

ments, as full compliance would require minimal enhancements to present hiring and follow-up practices.

Consideration was given to including a cure period to afford adult home and enriched housing programs an opportunity to correct violations associated with this rule; however, this option was rejected because it is believed that lessening the Department's ability to enforce the regulations for violations could expose this already vulnerable population to greater risk to their health and safety.

**Small Business and Local Government Participation:**

The Department will notify all New York State certified ACFs by a Dear Administrator Letter (DAL) informing them of this Justice Center expansion of the protection of vulnerable people. Regulated parties that are small businesses and local governments are expected to be prepared to participate in required Justice Center activities on the effective date of this amendment because the staff and infrastructure needed for performance of these are already in place.

**Rural Area Flexibility Analysis**

**Types and Estimated Number of Rural Areas:**

This rule applies uniformly throughout the state, including rural areas. Of the twenty-seven (27) current facilities that will fall under the purview of the Justice Center for the Protection of People with Special Needs (Justice Center), two (2) are located in rural counties, as follows: Genesee County and Rensselaer County. Of the 530 adult homes and enriched housing programs statewide, including those not under the purview of the Justice Center, 160 are in rural areas.

**Reporting and Recordkeeping and Other Compliance Requirements:**

**Reporting and Recordkeeping:**

Reporting, recordkeeping and other compliance requirements are addressed in the "Costs to Regulated Parties" and "Paperwork" sections of the Regulatory Impact Statement. None of the requirements imposed by the amendments would impose different, or unique, burdens on rural areas; the requirements apply equally statewide.

**Other Compliance Requirements:**

Compliance requirements are discussed in the "Costs to Regulated Parties" and "Paperwork" sections of the Regulatory Impact Statement. None of the requirements imposed by the amendments would impose different, or unique, burdens on rural areas; the requirements apply equally statewide.

**Professional Services:**

There are no additional professional services required to comply with the proposed amendments.

**Compliance Costs:**

**Cost to Regulated Parties:**

Compliance requirements and associated costs are discussed in the "Costs to Regulated Parties" and "Paperwork" sections of the Regulatory Impact Statement. None of the requirements imposed by the amendments would impose different, or unique, burdens on rural areas; the requirements apply equally statewide.

**Economic and Technological Feasibility:**

There are no changes requiring the use of technology. The proposal is believed to be economically feasible for impacted parties. The amendments impose additional reporting and investigation requirements that will use existing staff that already have similar job responsibilities. There are no requirements that that involve capital improvements.

**Minimizing Adverse Economic Impact on Rural Areas:**

Department efforts to consider minimizing the impact of the amendments, and its consideration of alternatives to the amendments, are discussed in the "Alternatives" section of the Regulatory Impact Statement.

**Rural Area Participation:**

Of the twenty-seven (27) current facilities that will fall under the purview of the Justice Center, two (2) are located in rural counties, as follows: Genesee County and Rensselaer County. The Department will notify all New York State-certified adult care facilities (ACFs) by a Dear Administrator Letter (DAL) informing them of this expansion of requirements to protect people with special needs. Regulated parties in rural areas are expected to be able to participate in requirements of the Justice Center on the effective date of this amendment.

**Job Impact Statement**

No Job Impact Statement is required pursuant to Section 201-a (2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment that it will have no impact on jobs and employment opportunities, because it does not result in an increase or decrease in current staffing level requirements. Tasks associated with reporting new incidents types, reporting to the Justice Center for the Protection of People with Special Needs (Justice Center), as opposed to the Commission on the Quality of Care and Advocacy for People with Disabilities, making public certain information as directed by the Justice Center and assisting with the investigation of new reportable incidents are expected to be completed by

existing facility staff. Similarly, the need for a medical examination of the patient in the course of investigating reportable incidents is similarly not appreciably different from the current practice of obtaining such examination under such circumstances. Accordingly, the amendments should not have any appreciable effect on employment as compared to current requirements.

## Division of Housing and Community Renewal

### NOTICE OF ADOPTION

#### Give PHAs Greater Discretion in Establishing Standards for Admission and Continued Occupancy in State-Aided Housing Projects

**I.D. No.** HCR-29-15-00002-A

**Filing No.** 858

**Filing Date:** 2015-10-02

**Effective Date:** 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Repeal of section 1627-7.2; and addition of new section 1627-7.2 to Title 9 NYCRR.

