

**INVESTOR PROTECTION BUREAU
(REAL ESTATE FINANCE SECTION)
28 LIBERTY STREET
NEW YORK, NY 10005**

**POLICY WITH REGARD TO
COOPERATIVE CORPORATION AND
CONDOMINIUM ASSOCIATIONS WHICH TAKE TITLE
TO SHARES OR UNITS FOR FAILURE TO PAY
MAINTENANCE OR COMMON CHARGES**

**COOPERATIVE POLICY STATEMENT # 6
(ALSO APPLICABLE TO CONDOMINIUMS
(WITH REQUIRED FORMS)**

Rev. 5/18

COOPERATIVE POLICY STATEMENT #6
(ALSO APPLICABLE TO CONDOMINIUMS)

Applicability: A cooperative corporation or condominium board which has taken ownership of unsold shares or units after the sponsor defaulted in maintenance or common charges, may apply for special treatment as the substitute holder of unsold shares of the cooperative corporation or the substitute sponsor of the condominium. Such special treatment will permit the apartment corporation or condominium board to take part in the public offering of cooperative shares or condominium units without filing amendments to the plan or submitting documentation required by holders of unsold shares (13 NYCRR Section 18.3(w)(10)) or sponsors (13 NYCRR Section 23.2(c)(2)(d)). Such apartment corporation or condominium association will, however, be required to file a broker-dealer statement pursuant to General Business Law Section 359-e.

For a cooperative corporation qualified under Internal Revenue Code Section 216, ownership may be taken by either (a) a subsidiary corporation substantially all of the shares of which are and will continue to be owned by the cooperative corporation or (b) a corporation or other entity substantially all of the interests in which are and will continue to be owned (in essentially the same proportions) by all of the other tenant-shareholders of the cooperative corporation, excluding only those, if any, who declined to participate, in whole or in part, after having been adequately advised of the proposed arrangement. In either case, the affidavit must be submitted on behalf of the owning entity. The granting of any CPS-6 application will be void if the ownership of the owning entity changes so that it no longer complies with the foregoing. Also, if less than all of the tenant-shareholders are participating fully, details must be provided as to the extent of participation of each tenant-shareholder and as to the information provided to all tenant-shareholders.

Procedure: A cooperative corporation or condominium association may apply for special treatment as the substitute holder of unsold shares of the cooperative or as substitute sponsor of the condominium by submitting an affidavit to the Real Estate Financing Section. The affidavit shall state that the substitute sponsor will provide each subsequent offeree with the following information:

- (1) the purchase price of the shares or units;
- (2) the maintenance charges or common charges;
- (3) a copy of the financial statements of the apartment corporation or condominium for the two most recent fiscal years of operation, unless they have not been provided by the non-sponsor-controlled Board to owners and do not exist;
- (4) a copy of the most recent budget of projected expenses, unless one was not provided by the non-sponsor-controlled Board to owners and does not exist;

- (5) a copy of the offering plan with all amendments;
- (6) any information which may in reasonable likelihood result in an increase of 15% or more in expenses for shareholders or unit owners or for the apartment corporation or condominium, including, but not limited to, planned, projected or anticipated increases in maintenance or common charges, assessments, planned major capital improvements or repairs, refinancing of a mortgage, or the correction of code violations or dangerous and hazardous building conditions;
- (7) descriptions of any pending litigation or administrative proceedings and, if requested, copies of pleadings in such litigation or proceedings, or any orders and judgments, the outcome of which may materially affect the apartment corporation or condominium or the rights of an existing tenant of the unit;
- (8) if the unit is occupied, a copy of the tenant's lease and a representation of the tenant's status under applicable rent laws and, if applicable, as an "eligible senior citizen" or "eligible disabled person" under an eviction plan;
- (9) a copy of the notice of any uncured violations of record in the unit that are the responsibility of the proprietary lessee or unit owner to cure; and
- (10) a copy of the current broker-dealer registration filed with the Department of Law pursuant to GBL Section 359-e.

Other than the broker-dealer registration with the Department of Law no other filings will be required.

