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Introduced by M. of A. MITAYNES, CLARK, FORREST, MAMDANI, ANDERSON, GALLAGHER, SEAWRIGHT, EPSTEIN, R. CARROLL, REYES, JACKSON, SIMON, ROSENTHAL, MEEKS, KELLES, GONZALEZ-ROJAS, BRONSON, COLTON, STECK, DINOWITZ, GIBBS, DE LOS SANTOS, CUNNINGHAM, CRUZ, SHRESTHA, BURDICK, SIMONE, RAGA, ZINERMAN, BORES, KIM, SHIMSKY, GLICK, TAPIA, WALKER, CHANDLER-WATERMAN, ALVAREZ, ZACCARO, LEE, BICHOTTE HERMELYN, DAVILA, LUPARDO, JACOBSON, VALDEZ, TORRES -- Multi-Sponsored by -- M. of A. LEVENBERG -- read once and referred to the Committee on Housing

AN ACT to amend the real property actions and proceedings law, in relation to establishing the tenant opportunity to purchase act

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "tenant opportunity to purchase act".
3 § 2. Legislative findings. The legislature finds that there is a
4 significant unmet need for affordable housing for low-income people and
5 families. Almost half of all New York State tenants -- in both urban and
6 suburban areas -- are rent-burdened. In the Hudson Valley and the South-
7 ern Tier, and in non-municipal Green and Suffolk counties, more than 60%
8 of New Yorkers are paying over 30% of their income toward rent. More-
9 over, between 2012 and 2017, New York State lost more than 160,000
10 affordable rental homes, almost 55,000 of them outside of New York City,
11 Westchester and Long Island. This has led to an increase in an already
12 escalating homelessness crisis. According to HUD's 2019 Point in Time
13 Estimate, approximately 79,000 people were homeless in New York State.
14 The legislature recognizes that New York's rental housing market has
15 become even more threatened by the outbreak of novel coronavirus,
16 COVID-19, which, as of the date of this legislation, created destabi-
17 lized housing, loss of employment and income, closure of business and
18 schools and financial insecurity in the state of New York. The legisla-
19 ture finds that the loss of employment, illness and deaths caused by the

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

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1 COVID-19 outbreak have rendered many individuals and families unable to
2 pay for the costs of housing and other life necessities. U.S. Census'
3 Household Pulse survey shows that in the last week of May 2020, 29% of
4 all NYS tenants showed little to no confidence in being able to make
5 their June rent payment. The share was higher among Black tenants (41%),
6 Latinx tenants (41%) and tenants earning less than \$50K (34%).

7 The legislature finds that the sudden decline in rent payments as a
8 result of COVID-19--particularly on properties overloaded with debt --
9 coupled with the ensuing economic recession will lead to evictions and
10 speculation, resulting in the loss of vital and irreplaceable affordable
11 housing as well as the decline in affordable community-ownership and
12 home-ownership opportunities for New Yorkers. This was evident in the
13 Great Recession of 2008. Before and in the immediate aftermath of that
14 crisis, multinational private equity firms had access to capital and
15 low-interest rates at a time when many New Yorkers were losing employ-
16 ment and income. With that uneven access, they were able to enter a
17 modest and localized multi-family rental market, purchasing 100,000
18 units in New York City alone, which represented 10% of all rent-regulat-
19 ed housing. Only a few years after the crisis, between 2014 and 2017,
20 rents for vacant units increased 29.9% above inflation, exacerbating an
21 existing housing and homelessness crisis and displacing tenants in crit-
22 ical need of affordable housing.

23 The legislature further finds that in order to prevent increased
24 displacement of lower-income tenants and preserve New York's affordable
25 housing market, it is necessary and appropriate to require that, in the
26 cases defined herein, owners of rental properties in the State offer
27 tenants the first opportunity to purchase and qualified purchasers the
28 second opportunity to purchase the property before it may be sold on the
29 market to a third-party purchaser.

30 The legislature further finds that such action is necessary in order
31 to prevent exactions of unjust, unreasonable and oppressive rental
32 agreements and evictions, and to forestall profiteering, speculation and
33 other disruptive practices tending to produce further threats to public
34 health; that the normal market of free bargaining between landlord and
35 tenant, while still the objective of state policy, must be administered
36 with due regard for the uncertainty, hardship and dislocation caused by
37 the current health, housing and unemployment crises.

38 The legislature therefore declares that the provisions of this act are
39 necessary and designed to protect the public health, safety and general
40 welfare of New Yorkers, as well as the economic stability and viability
41 of neighborhoods.

42 § 3. The real property actions and proceedings law is amended by
43 adding a new article 7-E to read as follows:

44 ARTICLE 7-E

45 TENANT OPPORTUNITY TO PURCHASE ACT

46 Section 799. Definitions.

47 799-a. Authority.

48 799-b. Applicability.

49 799-c. Exemptions.

50 799-d. First right to purchase.

51 799-e. Tenant decision-making; tenant organizations.

52 799-f. Qualified purchasers.

53 799-g. Supportive partners.

54 799-h. Assignment of rights.

55 799-i. Waiver of rights.

56 799-j. Notice requirements.

1 799-k. Right of first offer.
2 799-l. Right of first refusal.
3 799-m. Third-party rights.
4 799-n. Right to appraisal.
5 799-o. Purchase contract negotiation.
6 799-p. No selling of rights.
7 799-q. Tenant protections.
8 799-r. Price stabilization.
9 799-s. Incentives.
10 799-t. Enforcement.
11 799-u. Statutory construction.
12 799-v. Administration and reports.
13 799-w. Severability.

14 § 799. Definitions. For the purposes of this article, the following
15 terms shall have the following meanings:

16 1. "AMI" or "area median income" means area median income established
17 by the U.S. department of housing and urban development (HUD), pursuant
18 to 42 U.S.C. § 1427 et seq., to establish local income classification
19 levels.

20 2. "Appraised value" means the value of the rental housing accommo-
21 modation as of the date of the appraisal, based on an objective, independ-
22 ent property valuation, performed according to professional appraisal
23 industry standards.

24 3. "Bona fide offer of sale" means an offer of sale for a rental hous-
25 ing accommodation that is either:

26 (a) For a price and other material terms at least as favorable to a
27 tenant, tenant organization, and qualified purchaser as those that the
28 owner has offered, accepted, or is considering offering or accepting,
29 from a purchaser in an arm's length third-party purchase contract; or

30 (b) In the absence of an arm's length third-party purchase contract,
31 an offer of sale containing a sales price less than or equal to a price
32 and other material terms comparable to that at which a willing seller
33 and a willing buyer would sell and purchase the rental housing accommo-
34 modation, or an appraised value.

35 4. "CPI" or "consumer price index" means the consumer price index
36 published by the United States department of labor, bureau of labor
37 statistics for the northeast census region. If publication of the
38 consumer price index ceases, or if it is otherwise unavailable or is
39 altered in a way as to be unusable, HCR shall determine the use of an
40 appropriate substitute index published by the United States department
41 of labor, bureau of labor statistics or any successor agency.

42 5. "Community land trust" means a nonprofit corporation organized
43 pursuant to section 501 (c) (3) of the U.S. Internal Revenue Code that
44 satisfies all of the following criteria:

45 (a) Such nonprofit corporation's primary purpose is the creation and
46 maintenance of permanently affordable single-family or multifamily resi-
47 dences;

48 (b) All dwellings and units on the land owned by the nonprofit corpo-
49 ration are sold to a qualified owner to be occupied as the qualified
50 owner's primary residence or rented to persons and families of low
51 income as defined in subdivision ten of section twelve of the private
52 housing finance law; and

53 (c) The land owned by the nonprofit corporation, on which a dwelling
54 or unit sold to a qualified owner is situated, is leased by such corpo-

1 ration to the qualified owner for the convenient occupation and use of
2 such dwelling or unit for a renewable term of ninety-nine years.

3 5-a. "Days" shall mean business days unless otherwise indicated.

4 6. "Governing document" means a constitution, articles, bylaws, oper-
5 ating agreement, or other writings that govern the purpose and operation
6 of a tenant organization and the rights and obligations of its members,
7 which shall include provisions on the tenant organization's decision-
8 making processes and appointing officers and other authorized agents to
9 act on its behalf.

10 7. "Governing principles" means the governance and management princi-
11 ples stated in a tenant organization's governing documents.

12 8. "HCR" means New York state homes and community renewal, or its
13 successor agency.