**Statutory authority:** Public Housing Law, sections 14(1) and 19

**Subject:** Give PHAs greater discretion in establishing standards for admission and continued occupancy in State-aided housing projects.

**Purpose:** To eliminate outmoded standards of eligibility for State-aided public housing projects.

**Text or summary was published in** the July 22, 2015 issue of the Register, I.D. No. HCR-29-15-00002-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Mark Colon, Division of Housing and Community Renewal, 25 Beaver Street - 6 Floor, New York, New York 10004, (212) 480-6727, email: Mark.Colon@nyshcr.org

**Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2018, which is no later than the 3rd year after the year in which this rule is being adopted.

**Assessment of Public Comment**

All the comments that we received strongly supported the Division's proposed repeal of Section 1627-7.2 and the addition of a new Section 1627-7.2 that will eliminate outmoded standards of eligibility for State-aided public housing projects.

## Department of Labor

### PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

#### Fast Food Minimum Wage

**I.D. No.** LAB-42-15-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of section 146-1.2; and addition of section 146-3.13 to Title 12 NYCRR.

**Statutory authority:** Labor Law, sections 21(11), 652 and 656

**Subject:** Fast Food Minimum Wage.

**Purpose:** To implement changes to the wages for food service workers and service employees in the hospitality industry.

**Text of proposed rule:** Section 146-1.2 of 12 NYCRR Part 146 is amended as follows:

§ 146-1.2 Basic minimum hourly rate

(a) The basic minimum hourly rate, *except for fast food employees*, shall be:

- ([a]1) \$ 7.25 per hour on and after January 1, 2011;
- ([b]2) \$ 8.00 per hour on and after December 31, 2013;
- ([c]3) \$ 8.75 per hour on and after December 31, 2014;
- ([d]4) \$ 9.00 per hour on and after December 31, 2015; or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or any successor provisions].

(b) The basic minimum hourly rate for fast food employees employed in the City of New York shall be:

- (1) \$10.50 per hour on and after December 31, 2015;
- (2) \$12.00 per hour on and after December 31, 2016;
- (3) \$13.50 per hour on and after December 31, 2017;
- (4) \$15.00 per hour on and after December 31, 2018.

(c) The basic minimum hourly rate for fast food employees employed outside of the City of New York shall be:

- (1) \$9.75 per hour on and after December 31, 2015;
- (2) \$10.75 per hour on and after December 31, 2016;
- (3) \$11.75 per hour on and after December 31, 2017;
- (4) \$12.75 per hour on and after December 31, 2018;
- (5) \$13.75 per hour on and after December 31, 2019;
- (6) \$14.50 per hour on and after December 31, 2020;
- (7) \$15.00 per hour on and after July 1, 2021.

(d) If a higher wage is established by federal law pursuant to 29 U.S.C. section 206 or any successor provisions, such wage shall apply.

A new section 146-3.13 of 12 NYCRR Part 146 is added to read as follows:

§ 146-3.13 Fast Food Employee

(a) "Fast Food Employee" shall mean any person employed or permitted to work at or for a Fast Food Establishment by any employer where such person's job duties include at least one of the following: customer service, cooking, food or drink preparation, delivery, security, stocking supplies or equipment, cleaning, or routine maintenance.

(b) "Fast Food Establishment" shall mean any establishment in the state of New York: (a) which has as its primary purpose serving food or drink items; (b) where patrons order or select items and pay before eating and such items may be consumed on the premises, taken out, or delivered to the customer's location; (c) which offers limited service; (d) which is part of a chain; and (e) which is one of thirty (30) or more establishments nationally, including: (i) an integrated enterprise which owns or operates thirty (30) or more such establishments in the aggregate nationally; or (ii) an establishment operated pursuant to a Franchise where the Franchisor and the Franchisee(s) of such Franchisor owns or operates thirty (30) or more such establishments in the aggregate nationally. "Fast Food Establishment" shall include such establishments located within non-Fast Food Establishments.

(c) "Chain" shall mean a set of establishments which share a common brand, or which are characterized by standardized options for décor, marketing, packaging, products, and services.

(d) "Franchisee" shall mean a person or entity to whom a franchise is granted.

(e) "Franchisor" shall mean a person or entity who grants a franchise to another person or entity.

(f) "Franchise" shall have the same definition as set forth in General Business Law Section 681.

