

STATE OF NEW YORK

538

2023-2024 Regular Sessions

IN SENATE

January 4, 2023

Introduced by Sens. THOMAS, SKOUFIS -- read twice and ordered printed,
and when printed to be committed to the Committee on Consumer
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 Assem-
bly, 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

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

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

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