14 9. "Highest and best use" means the reasonably probable legal use of a
15 property that is physically possible, appropriately supported, and
16 financially feasible and that results in the highest value of the prop-
17 erty.

18 10. "Limited equity housing cooperative" means a limited equity coop-
19 erative organized as a nonprofit housing development fund company pursu-
20 ant to article eleven of the private housing finance law.

21 11. "Majority" means an affirmative vote of more than fifty percent
22 required for decision-making under this article.

23 12. "Matter-of-right" means a land use, development density, or struc-
24 tural dimension to which a property owner is entitled by current zoning
25 regulations or law.

26 13. "Owner" means one or more persons, corporation, partnership,
27 limited liability company, trustee, or any other entity, who is the
28 owner of record of a rental housing accommodation at the time of giving
29 notice of intention to sell, and each person, corporation, partnership,
30 limited liability company, trustee, or any other entity, who, directly
31 or indirectly, owns fifty percent or more of the equity interests in
32 such rental housing accommodation at the time of giving notice of inten-
33 tion to sell. For purposes of complying with the notice requirements
34 described in this article, "owner" may refer to any person acting as an
35 authorized agent of the owner.

36 14. "Permanent affordability" means that future rents and future sales
37 prices of a rental housing accommodation, or separate ownership inter-
38 ests in such rental housing accommodation, shall be made affordable to
39 households with targeted income levels.

40 15. "Purchase contract", a binding written agreement whereby an owner
41 agrees to sell property including, without limitation, a purchase and
42 sale agreement, contract of sale, purchase option or other similar
43 instrument.

44 16. "Qualified purchaser" means a qualified purchaser meeting the
45 criteria described in section seven hundred ninety-nine-f of this arti-
46 cle.

47 17. "Rent" shall have the same meaning as in section seven hundred two
48 of this chapter.

49 18. "Rental agreement" means an agreement, oral, written or implied,
50 between an owner and a tenant for use or occupancy of a unit and for
51 housing services.

52 19. "Rental housing accommodation" means any real property, including
53 the land appurtenant thereto, containing one or more rental units and
54 located in New York state.

55 20. "Rental unit" or "unit" means any unit in any real property,
56 including the land appurtenant thereto, that is available for rent for

1 residential use or occupancy, located in New York state, together with
2 all housing services connected with the use or occupancy of such proper-
3 ty such as common areas and recreational facilities held out for use by
4 the tenant.

5 21. "Sale" or "sell" means the transfer, in exchange for money or any
6 other thing of economic value, of a present interest in the rental hous-
7 ing accommodation, including beneficial use, where the value of the
8 present interest is the fee interest in the rental housing accommo-
9 dation, or substantially equal to the value of that fee interest. For
10 purposes of this definition, a "transfer" may include those completed in
11 one transaction or a series of transactions over a period of time.

12 22. "Single family home" means any rental housing accommodation
13 comprised of no more than one rental unit, whether or not the rental
14 unit has one or more tenant households. A single family home shall
15 include a condominium dwelling.

16 23. "Supportive partner" means a "supportive partner" meeting the
17 criteria set forth in section seven hundred ninety-nine-g of this arti-
18 cle.

19 24. "Tenant" means one or more renter, tenant, subtenant, lessee, sub
20 lessee, or other person entitled to the possession, occupancy, or bene-
21 fits of a rental unit within a rental housing accommodation. "Tenant"
22 shall not include transient guests who use or occupy a unit for less
23 than fourteen consecutive days.

24 25. "Tenant household" means one or more tenants, whether or not
25 related by blood, marriage or adoption, sharing a dwelling unit in a
26 living arrangement usually characterized by sharing living expenses,
27 such as rent or mortgage payments, food costs and utilities, as well as
28 maintaining a single lease or rental agreement for all members of the
29 household and other similar characteristics indicative of a single
30 household.

31 26. "Tenant-occupied unit" means any rental unit currently occupied by
32 one or more tenants.

33 27. "Tenant organization" means tenants who have organized themselves
34 as a legal entity that:

35 (a) Can acquire an interest in real property;

36 (b) Represents at least a majority of the tenant-occupied rental units
37 in a rental housing accommodation as of the date of the owner's notice
38 of intent to sell pursuant to section seven hundred ninety-nine-k of
39 this article;

40 (c) Has adopted a governing document and governing principles; and

41 (d) Has appointed officers and any other authorized agents specif-
42 ically designated to execute contracts or act on its behalf.

43 28. "Third-party purchaser" means any person or entity other than a
44 tenant, tenant organization, or qualified purchaser, engaged or seeking
45 to engage, in purchasing a rental housing accommodation from an owner
46 under this article.

47 29. "TOPA buyer" means a tenant, tenant organization, or qualified
48 purchaser that is purchasing or has purchased a rental housing accommo-
49 dation from an owner under this article.

50 30. "Under threat of eminent domain" refers to the commencement of the
51 process of eminent domain, including but not limited to, any formal or
52 informal contact with the owner by the government or government agents
53 regarding the potential or ongoing assertion of eminent domain, and any
54 hearings or court proceedings regarding the same.

55 § 799-a. Authority. HCR and their designees shall be authorized to
56 enforce the provisions of this article, and for such purposes, shall

1 have the powers of a law enforcement officer. HCR shall be authorized to
2 establish standards, policies, and procedures for the implementation of
3 the provisions of this article to further the purpose set forth in this
4 article.

5 § 799-b. Applicability. TOPA shall apply to all rental housing accom-
6 modations unless otherwise exempted by this article.

7 § 799-c. Exemptions. 1. Residential property types exempted. The
8 following residential properties shall not be considered covered proper-
9 ties for purposes of this article:

10 (a) Properties owned by the municipal, state, or federal governments.

11 (b) Properties owned by and operated as a hospital, convent, monas-
12 tery, extended care facility, convalescent home, or dormitories owned by
13 educational institutions.

14 (c) Single-unit properties that are not owned by a corporation or a
15 limited liability company in which at least one member is a corporation.

16 (d) Properties properly licensed as a hotel or motel.

17 (e) Residential properties that an owner is refinancing in order to
18 maintain ownership of such properties.

19 (f) Multiple dwelling units or groups of multiple dwelling units
20 managed together under the same private ownership in which the majority
21 of dwelling units therein that will continue to be subject to federal,
22 state, or city income eligibility restrictions and in which rents for
23 such dwelling units are controlled, regulated, or assisted by a federal,
24 state, or city agency pursuant to a regulatory agreement or rental
25 assistance agreement designed to make such dwelling units affordable on
26 a project-based basis. Assisted rental housing programs shall include:

27 (i) any program created, administered, or supervised by the city or
28 state under article two, four, or eleven of the private housing finance
29 law, but shall not include any multiple dwelling owned or operated by a
30 company organized under article two or four of the private housing
31 finance law that was occupied prior to January first, nineteen hundred
32 seventy-four;

33 (ii) any program providing project-based assistance under section
34 eight of the United States housing act of 1937, as amended; and

35 (iii) housing programs governed by sections 202, 207, 221, 232, 236,
36 or 811 of the federal national housing act, 12 U.S.C. 1701 et seq., as
37 amended.

38 2. Transfers exempted. The following transfers shall be exempted for
39 the purposes of this article:

40 (a) An inter-vivos transfer, even when transferred in exchange for
41 consideration, between spouses, domestic partners, parent and child,
42 siblings, grandparent and grandchild.

43 (b) A transfer for consideration, by a decedent's estate to members of
44 the decedent's family if the consideration arising from the transfer
45 will pass from the decedent's estate to, or solely for the benefit of,
46 charity. For the purposes of this paragraph, the term "members of the
47 decedent's family" shall include:

48 (i) A spouse, domestic partner, parent, child, grandparent, grand-
49 child; and

50 (ii) A trust for the primary benefit of a spouse, domestic partner,
51 parent, child, grandparent, or grandchild.

52 (c) A transfer of bare legal title into a revocable trust, without
53 actual consideration for the transfer, where the transferor is the
54 current beneficiary of the trust.

55 (d) A transfer to a named beneficiary of a revocable trust by reason
56 of the death of the grantor of the revocable trust.

1 (e) A transfer pursuant to court order or court-approved settlement.

2 (f) A transfer by eminent domain or under threat of eminent domain.

3 (g) A transfer of a residential building to a tenant organization or
4 qualified purchaser pursuant to a transfer agreement in effect on the
5 effective date of this article, except that any renewal, modification,
6 or amendment of such agreement occurring on or after the effective date
7 of this article shall be subject to the provisions of this article.