(g) "Integrated enterprise" shall mean two or more entities sufficiently integrated so as to be considered a single employer as determined by application of the following factors: (i) degree of interrelation between the operations of multiple entities; (ii) degree to which the entities share common management; (iii) centralized control of labor relations; and (iv) degree of common ownership or financial control.

**Text of proposed rule and any required statements and analyses may be obtained from:** Michael Paglialonga, Department of Labor, Building 12, State Office Campus, Room 509, Albany, NY 12240, (518) 457-4380, email: FastFood@labor.ny.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 45 days after publication of this notice.

**This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.**

**Regulatory Impact Statement**

1. Statutory Authority: The statutory authority for the promulgation of this rule is based on the Commissioner's general rulemaking authority under Labor Law § 21(11) and the specific statutory directives at Labor Law §§ 653-656 to appoint a wage board and take action on the wage board's recommendations.

2. Legislative Objectives: This rulemaking is the final step in implementing public policy objectives that the legislature sought to advance by

enacting a statutory scheme that empowers the Commissioner to administratively order minimum wage rates by occupation that are higher than the statutory minimum wage, to promulgate regulations to carry out the purposes of Article 19 of the Labor Law ("Minimum Wage Law"), and safeguard minimum wages. In enacting the Minimum Wage Law, the Legislature found that employment of workers "at wages that are insufficient to provide adequate maintenance for themselves and their families ... threatens the health and well-being of the people of this state and injures the overall economy" and that "it is the declared policy of the state of New York that such conditions be eliminated as rapidly as practicable without substantially curtailing opportunities for employment or earning power." Labor Law § 650.

Pursuant to the above-referenced objectives and Labor Law §§ 653-656, the Commissioner appointed a wage board comprised of representatives of employers, employees, and the public to investigate, hold public hearings around the state, and report back with recommendations in accordance with Labor Law § 655. The wage board met eight times between May 20, 2015 and July 27, 2015, including four public hearings around the state at which 225 people testified and approximately 1,700 written submissions, including petitions with over 160,000 signatures, were received. Each of these eight meetings was publicized in advance, open to the public, videotaped, and transmitted as a webcast. The notices, webcasts, and other materials, including the Commissioner's initial charge to the wage board, are posted on the Department of Labor's website at: <http://labor.ny.gov/fastfoodwageboard>.

Upon receipt and filing of the wage board's report and recommendations, the Commissioner gave public notice of, and solicited public comment on, the wage board's report and recommendations. The Commissioner received approximately 17,500 comments and timely issued an order, dated September 10, 2015, accepting the recommendations of the wage board in accordance with Labor Law § 656. The wage board's report and recommendation and the Commissioner's order are also posted on the Department's website at the address identified above, and notices of the report and order were published in newspapers across the State. The wage board's recommendations to establish a \$15.00 per hour minimum wage were overwhelmingly supported by the public comments received by the wage board and the Commissioner.

For the reasons set forth above, this rulemaking, which increases the minimum wage for fast food workers to \$15.00 per hour, accords with the public policy objectives that the legislature sought to advance in enacting the Minimum Wage Law and Labor Law §§ 653-656.

3. Needs and Benefits: The purpose of the rule is to codify the minimum wage increases and accompanying regulations that were ordered by the Commissioner on September 10, 2015, to effectuate the legislative objectives identified above by ensuring an adequate and sufficient minimum wage for fast food workers. The Commissioner convened the wage board upon his finding that: 60% of fast food workers in New York are in families enrolled in at least one public assistance program; nationally, fast food workers are twice as likely as all other workers to be in families that receive public assistance; in New York, 75% of fast food workers earn wages at the lowest level reported in employment statistics surveys; and nationally, 46% of fast food jobs provide between 20 and 35 work hours per week and 87% of fast food workers do not receive health benefits. The wage board found, among other things, that the current minimum wage applicable to fast food workers was insufficient in relation to the cost of living and that a wage of \$15.91 per hour is the amount sufficient to provide adequate maintenance and to protect the health of fast food employees. The findings cited above are contained in the Commissioner's Opening Statement and Charge to the 2015 Fast Food Wage Board, dated May 20, 2015, and the Report of the Fast Food Wage Board to the NYS Commissioner of Labor, filed July 31, 2015, available online at <http://labor.ny.gov/fastfoodwageboard>.

