

TEXT OF REVISED REGULATIONS

The following are the Department of Law's revisions to 13 N.Y.C.R.R. Parts 18 and 23. Please note that pursuant to Department of State guidelines, deleted portions of the prior regulations are in brackets, additions to the prior regulations are underlined, and new additions to 13 N.Y.C.R.R. Parts 18 and 23 are normally formatted.

Subsection 18.1(e)(5) of title 13 is amended to read as follows:

(5) If the offering plan is submitted to the Department of Law on or after September 1, 2016 subject to G.B.L. section 352-e(2-a) [or 352-eeee,]and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, the notice shall also state: If you are a senior citizen or disabled tenant as defined by G.B.L. section 352-e(2-a)(a)(iii) [and 352-eeee(1)(f)]or G.B.L. section 352-e(2-a)(a)(iv)[and 352-eeee(1)(g)], respectively, you have additional rights and protections, including the right to elect to become a nonpurchasing tenant within 60 days from the date you receive the filed offering plan from the sponsor. If the offering plan is submitted to the Department of Law on or after September 1, 2016 but prior to June 15, 2019 subject to G.B.L. section 352-eeee, and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, the notice shall also state: If you are a senior citizen or disabled tenant as defined by G.B.L section 352-eeee(1)(f) or G.B.L. section 352-eeee(1)(g), respectively, you have additional rights and protections, including the right to elect to become a nonpurchasing tenant within 60 days from the date you receive the filed offering plan from the sponsor. If the offering plan is submitted to the Department of Law on or after June 15 2019 subject to G.B.L. 352-eeee, the notice shall also state: If you are a senior citizen or disabled tenant as defined by G.B.L. section 352-eeee(1)(f) or G.B.L. section 352-eeee(1)(g), respectively, you have the right to elect to become a nonpurchasing tenant within

60 days from the date the plan is submitted to the Department of Law and within 60 days from the date you receive the filed offering plan from the sponsor. Senior citizen and disabled tenants are advised to read the section of the offering plan entitled “Rights of Eligible Senior Citizens and Eligible Disabled Persons.”

If the offering plan is submitted to the Department of Law on or after [July]September 1, 2016 pursuant to G.B.L. sections 352-e(2-a) or 352-eeee, and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after [July]September 1, 2016, or if the offering plan is submitted to the Department of Law on or after June 15, 2019, the notice shall also include the eligible senior citizen and eligible disabled person election forms promulgated by the Department of Law, forms SH-1 and SH-2, respectively.

Subsection 18.1(e)(6) of title 13 is amended to read as follows:

(6) If the offering plan is submitted to the Department of Law on or after September 1, 2016 subject to G.B.L. section 352-eee, and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of building on or after September 1, 2016, the notice shall also state: If you are a senior citizen or disabled tenant as defined by G.B.L. section 352-eee(1)(f) or G.B.L. section 352-eee(1)(g), respectively, you have additional rights and protections, including the right to elect to become a non-purchasing tenant. Senior citizen and disabled tenants are advised to read the section of the offering plan entitled "Rights of Eligible Senior Citizens and Eligible Disabled Persons."

If the offering plan is submitted to the Department of Law on or after [July]September 1, 2016 subject to G.B.L. section 352-eee, and the sponsor executed a contract of sale for the building or

group of buildings or acquired the building or group of buildings on or after September 1, 2016, the notice shall also include the eligible senior citizen and eligible disabled person election forms promulgated by the Department of Law, forms SH-5 and SH-2, respectively.

A new subsection 18.1(e)(7) of title 13 is added to read as follows:

(7) The notice shall also state the percentages required to declare the plan effective and the timeframe in which sponsor must declare the plan effective, and the consequences for sponsor's failure to declare effectiveness within such timeframe.

Section 18.1(p)(v) of title 13 is amended to read as follows:

(v) If an eviction plan, or a non-eviction plan submitted to the Department of Law on or after June 15, 2019 pursuant to G.B.L., section 352-eeee, the last day for eligible senior citizens or eligible disabled persons to elect not to purchase pursuant to G.B.L., section 352-eeee, or the last day for eligible disabled persons to elect not to purchase pursuant to G.B.L., section 352-eee.

Section 18.1(p)(vi) of title 13 is amended to read as follows:

(vi) If the plan is subject to G.B.L., section 352-eeee, and submitted to the Department of Law prior to June 15, 2019, state the number of bona fide tenants in occupancy on the filing date who have signed subscription agreements as of a time specified in the statement. If the plan is a noneviction plan subject to G.B.L., section 352-eeee submitted to the Department of Law prior to June 15, 2019, also state the number of bona fide nontenant subscribers who have represented that they or member(s) of their immediate family intend to occupy the apartment when it becomes vacant. If the plan is an eviction plan subject to G.B.L., section 352-eee, state the

number of bona fide tenants in occupancy on the filing date who have signed subscription agreements. If the plan is a noneviction plan subject to G.B.L., section 352-eee, state the number of bona fide tenants in occupancy on the filing date and also state the number of bona fide tenants who became tenants in occupancy after the filing date who have signed subscription agreements. Any subscriber who is required to be listed under section 18.5(e)([6]7)(v) of this Part shall not be included in the count unless the sponsor has submitted proof satisfactory to the Department of Law establishing that the subscriber is a bona fide tenant, or in a noneviction plan subject to G.B.L., section 352-eeee, unless the sponsor has submitted proof satisfactory to the Department of Law establishing that the subscriber is a bona fide purchaser who meets the requirements of section 18.5(e) of this Part.

Section 18.1 (p) subdivisions (vii), (viii), (ix), and (x) are renumbered (viii), (ix), (x), and (xi), and amended as follows and a new subdivision (vii) is added to read as follows:

(vii) If the plan is submitted on or after June 15, 2019 subject to G.B.L., section 352-eeee, state the number of dwelling units in the building or group of buildings or development which, as of a time specified in the statement, are subscribed for by bona fide tenants in occupancy on the date the plan was accepted for filing. Any unit that is required to be listed under section 18.5(e) of this Part shall not be included in the count unless the sponsor has submitted proof satisfactory to the Department of Law establishing that the purchaser of such unit is a bona fide tenant.

[(vii)] (viii) The number of subscribers required to be listed under section 18.5(e)[6](7)(v) of this Part who may not be included in the count at the time of the posting, but who sponsor seeks to include in the future.

[(viii)] (ix) The number of units or tenants counted in the base. If the plan is an eviction plan under G.B.L., section 352-eee or 352-eeee, or a noneviction plan under G.B.L., section 352-eeee submitted on or after June 15, 2019, also state the number of tenants or units subtracted from the base to date, and the basis in law for each subtraction.

[(ix)] (x) The percentage obtained by dividing the number of subscribers to be counted towards effectiveness given in subparagraph (vi) of this paragraph by the number of tenants or units counted in the base given in subparagraph [(viii)] (ix) of this paragraph.

[(x)] (xi) If the plan is an eviction plan subject to G.B.L., section 352-eee, also give the percentage obtained by dividing:

(a) the number of subscribers to be counted towards effectiveness given in subparagraph (vi) of this paragraph by

(b) the number of tenants or units counted in the base given in subparagraph [(viii)] (ix) of this paragraph, plus the eligible senior citizens and eligible disabled persons who were bona fide tenants in occupancy on the filing date and had been subtracted from the base in subparagraph [(viii)] (ix).

A new subsection 18.1(r) is added to read as follows:

(q) As of June 15 2019, the Department of Law will no longer accept eviction plans pursuant to G.B.L. 352-eeee.

A new section 18.3(c)(4) of title 13 is added to read as follows:

(4) If the plan is an eviction plan under G.B.L. section 352-eee or 352-eeee, or a noneviction plan under G.B.L. section 352-eeee submitted on or after June 15, 2019, disclose that bona fide

tenants in occupancy when the plan was accepted for filing have an exclusive right to purchase the shares allocated to their dwelling units for 90 days after the plan is presented. Disclose that, following the 90-day exclusive period, such bona fide tenants who have not purchased shall have the right to match the terms and conditions contained in an executed contract to purchase the dwelling by a bona fide purchaser for an additional six months. Disclose that the tenant must exercise this right to match within fifteen days from the date of mailing by registered mail of notice of the execution of the contract of sale is served to the tenant pursuant to 18.1(d) but, if the right is exercised, the original purchaser's contract for sale shall be voided. Disclose that the deposit of a purchaser whose contract is matched and voided shall be returned in full pursuant to section 18.3(p) of this Part. If the sponsor intends to offer units for sale to purchasers who were not bona fide tenants in occupancy when the plan was accepted for filing in the sixth month period during which such tenants have a right to match the terms of any contract for sale, the sponsor must disclose that such decision to match will void the contract of such purchaser and the following warning must be placed on the cover:

CONTRACTS OF PURCHASERS WHO WERE NOT BONA FIDE TENANTS IN OCCUPANCY WHEN THE PLAN WAS ACCEPTED FOR FILING MAY BE VOIDED IF THE BONA FIDE TENANT IN OCCUPANCY EXERCISES THE RIGHT TO MATCH THE TERMS OF SUCH PURCHASER'S CONTRACT WITHIN A SPECIFIED TIME PERIOD. (SEE SPECIAL RISKS SECTION OF PLAN.)

Subsection 18.3(d) of title 13 is amended to read as follows:

(d) If the offering plan is submitted to the Department of Law on or after September 1, 2016 subject to G.B.L. section 352-eee, and the sponsor executed a contract of sale for the building or

group of buildings or acquired the building or group of buildings on or after September 1, 2016, include the eligible senior citizen and eligible disabled person election forms promulgated by the Department of Law, forms SH-5 and SH-2, respectively. If the offering plan is submitted to the Department of Law on or after September 1, 2016 subject to G.B.L. section 352-e(2-a) [or 352-eeee], and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, include the eligible senior citizen and eligible disabled person election forms promulgated by the Department of Law, forms SH-1 and SH-2, respectively. If the offering plan is submitted to the Department of Law on or after September 1, 2016 but prior to June 15, 2019 subject to G.B.L. section 352-eeee, and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, include the eligible senior citizen and eligible disabled person election forms promulgated by the Department of Law, forms SH-1 and SH-2, respectively. If the offering plan is submitted to the Department of Law on or after June 15, 2019 subject to G.B.L. section 352-eeee, include the eligible senior citizen and eligible disabled forms promulgated by the Department of Law, forms SH-1 and SH-2, respectively.

Section 18.3(e)(6)(vii) of title 13 is amended to read as follows:

(vii) discuss the transitional phase of the conversion process from rental building to owner-occupied cooperative. If the plan is submitted to the Department of Law under G.B.L., section 352-e(2-a), or submitted under G.B.L. section 352-eee or submitted under G.B.L., section 352-eeee prior to June 15, 2019, [D]disclose that because the plan can be declared effective based on sales of 15 percent of the units to tenants or bona fide purchasers for their own occupancy, purchasers may be living a mixed rental/owner-occupied building for an indeterminate period of

time, and that purchasers' units may not be marketable and owner-occupants may not control the board or operation of the property during such transition. If the plan is submitted to the Department of Law under G.B.L., section 352-eeee on or after June 15, 2019 disclose that because the plan can be declared effective based on sales of 51 percent of the units to bona fide tenants in occupancy on the date the plan was accepted for filing, purchasers may be living in a mixed rental/owner-occupied building for an indeterminate period of time and that purchasers' units may not be marketable and owner-occupants may not control the board or operation of the property during such transition. If the plan is submitted to the Department of Law under G.B.L., section 352-eeee on or after June 15, 2019 for a building containing five or fewer units, and where the sponsor of the offering plan offers the unit that they or their immediate family member has occupied for at least two years, disclose that because the plan can be declared effective based on 15 percent of all dwelling units in the building subscribed for by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family occupy the dwelling unit when it becomes vacant, purchasers may be living in a mixed rental/owner-occupied building for an indeterminate period of time and that purchasers' units may not be marketable and owner-occupants may not control the board or operation of the property during such transition. Further discuss how the existence of rent regulated, nonpurchasing, tenants, who have a right to continued occupancy, may affect the speed of the conversion process. Discuss other aspects of living in a mixed rental/owner-occupied building, including different interests of owners and renters and the consequences of sponsor's continuing role in the building. ...