8 3. Exemption procedures and burden of proof. (a) The burden of proof
9 to establish that a property type or planned transaction is exempt under
10 this article shall be on the owner of the rental housing accommodation.

11 (b) The owner of a rental housing accommodation who believes that they
12 should be granted an exemption under this article shall comply with
13 procedures that HCR shall create for claiming such an exemption.

14 4. Voluntary election to participate. An owner whose property or
15 planned transaction is exempt from this article pursuant to sections
16 seven hundred ninety-nine-b or seven hundred ninety-nine-c of this arti-
17 cle may elect to subject their property to this article by complying
18 with procedures that HCR shall promulgate through regulations, provided
19 that the owner who voluntarily subjects their property to this article
20 shall comply with this article in its entirety. Each tenant living in
21 such property shall be granted all of the rights described in this arti-
22 cle, including the opportunity to decide whether to exercise their first
23 right of purchase under section seven hundred ninety-nine-d of this
24 article. No owner shall be eligible for incentives described in section
25 seven hundred ninety-nine-t of this article without complying with this
26 article in its entirety.

27 § 799-d. First right to purchase. This section shall be construed to
28 confer upon each tenant a first right to purchase a rental housing
29 accommodation, subject to the exemptions in section seven hundred nine-
30 ty-nine-c of this article, in a manner consistent with this section. The
31 first right to purchase shall consist of both a right of first offer, as
32 set forth in section seven hundred ninety-nine-k of this article, and a
33 right of first refusal, as set forth in section seven hundred ninety-
34 nine-l of this article. The first right to purchase shall be conferred
35 to each tenant but shall be exercised collectively pursuant to section
36 seven hundred ninety-nine-e of this article. The first right to purchase
37 shall include the right to assign such rights to a qualified purchaser
38 as set forth in section seven hundred ninety-nine-h of this article. The
39 first right to purchase shall be conferred where the owner intends to
40 sell the rental housing accommodation. This section shall not be
41 construed to limit any right of first offer or first refusal provided
42 under any law.

43 § 799-e. Tenant decision-making; tenant organizations. 1. Tenant
44 decision-making. Except in the case of a duly formed tenant organiza-
45 tion with its own adopted governing document, any action required of
46 tenants under this article shall be approved by one of the following
47 decision-making standards:

48 (a) In the case of a rental housing accommodation with more than one
49 tenant-occupied unit, at least a majority of tenant-occupied units.

50 (b) In the case of a rental housing accommodation with only one
51 tenant-occupied unit but multiple tenant households, at least a majority
52 of tenant households.

53 (c) In the case of a rental housing accommodation with only one tenant
54 household, the tenant household.

55 2. Tenant organizations. (a) In order to submit an offer of purchase
56 pursuant to section seven hundred ninety-nine-k of this article and

1 respond to the owner's offer of sale pursuant to section seven hundred
2 ninety-nine-l of this article, tenants shall:

3 (i) Form a tenant organization, approved by the requirements described
4 in subdivision one of this section, unless such a tenant organization
5 already exists in a form approved by the tenants. If there is only one
6 tenant household in a rental housing accommodation, the tenant household
7 may exercise the right of first offer and right of first refusal without
8 forming a tenant organization; however, such tenant household shall
9 still comply with section seven hundred ninety-nine-g of this article.

10 (ii) Select a supportive partner, meeting the criteria described in
11 section seven hundred ninety-nine-g of this article.

12 (iii) Deliver an application for registration of the tenant organiza-
13 tion, or the tenant household, if applicable, to HCR, and deliver a copy
14 of such application to the owner, by hand or by certified mail on or
15 before the deadline of submitting an offer of purchase pursuant to
16 section seven hundred ninety-nine-k of this article. Such application
17 shall include:

18 (A) the name, address, and phone number of tenant officers and the
19 supportive partner;

20 (B) a copy of the formation document, as filed;

21 (C) a copy of the governing document;

22 (D) documented approval that the tenant organization represents a
23 majority under paragraph (a) or (b) of subdivision one of this section
24 as of the time of registration; and

25 (E) such other information as HCR may reasonably require.

26 (b) Tenants may form and register the tenant organization with HCR
27 pursuant to this subdivision at any time, provided that this section
28 shall not be construed to alter the time periods within which a tenant
29 organization may exercise the rights afforded by this article.

30 (c) Upon registration with HCR, the tenant organization shall consti-
31 tute the sole representative of the tenants for purposes of this arti-
32 cle.

33 § 799-f. Qualified purchasers. 1. Qualified purchaser criteria. (a)
34 HCR shall establish an administrative process for certifying purchasers
35 that shall include, but not be limited to, the following minimum crite-
36 ria:

37 (i) The purchaser is a bona fide nonprofit, as evidenced by the fact
38 that it is exempt from federal income tax under 26 U.S.C. § 501(c)(3);

39 (ii) The purchaser has demonstrated a commitment to either:

40 (iii) democratic residential control, as evidenced by its ownership
41 and governance structure and relationship with residents; or

42 (iv) a commitment to community engagement, as evidenced by relation-
43 ships with neighborhood-based organizations or tenant counseling organ-
44 izations;

45 (v) The purchaser has agreed to transfer ownership of the rental hous-
46 ing accommodation to the tenants when feasible if its tenants request
47 such transfer of ownership;

48 (vi) The purchaser has demonstrated a commitment to the provision of
49 affordable housing for low, very low, and extremely low income New York
50 state residents, and to prevent the displacement of such residents;

51 (vii) The purchaser has agreed to obligate itself and any successors
52 in interest to maintain the permanent affordability of the rental hous-
53 ing accommodation, in accordance with section seven hundred
54 ninety-nine-r of this article;

1 (viii) The purchaser has demonstrated the capacity, including, but not
2 limited to, the legal and financial capacity, to effectively acquire and
3 manage residential real property in New York state;

4 (ix) The purchaser has acquired or partnered with another housing
5 development organization or nonprofit organization to acquire at least
6 one residential building using any public or community funding, or has
7 entered into a written memorandum of understanding with another housing
8 development organization or nonprofit organization for the purpose of
9 partnering with a housing development organization or nonprofit organ-
10 ization to acquire residential buildings using public or community fund-
11 ing; and

12 (x) The purchaser has agreed to attend mandatory training to be deter-
13 mined, from time to time, by HCR.

14 (b) Notwithstanding any other requirement of this article, municipal
15 housing authorities established pursuant to the municipal housing
16 authority law by any county, city, or first class village of the state
17 shall be deemed qualified purchaser for purposes of this article.

18 2. Certification, term, and renewal. Purchasers that HCR certifies as
19 having met the criteria in subdivision one of this section shall be
20 known as "qualified purchasers". A purchaser's certification as a qual-
21 ified purchaser shall be valid for four years. HCR shall solicit new
22 applications for qualified purchaser status at least once each calendar
23 year, at which time existing qualified purchasers shall be eligible to
24 apply for renewed certification as qualified purchasers.

25 3. Existence and publication of qualified purchasers list. HCR shall
26 publish on its website, and make available upon request, a list of qual-
27 ified purchasers. In addition to such other information as HCR may
28 include, such list shall include contact information for each qualified
29 purchaser. Such contact information shall include, but need not be
30 limited to, a mailing address, an e-mail address that the qualified
31 purchaser monitors regularly, and a telephone number.

32 4. Disqualification of qualified purchaser and conflicts of interest.
33 HCR shall promptly investigate any complaint alleging that a qualified
34 purchaser has failed to comply with this section. Subject to regulations
35 promulgated by HCR, if, after providing the qualified purchaser with
36 notice and opportunity to be heard, HCR determines that a purchaser
37 listed as a qualified purchaser has failed to comply with this section,
38 HCR may suspend or revoke that purchaser's certification as a qualified
39 purchaser. HCR shall establish a process for addressing potential and
40 actual conflicts of interests that may arise among supportive partners,
41 qualified purchasers, and tenants through promulgation of regulations.

42 § 799-g. Supportive partners. 1. Supportive partner criteria. HCR
43 shall establish an administrative process for certifying individuals or
44 organizations that meet the following minimum criteria:

45 (a) The individual or organization has demonstrated ability and capac-
46 ity to guide and support tenants in forming a tenant organization;

47 (b) The individual or organization has demonstrated ability and capac-
48 ity to assist tenants in understanding and exercising their rights under
49 this article;

50 (c) The individual or organization has demonstrated expertise, or
51 existing partnerships with other organizations with demonstrated exper-
52 tise, to counsel tenants on first-time homeownership and collective
53 ownership structures;

54 (d) The individual or organization has a demonstrated commitment to
55 creating democratic resident-controlled housing; and

1 (e) The individual or organization has agreed to attend mandatory
2 trainings, to be determined, from time to time, by HCR.