4. Costs: (a) The costs to regulated parties – Fast Food Establishments – to increase the minimum wage for fast food workers can be offset by savings and modest price increases with no reduction in employment or profits. The proposed rule would phase in those increases annually on December 31, starting with increases of \$1.50 in New York City and \$0.75 in the rest of the state, as compared with the statutory minimum wage rate of \$9.00 in effect on December 31, 2015. Respectively, those increases represent 16.6% and 8.3% of the \$9.00 statutory rate and 4.2% and 2.1% of total revenues for fast food employers whose labor costs are 25% of revenues. In subsequent years, the annual increases of \$1.50 in New York City and \$1.00 in the rest of the state would be 4.2% and 2.8% of revenues respectively. By 2021, when the proposed \$15.00 per hour rate is in effect statewide, the total increases, including payroll taxes, will amount to less than 12% of revenues in New York's fast food industry and such increases "could be absorbed through a combination of savings related to reduced turnover, sales and productivity in line with trend growth rates, and modest price increases," according to an analysis prepared for the wage board by Fiscal Policy Institute. A 3% price increase, by the group's estimate, would require no reduction in employment or profits.

(b) The costs to the Department, the State, and local governments for implementation and continuation of the rule will be de minimis. The Department currently works with employers and employees on outreach and enforcement for the current wage order for the fast food industry, and the proposed rulemaking is not expected to increase the costs for such outreach and enforcement. According to the Fiscal Policy Institute's analysis, for every \$1.00 of wage increase received by minimum wage workers, there would be \$0.43 in public assistance savings and increased income and payroll taxes at all levels of government, which would translate to an estimated fiscal benefit of \$700 million to government as a result of the proposed rule.

(c) The sources for such information and the methodology include the June 26, 2015, submission to the wage board from the Fiscal Policy Institute, available online at <http://fiscalspolicy.org/wp-content/uploads/2015/08/Parrott-June-26-2015-letter-to-Wage-Board.pdf>, and the wage board's report and the numerous studies and sources cited therein, available online at <http://labor.ny.gov/fastfoodwageboard>.

5. Local Government Mandate: None. Federal, state, and municipal governments and political subdivisions thereof are excluded from coverage under Part 146 by Labor Law §§ 651(5)(n) and 651(5) (last paragraph).

6. Paperwork: None.

7. Duplication: This rule exceeds the federal minimum wage requirements but follows the requirements set by the New York State Legislature and the recommendations of the wage board.

8. Alternatives: These amendments are required by law; thus, there are no alternatives to amending these regulations.

9. Federal Standards: This rule implements the minimum wage and requirements set forth in New York law that exceeds the federal minimum wage. There are no other federal standards relating to this rule.

10. Compliance Schedule: The regulated community will be required to comply with this regulation on and after December 31, 2015, and the wage increase to \$15.00 per hour is scheduled to be implemented over the next three years in New York City, and the next six years in the rest of the State.

#### **Regulatory Flexibility Analysis**

1. Effect of Rule: No small businesses or local governments are expected to be affected by the changes in this rulemaking. These regulations apply to chain fast food establishments with at least thirty locations nationally.

2. Compliance Requirements: There are no changes in the reporting or record-keeping requirements regarding the minimum wage. Fast Food Establishments must review their payrolls in light of the new statutory minimum wage rates to determine whether they will need to increase the amount that they pay their workers.

3. Professional Services: No professional services would be required to effectuate the purposes of this rule.

4. Compliance Costs: These rules do not impose any additional compliance costs separate and apart from the costs imposed under the current rule. Such compliance costs do not exceed the cost of reviewing and increasing the pay rate to \$15.00 per hour for fast food employees currently making less than that amount.

5. Economic and Technological Feasibility: Compliance with these regulations will be economically and technologically feasible because these regulations simply adjust the existing minimum wage rate applicable to fast food workers, without imposing new, or altering existing, requirements or procedures for complying with minimum wage requirements.

6. Minimizing Adverse Impact: This rulemaking is the result of the recommendations of a wage board which received extensive testimony and comments from the regulated community. Through that process, it was found that a wage increase to \$15.00 per hour could be absorbed through cost reductions associated with reduced turnover, increases in sales and productivity, and a small price increase. To help minimize the adverse impact, the wage board recommended, and this rulemaking implements, increases over a period of time. The phase-in period will be three years in New York City, where faster sales growth provides for a greater ability to absorb such costs, and six years outside of New York City.

