
32 erative in the event of a violation of a term of, or an event of default
33 by the limited equity housing cooperative under any of its governing
34 documents; and

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

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

46 29. The attorney general may, in his or her discretion, waive the
47 requirement in paragraph (d) of subdivision six of this section that an
48 offeror sell at least fifty-one percent of the dwelling units offered
49 for sale under the preservation plan when the offeror provides proof
50 satisfactory to the attorney general that five years of commercially
51 reasonable good faith efforts did not result in the sale of fifty-one
52 percent of the dwelling units. If such waiver is granted, the offeror
53 shall be required to disclose the new date by which it will sell at
54 least fifty-one percent of the dwelling units offered for sale under the
55 preservation plan in its subsequent annual update amendment. Any waiver
56 granted hereunder shall not alleviate an offeror, its designees and/or

1 successors of the obligation set forth in subdivision twenty-eight of
2 this section.

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

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

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

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

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

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

30 (e) seven hundred fifty dollars for each such application, and an
31 additional seven hundred fifty dollars for each and every amendment
32 submitted in furtherance of such an application to permit an offeror to
33 solicit public interest prior to the filing of a preservation plan to
34 the department of law.

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

38 1-a. "Capital replacement" means a building-wide replacement of a
39 major component of any of the following systems:

40 (a) elevator;

41 (b) heating, ventilation and air conditioning;

42 (c) environmental and sustainability upgrades;

43 (d) plumbing;

44 (e) wiring;

45 (f) window; or

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

49 6-a. "Consummation of the preservation plan" means, in the context of
50 a preservation plan for the conversion of residential rental property to
51 condominium ownership that has been accepted for filing by the depart-
52 ment of law pursuant to section three hundred fifty-two-eeeeee of the
53 general business law and subsequently amended to disclose that said
54 preservation plan has been declared effective, (i) the recording of the
55 declaration for the condominium and (ii) the closing of title to a
56 dwelling unit with a purchaser under the preservation plan.

1 7-a. "Income-restricted rental unit", as used in section three hundred
2 thirty-nine-mm of this article, means a unit that also meets the defi-
3 inition of "income-restricted rental unit" set forth in section three
4 hundred fifty-two-eeee of the general business law.

5 8-a. "Offeror", as used in section three hundred thirty-nine-mm of
6 this article, means the offeror of a preservation plan to convert resi-
7 dential rental property to condominium ownership pursuant to section
8 three hundred fifty-two-eeee of the general business law, together with
9 his, her or its nominees, assignees and successors in interest.

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

18 11-a. "Purchaser under the preservation plan", when used in section
19 three hundred thirty-nine-mm of this article, means a purchaser under
20 the preservation plan shall refer to a person who purchases a dwelling
21 unit from the offeror pursuant to the terms of a preservation plan that
22 has been accepted for filing by the attorney general. A person or entity
23 that acquires dwelling units and assumes certain obligations of the
24 offeror shall not be considered a purchaser under the preservation plan.

25 12-a. "Qualified owner", as used in section three hundred thirty-nine-
26 mm of this article, shall refer to a unit owner that also meets the
27 definition of "qualified owner" as set forth in section three hundred
28 fifty-two-eeee of the general business law.

29 12-b. "Relevant housing finance agency", as used in section three
30 hundred thirty-nine-mm of this article, shall have the same meaning as
31 set forth in section three hundred fifty-two-eeee of the general busi-
32 ness law.

33 13-a. "Total price", when used in section three hundred thirty-nine-mm
34 of this article, means the sum of the cost of all units in the offering,
35 but excluding any income-restricted rental units owned or to be trans-
36 ferred to a qualified owner, at the last price which was offered to
37 tenants in occupancy prior to the effective date of the preservation
38 plan regardless of the number of sales made.