3 2. Certification, term, and renewal. Individuals and organizations
4 that HCR certifies as having met the criteria in subdivision one of this
5 section shall be known as "supportive partners". An individual or organ-
6 ization's certification as a supportive partner shall be valid for four
7 years. HCR shall solicit new applications for supportive partner status
8 at least once each calendar year, at which time existing supportive
9 partners shall be eligible to apply for renewed certification as
10 supportive partners.

11 3. Purpose of supportive partner. A supportive partner shall function
12 in a supportive role to assist tenants in exercising their rights under
13 this article. This article shall not confer any rights to a supportive
14 partner. A supportive partner shall be distinct from a qualified
15 purchaser that is conferred subordinated rights under this article as
16 described in section seven hundred ninety-nine-d of this article. HCR
17 may determine that a qualified purchaser described in section seven
18 hundred ninety-nine-f of this article that meets the criteria in subdi-
19 vision one of this section shall also be eligible to serve as a support-
20 ive partner. HCR may also serve as a supportive partner.

21 4. Existence and publication of supportive partners list. HCR shall
22 publish on its website, and make available upon request, a list of
23 supportive partners. In addition to such other information as HCR may
24 include, this list shall include contact information for each supportive
25 partner. Such contact information shall include, but need not be limited
26 to, a mailing address, an e-mail address that the supportive partner
27 monitors regularly, and a telephone number.

28 5. Disqualification of supportive partner and conflicts of interest.
29 HCR shall promptly investigate any complaint alleging that a supportive
30 partner has failed to comply with this section. Subject to regulations
31 promulgated by HCR, if, after providing the supportive partner with
32 notice and opportunity to be heard, HCR determines that an individual or
33 organization listed as a supportive partner has failed to comply with
34 this section, HCR may suspend or revoke such individual or organiza-
35 tion's certification as a supportive partner. HCR shall establish a
36 process for addressing potential and actual conflicts of interests that
37 may arise among supportive partners, qualified purchasers, and tenants
38 through promulgation of regulations.

39 § 799-h. Assignment of rights. 1. A tenant or tenant organization may
40 assign rights under this section in compliance with subdivision one of
41 section seven hundred ninety-nine-e of this article to a qualified
42 purchaser of their choice.

43 2. Subject to regulations promulgated by HCR, the assignment of rights
44 described in this section shall occur prior to the tenant or tenant
45 organization waiving their rights pursuant to section seven hundred
46 ninety-nine-i of this article, and only during the process provided in
47 section seven hundred ninety-nine-k of this article. Except as provided
48 in section seven hundred ninety-nine-i of this article, the waiver and
49 assignment of rights shall be made in a written agreement executed by
50 the tenant or tenant organization and the qualified purchaser.

51 3. Qualified purchasers shall not accept any payment, consideration,
52 or reward in exchange for the assignment of rights under this section.

53 § 799-i. Waiver of rights. 1. Tenants may affirmatively waive their
54 rights before the time periods specified in sections seven hundred nine-
55 ty-nine-k and seven hundred ninety-nine-l of this article elapse, by

1 notifying the owner in writing, signed by the tenants and in compliance
2 with section seven hundred ninety-nine-e of this article.

3 2. Tenants' failure to complete actions required under sections seven
4 hundred ninety-nine-k and seven hundred ninety-nine-l of this article
5 within the allotted time periods, and any extensions thereof, shall be
6 deemed an implied waiver of such tenants' rights.

7 § 799-j. Notice requirements. Any notices required or permitted by
8 this article shall also comply with regulations promulgated by HCR.

9 § 799-k. Right of first offer. 1. General construction. Before an
10 owner of a rental housing accommodation may offer such rental housing
11 accommodation for sale to, solicit any offer to purchase from, or accept
12 any unsolicited offer to purchase from, any third-party purchaser, such
13 owner shall give the tenant of such rental housing accommodation the
14 first opportunity to make an offer as set forth by this section.

15 2. Joint notification. (a) In accordance with section seven hundred
16 ninety-nine-j of this article, the owner shall:

17 (i) Notify each tenant eighteen years of age and over of the owner's
18 intent to sell the rental housing accommodation by certified mail and by
19 posting a copy of the notice in a conspicuous place in common areas of
20 the rental housing accommodation.

21 (A) Such notice shall be in the top three languages spoken at home
22 within the property's census tract based on the latest United States
23 census bureau's American community survey.

24 (B) Such notice shall include, at a minimum:

25 (1) A statement that the owner intends to sell the rental housing
26 accommodation;

27 (2) A statement of the rights of tenants and qualified purchasers and
28 the accompanying timelines described in this section;

29 (3) A statement that the owner shall make the related disclosures
30 described in this section available to the tenant; and

31 (4) A statement stating that if the tenant requires the notice in a
32 language not provided, they can contact HCR and request the notice in
33 their requested language and/or the assistance of an interpreter.

34 (ii) Notify HCR of the owner's intent to sell the rental housing
35 accommodation by sending a copy of the notice provided to tenants to an
36 e-mail address designated by HCR and posting the notice on a website to
37 be designated by HCR.

38 (b) HCR shall update the website at least daily and shall include
39 disclaimers to the effect that (i) where a notice is provided on the
40 website, such notice usually will not be provided in any other manner to
41 individuals or entities other than tenants eighteen years of age and
42 over in the rental housing accommodation; and (ii) it is the responsi-
43 bility of any person or entity interested in receiving such notice to
44 monitor the website for such notices.

45 3. Related disclosures. When the owner, pursuant to this section,
46 notifies each tenant and qualified purchaser of its intent to sell a
47 rental housing accommodation, the owner shall also provide each tenant
48 and qualified purchaser with the following information, at minimum:

49 (a) A floor plan of the property;

50 (b) An itemized list of monthly operating expenses, utility consump-
51 tion rates, real property taxes and capital expenditures for each of the
52 two preceding calendar years;

53 (c) A list of any known defects and hazards, and any related costs for
54 repair;

1 (d) The most recent rent roll, a list of occupied units and list of
2 vacant units, including the rate of rent for each unit, and any esca-
3 lations and lease expirations;

4 (e) Covenants, conditions, and restrictions and reserves, in the case
5 of a condominium dwelling;

6 (f) HCR rent registrations;

7 (g) Regulatory agreements;

8 (h) Any mortgages and notes and any documentation of any other finan-
9 cial commitments that affect the financial operations of the building,
10 including but not limited to obligations to equity investors; and

11 (i) Any other disclosures required by New York state law or HCR regu-
12 lation.

13 4. Time to submit a statement of interest. (a) Upon receipt of the
14 notice and disclosures described in subdivisions two and three of this
15 section, tenants shall deliver one statement of interest to the owner on
16 behalf of the rental housing accommodation.

17 (b) Tenants shall have twenty days in a rental housing accommodation
18 comprised of one or two units, and thirty days in a rental housing
19 accommodation with three or more units, to deliver the statement of
20 interest. Tenants in a rental housing accommodation with thirty or more
21 units shall be granted one extension of up to fifteen days upon request,
22 for a total of forty-five days. If the tenants waive their rights in
23 accordance with section seven hundred ninety-nine-i of this article,
24 qualified purchasers shall have the remaining time or a minimum of five
25 days, whichever is greater, to deliver a statement of interest to the
26 owner.

27 (c) The statement of interest shall be a clear expression from the
28 tenants that they intend to further consider making an offer to purchase
29 the rental housing accommodation or further consider assigning their
30 rights to a qualified purchaser.

31 (d) The statement of interest shall include documentation demonstrat-
32 ing that the tenants' decision was supported by the standard described
33 in section seven hundred ninety-nine-e of this article.

34 (e) If the tenants waive their rights in accordance with section seven
35 hundred ninety-nine-i of this article, the owner shall notify all quali-
36 fied purchasers, via e-mail, on the same day that tenants waive their
37 rights, of the right of each qualified purchaser to submit a statement
38 of interest to the owner.