Conditions:

- (a) The Department of Law will grant such special treatment on such terms and conditions as it may impose, in its discretion, in order to protect the public interest. The special treatment may be revoked summarily if the Department of Law determines that the public interest requires that the substitute sponsor file amendments and register fully with the Department of Law.
- (b) The granting of such special treatment is based upon the information provided by the cooperative corporation or condominium in its application. Any material misstatement or omission of a material fact in the application may render the granting of the CPS-6 application void ab initio.

Fee: The statutory filing fee for an amendment must be submitted with a CPS-6 application and will be retained whether the application is granted or denied.

Effective Date: Applications pursuant to CPS-6 may be made on or after January 1, 1991.

NOTE: The following model Application For Special Treatment with appropriate modifications must be used in applying for CPS-6 treatment. However, applicants should not fill in the blanks on a copy of the model; a fully completed and edited Application For Special Treatment should be prepared and typed by the applicant.

Submit these applications to:
Department of Law
Real Estate Financing Section
28 Liberty Street, 21st Floor
New York, New York 10005

The Department of Law expects to make decisions on applications within two weeks of their receipt. No offeror should consider an application to be granted until a letter granting the application is received. This treatment is not available to homeowner association or time share developments.

4. The offering plan was accepted for filing on _____.
Date

5. The effectiveness amendment was accepted for filing on _____
and the closing or first closing occurred on _____.

6. The last amendment to this plan was filed on _____.
Date

7. The sponsor of the offering plan was _____.

8. The cooperative corporation, subsidiary corporation, affiliated entity or
condominium association took title to sponsor's shares or units on _____.
Date
Give specifics of default and how title was acquired.

9. The shares allocated to the following cooperative apartments or condominium
units are now owned by the cooperative corporation, subsidiary corporation, affiliated entity
or condominium association. The shares or units listed in number 8 above represent ____
____ % of the shares or units in the cooperative or condominium.

10. If less than all of the tenant-shareholders are participating or if any are
participating to a significantly reduced extent, in the case of a cooperative corporation
qualified under Internal Revenue Code Section 216 when ownership of the unsold shares
or units is taken by a subsidiary corporation or other affiliated entity, provide details as to the
extent of participation of each tenant-shareholder and as to the information provided to all
tenant-shareholders.

11. The cooperative corporation, subsidiary corporation or affiliated entity or condominium board represents that it will provide each subsequent offeree with the following information:

- (a) the purchase price and maintenance charges or common charges of the unit;
- (b) a copy of the financial statements of the apartment corporation or condominium for the two most recent fiscal years of operation, or a statement that such statements were not provided by the non-sponsor-controlled Board to owners and do not exist;
- (c) a copy of the most recent budget of projected expenses, or a statement that such budget was not provided by the non-sponsor-controlled Boards to owners and does not exist;
- (d) a copy of the offering plan with all amendments;
- (e) any information which may in reasonable likelihood result in an increase of 15% or more in expenses for shareholders or unit owners or for the apartment corporation or condominium, including, but not limited to, planned, projected or anticipated increases in maintenance or common charges, assessments, planned major capital improvements or repairs, refinancing of a mortgage, or the correction of code violations or dangerous and hazardous building conditions;
- (f) descriptions of any pending litigation or administrative proceedings and, if requested, copies of pleadings in such litigation or proceedings, or any orders and judgments, the outcome of which may materially affect the apartment corporation or condominium or the rights of an existing tenant of the unit;
- (g) if the unit is occupied, a copy of the tenant's lease and a representation of the tenant's status under applicable rent laws and, if applicable, as an "eligible senior citizen" or "eligible disabled person" under an eviction plan;
- (h) a copy of the notice of any uncured violations of record in the unit that are the responsibility of the proprietary lessee or unit owner to cure; and
- (i) a copy of the current broker-dealer registration filed with the Department of Law pursuant to GBL Section 359-e.

12. The cooperative corporation, subsidiary corporation, affiliated entity or condominium association makes the above representations knowing that the Department of Law is relying on the accuracy of these statements in granting the application for special treatment pursuant to CPS-6.

Office:

Signatures of other board members:

Office:

Office:

Office:

Office:

Office:

Office:

Sworn to before me this
_____ day of _____, 20

Notary Public