

STATE OF NEW YORK

10084

IN ASSEMBLY

March 14, 2018

Introduced by M. of A. LAVINE -- read once and referred to the Committee on Housing

AN ACT to amend the real property law, in relation to the timing of decisions for the sales of cooperative apartments

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

1 Section 1. Legislative findings. The legislature hereby finds and
2 declares that residential cooperative purchasers are subject to proc-
3 esses and conditions that do not also apply to the purchases of other
4 single-family residences. The provisions of this act are not intended
5 and do not diminish the duty of cooperative boards to uphold their
6 established fiduciary duties. It is the intent of this act to signif-
7 icantly improve the transparency of the cooperative purchase process to
8 the benefit of all parties involved in the transaction.

9 § 2. The real property law is amended by adding a new article 11 to
10 read as follows:

ARTICLE 11

COOPERATIVE CORPORATIONS; TIMING OF DECISIONS

Section 360. Short title.

361. Definitions.

362. Requirements for determination.

363. Acknowledgement of receipt of application.

364. Time for determination.

365. Tolling of time.

366. Construction.

20 § 360. Short title. This article shall be known and may be cited as
21 the "fairness in cooperative homeownership act".

22 § 361. Definitions. As used in this article, unless the context other-
23 wise requires:

24 1. "Application" means the set of documents utilized by a cooperative
25 corporation to facilitate a prospective purchaser's acquisition of

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

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1 certificates of stock, a proprietary lease, or other evidence of an
2 ownership interest in such cooperative corporation.

3 2. "Cooperative corporation" means any corporation governed by the
4 requirements of the state cooperative corporation law or the general
5 business law, which among other things, grants persons the right to
6 reside in a cooperative apartment, that right existing by such person's
7 ownership of certificates of stock, proprietary lease, or other evidence
8 of ownership of an interest in such entity.

9 3. "Proprietary lease" means the lease or occupancy agreement by which
10 a cooperative corporation permits a person to occupy an apartment in the
11 premises owned by the cooperative corporation.

12 4. "Prospective purchaser" means a person who has entered into a
13 contract of sale to purchase the proprietary lease and the ownership
14 interest in a cooperative corporation from a prospective seller.

15 5. "Prospective seller" means a person who has a proprietary lease and
16 an ownership interest in a cooperative corporation and who has entered
17 into a contract of sale to sell the person's proprietary lease and
18 ownership interest in a cooperative corporation to a prospective
19 purchaser.

20 6. "Sale" means the transfer of a person's ownership interest in a
21 cooperative corporation and that person's proprietary lease to another
22 person.

23 § 362. Requirements for determination. 1. The board of directors or
24 managing agent of each cooperative corporation shall maintain a stand-
25 ardized application and list of requirements for all cooperative apart-
26 ments subject to the by-laws or proprietary lease of such corporation.

27 2. The board of directors or managing agent of every cooperative
28 corporation shall provide the corporation's standardized application and
29 list of requirements to any prospective purchasers and prospective sell-
30 ers, or their respective real estate agents, promptly upon request, and
31 shall include instructions as to where and how to submit the required
32 materials including the mailing address and designated email address for
33 the cooperative corporation.

34 § 363. Acknowledgement of receipt of application. 1. A prospective
35 purchaser shall submit an application via registered mail, and such
36 application shall include a mailing address and email address. Within
37 ten business days of receiving an application from a prospective
38 purchaser, a cooperative corporation shall provide to a prospective
39 purchaser via electronic mail and registered mail a written acknowledg-
40 ment of the receipt of such application. Electronic mail delivery shall
41 serve as an additional notice, but shall not replace the requirement for
42 delivery by registered mail. The requirements of this subdivision shall
43 apply both to a prospective purchaser's initial submission and to any
44 subsequent submissions the prospective purchaser may make.

45 2. An acknowledgement of receipt shall set forth with specificity
46 whether the application submitted fully satisfies the requirements
47 therefor and list of the requirements provided for in section three
48 hundred sixty-two of this article, the way or ways the submitted appli-
49 cation failed to comply with the cooperative corporation's list of
50 requirements maintained and provided by the cooperative corporation
51 pursuant to such section, and if additional materials are requested for
52 clarification of a previously submitted application, what materials are
53 desired.