39 (f) Upon receipt of the notice, a qualified purchaser that intends to
40 further consider making an offer to purchase the rental housing accommo-
41 dation shall deliver a statement of interest to the owner and every
42 other qualified purchaser via e-mail within the time periods provided by
43 this subdivision.

44 (g) The statement of interest shall be a clear expression that the
45 qualified purchaser intends to further consider making an offer to
46 purchase the rental housing accommodation.

47 (h) If a qualified purchaser has delivered a statement of interest
48 consistent with this subdivision, the owner shall, subject to seeking
49 tenant approval for disclosure of any confidential or personal informa-
50 tion, disclose to each such qualified purchaser, via e-mail, the names
51 of tenants in each occupied unit of the rental housing accommodation, as
52 well as any available contact information for each tenant.

53 (i) If tenants and qualified purchasers do not deliver a statement of
54 interest within the time periods specified in this subdivision, the
55 owner may immediately proceed to offer the rental housing accommodation
56 for sale to, and solicit offers of purchase from, prospective third-par-

1 ty purchasers, subject to the right of first refusal provided by section
2 seven hundred ninety-nine-1 of this article.

3 5. Time to submit offer. (a) The following procedures shall apply to
4 offers to purchase a rental housing accommodation with only one tenant
5 household:

6 (i) Upon receipt of a statement of interest from tenants consistent
7 with subdivision four of this section, an owner shall afford the tenants
8 an additional twenty-one days to select a supportive partner and submit
9 an offer to purchase the rental housing accommodation. If the tenants
10 waive their rights in accordance with section seven hundred
11 ninety-nine-i of this article, qualified purchasers shall have the
12 remaining time or a minimum of five days, whichever is greater, to
13 submit an offer to the owner.

14 (ii) If the tenants waive their rights in accordance with section
15 seven hundred ninety-nine-i of this article, the owner shall notify all
16 qualified purchasers, via e-mail, of their rights to submit an offer.
17 Upon receipt of this notice, each qualified purchaser that intends to
18 purchase the rental housing accommodation shall submit an offer to the
19 owner within the time period specified in subparagraph (i) of this para-
20 graph.

21 (b) The following procedures shall apply to offers to purchase a
22 rental housing accommodation with two units or a single family home with
23 multiple tenant households, unless subject to paragraph (a) of this
24 subdivision:

25 (i) Upon receipt of a statement of interest from tenants consistent
26 with subdivision four of this section, an owner shall afford the tenants
27 an additional forty-five days to form a tenant organization, select a
28 supportive partner, and deliver an offer to purchase the rental housing
29 accommodation. If the tenants waive their rights in accordance with
30 section seven hundred ninety-nine-i of this article, qualified purchas-
31 ers shall have the remaining time or a minimum of five days, whichever
32 is greater, to deliver an offer to the owner.

33 (ii) If the tenants waive their rights in accordance with section
34 seven hundred ninety-nine-i of this article, the owner shall notify all
35 qualified purchasers, via e-mail, of their rights to submit an offer.
36 Upon receipt of this notice, each qualified purchaser that intends to
37 purchase the rental housing accommodation shall deliver an offer within
38 the time period specified in subparagraph (i) of this paragraph.

39 (c) The following procedures shall apply to offers to purchase a
40 rental housing accommodation with three or more units, unless subject to
41 paragraph (a) of this subdivision.

42 (i) Upon receipt of a statement of interest from tenants consistent
43 with subdivision four of this section, an owner shall afford tenants an
44 additional sixty days to form a tenant organization, select a supportive
45 partner, and deliver an offer to purchase the rental housing accommo-
46 dation. Tenants in a rental housing accommodation with ten to twenty-
47 nine units shall be granted one extension of up to thirty days upon
48 request, for a total of ninety days to submit an offer to the owner.
49 Tenants in a rental housing accommodation with thirty or more units
50 shall be granted two extensions of up to thirty days each, for a total
51 of one hundred twenty days to deliver an offer to the owner. If the
52 tenants waive their rights in accordance with section seven hundred
53 ninety-nine-i of this article, qualified purchasers shall have the
54 remaining time within these time periods and any extensions thereof, or
55 a minimum of five days, whichever is greater, to deliver an offer to the
56 owner.

1 (ii) If the tenants waive their rights in accordance with section
2 seven hundred ninety-nine-i of this article, the owner shall notify all
3 qualified purchasers, via e-mail, of their rights to submit an offer.
4 Upon receipt of this notice, each qualified purchaser that intends to
5 purchase the rental housing accommodation shall deliver an offer within
6 the time period specified in subparagraph (i) of this paragraph.

7 (d) Within the timeframes provided by paragraphs (a), (b), and (c) of
8 this subdivision for submitting an offer, the tenant, tenant organiza-
9 tion, or qualified purchaser that submits an offer to the owner shall
10 also submit an agreement to HCR pursuant to subdivision two of section
11 seven hundred ninety-nine-r of this article, agreeing to be bound by
12 requirements of such section.

13 6. Owner free to accept or reject offer. The owner shall be free to
14 accept or reject any offer of purchase from a tenant, tenant organiza-
15 tion or qualified purchaser. Any such acceptance or rejection shall be
16 communicated in writing.

17 (a) Incentives to accept offer. If the owner accepts any such offer of
18 purchase from a tenant, tenant organization or a qualified purchaser,
19 the owner may be eligible to receive incentives pursuant to section
20 seven hundred ninety-nine-s of this article.

21 (b) Rejection of offer. If the owner rejects all such offers of
22 purchase, the owner may immediately offer the rental housing accommo-
23 dation for sale to, and solicit offers of purchase from, prospective
24 third-party purchasers, subject to the right of first refusal described
25 in section seven hundred ninety-nine-l of this article.

26 (c) Lapse of time. If ninety days elapse from the date of an owner's
27 rejection of an offer from a tenant, tenant organization or a qualified
28 purchaser, and the owner has not provided an offer of sale as described
29 in section seven hundred ninety-nine-l of this article, the owner shall
30 comply anew with this section.

31 7. Time to secure financing. (a) The following procedures shall apply
32 to a purchase of a single family home with only one tenant household.

33 (i) The owner shall afford the tenant or qualified purchaser thirty
34 days after the date of the entering into a purchase contract to secure
35 financing.

36 (ii) If, within thirty days after the date of contracting, the tenant
37 or qualified purchaser presents the owner with the written decision of a
38 lending institution or agency that states that the institution or agency
39 estimates that a decision with respect to financing or financial assist-
40 ance will be made within forty-five days after the date of contracting,
41 the owner shall afford the tenant or qualified purchaser an extension of
42 time consistent with the written estimate.

43 (iii) If the tenant or qualified purchaser does not secure financing
44 and close the transaction within the timeframes described in this subdivi-
45 vision and subdivision eight of this section, and any extensions there-
46 of, the owner may immediately proceed to offer the rental housing accom-
47 modation for sale to, and to solicit offers of purchase from prospective
48 third party purchasers other than the tenant or qualified purchaser.

49 (b) The following procedures shall apply to a purchase of a rental
50 housing accommodation with two units or a single family home with multi-
51 ple tenant households.

52 (i) The owner shall afford the tenant organization or qualified
53 purchaser ninety days after the date of entering into a purchase
54 contract to secure financing.

55 (ii) If, within ninety days after the date of contracting, the tenant
56 organization or qualified purchaser presents the owner with the written

1 decision of a lending institution or agency that states that the insti-
2 tution or agency estimates that a decision with respect to financing or
3 financial assistance will be made within one hundred twenty days after
4 the date of contracting, the owner shall afford the tenant organization
5 or qualified purchaser an extension of time consistent with the written
6 estimate.

7 (iii) If the tenant organization or qualified purchaser does not
8 secure financing and close the transaction within the timeframes
9 described in this subdivision and subdivision eight of this section, and
10 any extensions thereof, the owner may immediately proceed to offer the
11 rental housing accommodation for sale to, and to solicit offers of
12 purchase from prospective third-party purchasers other than the tenant
13 organization or qualified purchaser.

14 (c) The following procedures shall apply to purchases of rental hous-
15 ing accommodations with three or more units.

16 (i) The owner shall afford the tenant organization or qualified
17 purchaser one hundred twenty days after the date of entering into a
18 purchase contract to secure financing.

19 (ii) If, within one hundred twenty days after the date of contracting,
20 the tenant organization or qualified purchaser presents the owner with
21 the written decision of a lending institution or agency that states that
22 the institution or agency estimates that a decision with respect to
23 financing or financial assistance will be made within one hundred sixty
24 days after the date of contracting, the owner shall afford the tenant
25 organization or qualified purchaser an extension of time consistent with
26 the written estimate.

