

# STATE OF NEW YORK

2846

2021-2022 Regular Sessions

## IN SENATE

January 26, 2021

Introduced by Sens. KAVANAGH, COMRIE, HARCKHAM, SEPULVEDA, SKOUFIS --  
read twice and ordered printed, and when printed to be committed to  
the Committee on Judiciary

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 Assem-  
bly, 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

13 Section 360. Short title.

14 361. Definitions.

15 362. Requirements for determination.

16 363. Acknowledgement of receipt of application.

17 364. Time for determination.

18 365. Tolling of time.

19 366. 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:

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

LBD06394-01-1

1 1. "Application" means the set of documents utilized by a cooperative  
2 corporation to facilitate a prospective purchaser's acquisition of  
3 certificates of stock, a proprietary lease, or other evidence of an  
4 ownership interest in such cooperative corporation.

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

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

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

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

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

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

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

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

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

1 3. Failure by a cooperative corporation to provide a written acknowl-  
2 edgement pursuant to this section within ten business days from the date  
3 of receipt of the submission of an application shall result in the  
4 application being deemed to be complete.

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

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

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

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

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

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

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

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