

STATE OF NEW YORK

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IN ASSEMBLY

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Introduced by M. of A. EPSTEIN, SIMONE, GLICK, COLTON, LUCAS, DAVILA, REYES, R. CARROLL, LEVENBERG, BURDICK, CRUZ, LEE, BICHOTTE HERMELYN, TAPIA, GALLAGHER -- Multi-Sponsored by -- M. of A. SIMON -- read once and referred to the Committee on Housing

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:

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

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

(a) "Annual update amendment". An annual update amendment is an amendment to the preservation plan that shall be submitted to the attorney general every year that a dwelling unit is unsold, with the first such annual update amendment due within forty-five days of the anniversary of the acceptance of the post-closing amendment to the preservation plan. An annual update amendment shall supply the evidence, data and information required in this section, and such other information as the attorney general's regulations shall require, so that the attorney general is satisfied that the preservation plan as amended discloses the information necessary for a reasonable investor to make their purchase decision and that the preservation plan is otherwise complete, current and accurate.

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

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

6 (c) "Bona fide non-tenant purchaser". A bona fide non-tenant purchaser
7 is a purchaser of a dwelling unit who has represented that they or a
8 member or members of their immediate family intend to occupy the dwell-
9 ing unit when it becomes vacant.

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

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

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

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

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

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

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

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

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

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

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

52 (ii) meets the definition of a "low-income unit" as such term is
53 defined in subdivision (d) of section one hundred forty-two of the
54 internal revenue code and is subject to a regulatory agreement with a
55 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 affor-da-
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) "Rent stabilization". Rent stabilization shall mean, collectively,
22 the rent stabilization law of nineteen sixty-nine, the rent stabiliza-
23 tion code, the emergency tenant protection act of nineteen seventy-
24 four, and the housing stability and tenant protection act of two thou-
25 sand nineteen, together with any other successor statutes thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (h) A description of the building-wide amenities and a representation
56 that the declaration and by-laws for the condominium shall require that

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

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

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

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

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

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

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

44 (a) a copy of the preservation plan;

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

53 (c) a statement that tenants of the income-restricted rental units are
54 not being offered for sale the dwelling units they occupy, but their
55 tenancies shall continue undisturbed during and after the conversion of
56 the property to condominium ownership. The statement shall also disclose

1 that all income-restricted rental units shall be subject to rent
2 stabilization throughout the extended affordability term.

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

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

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

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

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

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

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

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

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

54 8. A preservation plan may not be declared effective until written
55 purchase agreements have been executed and delivered for at least
56 fifteen percent of all dwelling units offered for sale in the building

1 or group of buildings or development from either (a) bona fide tenants
2 who were in occupancy on the date a letter was issued by the attorney
3 general accepting the preservation plan for filing or (b) bona fide
4 non-tenant purchasers. The purchase agreement shall be executed and
5 delivered pursuant to an offering made in good faith without fraud and
6 discriminatory repurchase agreements or other discriminatory induce-
7 ments. A negotiated reduction from the original offering price extended
8 shall not, by itself, be deemed a discriminatory inducement.

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

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

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

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

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

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

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

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

49 11. No closings of title of a dwelling unit to a purchaser under the
50 preservation plan shall take place until the attorney general shall have
51 also accepted for filing an amendment that declares the preservation
52 plan effective. Within forty-five days of the first closing of title of
53 a dwelling unit to a purchaser under the preservation plan, the offeror
54 shall submit to the attorney general its post-closing amendment to the
55 preservation plan. Thereafter, the preservation plan shall continually
56 be updated with the filing of an annual update amendment, no later than

1 thirty days from the anniversary of the date the attorney general
2 accepted the post-closing amendment for filing. An offeror or successor
3 offeror shall only be relieved of its obligation to file an annual
4 update amendment to the preservation plan after the last dwelling unit
5 offered for sale is conveyed to a purchaser under the preservation plan.