27 (iii) If the tenant organization or qualified purchaser does not
28 secure financing and close the deal within the timeframes described in
29 this subdivision and subdivision eight of this section, and any exten-
30 sions thereof, the owner may immediately proceed to offer the rental
31 housing accommodation for sale to, and to solicit offers of purchase
32 from prospective third-party purchasers other than the tenant organiza-
33 tion or qualified purchaser.

34 8. Time to close. In addition to the time periods in subdivision seven
35 of this section, the owner shall afford each tenant, tenant organiza-
36 tion, or qualified purchaser with an additional fourteen days to close.
37 So long as the tenant, tenant organization, or qualified purchaser is
38 diligently pursuing the close, the owner shall afford them a reasonable
39 extension beyond this fourteen-day period to close.

40 § 799-1. Right of first refusal. 1. General construction. This section
41 shall be construed to confer a right of first refusal only upon each
42 tenant, tenant organization, and qualified purchaser that exercised the
43 right of first offer pursuant to section seven hundred ninety-nine-k of
44 this article.

45 2. Offer of sale to tenant, tenant organizations, and qualified
46 purchasers. Before an owner of a rental housing accommodation may sell a
47 rental housing accommodation, the owner shall give each tenant, tenant
48 organization, or qualified purchaser that previously made an offer to
49 purchase such rental housing accommodation pursuant to section seven
50 hundred ninety-nine-k of this article an opportunity to purchase such
51 rental housing accommodation at a price and terms that represent a bona
52 fide offer of sale.

53 (a) The owner's offer of sale shall include, at minimum:

54 (i) The asking price and terms of the sale. The terms and conditions
55 shall be consistent with the applicable timeframes described in subdivi-
56 sions three and four of this section;

1 (ii) A statement as to whether a purchase contract with a third-party
2 purchaser exists for the sale of the rental housing accommodation, and
3 if so, a copy of such purchase contract; and

4 (iii) A statement in English and Spanish stating that if the tenant
5 requires the offer of sale in a language other than English, they may
6 contact HCR and request the offer of sale in their requested language
7 and/or the assistance of an interpreter.

8 (b) If a tenant or tenant organization is receiving the offer of sale,
9 the owner shall deliver a written copy of the offer of sale to each
10 tenant or tenant organization by certified mail.

11 (c) If a qualified purchaser is receiving the offer of sale, the owner
12 shall deliver the offer of sale to each qualified purchaser that previ-
13 ously made an offer to purchase the rental housing accommodation. The
14 owner shall submit an offer of sale to each such qualified purchaser on
15 the same day, and to the extent possible, at the same time, by e-mail.

16 (d) If the owner has a purchase contract with a third-party purchaser
17 for the sale of the rental housing accommodation, the owner shall deliv-
18 er the offer of sale to each tenant, tenant organization or qualified
19 purchaser within two days of entering into a purchase contract with the
20 third-party purchaser.

21 (e) The owner shall also provide HCR with a written copy of the offer
22 of sale and a statement certifying that the items described by paragraph
23 (a) of this subdivision were delivered to each tenant, tenant organiza-
24 tion, or qualified purchaser.

25 3. Time to accept offer. (a) The following procedures shall apply to a
26 rental housing accommodation with only one tenant household: Upon
27 receipt of the offer of sale from the owner, a tenant or qualified
28 purchaser shall have ten days to accept the offer of sale, provided,
29 however, that the deadline to accept any offer of sale shall be extended
30 to allow the tenant or qualified purchaser to exercise their right to an
31 appraisal pursuant to section seven hundred ninety-nine-n of this arti-
32 cle, if they believe that the offer of sale is not a bona fide offer of
33 sale.

34 (b) The following procedures shall apply to a rental housing accommo-
35 dation with multiple tenant households:

36 (i) Upon receipt of the offer of sale from the owner, a tenant organ-
37 ization shall have forty-five days to accept the offer of sale.

38 (ii) Upon receipt of the offer of sale from the owner, a qualified
39 purchaser shall have thirty days to accept the offer of sale.

40 (iii) The deadline to accept any offer of sale shall be extended to
41 allow the tenant or qualified purchaser to exercise their right to an
42 appraisal pursuant to section seven hundred ninety-nine-n of this arti-
43 cle, if they believe that the offer of sale is not a bona fide offer of
44 sale.

45 (c) If, during these time periods, any qualified purchaser that has
46 received such offer of sale decides to accept the owner's offer of sale,
47 such qualified purchaser shall notify the owner and every other quali-
48 fied purchaser of such decision by e-mail. After a qualified purchaser
49 notifies the owner of its decision to accept the owner's offer of sale,
50 meaning before any other qualified purchaser so notified the owner, such
51 qualified purchaser shall be deemed to have accepted the offer of sale,
52 and no other qualified purchaser shall accept the owner's offer of sale,
53 whether or not the time periods in this subdivision have elapsed.

54 4. Time to secure financing and close. If a tenant, tenant organiza-
55 tion, or qualified purchaser accepts an owner's offer of sale in accord-
56 ance with this article, the owner shall afford such tenant, tenant

1 organization, or qualified purchaser time to secure financing and close,
2 consistent with this article.

3 5. Rejection of offer. If each tenant, tenant organization, and quali-
4 fied purchaser that received an offer of sale consistent with this arti-
5 cle, rejects such offer of sale or fails to respond within the timelines
6 described in this section, the owner may immediately proceed with the
7 sale of the rental housing accommodation to a third-party purchaser
8 consistent with the price and material terms of that offer of sale.

9 § 799-m. Third-party rights. The right of a third-party to purchase a
10 rental housing accommodation shall be conditional upon the exercise of
11 tenant, tenant organization, and qualified purchaser rights under this
12 article. The time periods for submitting and accepting an offer, secur-
13 ing financing, and closing under this article shall be minimum periods,
14 and the owner may afford any tenant, tenant organization, and qualified
15 purchaser a reasonable extension of such period, without liability under
16 a third-party purchase contract. Third-party purchasers shall be
17 presumed to act with full knowledge of the rights of tenants, tenant
18 organizations, and qualified purchasers and public policy under this
19 article.

20 § 799-n. Right to appraisal. 1. Right to appraisal. This section shall
21 apply whenever an offer of sale is made to a tenant, tenant organiza-
22 tion, or qualified purchasers as required by this article and the offer
23 is made in the absence of an arm's-length third-party purchase contract.

24 2. Request for appraisal. The tenant, tenant organization, or quali-
25 fied purchaser that receives an owner's offer of sale may challenge such
26 offer of sale as not being a bona fide offer of sale, and request an
27 appraisal to determine the fair market value of the rental housing
28 accommodation. The party requesting the appraisal shall be deemed the
29 "petitioner" for purposes of this section. The petitioner shall deliver
30 the written request for an appraisal to HCR and the owner by hand or by
31 certified mail within five days of receiving the offer of sale.

32 3. Time for appraisal. Beginning with the date of receipt of a written
33 request for an appraisal, and for each day thereafter until the peti-
34 tioner receives the appraisal, the time periods described in subdivision
35 three of section seven hundred ninety-nine-1 of this article shall be
36 extended by an additional time of up to ten business days.

37 4. Selection of appraiser. The petitioner shall select an appraiser
38 from a list of independent, qualified appraisers, that HCR shall main-
39 tain. HCR-approved appraisers shall hold an active appraiser license
40 issued by the New York state board of real estate appraisal and shall be
41 able to conduct an objective, independent property valuation, performed
42 according to professional industry standards. All appraisers shall
43 undergo training organized by HCR before they are approved and added to
44 the HCR's list.

45 5. Cost of appraisal. The petitioner shall be responsible for one-
46 third and the owner shall be responsible for two-thirds of the total
47 cost of the appraisal.

48 6. Appraisal procedures and standards. The owner shall give the
49 appraiser full, unfettered access to the property. The owner shall
50 respond within three days to any request for information from the
51 appraiser. The petitioner may give the appraiser information relevant to
52 the valuation of the property. The appraisal shall be completed expe-
53 ditiously according to standard industry timeframes. An appraised value
54 shall only be based on rights an owner has as a matter-of-right as of
55 the date of the alleged bona fide offer of sale, including any existing
56 right an owner may have to convert the property to another use. Within

1 the restrictions in this subdivision, an appraised value may take into
2 consideration the highest and best use of the property.