7. Small Business and Local Government Participation: Opportunities to participate in the development of this rulemaking were provided through two stages of notice and comment. At the first stage, a wage board met eight times between May 20, 2015, and July 27, 2015, including four public hearings around the state at which 225 people testified and over 2000 written submissions were received. Each of these eight meetings was publicized in advance, open to the public, videotaped, and subsequently transmitted as a webcast. At the second stage, upon receipt and filing of the wage board's report and recommendations, the Commissioner gave public notice of, and solicited public comment on, the wage board's report and recommendations. A large volume of comments were received, reviewed, and evaluated by the Commissioner prior to the adoption of the recommendations of the wage board and this rulemaking.

#### **Rural Area Flexibility Analysis**

1. Types and estimated numbers of rural areas: These rules apply to all chain fast food establishments with at least thirty locations nationally and have locations throughout all areas of the State.

2. Reporting, recordkeeping and other compliance requirements: There are no changes in the reporting or record-keeping requirements regarding the minimum wage. Fast food establishments will have to review their payrolls in light of the new statutory minimum wage rates and the proposed wage orders to determine whether they will need to increase the amount that they pay to their workers.

3. Professional services: No professional services will be required to comply with this rule.

4. Costs: These rules do not impose any additional compliance costs separate and apart from the costs that exist under the current rule. Such compliance costs do not exceed the cost of reviewing and increasing the pay rate to \$15.00 per hour for fast food employees currently making less than that amount.

5. Minimizing adverse impact: This rulemaking is the result of the recommendations of a wage board which received extensive testimony and comments from the regulated community. Through that process, it was found that a wage increase to \$15.00 per hour could be absorbed through cost reductions associated with reduced turnover, increases in sales and productivity, and a small price increase. To help minimize the adverse impact, the wage board recommended, and this rulemaking implements, increases over a period of time. The phase-in period will be three years in New York City, where faster sales growth provides for a greater ability to absorb such costs, and six years outside of New York City.

6. Rural area participation: Opportunities to participate in the development of this rulemaking were provided through two stages of notice and comment. At the first stage, the wage board met eight times between May 20, 2015 and July 27, 2015, including four public hearings around the state at which 225 people testified and over 2000 written submissions were received. Each of these eight meetings was publicized in advance, open to the public, videotaped, and subsequently transmitted as a webcast. At the second stage, upon receipt and filing of the wage board's report and recommendations, the Commissioner gave public notice of, and solicited public comment on, the wage board's report and recommendations. A large volume of comments were received, reviewed, and evaluated by the Commissioner prior to the adoption of the recommendations of the wage board prior to this rulemaking.

#### **Job Impact Statement**

1. Nature of impact: This rulemaking increases the State minimum wage rate for fast food employees, limited to chain fast food establishments operating at least thirty locations nationally, to conform to the September 10, 2015, order of the Commissioner upon the report of the fast food wage board. In doing so, it is not expected to have a substantial impact on jobs or on employment opportunities.

The impact of this rulemaking should be positive for fast food workers through incremental minimum increases of \$1.50 or less per hour over the next three and six years, to \$15.00 per hour, without negatively impacting jobs, employers, or the fast food industry. It is anticipated that the phased-in implementation, savings related to reduced turnover, and sales and productivity growth, along with a small price increase, will alleviate any negative impact on jobs.

While there are many studies that examine the impact of minimum wage increases on jobs, the various findings are inconsistent and inconclusive; some studies suggest a decrease in employment and others an increase. The United States Department of Labor has stated that minimum wage increases have little to no negative effect on employment as shown in independent studies from economists across the country. [www.dol.gov/minwage/mythbuster.htm](http://www.dol.gov/minwage/mythbuster.htm).

2. Categories and numbers affected: These regulations apply only to chain fast food establishments with at least thirty locations nationally. Overall in New York State, the fast food industry employs between 164,000 and 200,000 workers in 15,000 to 20,000 locations. The ten largest fast food chains represent approximately 65 percent of all fast food locations, and an illustrative list of 137 fast food chains in the State was annexed to the report of the wage board to provide context for the scope of the number of establishments, and their employees, affected. In New York State, fewer workers in food-related occupations in these industries work full-time compared to workers in all industries. In New York State, 71.5% of fast food workers are 22 years old or older.

