

Memorandum in Support

January 30, 2024

S. 3566-B
A. 6921-B

By: Senators Cleare
By: Assemblymember Epstein
Senate: 2nd Report to Calendar
Assembly Committee: Housing

Effective Date: This act shall take effect on the 180th day after it shall become law.

AN ACT to amend the general business law, the real property law in relation to providing expanded homeownership opportunities from the conversion of certain residential rental buildings to condominium status by property owners that commit to the stewardship of permanently affordable units and the preservations of expiring affordable housing inventory in the city of New York; and providing for the repeal of such provisions upon expiration thereof.

LAW & SECTION REFERRED TO: The legislation would add a new § 352-eeee and amend §§ 352-e and 352-eeee of the General Business Law; and amend § 339-e and add § 339-mm to the Real Property Law.

The New York State Bar Association’s Real Property Section (“Section”) hereby SUPPORTS the legislation.

S3566A/A6921A aims to either preserve or increase existing affordable housing units at risk of loss or risk of distress in mixed-income buildings in New York City. S3566/A6921 is designed to preserve or increase these units by lowering the effectiveness threshold for condominium conversions to 15% to allow existing owners to convert market rate units to condominium status in exchange for transferring existing and increased affordable units to a qualified owner, a nonprofit or community land trust, for preservation and stewardship. The affordable units will be operated as rental housing for low-income persons and families or converted to affordable and limited equity cooperative status. The preservation and stewardship of these affordable units will be supported by a capital stewardship fund for the future capital needs of the units, financed from a portion of the mandated condominium reserve fund for the market rate units. To defray operating costs, the legislation also increases filing fees to the New York Attorney General’s office.

Opinions expressed are those of the Section/Committee preparing this memorandum and do not represent those of the New York State Bar Association unless and until they have been adopted by its House of Delegates or Executive Committee.

This legislation permits certain owners of mixed-income residential rental buildings to convert their market rate units to condominium status provided that those property owners transfer the existing or increased affordable units, either at risk of loss or at risk of distress, to a nonprofit or community land trust for preservation and stewardship. It provides for expanded homeownership opportunities, both by allowing for condominium conversion of market rate rental units and the potential limited equity cooperative conversion of affordable rental units, commits to the preservation, stewardship, and expansion of the affordable housing inventory in New York City, and creates capital stewardship funds to support the future capital needs of these affordable units. To defray operating costs, the legislation also increases filing fees to the New York Attorney General's office.

The Section **SUPPORTS** the legislation as amended, as policy that will be beneficial for the City and State of New York. State and local authorities will oversee the recapturing of many units of affordable housing without appropriating any taxpayer funds to a developer or sponsor. It has been suggested that these conversions may be revenue accretive to the City and State, when one accounts for the new transfer taxes, mortgage recording taxes, and increased filing fees to be generated from property owner eager to sell, and home buyers keen to purchase, market-rate rental apartments as condominium units.

Based on the foregoing, the Section **SUPPORTS** this legislation.