

# Memorandum

**TO:** New York Housing Association

**FROM:** Mark F. Glaser

**DATE:** 25 October 2023

**RE:** Manufactured Home Bills Signed by the Governor Today

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Governor Hochul signed three bills today that will impact the manufactured housing industry and communities. Please review the following summaries of the bills, especially the Right of First Refusal which will have a significant impact on manufactured home community owners.

## 1. Right of First Refusal

- A. 5549-A (Thiele) /S. 5881-A (Skoufis) This bill, which does not take effect until April 25, 2024, requires that if a manufactured home community owner intends to accept an offer to sell the community, or markets the community for sale, the owner must notify the residents of the community and provide the residents with an opportunity to purchase the community on the same terms and conditions as provided in the offer received by the community owner. NYHA has been fighting this bill for over 20 years, and asked the Governor to veto the bill, as she did last year. Even though only minor changes were made to the bill in 2023, and over NYHA's strong objections, the Governor chose to sign the bill. The legislation is complex and has various options, depending on the nature of the community. The following is a summary of the procedures under the new law:
- A. The process set up by the bill requires that upon receipt of a bona fide offer that the community owner intends to accept, **the community owner must notify:**
    - i) If there is a homeowners association in the community (of which at least 50%+1 of all residents are members), the officers of the homeowners association who must be provided with notice of the proposed sale which includes "all the terms" of the offer; or
    - ii) If no homeowners association exists, or the community owner does not have the names and addresses of the officers of the association, all manufactured homeowners in the manufactured home community must be informed of the substantial details of the sale and of their right to purchase the community;
    - iii) In all cases, the Commissioner of Housing and Community Renewal must be notified that the community owner plans to accept an offer to sell the community.

**\*\*In addition, note that the proposed contract signed with a prospective purchaser must include a provision that the owner's acceptance of the offer is subject to the community residents' right to purchase the community.**

**B.** The notice sent to the officers of the Homeowners Association, or, if none, to the community residents, is required to contain the following:

- i) The purchase price;
- ii) The material terms and conditions of the sale;
- iii) Notice that the homeowners have the right to organize a manufactured homeowners association if no association exists;
- iv) That purchase financing may be available through New York State Homes and Community Renewal and,
- v) That the homeowners association, a cooperative, or manufactured homeowners or tenants have 140 days to exercise their right to purchase the community.

**C.** If a homeowners association exists at the time of notification from the park owner, and the association wishes to purchase the park, the association **must**, within 60 days of receipt of the notice, give notice to the park owner that the association intends to make an offer to purchase the park. If no such notice is given within the 60- day period, "the park owner has no further obligation to sell the community to the residents."

**D.** If the homeowners association wishes to purchase the community, and gives notice within the 60-day period, the association then has 140 days to give the community owner "an executed offer to purchase which meets the identical price, terms, and conditions of the offer or counteroffer provided in the notice from the community owner, unless otherwise agreed to by the community owner."

**E.** If no homeowners association exists at the time of the offer, homeowners have 60 days from the date of receipt of the notice from the community owner to give the park owner a notice of intent to purchase the community. The notice must be signed by 50%+1 of all of the manufactured homeowners in the community. If this notice is not made within the 60 day period, the community owner may proceed with the sale of the community.

**F.** If the required notice is given, residents must then, within 140 days, form a homeowners association consisting of not less than 50%+1 of the residents, designate officers of the association and deliver a fully executed offer to purchase that meets the terms and conditions of the original offer.

**G.** During the 140-day period, the community owner may NOT accept a final, unconditional offer to purchase the community.

**H.** If no offer from the newly-formed homeowners association is received within the 140 day period, the community owner may proceed with the original offer,

provided that the terms and conditions are the same as contained in the notice to the community

- I. **CAUTION:** If the community owner elects to sell the community for a price lower than the amount specified in the notice to the residents, the homeowners association must be given a 30 period in which to match the lower price

## II. **Other manufactured home bills signed by the Governor:**

- A. A. 7422 (Barrett/McDonald) / S. 7381 (Skoufis)

Harmonizes New York State penalty for violations of federal manufactured home construction or installation standards, or violations of NYS standards. Current law limits the fine to \$1,000. Federal standards may exceed that amount, thus bringing NYS out of compliance with federal law. This legislation ties the State penalties to the federal requirements and will bring NYS into compliance.

- B. A. 7403-A (McMahon) / S. 7541 (Comrie)

Facilitates the purchase by the state of New York mortgage agency of mortgages on manufactured homes by authorizing the State of NY Mortgage Agency (SONYMA) to purchase mortgages on manufactured homes as personal property. Current law only allows SONYMA to purchase manufactured home loans for homes that are considered to be real property. The bill also allows for pooling of loans.

This bill was requested by the Division of Housing and supported by NYHA.