

---

**REAL ESTATE FINANCE BUREAU  
MEMORANDUM**

---

RE: "NY GBL Amendment on Self-Dealing Contracts" Date: October 2010

---

On August 30, 2010 the Governor signed into law a revision to Section 352-e of the New York General Business Law (GBL) requiring notification of a cooperative tenant shareholder's or condominium owner's right to terminate a self-dealing contract pursuant to the Federal Condominium and Cooperative Abuse Relief Act, 15 U.C.C. 3607 (the "Act"). A copy of the revision to the GBL is attached herein. The Act permits tenant-shareholders or unit owners in conversion projects which have five or more residential units to terminate self-dealing or so-called "sweetheart" contracts within two years after the date that the sponsor ceases to control the board or owns 25% or less of the units in the project, whichever occurs first. However, the Act does not contain a notice provision, and many shareholders and unit owners fail to exercise their rights timely. Section 352-e(d-2) of the GBL now requires sponsors of cooperative or condominium conversions to notify tenant-shareholders or unit owners entitled to terminate such contracts within thirty days of the date that right commences and at least six months prior to the date such right expires.

The new statute mandates that all sponsors include the notification provisions required under Section 352-e (2-d) of the GBL in all conversion plans accepted on or after September 30, 2010. Review attorneys should require sponsors to disclose the Act, the notification provisions and any existing or projected self-dealing contracts in the Special Risks section of Part 18 and Part 23 offering plans as well as the relevant section of the plan which discusses management agreement, contracts and leases. An example of appropriate model language is as follows:

"Pursuant to the Federal Condominium and Cooperative Abuse Relief Act of 1980, 15 U.C.C 3601 (the "Act"), [tenant-shareholders/unit owners] in conversion projects which have 5 or more residential units shall have the right to terminate self-dealing contracts that have been entered into by the sponsor or sponsor affiliate within two years after the date that the sponsor or sponsor affiliate ceases to control the board or owns 25% or less of the units in the project, whichever occurs first. A "self-dealing" contract shall be defined as any contract or portion thereof which is entered into after October 8, 1980, which: (i) provides for operation, maintenance, or management of a condominium or cooperative association in a conversion project, or of property serving the condominium or cooperative unit owners in such projects; (ii) is between such unit

owners or such association and the sponsor or an affiliate of the sponsor; (iii) was entered into while such association was controlled by the sponsor during the sponsor control period or because sponsor held a majority of the votes in such association; (iv) is for a period of more than three years, including any automatic renewal provisions which are exercisable at the sole option of the sponsor or an affiliate of the sponsor; and (v) may not be terminated without penalty by such unit owners or such association.

In the event that a self-dealing contract exists in a conversion project having five or more residential units, the sponsor shall notify [tenant-shareholders/unit owners] of the right to terminate such contract within thirty days of the date that the sponsor ceases to control the board or owns 25% or less of the units in the project, whichever occurs first, and at least six months prior to the date that the right to cancel expires. A termination under the Act shall be by vote of owners of not less than two-thirds of the units other than units owned by the sponsor or sponsor affiliate. Following the vote, the termination shall be effective ninety days after the notice of termination is either hand delivered or mailed to the parties to the contract.”