3 7. Validity of appraisal. The determination of the appraised value of
4 the rental housing accommodation, in accordance with this section, shall
5 become the sales price of the rental housing accommodation in the bona
6 fide offer of sale, unless:

7 (a) The owner and the petitioner agree upon a different sales price of
8 the rental housing accommodation; or

9 (b) The owner elects to withdraw the offer of sale altogether within
10 fourteen days of receipt of the appraisal, in which case:

11 (i) the owner shall withdraw the offer of sale by delivering a written
12 notice by hand or by certified mail to HCR and to the petitioner;

13 (ii) upon withdrawal, the owner shall reimburse the petitioner and HCR
14 for their share of the cost of the appraisal within fourteen days of
15 delivery of written notice of withdrawal; and

16 (iii) An owner who withdraws an offer of sale in accordance with this
17 paragraph shall be precluded from proceeding to sell the rental housing
18 accommodation to a third-party purchaser without complying with this
19 section by honoring the first right of purchase of tenants and qualified
20 purchasers; or

21 (c) The petitioner elects to withdraw the offer of sale altogether
22 within fourteen days of receipt of the appraisal, in which case:

23 (i) the petitioner shall withdraw the offer of sale by delivering a
24 written notice by hand or by certified mail to HCR and to the owner; and

25 (ii) upon withdrawal, the petitioner shall reimburse the owner and HCR
26 for their share of the cost of the appraisal within fourteen days of
27 delivery of written notice of withdrawal.

28 § 799-o. Purchase contract negotiation. 1. Bargaining in good faith.
29 The owner and any tenant, tenant organization, and/or qualified purchas-
30 er shall bargain in good faith regarding the terms of any offer for
31 sale. Any one of the following shall constitute prima facie evidence of
32 bargaining without good faith:

33 (a) The failure of an owner to offer a tenant, tenant organization, or
34 qualified purchaser a price and other material terms at least as favora-
35 ble as that offered to a third-party purchaser;

36 (b) Any requirement by an owner that a tenant, tenant organization, or
37 qualified purchaser waive any right under this article; or

38 (c) The intentional failure of an owner, tenant, tenant organization,
39 or qualified purchaser to comply with the provisions of this article.

40 2. Reduced price. If the owner sells or contracts to sell the rental
41 housing accommodation to a third-party purchaser for a price less than
42 the price offered to the tenant, tenant organization, or qualified
43 purchaser in the offer of sale, or for other terms, which would consti-
44 tute bargaining without good faith, the owner shall comply anew with all
45 requirements of this article, as applicable.

46 3. Termination of rights. The intentional failure of any tenant,
47 tenant organization, or qualified purchaser to comply with the
48 provisions of this article shall result in the termination of their
49 rights under this article.

50 § 799-p. No selling of rights. 1. A tenant, tenant organization, or
51 qualified purchaser shall not sell any rights under this article.

52 2. An owner shall not coerce a tenant or tenant organization to waive
53 their rights under this article.

54 § 799-q. Tenant protections. 1. No tenant in the rental housing accom-
55 modation, including tenants who do not exercise rights to purchase under
56 this article, shall be evicted by the TOPA buyer, except for good cause.

1 2. Should the maximum allowable rent provision of the state's emergen-
2 cy tenant protection regulations, and the state's rent stabilization
3 code, promulgated by the division of housing and community renewal, TOPA
4 buyers shall adjust the rent annually to allow an increase of no more
5 than the increase in the CPI.

6 3. TOPA buyers shall not refuse to provide rental housing accommo-
7 dations to any person based on the source of funds used to pay for the
8 rental housing accommodations, including but not limited to any funds
9 provided by Section 8 vouchers or any other subsidy program established
10 by federal, state or municipal government, or any future rent subsidy
11 from a governmental entity made available to extremely low to moderate
12 low income households for vacant units in the purchased rental housing
13 accommodation.

14 § 799-r. Price stabilization. 1. Price stabilization. A rental housing
15 accommodation purchased by a TOPA buyer under this article shall be
16 subject to permanent affordability restrictions as set forth in this
17 section and by regulations promulgated by HCR, which shall be promulgat-
18 ed with the intent of fulfilling the purpose of this section.

19 2. Term. Subject to regulations promulgated by HCR, permanent affor-
20 dability standards shall restrict the use of the rental housing accommo-
21 dation to require that permanent affordability restrictions remain in
22 force for ninety-nine years and with an option to renew at year one
23 hundred. This subdivision shall not to be construed to apply only to
24 community land trusts.

25 3. Permanent affordability. In exchange for the rights conferred under
26 this section, each TOPA buyer shall agree to maintain the permanent
27 affordability of the rental housing accommodation. No TOPA buyer shall
28 be entitled to a purchase contract under this section without executing
29 an agreement with HCR to limit the future appreciation of the rental
30 housing accommodation and only sell, or rent, to income-eligible house-
31 holds in accordance with this section, section seven hundred ninety-
32 nine-q of this article and relevant standards and exemptions created by
33 HCR through regulation. Under such agreement, each TOPA buyer shall
34 represent to HCR that they agree to be bound by the permanent affor-
35 dability requirements under this section. The TOPA buyer shall deliver
36 such agreement to HCR no later than the deadline for submitting an offer
37 provided under section seven hundred ninety-nine-k of this article.

38 4. Permanent affordability standards for tenants or tenant organiza-
39 tions. For a tenant or tenant organization purchasing a rental housing
40 accommodation, permanent affordability standards created by HCR shall:

41 (a) Restrict the resale price of the rental housing accommodation, or
42 separate ownership interests in the rental housing accommodation, by
43 limiting the annual market appreciation of the rental housing accommo-
44 dation, or separate ownership interest, to a percentage increase as
45 agreed upon by HCR or the regulating municipal housing agency, not to
46 exceed an annual interest rate of three percent simple;

47 (b) Ensure that a unit in which a tenant determines to remain a renter
48 following a purchase under this article shall be maintained as a unit
49 subject to the requirements of section seven hundred ninety-nine-q of
50 this article, unless HCR determines a valid exemption or alternative
51 standard should apply for such unit assisted by HCR or other public
52 subsidy program which is subject to separate permanent affordability
53 requirements; and

54 (c) At minimum, make the restricted resale price of the rental housing
55 accommodation, or ownership interests in the rental housing accommo-
56 dation, available only to households with income at or below the average

1 AMIs of the initial TOPA buyers as of the initial purchase date of the
2 rental housing accommodation, as verified and recorded by HCR as of the
3 initial purchase date and not to exceed eighty percent of AMI.

4 5. Permanent affordability standards for qualified purchasers. For
5 qualified purchasers purchasing the rental housing accommodation, perma-
6 nent affordability standards created by HCR shall:

7 (a) Restrict the resale price of the rental housing accommodation, or
8 separate ownership interests in the rental housing accommodation, by
9 limiting the annual appreciation of the rental housing accommodation, or
10 separate ownership interest, to a percentage increase as agreed upon by
11 HCR or the regulating municipal housing agency, not to exceed an annual
12 interest rate of three percent simple;

13 (b) Ensure that a unit in which a tenant determines to remain a renter
14 following a purchase under this article shall be maintained as a unit
15 subject to the requirements of section seven hundred ninety-nine-q of
16 this article, unless HCR determines a valid exemption or alternative
17 standard should apply for such unit assisted by HCR or other public
18 subsidy program which is subject to separate permanent affordability
19 requirement; and

20 (c) Prioritize making vacant or vacated units in the rental housing
21 accommodation available to households with incomes at or below the aver-
22 age neighborhood AMI at the time of purchase but not to exceed eighty
23 percent of AMI.

24 6. Mechanism. Permanent affordability restrictions shall materialize
25 as at least one of the following:

26 (a) A restrictive covenant placed on the recorded title deed to the
27 rental housing accommodation that runs with the land and is enforceable
28 by HCR against the TOPA buyer and its successors, and other affordabili-
29 ty restrictions in land leases or other recorded documents not specif-
30 ically listed in this subdivision, so long as HCR determines that such
31 restrictions are enforceable and likely to be enforced such as a
32 recorded mortgage promissory note and/or regulatory agreements with
33 local housing agencies where government subsidies are involved; and

34 (b) A community land trust lease, which is a ninety-nine-year renewa-
35 ble land lease with affordability and owner-occupancy restrictions.