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

41 § 339-mm. Establishment of reserve fund and dedicated capital fund for
42 buildings converting to condominium ownership under section three
43 hundred fifty-two-eeee of the general business law. 1. Within thirty
44 days after the consummation of a preservation plan, the offeror thereof
45 (and/or its designee or designees and/or successor or successors) shall
46 establish and transfer:

47 (a) to the condominium board of managers a reserve fund to be used
48 exclusively for making capital repairs, replacements and improvements
49 necessary for the health and safety of the residents (including resi-
50 dents of the income-restricted rental units) of such building or group
51 of buildings or development. Such reserve fund shall be exclusive of
52 any other funds required to be reserved under the preservation plan or
53 applicable law or regulation of the attorney general, except a fund for
54 capital repairs, replacements and improvements substantially similar in
55 purpose to and in an amount not less than the reserve fund mandated by
56 this section. Such reserve fund shall also be exclusive of any working

1 capital fund or dedicated capital fund and shall not be subject to
2 reduction for closing apportionments.

3 (b) to the qualified owner of the income-restricted rental units, and
4 subject to the oversight of the relevant housing finance agency set
5 forth in a regulatory agreement, a dedicated capital fund to be used
6 exclusively for making unit repairs, replacements and improvements
7 necessary for the health and safety of the residents of an income-res-
8 tricted rental unit or units of such building or group of buildings or
9 development. Such dedicated capital fund shall be exclusive and supple-
10 mental of any other funds required to be reserved under the preservation
11 plan or applicable law or regulation. Such dedicated capital fund shall
12 also be exclusive and supplemental of any reserve fund or working capi-
13 tal fund and shall not be subject to reduction for closing apportion-
14 ments. The dedicated capital fund shall not be used towards any build-
15 ing-wide capital replacement, and instead shall be used solely for unit
16 repairs, replacements and improvements of the income-restricted rental
17 units.

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

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

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

55 4. Any building, construction of which was completed within three
56 years prior to the consummation of the preservation plan, shall be

1 exempt from the reserve fund requirements of this section but not the
2 dedicated capital fund requirements of this section.

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

7 6. The offeror, not later than the thirtieth day following the accept-
8 ance of a preservation plan for filing by the department of law pursuant
9 to section three hundred fifty-two-eeee of the general business law and
10 until the consummation of the preservation plan, shall post and maintain
11 in a prominent place, accessible to all tenants in each building covered
12 by the preservation plan, a listing of all violations of record against
13 such buildings as determined by the department of buildings of the city
14 of New York and the department of housing preservation and development
15 of the city of New York. All newly issued violations shall be posted
16 within forty-eight hours of their issuance and maintained as described
17 in this subdivision. The offeror may satisfy the requirements of this
18 section by designating an agent on the premises with whom such listing
19 shall be made available for inspection by the tenants.

20 7. Any provision purporting to waive the provisions of this section in
21 any contract to purchase, any agreement between an offeror and a unit
22 purchaser, any agreement between an offeror and the condominium board of
23 managers created under a preservation plan, any agreement between an
24 offeror and the owner of the income-restricted rental unit or units
25 shall be void as against public policy.

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

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

38 (c) Any other action or proceeding in any court of competent jurisdic-
39 tion that may be appropriate or necessary for the enforcement of the
40 provisions of this section may be brought in the name of the people of
41 the state of New York by the attorney general, including actions to
42 secure permanent injunctions enjoining any acts or practices which
43 constitute a violation of any provision of this section, mandating
44 compliance with the provisions of this section or for such other relief
45 as may be appropriate. In any such action or proceeding, the attorney
46 general may apply to any court of competent jurisdiction, or to a judge
47 or justice thereof, for a temporary restraining order or preliminary
48 injunction enjoining and restraining all persons from violating any
49 provision of this section, mandating compliance with the provisions of
50 this section, or for such other relief as may be appropriate, until the
51 hearing and determination of such action or proceeding and the entry of
52 final judgment or order therein. The court, or judge or justice thereof,
53 to whom such application is made, is hereby authorized to make any or
54 all of the orders specified in this paragraph, as may be required in
55 such application, with or without notice, and to make such other or
56 further orders or directions as may be necessary to render the same

1 effectual. No undertaking shall be required as a condition of the grant-
2 ing or issuing of such order, or by reason thereof.