Subsection 18.3(e)(8) is amended to read as follows:

(8) Refer to Schedule A for price information. State the length of any exclusive period(s), that there will be no increase in prices during the exclusive period for tenant purchasers, and that sponsor will not accept subscriptions from non-tenant purchasers for occupied units during any exclusive period. If the plan is an eviction plan under G.B.L., section 352-eee or 352-eeee, or a noneviction plan under G.B.L., section 352-eeee submitted on or after June 15, 2019, also state that, following the exclusive period, bona fide tenants who have not purchased shall have the right to match the terms and conditions contained in an executed contract to purchase the dwelling by a bona fide purchaser for an additional six months. For the purposes of this subsection, neither a bona fide tenant of record who was not in occupancy on the date the contract of sale was executed nor a sublessee who has not been assigned the right to purchase the dwelling unit shall have this additional six-month right.

Section 18.3(l) of title 13 is amended to read as follows:

(l) Rights of eligible senior citizens and eligible disabled persons. If [the offering plan is submitted to the Department of Law on or after September 1, 2016 subject to]G.B.L., section 352-e(2-a), 352-eee or 352-eeee, is applicable (or in cases where applicable local law confers special rights for senior citizens, disabled persons, or other protected class of tenants), [and the sponsor executed a contract of sale for the building or group of buildings on or after September 1, 2016,]include the following information on the rights of eligible senior citizens and eligible disabled persons.

(1) Explain that senior citizens and disabled persons who meet the eligibility requirements may not be evicted by holders of unsold shares or any subsequent purchaser at any time because the

building is converted to cooperative ownership or under owner-occupancy provisions of rent codes.

(2) If G.B.L., section 352-eee is applicable, the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, and the plan was submitted to the Department of Law on or after September 1, 2016, state:

...

(3) If G.B.L., section 352-e(2-a) is applicable, the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, and the plan was submitted to the Department of Law on or after September 1, 2016, or 352-eeee is applicable, the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, and the plan was submitted to the Department of Law on or after September 1, 2016 but prior to June 15, 2019, explain that an eligible senior citizen is a nonpurchasing tenant or the spouse of a nonpurchasing tenant who:

...

Subsections 18.3(l)(4), (5), (6), (7), and (8) of title 13 are renumbered (5), (6), (7), (8), and (9), and amended as follows, and a new subsection 18.3(l)(4) is added to read as follows:

(4) If G.B.L., section 352-eeee is applicable and the plan was submitted to the Department of Law on or after June 15, 2019, explain that an eligible senior citizen is a nonpurchasing tenant or the spouse of a nonpurchasing tenant who:

(i) is 62 years of age or older on the date the plan was submitted to the Department of Law or the date that the plan is filed with the Department of Law (“filing date”); and

(ii) has elected not to purchase his or her apartment within 60 days from the date the plan was submitted to the Department of Law or the presentation date by completing the senior citizen election form in the plan, signing the form and having the signature notarized, and personally delivering it to the named sponsor or selling agent at a location specified in the plan or by mailing it, by certified or registered mail, return receipt requested, to the named sponsor or selling agent at the location specified in the plan. In the event that the plan becomes subject to G.B.L., section 352-e(2-a) after the plan was accepted for filing, (a) the plan must be amended immediately after the statute becomes applicable to such offering, and (b) such election may be made within 60 days of presentation of such amendment.

[(4)] (5) Explain that an eligible disabled person is a nonpurchasing tenant or spouse of a nonpurchasing tenant who:

(i) has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which is demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which is expected to be permanent, and which prevents the disabled person from engaging in any substantial gainful employment on the date the Department of Law accepted the plan for filing or, if G.B.L., section 352-eeee is applicable and the plan was submitted to the Department of Law on or after June 15, 2019, on the date the plan was submitted to the Department of Law or on the date the Department of Law accepted the plan for filing;

(ii) has elected not to purchase his or her apartment within 60 days from the presentation date or, if G.B.L., section 352-eeee is applicable and the plan was submitted to the Department of Law

on or after June 15, 2019, within 60 days from the date the plan was submitted to the Department of Law or the presentation date of the plan accepted for filing, by completing the disabled person election form in the plan, signing the form and having the signature notarized, and personally delivering it to the named sponsor or selling agent at a location specified in the plan or by mailing it, by certified or registered mail, return receipt requested, to the named sponsor or selling agent at the location specified in the plan. In the event that the plan becomes subject to G.B.L., section 352-e(2-a) after the plan was accepted for filing, (a) the plan must be amended immediately after the statute becomes applicable to such offering, and (b) such election may be made within 60 days of presentation of such amendment.

(iii) If the disability first occurs after acceptance of the plan for filing, then such election may be made within 60 days following the onset of such disability unless during the period subsequent to 60 days following the presentation of the plan for filing but prior to such election, the offeror accepts a written agreement to purchase the apartment from a bona fide purchaser.

[(5)] (6) Describe the protections given to eligible senior citizens and eligible disabled persons under G.B.L., section 352-e(2-a), 352-eee or 352-eeee, including the following:

(i) No eviction proceeding will be commenced at any time against either eligible senior citizens or eligible disabled persons, except that such proceedings may be commenced for nonpayment of rent, illegal use or occupancy of the apartment, refusal of reasonable access to the owner or a similar breach of obligations to the landlord.

(ii) Eligible senior citizens and eligible disabled persons who reside in apartments subject to government regulation as to rentals and continued occupancy shall continue to be subject thereto.

(iii) The rentals of eligible senior citizens and eligible disabled persons who reside in dwelling units not subject to government regulation as to rentals and continued occupancy, and eligible

senior citizens and eligible disabled persons who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing by the Department of Law, shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy. Complaints concerning such increases may be referred to the New York State Department of Law, Real Estate Finance Bureau, 28 Liberty Street, New York, NY 10005.

(iv) The rights granted under the plan and rent regulatory laws to eligible senior citizens and eligible disabled persons may not be abrogated or reduced, regardless of any expiration of or amendment to G.B.L., section 352-e(2-a), 352-eee or 352-eeee.

(v) Each purchaser, including a holder of unsold shares, of the shares allocated to an apartment occupied by an eligible senior citizen or eligible disabled person, shall be bound by the provisions of the G.B.L. and the terms of the plan. Each purchaser will be required to represent in writing to the apartment corporation, at the time of acquisition, that the purchase is subject to all the rights of the eligible senior citizen or eligible disabled person occupying the apartment, and that the purchaser, his successors and assigns shall continue to be bound as long as such occupancy continues.

[(6)] (7) Sponsor may dispute the election by a tenant to be an eligible senior citizen or an eligible disabled person by applying to the Department of Law for a determination of the tenant's eligibility within 30 days of the receipt of the election form pursuant to section 18.8 of this Part. The Department of Law shall issue a determination of eligibility within 30 days thereafter.

[(7)] (8) In the absence of fraud, the determination by the Department of Law is the sole method for determining a dispute as to whether a tenant is an eligible senior citizen or eligible disabled

person. The determination by the Department of Law is reviewable only through a proceeding under article 78 of the Civil Practice Law and Rules, which must be commenced within 30 days after the determination becomes final.

[(8)] (9) State that an election not to purchase shall not preclude an electing senior citizen or disabled person from subsequently purchasing his or her apartment on the terms and conditions set forth in section 18.8 of this Part.

Subdivision 18.3(m)(1)(iii)(a)(1) of title 13 is amended to read as follows:

(iii) Include discussions of:

(a) The exclusive period. [State]:

(1) All bona fide tenants in occupancy on the date the plan is accepted for filing will have the exclusive right to subscribe to purchase the shares allocated to their dwelling units for 90 days after the plan is presented, during which time a tenant's dwelling unit shall not be shown to a third party unless the tenant has, in writing, waived the tenant's right to purchase.

Subdivision 18.3(m)(1)(iii)(a)(2) of title 13 is repealed, and subdivisions 18.3(m)(1)(iii)(a)(3), (4), (5), (6), (7) and (8) are renumbered (2), (3), (4), (5), (6), and (7) and amended as follows:

[(3)](2) Any bona fide tenant with the right to renew a lease on the date the plan is accepted for filing has the right to subscribe as a tenant during the exclusive period.

[(4)](3) Any bona fide tenant who has the right to continued occupancy on the date the plan is accepted for filing has the right to subscribe as a tenant during the exclusive period.

[(5)](4) For the purpose of determining who has the right to subscribe during the exclusive period, a bona fide tenant of record with an unexpired lease on the date the plan is accepted for filing shall be presumed to be a tenant in occupancy even though the tenant has sublet his or her dwelling unit or the dwelling unit is not the tenant's primary residence.

[(6)](5) A bona fide sublessee in occupancy on the date the plan is accepted for filing has the right to subscribe during the exclusive period if [he or she]: (1) the sublessee sublets from a non-bona fide tenant, or (2) [has obtained written permission to purchase his or her dwelling unit from a bona fide tenant of record] the bona fide tenant of record has assigned in writing the right to purchase the dwelling unit to the bona fide sublessee. Nothing herein shall be construed to deprive an owner of any legal remedy for illegal occupancy.

[(7)](6) A residential occupant entitled to protection under article 7-C of the Multiple Dwelling Law has the right to subscribe during the exclusive period.

[(8)](7) Whether and under what conditions a corporation, partnership, trust, estate or other entity is required to designate an individual to purchase the shares allocated to its dwelling unit in order to exercise its right to subscribe.

A new subdivision 18.3(m)(1)(iii)(a)(8) is added to read as follows:

(8) If the plan is an eviction plan under G.B.L., section 352-eee or 352-eeee, or a noneviction plan under G.B.L., section 352-eeee submitted on or after June 15, 2019, following the expiration of the 90-day exclusive period, all bona fide tenants in occupancy who have not purchased shall have an additional six-month right to match the terms and conditions contained in an executed contract to purchase the dwelling by a bona fide purchaser. Such exclusive right shall be exercisable within fifteen days from the date of mailing by registered mail of notice of

the execution of a contract of sale together with a copy of said executed contract to said tenant.

For the purposes of this subsection, neither a bona fide tenant of record who was not in occupancy on the date the contract of sale was executed nor a sublessee who has not been assigned the right to purchase the dwelling unit shall have this additional six-month right.

Subsection 18.3(o)(1) is amended to read as follows:

(1) State whether the owner of the building may rent a[ny] vacant unit[that is vacant before the closing] for which a purchase agreement has been executed to the purchaser of such unit before closing.

Section 18.3(q)(2) of title 13 is amended to read as follows:

(2) If the plan is submitted to the Department of Law pursuant to G.B.L, section 352-eee or pursuant to G.B.L., section 352-eeee prior to June 15, 2019, [I]in order for assigned or transferred subscriptions to be counted towards effectiveness:

(i) a subscription agreement shall be signed by the tenant and the full down payment paid by the tenant to the sponsor; and

(ii) the assignee shall provide an affidavit stating that the assignee was not procured by the sponsor [or]_ the selling agent, or the managing agent, and that the assignee intends that he or she or a specified member of his or her immediate family will personally occupy the dwelling unit.