3. Regions of adverse impact: These regulations will not have a disproportionate impact upon any area of the State.

4. Minimizing adverse impact: The phased-in annual minimum wage increases can be absorbed through savings related to reduced turnover and sales and productivity growth, along with a small (3%) price increase. The phased-in annual minimum wage increases would require no reduction in employment or profits, according to estimates by the Fiscal Policy Institute provided to the wage board, which identified New York State as particularly well-positioned to be able to accommodate a higher minimum wage. While employers and their representatives who testified before the wage board raised concerns that a wage increase could result in layoffs, reductions in hours, and significant price increases, the wage board found that

the economic benefits of an increase in the minimum wage to \$15.00 per hour significantly outweigh the costs. Along with the finding that such costs will be minimized due to other benefits of the wage increase, to alleviate such concerns, the wage board recommended, and this rulemaking implements, increases over a period of time. The phased-in period will be three years in New York City, where faster sales growth provides for a greater ability to absorb such costs, and six years outside of New York City. Fast food establishments can further minimize any negative impact on jobs resulting from the limited increases in labor costs that result from this rulemaking by increasing sales, efficiencies, or prices, by decreasing costs, or by any combination thereof.

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## Department of Law

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### PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

#### Digital Submission Requirements for Cooperative Interests in Realty

I.D. No. LAW-42-15-00015-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of Parts 18, 20, 21, 22, 23, 24 and 25 of Title 13 NYCRR.

**Statutory authority:** General Business Law, section 352-e(2-b)

**Subject:** Digital Submission Requirements for Cooperative Interests in Realty.

**Purpose:** To streamline the Department of Law's regulations and internal operations while also reducing transaction costs and paper waste.

**Substance of proposed rule (Full text is posted at the following State website: [www.ag.ny.gov/pdfs/ref/TextReg.pdf](http://www.ag.ny.gov/pdfs/ref/TextReg.pdf)):** Pursuant to its authority under New York General Business Law Section 352-e(2-b), the Department of Law proposes to revise Parts 18, 20, 21, 22, 23, 24, and 25 of Title 13 of the Official Compilation of Codes, Rules, and Regulations of the State of New York. In brief, the Department of Law's proposed regulations would require sponsors of cooperative interests in realty to submit to the Department of Law fewer paper copies of their offering plans and the amendments and exhibits thereto. Instead, sponsors must submit a digital copy of those documents.

The proposed regulations define a digital copy as: ". . . a copy that is identical in content to a paper copy except that it is recorded electronically in read-only.pdf format or other electronic format that the Department of Law determines to be acceptable. Digital copies of the plan shall include all the supporting documents included in Part II of the plan. Digital copies of the exhibits to the plan shall include all documents referenced in section [18.2(c)(4), 20.2(c)(5), 21.2(c)(3), 22.2(c)(6), 23.2(c)(5), 24.2(c)(4), or 25.2(c)(5)], as applicable. Digital copies of the amendment shall include all exhibits, back-up documents, and other supplemental documents annexed to the amendment, as applicable."

Under the proposed regulations, sponsors will need to submit one paper copy and one digital copy of their offering plans as well as each subsequent amendment thereto. The proposed regulations will also require sponsors, when submitting an amendment to the Department of Law, to include "[o]ne digital copy of the offering plan including all previously filed amendments, if not already submitted to the Department of Law." Similarly, the proposed regulations mandate that the attorney transmittal letter for amendments state "the date on which sponsor submitted a digital copy of the offering plan and all previously filed amendments to the Department of Law or whether this is the first time sponsor is submitting a digital copy of the offering plan and previously filed amendments, if any."

The proposed regulations also alter the procedure by which sponsors submit exhibits to offering plans. The revisions require "One paper copy of all original exhibits to the offering plan and one digital copy of all exhibits to the offering plan."

Finally, in order to ensure that the Department of Law's submission requirements are consistent throughout Title 13, the proposed regulations amend and add several other related sections to Title 13. These revisions, which are most evident in the proposed additions to Part 21, streamline the Department of Law's regulations and ensure sponsor compliance with General Business Law Section 352-e(7)(a).