3 (d) Nothing contained in this section shall impair any rights, reme-
4 dies or causes of action accrued or accruing to purchasers of condomi-
5 nium units with regard to the funding of the reserve fund and capital
6 fund under this section.

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

9 § 4. Subdivision 2, subparagraph (i) of paragraph (a) of subdivision
10 2-a, and paragraphs (a) and (c) of subdivision 7 of section 352-e of the
11 general business law, subdivision 2 as amended by chapter 1042 of the
12 laws of 1981, subparagraph (i) of paragraph (a) of subdivision 2-a as
13 added by chapter 771 of the laws of 1983, paragraph (a) of subdivision 7
14 as amended by section 1 of part BBB-1 of chapter 57 of the laws of 2008,
15 and paragraph (c) of subdivision 7 as amended by chapter 637 of the laws
16 of 1989, are amended to read as follows:

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

41 (i) "Plan". Every offering statement or prospectus submitted to the
42 department of law for the conversion of a building or group of buildings
43 or development from residential rental status to cooperative or condo-
44 minium ownership, other than a plan governed by the provisions of either
45 section three hundred fifty-two-eee [~~ee~~], three hundred fifty-two-eeee
46 or section three hundred fifty-two-eeee of this [~~chapter~~] article, or a
47 plan for such conversion pursuant to article two, eight or eleven of the
48 private housing finance law.

49 (a) The department of law shall collect the following fees for the
50 filing of each offering statement or prospectus as described in subdivi-
51 sion one of this section: seven hundred fifty dollars for every offering
52 not in excess of two hundred fifty thousand dollars; for every offering
53 in excess of two hundred fifty thousand dollars, four-tenths of one
54 percent of the total amount of the offering but not in excess of [~~thir-~~
55 ~~ty~~] fifty thousand dollars of which one-half of said amount shall be a
56 nonrefundable deposit paid at the time of submitting the offering state-

1 ment to the department of law for review and the balance payable upon
2 the issuance of a letter of acceptance for filing said offering state-
3 ment. The department of law shall, in addition, collect a fee of two
4 hundred twenty-five dollars for each price change amendment to an offer-
5 ing statement and seven hundred fifty dollars for any other amendment to
6 an offering statement. For each application granted by the department of
7 law, which permits the applicant to solicit public interest or public
8 funds preliminary to the filing of an offering statement or for the
9 issuance of a "no-filing required" letter and any amendment thereto, the
10 department of law shall collect a fee of [~~two~~] seven hundred [~~twenty-~~
11 ~~five~~] fifty dollars. [~~In the event the sponsor thereafter files an~~
12 ~~offering statement, the fee paid for the preliminary application shall~~
13 ~~be credited against the balance of the fee due and payable on filing.~~]
14 For each application granted pursuant to section three hundred fifty-
15 two-g of this article, the department of law shall collect a fee of
16 two-tenths of one percent of the amount of the offering of securities;
17 however, the minimum fee shall be seven hundred fifty dollars, and the
18 maximum fee shall be [~~thirty~~] fifty thousand dollars. All revenue from
19 that portion of any fee imposed pursuant to this paragraph, which
20 exceeds twenty thousand dollars for offering statements, and five
21 hundred twenty-five dollars for all other filings, shall be paid by the
22 department of law to the state comptroller to be deposited in and cred-
23 ited to the real estate finance bureau fund, established pursuant to
24 section eighty of the state finance law.

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

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

46 (a) "Plan". Every offering statement or prospectus submitted to the
47 department of law pursuant to section three hundred fifty-two-e of this
48 article for the conversion of a building or group of buildings or devel-
49 opment from residential rental status to cooperative or condominium
50 ownership or other form of cooperative interest in realty, other than an
51 offering statement or prospectus for such conversion pursuant to section
52 three hundred fifty-two-eeee of this article or article two, eight or
53 eleven of the private housing finance law.

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