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

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

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

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

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

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

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

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

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

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

37 (A) by a rent-regulated tenant;

38 (B) by a market-rate tenant;

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

40 (D) a tenancy at sufferance; or

41 (E) other.

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

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

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

50 (C) date of sale;

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

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

53 14. No eviction proceedings shall be commenced at any time against
54 non-purchasing tenants for failure to purchase or for any other reason
55 applicable to expiration of tenancy; provided that such proceedings may
56 be commenced for non-payment of rent, illegal use or occupancy of the

1 premises, refusal of reasonable access to the owner or a similar breach
2 by the non-purchasing tenant of their obligations to the owner of the
3 dwelling unit; and provided further that an owner of a unit may not
4 commence an action to recover possession of a dwelling unit from a non-
5 purchasing tenant on the grounds that they seek the dwelling unit for
6 the use and occupancy of themselves or their family's use and occupancy.

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

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

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

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

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

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

1 21. The rights granted under the preservation plan to purchasers under
2 the preservation plan and to non-purchasing tenants may not be abrogated
3 or reduced notwithstanding any expiration of, or amendment to, this
4 section.

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

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

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

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

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

51 27. Notwithstanding the requirements of this section regarding the
52 preservation of an income-restricted rental unit or units as permanently
53 affordable, and to the extent permitted under existing law as it relates
54 to the income-restricted rental unit or units, the income-restricted
55 rental unit or units in a building or group of buildings or development
56 of an eligible project may be converted to a limited equity housing

1 cooperative pursuant to article eleven of the private housing finance
2 law under a separate offering statement or prospectus, if the relevant
3 housing finance agency ensures that the proposed offering statement or
4 prospectus discloses that the regulatory agreement provides as follows:

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

9 (b) any tenant of an income-restricted rental unit that chooses not to
10 buy the income-restricted rental unit such tenant occupies shall contin-
11 ue to be protected under rent stabilization throughout the process of
12 conversion to a limited equity housing cooperative and thereafter, and
13 that no existing tenant of an income-restricted rental unit shall be
14 evicted solely due to such tenant's decision not to purchase their
15 income-restricted rental unit;

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

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

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

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

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

52 30. Within ninety days of the effective date of this section, the
53 attorney general shall submit a notice of proposed rulemaking for publi-
54 cation in the state register which shall contain the suitable rules
55 necessary to carry out the provisions of this section. The authority of
56 the attorney general to promulgate, adopt, publish, notify, review,

1 amend, modify, reconsider, or rescind any rule or regulation as may be
2 conferred anywhere within this section shall comply with the state
3 administrative procedure act in all respects.

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

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

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

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

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

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

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

31 1-a. "Capital replacement" means a building-wide replacement of a
32 major component of any of the following systems:

33 (a) elevator;

34 (b) heating, ventilation and air conditioning;

35 (c) environmental and sustainability upgrades;

36 (d) plumbing;

37 (e) wiring;

38 (f) window; or

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

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

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

54 8-a. "Offeror", as used in section three hundred thirty-nine-mm of
55 this article, means the offeror of a preservation plan to convert resi-
56 dential rental property to condominium ownership pursuant to section

1 three hundred fifty-two-eeeeee of the general business law, together with
2 their or its nominees, assignees and successors in interest.

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

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

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

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

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

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

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

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

52 (b) to the qualified owner of the income-restricted rental units, and
53 subject to the oversight of the relevant housing finance agency set
54 forth in a regulatory agreement, a dedicated capital fund to be used
55 exclusively for making unit repairs, replacements and improvements
56 necessary for the health and safety of the residents of an income-res-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

law, which permits the applicant to solicit public interest or public funds preliminary to the filing of an offering statement or for the issuance of a "no-filing required" letter and any amendment thereto, the department of law shall collect a fee of [~~two~~] seven hundred [~~twenty-five~~] fifty dollars. [~~In the event the sponsor thereafter files an offering statement, the fee paid for the preliminary application shall be credited against the balance of the fee due and payable on filing.~~]

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

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

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

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

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