The form assignee affidavit shall appear in Part II of the plan.

A new Section 18.3(q)(3) of title 13 is added to read as follows:

(3) If the plan is submitted to the Department of Law on or after June 15, 2019 pursuant to G.B.L., section 352-eeee, in order for assigned or transferred subscription agreement to be counted towards effectiveness:

(i) a subscription agreement shall be signed by the tenant and the full down payment paid by the tenant to the sponsor; and

(ii) assignee shall provide an affidavit stating that the assignee was not procured by sponsor, the selling agent, or the managing agent and that assignee was a bona fide sublessee in occupancy on the date the plan was accepted for filing to whom the bona fide tenant of record has assigned in writing the right to purchase the dwelling unit. The form assignee affidavit shall appear in Part II of the plan.

Subsection 18.3(r)(2) of title 13 is amended to read as follows:

(2) If the plan is presented pursuant to G.B.L. section 352-eee or presented pursuant to G.B.L. section 352-eeee prior to June 15, 2019, state the minimum percentage of sales to tenants or other purchasers that are needed before the plan may be declared effective. If the plan is presented pursuant to G.B.L., section 352-eeee on or after June 15, 2019, state the minimum percentage of units that must be purchased by bona fide tenants in occupancy before the plan may be declared effective. In all plans, state that when calculating that percentage, no more than one subscription agreement by the tenant or tenants of a particular dwelling unit shall be counted. Also state that only one subscription agreement from any tenant who leases or occupies more than one dwelling unit shall be counted towards effectiveness.

Subsection 18.3(r)(4)(iv) of title 13 is amended to read as follows:

(iv) with any subscriber who is the sponsor or the selling agent, or is a principal of the sponsor or the selling agent, or is related to the sponsor or the selling agent or to any principal of the sponsor or the selling agent by blood, marriage or adoption or as a business associate, an employee, a shareholder or a limited partner; except that such a subscriber other than the sponsor or a principal of the sponsor may be included to the extent permissible under section 18.5(e)[(6)](7)(vi)(c) or section 18.5(e)[(6)](7)(vii)(b)(2) of this Part, as applicable.

Subsection 18.3(r)(6)(i) of title 13 is amended to read as follows:

(6) If the plan is submitted pursuant to G.B.L. section 352-eeee:

(i) For a noneviction plan submitted to the Department of Law on or after June 15, 2019, state that the plan may not be declared effective until written purchase agreements have been executed and delivered for at least [15]51 percent of all dwelling units in the building or group of buildings or development subscribed for by bona fide tenants in occupancy [or bona fide purchasers who represent that they intend that they or a specified member of their immediate family occupy the dwelling unit when it becomes vacant. As to tenants who were in occupancy on the date the plan was accepted for filing, the] on the date the plan was accepted for filing, for which subscription agreement shall be executed and delivered pursuant to an offering made without discriminatory repurchase agreements or other discriminatory inducements; provided however, that for a building containing five or fewer units, and where the sponsor of the offering plan offers the unit that they or their immediate family member has occupied for at least two years, the plan may not be effective until written purchase agreements have been executed and

delivered for at least fifteen percent of all dwelling units in the building subscribed for by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family occupy the dwelling unit when it becomes vacant.

(a) In establishing a base for computing the required 51 percent of dwelling units in the building or group of buildings, all dwelling units in the building or group of buildings shall be included, except:

(1) those dwelling units, existing on the date the offering plan or prospectus was submitted to the Department of Law, that were not leased or occupied by bona fide tenants for more than five months prior to the date the offering plan or prospectus was submitted to the Department of Law; and

(2) dwelling units of eligible senior citizens and eligible disabled persons who have not subsequently purchased, unless the sponsor has disputed such election in which case the affected dwelling unit will remain in the base until such time as a final determination is made that the election is sustained.

(b) In determining the subscriptions that qualify to meet the 51 percent requirement of dwelling units, the following subscriptions may be included:

(1) subscriptions by bona fide tenants in occupancy on the filing date of shares allocated to his or her dwelling unit;

(2) subscriptions by bona fide tenants in occupancy on the filing date of shares allocated to dwelling units which are both vacant and not under lease;

(3) subscriptions by bona fide tenants in occupancy on the filing date of shares allocated to a dwelling unit of another bona fide tenant if the other tenant has subscribed to purchase the shares allocated to the first tenant's dwelling unit or a vacant dwelling unit; and

(4) subscriptions by the bona fide tenant of record on the filing date or by a bona fide sublessee who has the right to purchase;

(c) in computing the 51 percent requirement:

(1) no more than one subscription agreement by the tenant or tenants of a particular dwelling unit shall be counted; and

(2) only one subscription agreement from any tenant who leases or occupies more than one dwelling unit shall be counted towards effectiveness.

Subsection 18.3(r)(6)(ii) of title 13 is renumbered (r)(6)(iii) and amended to read as follows, subsection 18.3(r)(6)(iii) is renumbered (r)(6)(iv), and a new (r)(6)(ii) is added to read as follows:

(ii) For a noneviction plan submitted to the Department of Law prior to June 15, 2019, or for a noneviction plan submitted to the Department of Law on or after June 15, 2019 for a building containing five or fewer units and where the sponsor of the offering plan offers the unit that they or their immediate family member has occupied for at least two years, state that the plan may not be declared effective until written purchase agreements have been executed and delivered for at least 15 percent of all dwelling units in the building or group of buildings or development subscribed for by bona fide tenants in occupancy, or bona fide purchasers who represent that they intend that they or a specified member of their immediate family occupy the dwelling unit when it becomes vacant. As to tenants who were in occupancy on the date the plan was accepted for filing, the subscription agreement shall be executed and delivered pursuant to an offering made without discriminatory repurchase agreements or other discriminatory inducements.

[(ii)] (iii) For an eviction plan submitted to the Department of Law prior to June 15, 2019, state that the plan may not be declared effective unless at least 51 percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings on the date the offering statement or prospectus was accepted for filing shall have executed and delivered written agreements to purchase under the plan pursuant to an offering made in good faith without fraud and with no discriminatory inducements.....

Subsection 18.3(v)(5)(i) is amended to read as follows:

(i) If the plan is an eviction plan, or a non-eviction plan submitted to the Department of Law on or after June 15, 2019 pursuant to G.B.L., section 352-eeee, sponsor and other holders must agree not to exercise voting control of the board of directors for more than two years after closing, or whenever the unsold shares constitute less than 50 percent of the shares, whichever is sooner. If the plan is submitted to the Department of Law pursuant to G.B.L., section 352-e(2-a) or 352-eee or 352-eeee prior to June 15, 2019, and is presented as or amended to a noneviction plan, sponsor and other holders of unsold shares must agree not to exercise voting control of the board of directors for more than five years from closing, or whenever the unsold shares constitute less than 50 percent of the shares, whichever is sooner. Disclose whether sponsor represents and provides in the by-laws, that a majority of the apartment corporation board must be owner-occupants of the building or members of an owner-occupant's household, who are unrelated to the sponsor or its principals, after the end of the sponsor control period. If sponsor does not make this representation, include the warning set forth in section 18.3(c)(3) above and discuss as a special risk.

Subsection 18.3(v)(5)(iii) is amended to read as follows:

(iii) If the plan is an eviction plan, or a non-eviction plan submitted to the Department of Law on or after June 15, 2019 pursuant to G.B.L. section 352-eeee, sponsor and other holders of unsold shares may, if the plan so provides, exercise veto power over other expenses for a period ending not more than three years after closing, or whenever the unsold shares constitute less than 25 percent of the shares, whichever is sooner. If the plan is submitted to the Department of Law pursuant to G.B.L., section 352-e(2-a) or 352-eee or 352-eeee prior to June 15, 2019, and is presented as or amended to a noneviction plan, sponsor may, if the plan so provides, exercise veto power over other expenses for a period ending not more than five years after closing, or whenever the unsold shares constitute less than 25 percent of the shares, whichever is sooner.

Subsections 18.5(e)(2), (3), (4), (5), (6), (7), (8), (9), and (10) are renumbered (e)(3), (4), (5), (6), (7), (8), (9), (10), and (11) and amended to read as follows, subsection 18.5(e)(7)(viii) is renumbered 18.5(e)(7)(ix) and a new subsection 18.5(e)(7)(viii) is added to read as follows, and a new subsection 18.5(e)(2) is added to read as follows:

(2) If the plan is submitted to the Department of Law on or after June 15, 2019 pursuant to G.B.L. section 352-eeee the amendment shall state:

(i) the percentage of units being offered for which sponsor has accepted purchase agreements;

(ii) the percentage of units being offered for which sponsor has accepted purchase agreements from bona fide tenants in occupancy; and

(iii) how such percentage was calculated, including the number of units in the base, the number of units subtracted from the base, and the basis in law for the subtractions.

[(2)] (3) If the plan is presented pursuant to any law that requires that a specific percentage of bona fide tenants in occupancy subscribe before the plan may be declared effective, the

amendment must state the percentage of bona fide tenants in occupancy who have subscribed and are being counted for purposes of declaring the plan effective. The amendment must also state how such percentage was calculated, including the number of units in the base, the number of tenants or units subtracted from the base, the basis in law for the subtractions, and the names of tenants subtracted from the base and their apartment numbers.

[(3)] (4) If the plan is not presented pursuant to a law that requires that a specific percentage of units be purchased by bona fide tenants in occupancy or that a specific percentage of tenants subscribe before the plan may be declared effective (including noneviction plans pursuant to G.B.L. section 352-eee submitted to the Department of Law prior to June 15, 2019) the amendment shall state:....

[(4)] (5) Subscription agreements that are conditional on obtaining financing or a financing commitment may be counted for purposes of declaring the plan effective.

[(5)] (6) For the purpose of computing the percentage of bona fide purchasers of dwelling units for which subscription agreements have been executed, a fractional percentage shall be rounded off to the next lower whole number.

[(6)] (7) The amendment shall include, as an exhibit, an affidavit from sponsor that shall set forth the following information:

- (i) the date the plan was accepted for filing by the Department of Law;
- (ii) the presentation date of the plan;
- (iii) a representation that all subscribers who are counted for purposes of declaring the plan effective:

- (a) are bona fide purchasers;

(b) are not purchasing as an accommodation to, or for the account or benefit of the sponsor or principals of sponsor; and

(c) have duly executed subscription agreements and have paid the full down payment as required in the Procedure to Purchase Section of the offering plan;

(iv) a representation that only subscription agreements assigned or transferred in compliance with section 18.3(q) of this Part have been counted for purposes of declaring the plan effective and if the sponsor will consent or permit assignments or transfers of the subscription agreements counted towards the effectiveness, it will only consent or permit assignments or transfers in compliance with section 18.3(q);

(v) the following information with respect to any subscriber who is the sponsor or the selling agent, or is a principal of the sponsor or the selling agent, or who is related to the sponsor or the selling agent or to any principal of the sponsor or the selling agent by blood, marriage or adoption or as a business associate, an employee, a shareholder or a limited partner.

(a) the identity of the subscriber;

(b) the identity of the unit to be purchased;

(c) the nature of the relationship; and

(d) if the unit is occupied, the name of the occupant.