54 3. Failure by a cooperative corporation to provide a written acknowl-
55 edgement pursuant to this section within ten business days from the date

1 of receipt of the submission of an application shall result in the
2 application being deemed to be complete.

3 § 364. Time for determination. 1. Following the submission of a
4 completed application containing the information and documents contained
5 in the list required to be maintained and provided pursuant to section
6 three hundred sixty-two of this article and any additional materials
7 requested for clarification, a cooperative corporation shall inform a
8 prospective purchaser whether its consent to a sale is granted or wheth-
9 er its consent to a sale is denied within forty-five days.

10 2. The time period provided in subdivision one of this section may be
11 extended at any time with the consent of the prospective purchaser. The
12 cooperative corporation shall be entitled to one fourteen day extension
13 without the consent of the purchaser after sending notice to the
14 prospective purchaser via registered mail within forty-five days of
15 receiving a completed application.

16 3. If after the forty-five day period for determination and any appli-
17 cable extensions, the cooperative corporation does not act on an appli-
18 cation, a prospective purchaser may inform the board of such corporation
19 that if no action is taken within ten days then the failure to act will
20 constitute consent by the cooperative corporation to the sale.

21 4. If no action is taken following the ten day notice period pursuant
22 to subdivision three of this section, the cooperative corporation shall
23 be deemed to have consented to the sale.

24 5. Nothing in this section shall be construed to prohibit a cooper-
25 ative corporation from lawfully denying its consent to a sale at any
26 time prior to the expiration of the forty-five day determination period
27 and ten day notice period.

28 § 365. Tolling of time. If a cooperative corporation's board of direc-
29 tors has placed a memorandum or other writing in its files stating that
30 such board does not ordinarily meet in the months of July and August,
31 then such board of directors or managing agent shall have sixty calendar
32 days or until the tenth of September, whichever is later, after receiv-
33 ing an application to acknowledge receipt thereof and begin the determi-
34 nation process for any application received on or after July first but
35 before September tenth of any calendar year.

36 § 366. Construction. Nothing in this article shall be construed or
37 interpreted to limit or restrict the rights and remedies granted by any
38 other provision of law.

39 § 3. This act shall take effect on the one hundred twentieth day after
40 it shall have become a law and shall apply to applications submitted and
41 received on or after such date; provided, however, that effective imme-
42 diately the state commissioner of human rights is authorized to take any
43 actions necessary prior to such effective date for the implementation of
44 the provisions of this act on its effective date including, not not
45 limited to, establishing guidelines and promulgating rules.

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A10084

SPONSOR: Lavine

TITLE OF BILL: An act to amend the real property law, in relation to the timing of decisions for the sales of cooperative apartments

PURPOSE:

This bill would ensure that the process of purchasing cooperative housing is fair and transparent by adding uniformity and predictability to the application process.

SUMMARY OF PROVISIONS:

Section one provides the legislative intent of the bill.

Section two adds a new article 11 to the Real Property Law to increase the transparency of the cooperative purchase process, by establishing a timeline for a prospective purchaser's application to be acknowledged; a requirement for the cooperative corporation to notify an applicant whether consent to a sale is granted or denied within 45 days; and providing for an extension request by the cooperation if necessary. If the cooperative corporation does not act on the application, a prospective purchaser may inform that failure to act within 10 days will constitute consent by the cooperative corporation to the sale. If no action is taken following this 10-day notice period, the cooperative corporation shall be deemed to have consented to the sale. The bill provides for a longer timeframe for coop board response during summer months as boards often meet less frequently during this time.

Section three provides for the effective date.

JUSTIFICATION:

Residential cooperative purchasers are subject to processes and conditions that do not also apply to purchasers of other single family residences. These processes and conditions give the appearance and have the potential to be misused against a purchaser of cooperative housing. Because New York State strongly opposes all illegal discrimination and promotes fair housing laws and regulations, it is essential that the process for purchasing a cooperative dwelling include the additional safeguards of this bill.

LEGISLATIVE HISTORY:

New Bill

FISCAL IMPLICATIONS:

None to the State.

EFFECTIVE DATE:

This act shall take effect 120 days after it becomes law and shall apply to applications submitted and received on or after such date, provided that the Commissioner of the New York State Division of Human Rights may take any actions necessary prior to such effective date for the implementation of this act, including but not limited to establishing guidelines and promulgating rules.