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**REAL ESTATE FINANCE BUREAU**

**M E M O R A N D U M**

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Re: Disclosure Requirements Regarding  
Condominium Exemption from ILSA

Date: April 10, 2015

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**Introduction:**

This memo clarifies how the recent amendment to the Interstate Land Sales Full Disclosure Act of 1968 (“ILSA”) affects disclosure requirements for contract vendees and prospective purchasers of condominium units in offering plans filed in New York State. The recent amendment to ILSA has eliminated the need for developers to file property reports under ILSA for condominium projects. A copy of the Bill is available here: <http://www.gpo.gov/fdsys/pkg/BILLS-113hr2600eh/pdf/BILLS-113hr2600eh.pdf> In addition, purchase agreements will no longer need to include ILSA provisions, *e.g.*, written notice of a default by the purchaser, twenty day cure period for all defaults, limitation of damages, etc.

**Impact of Condominium Exemption:**

The Consumer Financial Protection Bureau (“CFPB”) is the federal agency that regulates ILSA filings. For existing filers, CFPB indicated that the exemption applies to all sales occurring on or after March 25, 2015, regardless of whether an ILSA registration had previously been filed for the condominium.<sup>1</sup> Briefly, on those projects where an ILSA filing was in effect prior to March 25, 2015, there will be two groups of purchasers with disparate disclosure and rights: (1) those who signed purchase agreements prior to March 25, 2015, which will remain subject to the statute and (2) those who signed on or after March 25, 2015, which will be exempt from the statute regardless of whether the condominium declaration has been recorded. Notwithstanding the filing exemption, the anti-fraud provisions of the statute still remain in effect.

The CFPB is currently requesting that developers refrain from filing any additional documentation for condominium projects after March 25, 2015 including annual reports, suspensions or terminations of existing filings. Nor is it necessary for developers to

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<sup>1</sup> At this time, the CFPB has not issued any formal guidance. Attorneys are encouraged to visit the agency website at <http://www.consumerfinance.gov/> to obtain the most up to date information.

withdraw, suspend or terminate any existing filings. Practitioners must determine a specific project's obligations directly with the CFPB. The Department of Law will not provide any specific guidance on the filing obligations under ILSA.

**REFB Disclosure Requirements:**

In order to provide contract-vendees and prospective purchasers with adequate disclosure of these changes, all offering plans that previously disclosed that an ILSA filing was in effect prior to March 25, 2015 must be amended to disclose the enactment of the condominium exemption and its disparate effect on the two classes of purchasers. The amendment must make clear that purchase agreements that were signed prior to March 25, 2015 remain subject to the statute, while purchase agreements signed on or after March 25, 2015 will be exempt from the statute. The amendment must be submitted for filing to the Department of Law within thirty days of the date of issuance of this memorandum.