(vi) If the plan is not presented pursuant to a law that requires a specific percentage of units be purchased by bona fide tenants in occupancy or that a specific percentage of tenants subscribe before the plan may be declared effective (including noneviction plans pursuant to G.B.L., section 352-eeee submitted to the Department of Law prior to June 15, 2019), include in sponsor's affidavit:

(a) a list of the subscribers who are being counted to meet the minimum percentage of units that are needed under the terms of the plan to declare the plan effective. For each subscriber, indicate the identity of the unit to be purchased; the date of the subscription agreement; the amount of the deposit paid if for any reason it is less than the amount or percentage stated in the offering plan, and an explanation of the difference; the date that the deposit was paid if the date is different from the date of the subscription agreement; and whether the subscriber is a bona fide tenant in occupancy, or a bona fide purchaser who represents that he or she or one or more members of his or her immediate family intend to occupy the dwelling unit when it becomes vacant. If the unit was vacant on the filing date, state whether the subscriber has taken physical occupancy;

(b) a representation that all subscription agreements counted towards effectiveness were from either bona fide tenants in occupancy or bona fide purchasers who represent that they or one or more members of their immediate family intend to occupy the dwelling unit when it becomes vacant;

(c) a representation that no subscriber counted for purposes of declaring the plan effective is the sponsor or the selling agent, or is a principal of the sponsor or the selling agent, or is related to the sponsor or the selling agent or to any principal of the sponsor or the selling agent by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partner. Such a subscriber, other than the sponsor or a principal of the sponsor, may be excepted from the foregoing representation and included in the count only if the sponsor has submitted proof satisfactory to the Department of Law establishing that the subscriber is either a bona fide tenant in occupancy or a bona fide purchaser who represents that he or she or one or more members of his or her immediate family intends to occupy the dwelling unit when it becomes vacant.

(vii) If the plan is presented pursuant to any law that requires that a specific percentage of bona fide tenants in occupancy subscribe before the plan may be declared effective, include:

(a) a list of subscribers who subscribed, prior to service on the tenants of any notice declaring the plan effective, and who are being counted to meet the minimum percentage that is needed to declare the plan effective. For each subscriber, indicate the identity of the unit to be purchased; the date of the subscription agreement; the purchase price if it differs for any reason from the price stated in the offering plan, and an explanation of the difference; the status of each tenant-subscriber under any applicable rent law; the amount of the deposit paid if for any reason it is less than the amount or the percentage stated in the offering plan, and an explanation of the difference; and the date that the deposit was paid if the date is different from the date of the subscription agreement. If the subscriber's tenancy commenced within the preceding three years, state the approximate date that the tenant actually took physical occupancy;

(b) a representation that the subscribers who are counted for purposes of declaring the plan effective:

(1) signed subscription agreements without fraud or duress, and with no discriminatory inducement; and

(2) do not include any subscriber who is the sponsor or the selling agent, or is a principal of the sponsor or the selling agent, or is related to the sponsor or the selling agent or to any principal of the sponsor or selling agent by blood, marriage or adoption or as a business associate, an employee, a shareholder or a limited partner. Such a subscriber, other than the sponsor or a principal of the sponsor, may be excepted from the foregoing representation and included in the count only if the sponsor has submitted proof satisfactory to the Department of Law establishing that the subscriber is a bona fide tenant in occupancy.

(viii) if the plan is presented pursuant to G.B.L., section 352-eee and submitted to the Department of Law on or after June 15, 2019, include in sponsor's affidavit:

(a) a list of the subscribers who are being counted to meet the minimum percentage of units that are needed under the terms of the plan to declare the plan effective. For each subscriber, indicate the identity of the unit to be purchased; the date of the purchase agreement; the amount of the deposit paid if for any reason it is less than the amount or percentage stated in the offering plan and an explanation of the difference; the date that the deposit was paid if the date is different from the date of the purchase agreement; and whether the subscriber is a bona fide tenant in occupancy who was in occupancy on the filing date. If the unit was vacant on the filing date or subsequently became vacant, state whether the subscriber has taken physical occupancy;

(b) a representation that subscribers who are being counted to meet the minimum percentage of units that are needed under the terms of the plan to declare the plan effective are bona fide tenants in occupancy who were in occupancy on the filing date; and

(c) a representation that the bona fide tenants in occupancy of the units that are counted for purposes of declaring the plan effective:

(1) signed purchase agreements obtained in good faith, without fraud and with no discriminatory repurchase agreements or other discriminatory inducements; and

(2) do not include any subscriber who is the sponsor, the selling agent or the managing agent, or is a principal of the sponsor, the selling agent or the managing agent or is related to the sponsor, the selling agent or the managing agent or any principal of the sponsor, the selling agent or the managing agent by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partner. Such a subscriber, other than the sponsor or a principal of the sponsor, may be excepted from the foregoing representation and included in the count only if the

sponsor has submitted proof satisfactory to the Department of Law establishing that the subscriber is a bona fide tenant in occupancy who was in occupancy on the filing date.

[(viii)] (ix) Whether sponsor has any information that any tenants have executed a “no-buy” pledge with respect to the offering.

[(7)] (8) In addition to the submissions required by subdivision (b) of this section, an amendment declaring a plan effective shall be accompanied by the following:

(i) If the plan was declared effective by notice, a copy of the notice and an affidavit of service of the notice on all tenants and purchasers.

(ii) Copies of all subscription agreements of purchasers of shares of dwelling units occupied by nonpurchasing tenants which shall include an agreement by the purchaser to comply with the requirements of section 18.3(n)(3)-(4) of this Part, if applicable.

(iii) If the plan is not presented pursuant to a law that requires a specific percentage of tenants subscribe before the plan may be declared effective (including noneviction plans pursuant to G.B.L. section 352-eee submitted to the Department of Law prior to June 15, 2019) an amendment declaring the plan effective shall be accompanied by all subscription agreements being counted towards effectiveness. Subscription agreements of nontenant subscribers being counted towards effectiveness must include:

(a) a representation by the subscriber that he or she or one or more members of his or her immediate family intends to occupy the dwelling unit when it becomes vacant;

(b) a statement identifying the individual(s) who intend(s) to occupy the dwelling until when it becomes vacant; and

(c) a listing by the subscribers of all other subscription agreements in which they made similar representations of intent to occupy.

(iv) If sponsor has granted permission to assign or transfer a subscription agreement, a copy of each assignee's notarized affidavit as described in section 18.3(q) of this Part that the assignee was not procured by the sponsor or the selling agent, and that the assignee or a specified member of the assignee's immediate family intends to personally occupy the dwelling unit.

(v) A rent roll as of the filing date of the offering plan.

[(8)] (9) If the plan is presented pursuant to any law that requires that a specific percentage of tenants subscribe before the plan may be declared effective and subscriptions have been received for less than 150 percent of the number of units necessary to declare the plan effective, or pursuant to G.B.L., section 352-eeee and submitted to the Department of Law on or after June 15, 2019, include a copy of the first page and the signature page of each subscription agreement and any additional pages that contain any additions, deletions or modifications of the subscription agreement as it appears in the offering plan.

[(9)] (10) Sponsor must submit to the Department of Law, if requested, copies of subscription agreements and any related documents, including, without limitation, any amendments to or modifications of subscription agreements, [and] evidence of downpayments or other payments received, and copies of any leases or rental agreements, within five business days after the request is made.

[(10)] (11) If the plan either was submitted on or after September 1, 2016 subject to G.B.L. sections 352-e(2-a) or 352-eee, or was submitted on or after September 1, 2016 but prior to June 15, 2019 subject to G.B.L. section 352-eeee, and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, include copies of all executed eligible senior citizen and/or eligible disabled person election forms (forms SH-1/SH-5 and SH-2, respectively), if any. If the plan was

submitted on or after June 15, 2019 subject to G.B.L. section 352-eeee, include copies of all executed eligible senior citizen and/or eligible disabled person election forms (forms SH-1 and SH-2, respectively), if any. In such instances, sponsor must also submit to the Department of Law, if requested, copies of the renewal leases for any tenants who have elected eligible senior citizen or eligible disabled person status....

Section 18.8 of Title 13 is amended to read as follows:

(a) Election. A tenant may elect not to purchase as an eligible senior citizen or eligible disabled person as defined in G.B.L., section 352-e(2-a) or 352-eeee, or as an eligible disabled person as defined in G.B.L., section 352-eee, within 60 days from the presentation date (or, if the plan is submitted pursuant to G.B.L., section 352-eeee on or after June 15, 2019, within 60 days from the presentation date or within 60 days of the date the plan is submitted to the Department of Law) by completing the applicable form, SH-1 or SH-2, prescribed by the Department of Law and included in the offering plan immediately preceding the introduction page, signing the election form and having the signature notarized, and personally delivering it to the named sponsor or selling agent at a location specified by the sponsor in the plan or by mailing it by certified or registered mail, return receipt requested, to the named sponsor or selling agent at an address specified by the sponsor in the plan. G.B.L., section 352-eee does not require that a tenant file an election form in order to qualify as an eligible senior citizen. However, it is advised and requested that a tenant, who believes he or she is or will become an eligible senior citizen within 12 months from the date the plan is filed, complete the election form SH-5 promulgated by the Department of Law and included in the plan. This senior citizen election form should be completed, signed, notarized and returned to the sponsor within 60 days of presentation of the

offering plan. In the event that the plan becomes subject to G.B.L., section 352-e(2-a) after the plan was accepted for filing, the plan must be amended immediately after the statute becomes applicable to such offering, and such election may be made within 60 days of presentation of such amendment.

(1) An SH-1 or SH-2 election form is timely if it is personally delivered or postmarked before midnight of the 60th day after the presentation date (or, if the plan is submitted pursuant to G.B.L., section 352-eeee on or after June 15, 2019, before midnight on the 60th day after the presentation date or before midnight of the 60th day after the date the plan is submitted to the Department of Law), subject to statutory rules of construction. An SH-5 election form may be delivered at any time....

...

Subsection 23.1(e)(5) of title 13 is amended to read as follows:

(5) If the offering plan is submitted to the Department of Law on or after September 1, 2016 subject to G.B.L. section[s] 352-e(2-a) [or 352-eeee,] and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, the notice shall also state: If you are a senior citizen or disabled tenant as defined by G.B.L. section 352-e(2-a)(a)(iii) [and 352-eeee(1)(f)]or G.B.L. section 352-e(2-a)(a)(iv)[and 352-eeee(1)(g), respectively,] you have additional rights and protections, including the right to elect to become a non-purchasing tenant within 60 days from the date you receive the filed offering plan from the sponsor. If the offering plan is submitted to the Department of Law on or after September 1, 2016 but prior to June 15, 2019 subject to G.B.L. section 352-eeee, and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, the notice shall also state: If you

are a senior citizen or disabled tenant as defined by G.B.L section 352-eeee(1)(f) or G.B.L. section 352-eeee(1)(g), respectively, you have additional rights and protections, including the right to elect to become a nonpurchasing tenant within 60 days from the date you receive the filed offering plan from the sponsor. If the offering plan is submitted to the Department of Law on or after June 15, 2019 subject to G.B.L. 352-eeee, the notice shall also state: If you are a senior citizen or disabled tenant as defined by G.B.L. section 352-eeee(1)(f) or G.B.L. section 352-eeee(1)(g), respectively, you have the right to elect to become a nonpurchasing tenant within 60 days from the date the plan is submitted to the Department of Law and within 60 days from the date you receive the filed offering plan from the sponsor. Senior citizen and disabled tenants are advised to read the section of the offering plan entitled “Rights of Eligible Senior Citizens and Eligible Disabled Persons.”

If the offering plan is submitted to the Department of Law on or after September 1, 2016 pursuant to G.B.L. sections 352-e(2-a) or 352-eeee, and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, or if the offering plan is submitted to the Department of Law on or after June 15, 2019, the notice shall also include the eligible senior citizen and eligible disabled person election forms promulgated by the Department of Law, forms SH-1 and SH-2, respectively.