36 7. Required recordings and filings. (a) All covenants created in
37 accordance with section seven hundred ninety-nine-q of this article
38 shall be recorded before or simultaneously with the close of escrow in
39 the office of the county recorder where the rental housing accommodation
40 is located and shall contain a legal description of the rental housing
41 accommodation, indexed to the name of the TOPA buyer as grantee.

42 (b) Each TOPA buyer of the rental housing accommodation shall be
43 required to file a document annually with HCR in which the TOPA buyer
44 affirmatively states the rents and share price for each unit in the
45 rental housing accommodation. HCR may engage a third-party monitoring
46 agent to monitor the compliance of this subdivision, pursuant to HCR
47 regulations.

48 § 799-s. Incentives. 1. Access to buyers. HCR shall endeavor to main-
49 tain and publicize the list of qualified purchasers in a manner that, to
50 the maximum extent feasible, promotes the existence of the qualified
51 purchasers as a readily accessible pool of potential buyers for covered
52 properties. HCR shall, to the maximum extent permitted by law and other-
53 wise feasible, publicize the existence of this list in a manner intended
54 to facilitate voluntary sales to qualified purchasers in a manner that
55 avoids or minimizes the need for a broker, other search costs, or other
56 transactions.

1 2. Partial transfer tax exemption. The tax rate shall be reduced in
2 accordance with section fourteen hundred two of the tax law with respect
3 to any deed, instrument, or writing that affects a transfer under this
4 article.

5 3. Potential federal tax benefits. Any qualified purchaser that
6 purchases a rental housing accommodation under the right of first offer
7 set forth in section seven hundred ninety-nine-k of this article shall,
8 to the maximum extent permitted by law and otherwise feasible, be
9 obliged to work with the owner in good faith to facilitate an exchange
10 of real property of the kind described in 26 U.S.C. § 1031, for the
11 purpose of facilitating the owner's realization of any federal tax bene-
12 fits available under that section of the internal revenue code.

13 4. Information to owners. HCR shall produce an information sheet
14 describing the benefits of an owner's decision to accept a tenants' or
15 qualified purchaser's offer of purchase made in connection with the
16 first right to purchase set forth in sections seven hundred
17 ninety-nine-k and seven hundred ninety-nine-l of this article. The
18 information sheet shall further explain that, even if an owner does not
19 accept a tenant's or qualified purchaser's offer to purchase a rental
20 housing accommodation pursuant to the right of first offer set forth in
21 section seven hundred ninety-nine-k of this article, the rental housing
22 accommodation will still be subject to the right of first refusal set
23 forth in section seven hundred ninety-nine-l of this article. The infor-
24 mation sheet shall contain a field in which the owner may acknowledge,
25 in writing, that the owner, or the owner's authorized representative,
26 has read and understood the information sheet. A tenant, tenant organ-
27 ization, or qualified purchaser that makes an offer to purchase a rental
28 housing accommodation under the right of first offer set forth in
29 section seven hundred ninety-nine-k of this article, shall include a
30 copy of, or link to, such information sheet with such offer of purchase,
31 but any failure to comply with this section shall have no effect on a
32 qualified purchaser's exercise of the right of first offer.

33 § 799-t. Enforcement. 1. Powers and duties of HCR. HCR shall be
34 authorized to take all appropriate action, including but not limited to
35 the actions specified in section seven hundred ninety-nine-a of this
36 article, to implement and enforce this article.

37 2. Implementation. (a) HCR shall promulgate rules and regulations
38 consistent with this article.

39 (b) HCR shall adopt regulations to implement a petition and hearing
40 procedure for administering the enforcement of this article.

41 (c) HCR shall establish and make available standard documents to
42 assist owners, tenants, tenant organizations, and qualified purchasers
43 in complying with the requirements of this article through an online
44 portal, provided that use of such documents does not necessarily estab-
45 lish compliance.

46 (d) Owner certification and disclosures. Every owner of a residential
47 property in the state shall, within fifteen days of the sale of such
48 residential property, submit to HCR a signed declaration, under penalty
49 of perjury, affirming that the sale of such residential property
50 complied with the requirements of this article. Such declaration shall
51 include the address of the relevant residential property and the name of
52 each new owner of the rental housing accommodation. HCR shall publish
53 all such addresses on its website. Failure to file a declaration
54 required by this paragraph shall result in the penalty described in
55 subparagraph (i) of paragraph (b) of subdivision three of this section.

1 3. Enforcement. (a) Civil action. Any party may seek enforcement of
2 any right or provision under this article through a civil action filed
3 with a court of competent jurisdiction and, upon prevailing, shall be
4 entitled to remedies, including those described in paragraph (b) of this
5 subdivision.

6 (b) Penalties and remedies.

7 (i) Civil penalties. An owner who willfully or knowingly violates any
8 provision of this article shall be subject to a cumulative civil penalty
9 imposed by HCR in the amount of up to one thousand dollars per day, per
10 tenant-occupied unit in a rental housing accommodation, for each day
11 from the date the violation began until the requirements of this article
12 are satisfied, payable to the New York housing trust fund.

13 (ii) Legal remedies. Remedies in civil action brought under this
14 section shall include the following, which may be imposed cumulatively:

15 (A) Damages in an amount sufficient to remedy the harm to the plain-
16 tiff;

17 (B) In the event that an owner sells a rental housing accommodation
18 without complying with the requirements of this article, and if the
19 owner's violation of this article was knowing or willful, mandatory
20 civil penalties in an amount proportional to the culpability of the
21 owner and the value of the rental housing accommodation. There shall be
22 a rebuttable presumption that this amount is equal to ten percent of the
23 sale price of the rental housing accommodation for a willful or knowing
24 violation of this article, twenty percent of the sale price for a second
25 willful or knowing violation, and thirty percent of the sale price for
26 each subsequent willful or knowing violation. Civil penalties assessed
27 under this paragraph shall be payable to the New York housing trust
28 fund; and

29 (C) Reasonable attorneys' fees.

30 (iii) Equitable remedies. In addition to any other remedy or enforce-
31 ment measure that a tenant, tenant organization, qualified purchaser, or
32 HCR may seek under this section, any court of competent jurisdiction may
33 enjoin any sale or other action of an owner that would be made in
34 violation of this article.

35 § 799-u. Statutory construction. The purpose of this article shall be
36 to prevent the displacement of lower-income tenants in New York and to
37 preserve affordable housing by providing an opportunity for tenants to
38 own or remain renters in the properties in which tenants reside as
39 provided in this article. If a court finds ambiguity and there is any
40 reasonable interpretation of this article that favors the rights of the
41 tenant, then the court shall resolve ambiguity toward the end of
42 strengthening the legal rights of the tenant or tenant organization to
43 the maximum extent permissible under law.

44 § 799-v. Administration and reports. 1. HCR shall report annually on
45 the status of the tenant opportunity to purchase act program to the
46 legislature or to such legislative committee as the legislature may
47 designate. Such reports shall include, but shall not be limited to the
48 following:

49 (a) Statistics on the number and types of sales of tenant occupied
50 properties;

51 (b) Statistics on the number of tenants and qualified purchasers that
52 invoke action under this article;

53 (c) Number and types of units covered by this article; and

54 (d) Any other information the legislature or legislative committee may
55 request.

1 2. HCR shall make available translation services in languages other
2 than English, where requested in advance by a tenant, tenant organiza-
3 tion, qualified purchaser, owner, or member of the public as it relates
4 to TOPA, to interpret and translate documents and procedures as needed.

5 § 799-w. Severability. If any word, phrase, clause, sentence,
6 subsection, section, or other portion of this article, or any applica-
7 tion thereof to any person or circumstance is declared void, unconstitu-
8 tional, or invalid for any reason by a decision of a court of competent
9 jurisdiction, then such word, phrase, clause, sentence, subsection,
10 section, or other portion, or the prescribed application thereof, shall
11 be severable, and the remaining provisions of this article, and all
12 applications thereof, not having been declared void, unconstitutional or
13 invalid, shall remain in full force and effect. The legislature hereby
14 declares that it would have passed this article, and each section,
15 subsection, sentence, clause, phrase, and word thereof, irrespective of
16 the fact that any one or more sections, subsections, sentences, clauses,
17 phrases, or words had been declared invalid or unconstitutional.

18 § 4. This act shall take effect on the one hundred eightieth day after
19 it shall have become a law. Effective immediately, the addition, amend-
20 ment and/or repeal of any rule or regulation necessary for the implemen-
21 tation of this act on its effective date are authorized to be made and
22 completed on or before such effective date.