*** § 4662. Entrance fee escrow account.** As a condition for approval to advertise and collect refundable entry fees/deposits:

1. The operator shall establish an interest-bearing account with a New York state bank, New York state savings and loan association, or New York state trust company for any entrance fees received by the operator, which escrow funds shall be subject to release as provided by section forty-six hundred sixty-three of this article.

2. An escrow agreement shall be entered into between the bank, savings and loan association, or trust company and the operator of the community. The agreement shall state that its purpose is to protect the resident or the prospective resident and that, upon presentation of evidence of compliance with applicable portions of this article, or upon order of a court of competent jurisdiction, the escrow agent shall release and pay over the funds, or portions thereof, together with any interest accrued thereon or earned from investment of the funds, to the operator or resident as directed.

3. Checks, drafts and money orders for deposit from prospective residents shall be made payable to the escrow agent only.

4. All funds deposited in the escrow account shall remain the property of the resident until released to the operator in accordance with section forty-six hundred sixty-three of this article, and the funds shall not be subject to any liens or charges by the escrow agent or judgments, garnishments, or creditor's claims against the operator or community.

5. At the request of the operator or the commissioner, the escrow agent shall issue a statement indicating the status of the escrow account.

6. If the funds in an escrow account under this section and any interest thereon are not released to the operator within such time as provided by rules and regulations adopted by the council, then such funds shall be returned by the escrow agent to the persons who had made

payment to the operator.

7. An entrance fee held in escrow may be returned by the escrow agent to the person who paid the fee upon receipt by the escrow agent of notice from the operator that such person is entitled to a refund of the entrance fee.

8. Nothing in this section shall be interpreted as requiring the escrow of any nonrefundable application fee, designated as such in the contract, received by the operator from a prospective resident.

9. Occupancy of housing or other facilities shall not begin until:

a. the operator has executed contracts accompanied by a deposit of at least ten percent of the entry fee payment for fifty percent of all units or an approved phase of a community; and

b. all permits and approvals necessary for operation of the community, or an approved phase of a community, have been granted except those depending upon construction; provided, nothing in this subdivision shall prohibit an operator, upon the approval of the council, or an applicant or prospective applicant upon the approval of the commissioner pursuant to section forty-six hundred seventy-four of this article, from constructing model units and a sales office.

10. Any entry fee deposit required by an operator shall be fully refundable if the contract is canceled within seventy-two hours of its execution. In the event of cancellation, the entry fee deposit shall be refunded within three business days of receipt of cancellation.

* NB There are 2 § 4662's