A new subsection 23.1(e)(7) is added to read as follows:

(7) The notice shall also state the percentages required to declare the plan effective and the timeframe in which sponsor must declare the plan effective, and the consequences for sponsor’s failure to declare the plan effective within such timeframe.

Subsection 23.1(o) of title 13 is amended to read as follows, and subsections 23.1(o)(7), (8), (9), and (10) are renumbered 23.1(o)(8), (9), (10), and (11), and a new 23.1(o)(7) is added to read as follows:

(o) Postings of purchase percentages. If G.B.L., section 352-eee or 352-eeee, is applicable, on the 30th, 60th, 88th and 90th day after the date of presentation of the offering plan and at least once every 30 days until the plan is declared effective or is abandoned, and on the second day before the expiration date and on the expiration date of any exclusive purchase period provided in an amendment to the plan, the sponsor shall post before noon, in a prominent place accessible to all tenants in the building, a statement under oath listing the percentage(s) of bona fide tenants in occupancy on the filing date who have signed [subscription]purchase agreements as of a specified time on the date of the statement. Such statement shall remain posted until the next statement must be posted. The percentage(s) shall be computed in the same manner as the sponsor must compute the minimum percentage(s) needed to declare the plan effective. The statement shall also be filed with the Department of Law. The Department of Law has issued model forms, which must be used by sponsors, for posting statements. No postings are required after the plan is declared effective and all exclusive purchase periods have expired. If the posting notices are to be signed by the selling agent, the sponsor must provide written authorization to the Department of Law. The statement shall include the following:

- (1) the date and time of the statement;
- (2) the date the plan was filed with the Department of Law;
- (3) the date of presentation of the plan (and the current amendment);
- (4) the last day of any exclusive purchase period(s);

(5) if an eviction plan, or a non-eviction plan submitted to the Department of Law on or after June 15, 2019, the last day for eligible senior citizens or eligible disabled persons to elect not to purchase pursuant to G.B.L., section 352-eeee, or the last day for eligible disabled persons to elect not to purchase pursuant to G.B.L., section 352-eee;

(6) if the plan is subject to G.B.L., section 352-eeee, state the number of bona fide tenants in occupancy on the filing date who have signed purchase agreements as of a time specified in the statement. If the plan is a noneviction plan subject to G.B.L., section 352-eeee, and submitted to the Department of Law prior to June 15, 2019, also state the number of bona fide nontenant purchasers who have represented that they or member(s) of their immediate family intend to occupy the unit when it becomes vacant. If the plan is an eviction plan subject to G.B.L., section 352-eee, state the number of bona fide tenants in occupancy on the filing date who have signed purchase agreements. If the plan is a noneviction plan subject to G.B.L., section 352-eee, state the number of bona fide tenants in occupancy on the filing date and also state the number of bona fide tenants who became tenants in occupancy after the filing date who have signed purchase agreements. Any purchaser who is required to be listed under section 23.5(e)[(6)] (7) (vii) of this Part shall not be included in the count unless the sponsor has submitted proof satisfactory to the Department of Law establishing that the purchaser is a bona fide tenant, or in a noneviction plan subject to G.B.L., section 352-eeee, unless the sponsor has submitted proof satisfactory to the Department of Law establishing that the purchaser is a bona fide purchaser who meets the requirements of section 23.5(e)[(3)](4)(iii) of this Part;

(7) If the plan is submitted on or after June 15, 2019 subject to G.B.L., section 352-eeee, state the number of dwelling units in the building or group of buildings or development which, as of a time specified in the statement, are subscribed for by bona fide tenants in occupancy on the date

the plan was accepted for filing. Any unit that is required to be listed under section 23.5(e) of this Part shall not be included in the count unless the sponsor has submitted proof satisfactory to the Department of Law establishing that the purchaser of such unit is a bona fide tenant.

[(7)] (8) the number of purchasers required to be listed under section 23.5(e)[(6)](7)(vii) of this Part who may not be included in the count at the time of the posting, but who[m] the sponsor seeks to include in the future;

[(8)] (9) the number of units or tenants counted in the base. If the plan is an eviction plan under G.B.L., section 352-eee or 352-eeee, or a noneviction plan submitted to the Department of Law on or after June 15, 2019 under G.B.L. section 352-eeee, also state the number of tenants or units subtracted from the base to date, and the basis in law for each subtraction;

[(9)] (10) the percentage obtained by dividing the number of purchasers to be counted towards effectiveness given in paragraph (6) of this subdivision by the number of tenants or units counted in the base given in paragraph [(8)] (9); and

[(10)] (11) if the plan is an eviction plan subject to G.B.L., section 352-eee, also give the percentage obtained by dividing: (i) the number of purchasers to be counted towards effectiveness given in paragraph (6) of this subdivision (ii) by the number of tenants or units counted in the base given in paragraph [(8)](9) of this subdivision, plus the eligible senior citizens and eligible disabled persons who were bona fide tenants in occupancy on the filing date and had been subtracted from the base in paragraph [(8)](9).

A new subsection 23.1(q) is added to read as follows:

(q) As of June 15 2019, the Department of Law no longer accepts eviction plans pursuant to G.B.L. 352-eeee.

Subsection 23.3(c)(1) of title 13 is amended to read as follows:

(1) Disclose whether sponsor is reserving the right to rent rather than sell units as they become vacant and whether sponsor is limiting its right to rent rather than sell based on objective articulable criteria, such as a significant decline in market prices of a specific percentage and the conditions upon which the sponsor would resume sales. If a mortgage currently encumbers the property or will encumber the property at the time of the first unit closing, disclose the terms of the mortgage as they apply to sponsor's obligation to market units for sale as they become vacant, including any minimum number or percentage of units which must be under contract before the plan can be declared effective, the existence of a minimum release price set by the mortgagee or a required minimum payment per sale which must be made to the mortgagee in order for the mortgagee to release its lien from the unit being sold, and limits or requirements imposed by the mortgagee for sponsor to rent rather than sell under specified market conditions. If sponsor is reserving an unconditional right to rent rather than sell, the cover of the plan must state in bold print:

BECAUSE SPONSOR IS RETAINING THE UNCONDITIONAL RIGHT TO RENT RATHER THAN SELL UNITS, THIS PLAN MAY NOT RESULT IN THE CREATION OF A CONDOMINIUM IN WHICH A MAJORITY OF THE UNITS ARE OWNED BY OWNER-OCCUPANTS OR INVESTORS UNRELATED TO THE SPONSOR. (SEE SPECIAL RISKS SECTION OF THE PLAN.)

Further disclose, in the Special Risks section, that because sponsor is not limiting the conditions under which it will rent rather than sell units, there is no commitment to sell more units than the 15 percent (or 51 percent if the plan is submitted pursuant to G.B.L., section 352-eeee on or after

June 15, 2019 except for a noneviction plan submitted to the Department of Law on or after June 15, 2019 for a building containing five or fewer units, and where the sponsor of the offering plan offers the unit that they or their immediate family member has occupied for at least two years) necessary to declare the plan effective and owner-occupants may never gain effective control and management of the condominium.

A new subsection 23.3(c)(3) of title 13 is added to read as follows:

(3) If the plan is an eviction plan under G.B.L. section 352-eee or 352-eeee, or a noneviction plan under G.B.L. section 352-eeee submitted on or after June 15, 2019, disclose that bona fide tenants in occupancy when the plan was accepted for filing have an exclusive right to purchase their dwelling units for 90 days after the plan is presented. Disclose that, following the 90-day exclusive period, such bona fide tenants who have not purchased shall have the right to match the terms and conditions contained in an executed contract to purchase the dwelling by a bona fide purchaser for an additional six months. Disclose that the tenant must exercise this right to match within fifteen days from the date of mailing by registered mail of notice of the execution of the contract of sale is served to the tenant pursuant to 23.1(d) but, if the right is exercised, the original purchaser's contract for sale shall be voided. Disclose that the deposit, advance or down payment of a purchaser whose contract is matched and voided shall be returned in full pursuant to section 23.3(q) of this Part. If the sponsor intends to offer units for sale to purchasers who were not bona fide tenants in occupancy when the plan was accepted for filing in the sixth month period during which such tenants have a right to match the terms of any contract for sale, the sponsor must disclose that such decision to match will void the contract of such purchaser and the following warning must be placed on the cover:

CONTRACTS OF PURCHASERS WHO WERE NOT BONA FIDE TENANTS IN OCCUPANCY WHEN THE PLAN WAS ACCEPTED FOR FILING MAY BE VOIDED IF THE BONA FIDE TENANT IN OCCUPANCY EXERCISES THE RIGHT TO MATCH THE TERMS OF SUCH PURCHASER'S CONTRACT WITHIN A SPECIFIED TIME PERIOD. (SEE SPECIAL RISKS SECTION OF PLAN.)

Subsection 23.3(d) of title 13 is amended to read as follows:

(d) Election forms for eligible senior citizens and eligible disabled persons. If the offering plan is submitted to the Department of Law on or after September 1, 2016 subject to G.B.L. section 352-eee, and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, include the eligible senior citizen and eligible disabled person election forms promulgated by the Department of Law, forms SH-5 and SH-2, respectively. If the offering plan is submitted to the Department of Law on or after September 1, 2016 subject to G.B.L. section 352-e(2-a)[or 352-eeee,] and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, include the eligible senior citizen and eligible disabled person election forms promulgated by the Department of Law, forms SH-1 and SH-2, respectively. If the offering plan is submitted to the Department of Law on or after September 1, 2016 but prior to June 15, 2019 subject to G.B.L. section 352-eeee , and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, include the eligible senior citizen and eligible disabled person election forms promulgated by the Department of Law, forms SH-1 and SH-2, respectively. If the offering plan is submitted to the Department of Law on or after June 15,

2019 subject to G.B.L. section 352-eeee, include the eligible senior citizen and eligible disabled forms promulgated by the Department of Law, forms SH-1 and SH-2, respectively.

Subsection 23.3(e)(6)(x) of title 13 is amended to read as follows:

(x) discuss the transitional phase of the conversion process from rental building to condominium. If the plan is submitted to the Department of Law under G.B.L., section 352-e(2-a), or submitted under G.B.L. section 352-eee or submitted under G.B.L., section 352-eeee prior to June 15, 2019, [D]disclose that because the plan can be declared effective based on sales of 15 percent of the units to tenants or bona fide purchasers for their own occupancy, purchasers may be living in a mixed rental/owner-occupied building for an indeterminate period of time and that owner-occupants may not control the board or operation of the property during such transition or ever, unless the bylaws provide for an owner-occupant majority on the board. If the plan is submitted to the Department of Law under G.B.L., section 352-eeee on or after June 15, 2019 disclose that because the plan can be declared effective based on sales of 51 percent of the units to bona fide tenants in occupancy on the date the plan was accepted for filing, purchasers may be living in a mixed rental/owner-occupied building for an indeterminate period of time and that owner-occupants may not control the board or operation of the property during such transition or ever, unless the bylaws provide for an owner-occupant majority on the board. If the plan is submitted to the Department of Law under G.B.L., section 352-eeee on or after June 15, 2019 for a building containing five or fewer units, and where the sponsor of the offering plan offers the unit that they or their immediate family member has occupied for at least two years, disclose that because the plan can be declared effective based on 15 percent of all dwelling units in the building subscribed for by bona fide tenants in occupancy or bona fide purchasers who represent that they

intend that they or one or more members of their immediate family occupy the dwelling unit when it becomes vacant, purchasers may be living in a mixed rental/owner-occupied building for an indeterminate period of time and that purchasers' units may not be marketable and owner-occupants may not control the board or operation of the property during such transition. Further discuss how the existence of rent regulated, nonpurchasing, tenants, who have a right to continued occupancy, may affect the speed of the conversion process. Discuss other aspects of living in a mixed rental/owner-occupied building, including different interests of owners and renters and the consequences of sponsor's continuing role in the building.

