

Regulatory Flexibility Analysis

1. Effect of rule.

The regulatory revisions will not affect any local governments.

The regulatory revisions do affect certain small businesses. Specifically, the regulatory revisions affect sponsors of condominium or cooperative non-eviction conversion offering plans submitted to the New York State Department of Law (“DOL”) on or after June 15, 2019, some of which are small businesses pursuant to the definition in the State Administrative Procedures Act (“SAPA”) Section 102(8) which defines a small business as “[a]ny business which is resident in this state, independently owned and operated and that employs 100 or less people.” However, a significant number of conversion offering plans submitted to the DOL are sponsored by single-purpose limited liability companies that are directly affiliated with larger entities. Accordingly, the DOL believes that few small businesses, as defined by SAPA Section 102(8), will be affected by the regulatory revisions. To the extent the regulatory revisions do affect small businesses, those effects do not go beyond what is required by the Housing Stability and Tenant Protection Act of 2019 or Chapter 696 of the Laws of 2022.

2. Compliance requirements.

The regulatory revisions do not require local governments to undertake any new obligations in terms of reporting, recordkeeping, or other affirmative acts in order to comply with the rule. The regulatory revisions do not meaningfully increase the scope of reporting, recordkeeping, or other affirmative acts that regulated entities must undertake in order to comply with the rule.

3. Professional services.

The regulatory revisions do not require local governments to employ any professional services to comply with the rule. Under the regulatory revisions, sponsors of condominium and cooperative non-eviction conversion offering plans submitted to the DOL on or after June 15th, 2019 must employ professionals, such as attorneys and architects, in order to prepare their offering plans. But because the DOL’s existing regulations already require sponsors to employ these services to prepare their offering plans, any additional professional services and related costs as a result of the revised regulations are likely to be minimal.

4. Compliance costs.

The DOL foresees no initial capital costs and no additional annual costs that will be incurred by local governments, regardless of their size, as a result of compliance with the regulatory revisions.

Compliance costs should not be meaningfully different for regulated parties than under the DOL’s current regulatory framework.

5. Economic and technological feasibility.

The regulatory revisions contain no technological requirements for regulated small businesses or local governments, and thus are technologically feasible. Compliance with the regulatory revisions is also economically feasible, because, as described above, there are no compliance costs for local governments and minimal compliance costs for regulated small businesses.

6. Minimizing adverse impact.

The regulatory revisions are designed to minimize any adverse economic impact on local governments and small businesses. The regulatory revisions have no adverse economic impact on local governments, as they neither require any action on the part of local governments nor affect them in any way. The regulatory revisions may have an indirect adverse economic impact on certain regulated small businesses insofar as the regulatory revisions update the requirements for conversion of an occupied residential rental property to condominium or cooperative ownership. However, to the extent the regulatory revisions may have such an impact on certain regulated small businesses, it does not go beyond what is required to effectuate the Housing Stability and Tenant Protection Act of 2019 and Chapter 696 of the Laws of 2022's changes to the Martin Act.

The DOL has considered the approaches for minimizing adverse impact set forth in SAPA Section 202-b(1). Nevertheless, the DOL has concluded that there is no other means by which the DOL can make its regulations consistent with the intent of their authorizing statute, the Housing Stability and Tenant Protection Act of 2019, or Chapter 696 of the Laws of 2022 other than by amending its regulations.

7. Small business and local government participation.

To ensure that small businesses and local governments have an opportunity to participate in the rule making process, a copy of the regulatory revisions will be sent to the DOL's email distribution list, which includes many members of the Bar who represent sponsors and purchasers of condominiums and cooperatives. Copies of the regulatory revisions will also be posted on the DOL's website.