A complete version of the Department of Law's proposed revisions is available on the Department of Law's website. Additionally, further

clarification regarding the proposed regulations will be set forth in a Department of Law Guidance Document pursuant to the State Administrative Procedure Act Section 102(14). Such Guidance Document will be available on the Department of Law's website, as required by State Administrative Procedure Act Section 202(e).

**Text of proposed rule and any required statements and analyses may be obtained from:** Jacqueline Dischell, Department of Law, 120 Broadway, 23rd Floor, New York, New York, NY 10271, (212) 416-8655, email: [jackie.dischell@ag.ny.gov](mailto:jackie.dischell@ag.ny.gov)

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 45 days after publication of this notice.

#### Regulatory Impact Statement

1. Statutory Authority. New York General Business Law Article 23-A ("the Martin Act") regulates the advertisement, sale, purchase, and investment advice given to securities and other covered investment vehicles. See NYS CLS GBL § 352(1). Included under the Martin Act's purview is the regulation of real estate syndication offerings, including the offering of "cooperative interests in realty," which must be sold pursuant to an offering plan filed with the Real Estate Finance Bureau of the New York State Law Department. See NYS CLS GBL § 352-e(1)(a). New York General Business Law ("GBL") Section 352-e(2-b) authorizes the Attorney General to "adopt, promulgate, amend and rescind suitable rules and regulations" to carry out the provisions of GBL Section 352-e.

2. Legislative Objectives. The Martin Act demonstrates a clear intent to provide prospective purchasers with adequate information upon which to base their investment decisions. To illustrate, GBL Section 352-e(1) mandates that before any person may engage in a public offering of cooperative interests in realty, including condominiums, he or she must file with the Department of Law ("DoL") an offering plan that contains "the detailed terms of the transaction" and "such additional information...as will afford potential investors, purchasers and participants and adequate basis upon which to found their judgment." See also GBL Section 352-e(5). The Martin Act authorizes the DoL to develop and implement its own procedures with respect to the filing of this information regarding cooperative interests in realty. Under GBL Section 352-e(6), the Attorney General is "authorized and empowered to adopt promulgate, amend, and rescind suitable rules and regulations for the method, contents and filing procedures with respect to the statements required by subdivision one and the making of amendments."

Pursuant to this authority, the DoL's regulations mandate the procedures by which sponsors of cooperative interests in realty must submit to the DoL their offering plans and the subsequent amendments thereto. These regulations require a sponsor, "upon preliminary advice from the Department of Law that the proposed offering plan may be filed," to provide the DoL with three or four "copies of the typed or printed, bound offering plan." See 13 NYCRR §§ 18.2(d)(2); 19.2(d)(2); 20.2(d)(2); 22.2(d)(2); 24.2(d)(2); 25.2(d)(2). The regulations also require sponsors to submit to the DoL "three copies of the amendment to the offering plan." See 13 NYCRR §§ 18.5(b)(2); 19.5(b)(2); 20.5(b)(2); 21.5(b)(2); 22.5(b)(2); 24.5(b)(2); 25.5(b)(2).

In light of new technologies, as described below, the DoL's current regulations no longer represent the most effective means for the Agency to solicit, file, and store offering plans and amendments. Therefore, in accordance with its authority under the Martin Act, the DoL proposes to amend its regulations to increase its efficacy and efficiency while simultaneously reducing paper waste. The proposed revisions will also allow the DoL to better effectuate the investor protection provisions of the Martin Act by increasing the ease with which prospective purchasers and the public can access relevant information upon which "to found their judgment." See GBL Section 352-e(1).

3. Needs and Benefits. As described above, current DoL regulations require sponsors to submit to the DoL three or four paper copies of their offering plan and three paper copies of each subsequent amendment. This creates an incredibly high volume of documents for the DoL to process and store as well as considerable paper waste. The current regulations contain no provisions for digital submission of offering plans or the amendments thereto. When the DoL promulgated its regulations in 1989, the above procedures represented the most logical means for the Agency to solicit, file, and store information about cooperative interests in realty. However, technological advancements over the past twenty-six years have greatly changed how information is distributed, accessed, and stored. In light of the widespread access to, ownership of, and knowledge of computers and other digital devices, the DoL proposes to amend its regulations to require sponsors to submit to the DoL fewer paper copies of their offering plans and amendments, and instead submit a digital copy. The DoL expects that the use of digital copies will increase the efficiency of the DoL, which will, in turn, benefit prospective purchasers, sponsors, and the environment.