Subdivision 23.3(e)(8) of title 13 is amended to read as follows:

(8) Refer to schedule A for price information. State the length of any exclusive purchase period(s), that there will be no increase in prices to tenants during any exclusive purchase period for tenants, and that sponsor will not accept purchase agreements from nontenant purchasers for occupied units during any exclusive purchase period. If the plan is an eviction plan under G.B.L., section 352-eee or 352-eeee, or a noneviction plan under G.B.L., section 352-eeee submitted on or after June 15, 2019, also state that, following the exclusive period, bona fide tenants who have not purchased shall have the right to match the terms and conditions contained in an executed contract to purchase the dwelling by a bona fide purchaser for an additional six months. For the purposes of this subsection, neither a bona fide tenant of record who was not in occupancy on the date the contract of sale was executed nor a sublessee who has not been assigned the right to purchase the dwelling unit shall have this additional six-month right;

Subsection 23.3(m) of title 13 is amended to read as follows; and subsections 23.3(m)(4),(5),(6),(7), and (8) are renumbered 23.3(m)(5),(6),(7),(8), and (9) and amended to read as follows; and a new 23.3(m)(4) is added to read as follows:

(m) Rights of eligible senior citizens and eligible disabled persons.

If [the offering plan is submitted to the Department of Law on or after September 1, 2016 subject to]G.B.L. sections 352-e(2-a), 352-eee or 352-eeee are applicable (or in cases where applicable local law confers special rights for senior citizens, disabled persons, or other protected class of tenants), [and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016,]include the following information on the rights of eligible senior citizens and eligible disabled persons.

(1) Explain that senior citizens and disabled persons who meet the eligibility requirements may not be evicted by unit owners or any subsequent purchaser at any time because the building is converted to condominium ownership or under owner occupancy provisions of rent codes.

(2) If G.B.L., section 352-eee is applicable, the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, and the plan was submitted to the Department of Law on or after September 1, 2016, state that:

(i) an eligible senior citizen is a nonpurchasing tenant who is 62 years of age or older on the date the plan is declared effective and the spouse of any such tenant on such date;

(ii) G.B.L., section 352-eee does not require that a tenant file an election form in order to qualify as an eligible senior citizen. However, it is advised and requested that a tenant who believes he or she is or will become an eligible senior citizen within 12 months from the date the plan is filed, complete the election form SH-5 promulgated by the Department of Law and included in

the plan. This senior citizen election form may be completed, signed, notarized and returned to the sponsor;

(3) If G.B.L., section 352-e(2-a) is applicable, the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, and the plan was submitted to the Department of Law on or after September 1, 2016, or 352-eeee is applicable, the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, and the plan was submitted to the Department of Law on or after September 1, 2016 but prior to June 15, 2019, explain that an eligible senior citizen is a nonpurchasing tenant or the spouse of a nonpurchasing tenant who:

(i) is 62 years of age or older on the date that the plan is filed with the Department of Law (“filing date”); and

(ii) has elected not to purchase his or her apartment within 60 days from the presentation date by completing the senior citizen election form in the plan, signing the form and having the signature notarized, and personally delivering it to the named sponsor or selling agent at a location specified in the plan or by mailing it, by certified or registered mail, return receipt requested, to the named sponsor or selling agent at the location specified in the plan. In the event that the plan becomes subject to G.B.L., section 352-e(2-a) after the plan was accepted for filing, (a) the plan must be amended immediately after the statute becomes applicable to such offering, and (b) such election may be made within 60 days of presentation of such amendment.

(4) If G.B.L., section 352-eeee is applicable and the plan was submitted to the Department of Law on or after June 15, 2019, explain that an eligible senior citizen is a nonpurchasing tenant or the spouse of a nonpurchasing tenant who:

(i) is 62 years of age or older on the date the plan was submitted to the Department of Law or the date that the plan is filed with the Department of Law (“filing date”); and

(ii) has elected not to purchase his or her apartment within 60 days from the date the plan was submitted to the Department of Law or the presentation date by completing the senior citizen election form in the plan, signing the form and having the signature notarized, and personally delivering it to the named sponsor or selling agent at a location specified in the plan or by mailing it, by certified or registered mail, return receipt requested, to the named sponsor or selling agent at the location specified in the plan. In the event that the plan becomes subject to G.B.L., section 352-e(2-a) after the plan was accepted for filing, (a) the plan must be amended immediately after the statute becomes applicable to such offering, and (b) such election may be made within 60 days of presentation of such amendment.

~~[(4)]~~ (5) Explain that an eligible disabled person is a nonpurchasing tenant or spouse of a nonpurchasing tenant who:

(i) has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which is demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which is expected to be permanent, and which prevents the disabled person from engaging in any substantial gainful employment on the date the Department of Law accepted the plan for filing or, if G.B.L., section 352-eeee is applicable and the plan was submitted to the Department of Law on or after June 15, 2019, on the date the plan was submitted to the Department of Law or on the date the Department of Law accepted the plan for filing;

(ii) has elected not to purchase his or her apartment within 60 days from the presentation date or, if G.B.L., section 352-eeee is applicable and the plan was submitted to the Department of Law

on or after June 15, 2019, within 60 days from the date the plan was submitted to the Department of Law or within 60 days from the presentation date of the plan accepted for filing, by completing the disabled person election form in the plan, signing the form and having the signature notarized, and personally delivering it to the named sponsor or selling agent at a location specified in the plan or by mailing it, by certified or registered mail, return receipt requested, to the named sponsor or selling agent at the location specified in the plan. In the event that the plan becomes subject to G.B.L., section 352-e(2-a) after the plan was accepted for filing, (a) the plan must be amended immediately after the statute becomes applicable to such offering, and (b) such election may be made within 60 days of presentation of such amendment; and (iii) if the disability first occurs after acceptance of the plan for filing, then such election may be made within 60 days following the onset of such disability unless during the period subsequent to 60 days following the presentation of the plan for filing but prior to such election, the offeror accepts a written agreement to purchase the apartment from a bona fide purchaser.

[(5)] (6) Describe the protections given to eligible senior citizens and eligible disabled persons under G.B.L., section 352-e(2-a), 352-eee or 352-eeee, including the following:

- (i) No eviction proceeding will be commenced at any time against either eligible senior citizens or eligible disabled persons, except that such proceedings may be commenced for nonpayment of rent, illegal use or occupancy of the apartment, refusal of reasonable access to the owner or a similar breach of obligations to the landlord.
- (ii) Eligible senior citizens and eligible disabled persons who reside in apartments subject to government regulation as to rentals and continued occupancy shall continue to be subject thereto.
- (iii) The rentals of eligible senior citizens and eligible disabled persons who reside in dwelling units not subject to government regulation as to rentals and continued occupancy, and eligible

senior citizens and eligible disabled persons who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing by the Department of Law, shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy. Complaints concerning such increases may be referred to the New York State Department of Law, Real Estate Finance Bureau, 28 Liberty Street, New York, NY 10005.

(iv) The rights granted under the plan and rent regulatory laws to eligible senior citizens and eligible disabled persons may not be abrogated or reduced, regardless of any expiration of or amendment to G.B.L., section 352-e(2-a), 352-eee or 352-eeee.

(v) Each purchaser, including a holder of unsold shares, of the shares allocated to an apartment occupied by an eligible senior citizen or eligible disabled person, shall be bound by the provisions of the G.B.L. and the terms of the plan. Each purchaser will be required to represent in writing to the apartment corporation, at the time of acquisition, that the purchase is subject to all the rights of the eligible senior citizen or eligible disabled person occupying the apartment, and that the purchaser, his successors and assigns shall continue to be bound as long as such occupancy continues.

[(6)] (7) Sponsor may dispute the election by a tenant to be an eligible senior citizen or an eligible disabled person by applying to the Department of Law for a determination of the tenant's eligibility within 30 days of the receipt of the election form pursuant to section 23.8 of this Part. The Department of Law shall issue a determination of eligibility within 30 days thereafter.

[(7)] (8) In the absence of fraud, the determination by the Department of Law is the sole method for determining a dispute as to whether a tenant is an eligible senior citizen or eligible disabled

person. The determination by the Department of Law is reviewable only through a proceeding under article 78 of the Civil Practice Law and Rules, which must commence within 30 days after the determination becomes final.

[(8)] (9) State that an election not to purchase shall not preclude an electing senior citizen or disabled person from subsequently purchasing his or her apartment on the terms and conditions set forth in section 23.8 of this Part.

Subdivision 23.3(n)(1)(i)(a) and (e) of title 13 are amended to read as follows, and a new 23.3(n)(1)(i)(g) is added to read as follows:

(i) The exclusive period. [State]:

(a) all bona fide tenants in occupancy on the date the plan is accepted for filing will have the exclusive right to purchase their dwelling units for 90 days after the plan is presented, during which time a tenant's dwelling unit shall not be shown to a third party unless such tenant has, in writing, waived the tenant's right to purchase;

...

(e) a bona fide sublessee in occupancy on the date the plan is accepted for filing has the right to purchase during the exclusive period if [he or she]: (1) the sublessee sublets from a non-bona fide tenant, or (2) [has obtained written permission to purchase his or her dwelling unit from a bona fide tenant of record] the bona fide tenant of record has assigned in writing the right to purchase the dwelling unit to the bona fide sublessee. Nothing herein shall be construed to deprive an owner of any legal remedy for illegal occupancy;

...

(g) If the plan is an eviction plan under G.B.L., section 352-eee or 352-eeee, or a noneviction plan under G.B.L., section 352-eeee submitted on or after June 15, 2019, following the expiration of the 90-day exclusive period, all bona fide tenants in occupancy who have not purchased shall have an additional six-month right to match the terms and conditions contained in an executed contract to purchase the dwelling by a bona fide purchaser. Such exclusive right shall be exercisable within fifteen days from the date of mailing by registered mail of notice of the execution of a contract of sale together with a copy of said executed contract to said tenant. For the purposes of this subsection, neither a bona fide tenant of record who was not in occupancy on the date the contract of sale was executed nor a sublessee who has not been assigned the right to purchase the dwelling unit shall have this additional six-month right.

Subsection 23.3(n)(7) of title 13 is amended as follows:

(7) State that a purchase agreement from a tenant in occupancy for his or her own unit executed during any exclusive purchase period shall have priority over and preempt any purchase agreement from nontenants. This statement shall be included in the explicit terms of the purchase agreement. Further state that all bona fide tenants in occupancy who have not purchased shall have an additional six-month right, following the expiration of the 90-day exclusive period, to match the terms and conditions contained in an executed contract to purchase the dwelling by a bona fide purchaser. Such exclusive right shall be exercisable within fifteen days from the date of mailing by registered mail of notice of the execution of a contract of sale together with a copy of said executed contract to said tenant.

Subsection 23.3(n)(8) of title 13 is amended as follows:

(8) Highlight as a special risk and discuss if by reason of the termination of real estate tax benefits, tenants will no longer be subject to rent regulation. State when rent regulation will cease. If the plan is submitted to the Department of Law on or after September 1, 2016 subject to G.B.L. section 352-eee, 352-eeee, or section 352-e (2-a), and the sponsor executed a contract of sale for the building or group of buildings or acquired the building or group of buildings on or after September 1, 2016, or if the plan is submitted to the Department of Law on or after June 15, 2019 subject to G.B.L. section 352-eeee, discuss any protection against rent increases for eligible senior citizens and disabled persons contained in those sections.

Subsection 23.3(p)(1) is amended to read as follows:

(1) State whether the owner of the building may rent a[ny] vacant unit [that is vacant before the closing] for which a purchase agreement has been executed to the purchaser of such unit before closing.

Section 23.3(r)(2) of title 13 is amended as follows, and a new 23.3(r)(3) is added to read as follows:

...

(2) If the plan is submitted to the Department of Law pursuant to G.B.L. section 352-eee or pursuant to G.B.L., section 352-eeee prior to June 15, 2019, in order for assigned or transferred purchase agreement to be counted towards effectiveness:

(i) a purchase agreement shall be signed by the tenant and the full down payment paid by the tenant to the sponsor; and

(ii) the assignee shall provide an affidavit stating that the assignee was not procured by sponsor, the selling agent, or the managing agent, and that the assignee intends that he or she or a specified member of his or her immediate family will personally occupy the dwelling unit. The form assignee affidavit shall appear in Part II of the plan.

(3) If the plan is submitted to the Department of Law on or after June 15, 2019 pursuant to G.B.L., section 352-eeee in order for assigned or transferred purchase agreement to be counted towards effectiveness:

(i) a purchase agreement shall be signed by the tenant and the full down payment paid by the tenant to the sponsor; and

(ii) assignee shall provide an affidavit stating that the assignee was not procured by sponsor, the selling agent, or the managing agent and that assignee was a bona fide sublessee in occupancy on the date the plan was accepted for filing to whom the bona fide tenant of record has assigned in writing the right to purchase the dwelling unit. The form assignee affidavit shall appear in Part II of the plan.

Subsection 23.3(s)(2) of title 13 is amended to read as follows:

(2) If the plan is presented pursuant to G.B.L. section 352-eee or presented pursuant to G.B.L. section 352-eeee prior to June 15, 2019, state the minimum percentage of sales to tenants or other purchasers that are needed before the plan may be declared effective. If the plan is presented pursuant to G.B.L., section 352-eeee on or after June 15, 2019, state the minimum percentage of units that must be purchased by bona fide tenants in occupancy before the plan may be declared effective. In all plans, state that when calculating that percentage, no more than one purchase agreement by the tenant or tenants of a particular dwelling unit shall be counted.

Also state that only one purchase agreement from any tenant who leases or occupies more than one dwelling unit shall be counted towards effectiveness.

Subsection 23.3(s)(4)(iv) of title 13 is amended to read as follows:

(iv) with any purchaser who is the sponsor, the selling agent, or the managing agent or is a principal of the sponsor, the selling agent or the managing agent or is related to the sponsor, the selling agent or the managing agent or to any principal of the sponsor or the selling agent or the managing agent by blood, marriage or adoption or as a business associate, an employee, a shareholder or a limited partner; except that such a purchaser other than the sponsor or a principal of the sponsor may be included to the extent permissible under section 23.5(e)[(6)](7)(viii)(c) or (e)[(6)](7)(ix)(b)(2) of this Part, as applicable. Identify by apartment number those units that will and those units that will not be counted toward declaring the plan effective.

Subsection 23.3(s)(6) of title 13 is amended to read as follows, and 23.3(s)(6)(i),(ii), and (iii) are renumbered 23.3(s)(6)(ii),(iii), and (iv), and a new 23.3(s)(6)(i) is added to read as follows:

(6) If the plan is submitted pursuant to G.B.L., section 352-eeee:

(i) For a noneviction plan submitted to the Department of Law on or after June 15, 2019, state that the plan may not be declared effective until written purchase agreements have been executed and delivered for at least 51 percent of all dwelling units in the building or group of buildings or development subscribed for by bona fide tenants in occupancy on the date the plan was accepted for filing, for which purchase agreements shall be executed and delivered pursuant to an offering made without discriminatory repurchase agreements or other discriminatory inducements;

provided however that for a noneviction plan submitted to the Department of Law on or after June 15, 2019 for a building containing five or fewer units, and where the sponsor of the offering plan offers the unit that they or their immediate family member has occupied for at least two years the plan may be declared effective at 15 percent.

(a) In establishing a base for computing the required 51 percent of dwelling units in the building or group of buildings, all dwelling units in the building or group of buildings shall be included, except:

(1) those dwelling units, existing on the date the offering plan or prospectus was submitted to the Department of Law, that were not leased or occupied by bona fide tenants for more than five months prior to the date the offering plan or prospectus was submitted to the Department of Law; and

(2) dwelling units of eligible senior citizens and eligible disabled persons who have not subsequently purchased, unless the sponsor has disputed such election in which case the affected dwelling unit will remain in the base until such time as a final determination is made that the election is sustained.

(b) in computing the 51-percent requirement the following purchase agreements may be included:

(1) purchases by bona fide tenants in occupancy on the filing date of their dwelling units;

(2) purchases by bona fide tenants in occupancy on the filing date of dwelling units which are both vacant and not under lease;

(3) purchases by bona fide tenants in occupancy on the filing date of a dwelling unit of another bona fide tenant;

(4) purchases by the bona fide tenant of record on the filing date or by a bona fide sublessee who has the right to purchase pursuant to subdivision 23.3(n)(1)(i) of this Part;

(c) in computing the 51 percent requirement:

(1) no more than one purchase agreement by the tenant or tenants of a particular dwelling unit shall be counted; and

(2) only one purchase agreement from any tenant who leases or occupies more than one dwelling unit shall be counted towards effectiveness.

[(i)] (ii) for a noneviction plan submitted to the Department of Law prior to June 15, 2019, or for a noneviction plan submitted to the Department of Law on or after June 15, 2019 for a building containing five or fewer units, and where the sponsor of the offering plan offers the unit that they or their immediate family member has occupied for at least two years, state that the plan may not be declared effective until written purchase agreements have been executed and delivered for at least 15 percent of all dwelling units in the building or group of buildings or development by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or a specified member of their immediate family occupy the dwelling unit when it becomes vacant. As to tenants who were in occupancy on the date the plan was accepted for filing, the purchase agreement shall be executed and delivered pursuant to an offering made without fraud and discriminatory repurchase agreements or other discriminatory inducements.

[(ii)] (iii) for an eviction plan submitted to the Department of Law prior to June 15, 2019, state that the plan may not be declared effective unless at least 51 percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings on the date the offering statement or prospectus was accepted for filing shall have executed and delivered written

agreements to purchase under the plan pursuant to an offering made in good faith without fraud and discriminatory repurchase agreements or other discriminatory inducements;

(a) in establishing a base for computing the required 51 percent, all dwelling units in the building or group of buildings shall be included, except:

(1) those that were both vacant and not under lease on the date the offering plan or prospectus was accepted for filing by the Department of Law (the filing date); and

(2) dwelling units of eligible senior citizens and eligible disabled persons who have not subsequently purchased, unless the sponsor has disputed such election in which case the affected dwelling unit will remain in the base until such time as a final determination is made that the election is sustained.

(b) in computing the 51-percent requirement the following purchase agreements may be included:

(1) purchases by bona fide tenants in occupancy on the filing date of their dwelling units;

(2) purchases by bona fide tenants in occupancy on the filing date of dwelling units which are both vacant and not under lease;

(3) purchases by bona fide tenants in occupancy on the filing date of a dwelling unit of another bona fide tenant;

(4) purchases by the bona fide tenant of record on the filing date or by a subtenant who has the right to purchase; and

(5) purchase of dwelling units leased to a corporation, partnership, trust, or other entity.

...

Section 23.3(w) of title 13 is amended to read as follows:

(w) Control by the sponsor.

Describe the extent to which sponsor will or may control the board of managers after the closing of the first unit and the consequences to purchasers of such reservation of control, subject to the following requirements:

(1) If the plan is an eviction plan, or a non-eviction plan submitted to the Department of Law on or after June 15, 2019 pursuant to G.B.L. section 352-eeee, sponsor must agree not to exercise voting control of the board of managers for more than two years after the closing of the first unit or whenever the unsold units constitute less than 50 percent of the common interest, whichever is sooner. If the plan is submitted to the Department of Law pursuant to G.B.L., section 352-e(2-a) or 352-eee or 352-eeee prior to June 15, 2019, and is presented as or amended to a noneviction plan, sponsor must agree not to exercise voting control of the board of managers for more than five years from the closing of the first unit, or whenever the unsold units constitute less than 50 percent of the common interests, whichever is sooner. If the bylaws of the condominium do not include a provision that, after an initial sponsor control period, a majority of the board of managers must be owner-occupants or members of an owner-occupant's household who are unrelated to the sponsor and its principals, this fact must be disclosed as a special risk. Specify the manner and timing in which the sponsor will relinquish control of the board of managers. Sponsor shall disclose that a meeting will be held to elect new board members unrelated to the sponsor within 30 days of the expiration of the control period.

(2) Sponsor may not exercise veto power over expenses described in schedule B, or over expenses required: (i) to comply with applicable laws or regulations; or (ii) to remedy any notice of violation; or (iii) to remedy any work order by an insurer.

(3) If the plan is an eviction plan, or a non-eviction plan submitted to the Department of Law on or after June 15, 2019 pursuant to G.B.L. section 352-eeee, sponsor may, if the plan so provides,

exercise veto power over expenses other than those described in paragraph (2) of this subdivision for a period ending not more than three years after the closing of the first unit or whenever the unsold units constitute less than 25 percent of the common interest, whichever is sooner. If the plan is submitted to the Department of Law pursuant to G.B.L., section 352-e(2-a) or 352-eee or 352-eeee prior to June 15, 2019, and is presented as or amended to a noneviction plan, sponsor may, if the plan so provides, exercise veto power over such other expenses for a period ending not more than five years after the closing of the first unit or whenever the unsold units constitute less than 25 percent of the common interest, whichever is sooner.

Subsections 23.5(e)(2), (3),(4),(5),(6),(7),(8), and (9) are renumbered 23.5(e)(3),(4),(5),(6), (7), (8), (9), and (10); the new (4), (7), (8), (9), and (10) are amended to read as follows; and a new section 23.5(e)(2) of title 13 is added to read as follows:

(2) If the plan is submitted to the Department of Law on or after June 15, 2019 pursuant to G.B.L, section 352-eeee, the amendment shall state:

(i) the percentage of units being offered for which sponsor has accepted purchase agreements;

(ii) the percentage of units being offered for which sponsor has accepted purchase agreements from bona fide tenants in occupancy; and

(iii) how such percentage was calculated, including the number of units in the base, the number of units subtracted from the base, and the basis in law for the subtractions.

....

[(3)] (4) If the plan is not presented pursuant to a law that requires that a specific percentage of units be purchased by bona fide tenants in occupancy or that a specific percentage of tenants purchase before the plan may be declared effective (including noneviction plans pursuant to

G.B.L., section 352-eeee submitted to the Department of Law prior to June 15, 2019) the amendment shall state:

- (i) the percentage of units being offered for which sponsor has accepted purchase agreements;
- (ii) the number of purchase agreements from bona fide tenants in occupancy; and
- (iii) the number of purchases by bona fide purchasers who represent that they intend that they or one or more members of their immediate family occupy the dwelling unit when it becomes vacant.

.....

[(6)] (7) The amendment shall include, as an exhibit, an affidavit from sponsor that shall set forth the following information:

- (i) the date the plan was accepted for filing by the Department of Law;
- (ii) the presentation date of the plan;
- (iii) a representation that all statements required pursuant to G.B.L., section 352-eee or 352-eeee have been posted;
- (iv) a representation that all purchasers who are counted for purposes of declaring the plan effective:
 - (a) are bona fide purchasers; and
 - (b) are not purchasing as an accommodation to, or for the account or benefit of the sponsor or principals of sponsor; and
 - (c) have duly executed purchase agreements and have paid the full downpayment as required in the procedure to purchase section of the offering plan;
- (v) a representation that only purchase agreements assigned or transferred in compliance with section 23.3(r) of this Part have been counted for purposes of declaring the plan effective and if

the sponsor will consent or permit assignments or transfers of the purchase agreements counted towards the effectiveness, it will only consent or permit assignments or transfers in compliance with section 23.3(r);

(vi) a representation that there are no material changes to the projected budget for the first year's operation which have not been disclosed in a duly filed amendment to the offering plan;

(vii) the following information with respect to any purchaser who is the sponsor, the selling agent or the managing agent or is a principal of the sponsor, the selling agent, or the managing agent or who is related to the sponsor, the selling agent or the managing agent or to any principal of the sponsor, the selling agent or the managing agent by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partner:

(a) the identity of the purchaser;

(b) the identity of the unit to be purchased;

(c) the nature of the relationship; and

(d) if the unit is occupied, the name of the occupant;

(viii) if the plan is not presented pursuant to a law that requires a specific percentage of units be purchased by bona fide tenants in occupancy or that a specific percentage of tenants to purchase before the plan may be declared effective (including noneviction plans pursuant to G.B.L., section 352-eee submitted to the Department of Law prior to June 15, 2019), include in sponsor's affidavit:

(a) a list of the purchasers who are being counted to meet the minimum percentage of units that are needed under the terms of the plan to declare the plan effective. For each purchaser, indicate the identity of the unit to be purchased; the date of the purchase agreement; the amount of the deposit paid if for any reason it is less than the amount or percentage stated in the offering plan

and an explanation of the difference; the date that the deposit was paid if the date is different from the date of the purchase agreement; and whether the purchaser is a bona fide tenant in occupancy, or a bona fide purchaser who represents that he or she or one or more members of his or her immediate family intend to occupy the dwelling unit when it becomes vacant. If the unit was vacant on the filing date or subsequently became vacant, state whether the purchaser has taken physical occupancy;

(b) a representation that all purchase agreements counted towards effectiveness were from either bona fide tenants in occupancy or bona fide purchasers who represent that they or one or more members of their immediate family intend to occupy the dwelling unit when it becomes vacant; and

(c) a representation that no purchaser counted for purposes of declaring the plan effective is the sponsor, the selling agent or the managing agent, or is a principal of the sponsor, the selling agent, or the managing agent or is related to the sponsor, the selling agent or the managing agent or any principal of the sponsor, the selling agent or the managing agent by blood, marriage, or adoption, or as a business associate, an employee, a shareholder, or a limited partner. Such a purchaser, other than the sponsor or a principal of the sponsor, may be excepted from the foregoing representation and included in the count only if the sponsor has submitted proof satisfactory to the Department of Law establishing that the purchaser is a bona fide tenant in occupancy or is a bona fide purchaser who intends that he or she or one or more members of his or her immediate family intend to occupy the dwelling unit when it becomes vacant;

(ix) if the plan is presented pursuant to any law that requires that a specific percentage of bona fide tenants in occupancy purchase before the plan may be declared effective, include:

(a) a list of purchasers who purchased prior to service on the tenants of any notice declaring the plan effective and who are being counted to meet the minimum percentage that is needed to declare the plan effective. For each purchaser indicate the identity of the unit to be purchased; the date of the purchase agreement; the purchase price if it differs for any reason from the price stated in the offering plan and an explanation of the difference; the status of each tenant-purchaser under any applicable rent law; the amount of the deposit paid if for any reason it is less than the amount or the percentage stated in the offering plan and an explanation of the difference; and the date that the deposit was paid if the date is different from the date of the purchase agreement. If the purchaser's tenancy commenced within the preceding three years, state the approximate date that the tenant actually took physical occupancy;

(b) a representation that the purchasers who are counted for purposes of declaring the plan effective:

(1) signed purchase agreements obtained in good faith, without fraud and with no discriminatory repurchase agreements or other discriminatory inducements; and

(2) do not include any purchaser who is the sponsor, the selling agent or the managing agent, or is a principal of the sponsor, the selling agent or the managing agent or is related to the sponsor, the selling agent or the managing agent or any principal of the sponsor, the selling agent or the managing agent by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partner. Such a purchaser, other than the sponsor or a principal of the sponsor, may be excepted from the foregoing representation and included in the count only if the sponsor has submitted proof satisfactory to the Department of Law establishing that the purchaser is a bona fide tenant in occupancy;

(x) if the plan is presented pursuant to G.B.L., section 352-eeee and submitted to the Department of Law on or after June 15, 2019, include in sponsor's affidavit:

(a) a list of the purchasers who are being counted to meet the minimum percentage of units that are needed under the terms of the plan to declare the plan effective. For each purchaser, indicate the identity of the unit to be purchased; the date of the purchase agreement; the amount of the deposit paid if for any reason it is less than the amount or percentage stated in the offering plan and an explanation of the difference; the date that the deposit was paid if the date is different from the date of the purchase agreement; and whether the purchaser is a bona fide tenant in occupancy who was in occupancy on the filing date. If the unit was vacant on the filing date or subsequently became vacant, state whether the purchaser has taken physical occupancy;

(b) a representation that purchasers who are being counted to meet the minimum percentage of units that are needed under the terms of the plan to declare the plan effective are bona fide tenants in occupancy who were in occupancy on the filing date;

(c) a representation that the bona fide tenants in occupancy of the units that are counted for purposes of declaring the plan effective:

(1) signed purchase agreements obtained in good faith, without fraud and with no discriminatory repurchase agreements or other discriminatory inducements; and

(2) do not include any purchaser who is the sponsor, the selling agent or the managing agent, or is a principal of the sponsor, the selling agent or the managing agent or is related to the sponsor, the selling agent or the managing agent or any principal of the sponsor, the selling agent or the managing agent by blood, marriage or adoption, or as a business associate, an employee, a shareholder or a limited partner. Such a purchaser, other than the sponsor or a principal of the sponsor, may be excepted from the foregoing representation and included in the count only if the

sponsor has submitted proof satisfactory to the Department of Law establishing that the purchaser is a bona fide tenant in occupancy who was in occupancy on the filing date; and

[(x)] (xi) whether sponsor has any information that any tenants have executed a “no-buy” pledge with respect to the offering.

[(7)] (8) In addition to the submissions required by subdivision (b) of this section, an amendment declaring a plan effective shall be accompanied by the following:

(i) If the plan was declared effective by notice, a copy of the notice and an affidavit of service of the notice on all tenants and purchasers;

(ii) Copies of all purchase agreements for dwelling units occupied by nonpurchasing tenants together with agreements by purchasers to comply with the requirements of section 23.3(o)(3) and (4) of this Part, if applicable;

(iii) If the plan is not presented pursuant to a law that requires a specific percentage of tenants purchase before the plan may be declared effective, (including noneviction plans pursuant to G.B.L., section 352-~~eeee~~ submitted to the Department of Law prior to June 15, 2019) an amendment declaring the plan effective shall be accompanied by all purchase agreements being counted towards effectiveness. If purchase agreements of nontenant purchasers are being counted towards effectiveness, submit an affidavit by each nontenant purchaser which must include:

(a) a representation by the purchaser that he or she or one or more members of his or her immediate family intends to occupy the dwelling unit when it becomes vacant; and

(b) a statement identifying the individuals who intend to occupy the dwelling unit when it becomes vacant and their relationship to the purchaser; and

(c) a listing by the purchasers of any other purchase agreements in which they made similar representations of intent to occupy.

(iv) If sponsor has granted permission to assign or transfer a purchase agreement, a copy of each assignee's notarized affidavit as described in section 23.3(r) of this Part that the assignee was not procured by the sponsor, the selling agent or the managing agent, and that the assignee or a specified member of the assignee's immediate family intends to personally occupy the dwelling unit.

(v) A rent roll as of the filing date of the offering plan.

[(8)] (9) If the plan is presented pursuant to any law that requires that a specific percentage of tenants purchase before the plan may be declared effective or pursuant to G.B.L., section 352-eee and submitted to the Department of Law on or after June 15, 2019, include a copy of the first page and the signature page of each purchase agreement and any additional pages that contain any additions, deletions or modifications of the purchase agreement as it appears in the offering plan.

[(9)] (10) Sponsor must submit to the Department of Law, if requested, copies of purchase agreements and any related documents, including without limitation, any amendments to or modifications of purchase agreements, [and] evidence of downpayments or other payments received, and copies of any leases or rental agreements, within five business days after the request is made.

[(10)] (11) If the plan either was submitted to the Department of Law on or after September 1, 2016 subject to G.B.L. sections 352-e(2-a), or 352-eee, or was submitted on or after September 1, 2016 but prior to June 15, 2019 subject to G.B.L. section 352-eeee, and the sponsor executed a contract of sale for the building or group of buildings on or after September 1, 2016, include copies of all executed eligible senior citizen and/or eligible disabled person election forms (forms SH-1/SH-5 and SH-2, respectively), if any. If the plan was submitted on or after June 15,

2019 subject to G.B.L. section 352-eeee, include copies of all executed eligible senior citizen and/or eligible disabled person election forms (forms SH-1 and SH-2, respectively), if any. In such instances, sponsor must also submit to the Department of Law, if requested, copies of the renewal leases for any tenants who have elected eligible senior citizen or eligible disabled person status.

Section 23.8(a) of Title 13 is amended to read as follows:

(a) Election.

A tenant may elect not to purchase as an eligible senior citizen or eligible disabled person as defined in G.B.L., section 352-e(2-a) or 352-eeee, or as an eligible disabled person as defined in G.B.L., section 352-eee, within 60 days from the presentation date (or, if the plan is submitted pursuant to G.B.L., section 352-eeee on or after June 15, 2019, within 60 days of the date the plan is submitted to the Department of Law or within 60 days from the presentation date) by completing the applicable form, SH-1 or SH-2, prescribed by the Department of Law and included in the offering plan immediately preceding the introduction page, signing the election form and having the signature notarized and personally delivering it to the named sponsor or agent at a location specified by the sponsor in the plan, or by mailing it by certified or registered mail, return receipt requested to the named sponsor or agent at an address specified by the sponsor in the plan. G.B.L., section 352-eee does not require that a tenant file an election form in order to qualify as an eligible senior citizen. However, it is advised and requested that a tenant, who believes he or she is or will become an eligible senior citizen within 12 months from the date the plan is filed, complete the election form SH-5 promulgated by the Department of Law and included in the plan. This senior citizen election form should be completed, signed, notarized

and returned to the sponsor. In the event that the plan becomes subject to G.B.L., section 352-e(2-a) after the plan was accepted for filing: (a) the plan must be amended immediately after the statute becomes applicable to such offering, and (b) such election may be made within 60 days of presentation of such amendment.

(1) An SH-1 or SH-2 election form is timely if it is personally delivered or postmarked before midnight of the 60th day after the presentation date (or, if the plan is submitted pursuant to G.B.L., section 352-eeee on or after June 15, 2019, before midnight of the 60th day after the date the plan is submitted to the Department of Law or before midnight of the 60th day after the presentation date) subject to statutory rules of construction. An SH-5 election form may be delivered at any time.....