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Co-op and Condos Alert

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Governor Hochul shows support for affordable homeownership with ANNY

By Erica F. Buckley and Nichole N. Thomas

New York Governor proposes new 421-a property tax incentive program with an emphasis on affordable homeownership.



What's the Impact?

- / The proposed program seeks to increase the development of condominiums and cooperatives to spur affordable homeownership
- / Affordable homeownership projects could receive new/expanded tax incentives if ANNY is passed

On January 18, 2022, New York State Governor Kathy Hochul announced a proposal, as part of the 2023 New York State Executive Budget, to replace the existing Affordable New York (421-a) property tax incentive program with a new program to be known as the Affordable Neighborhoods for New Yorkers" or "ANNY." If passed by the New York State Legislature, ANNY would be introduced into law as Section 485-w of the New York Real Property Law.

In addition to deeper and longer affordability for rentals, Option C under ANNY provides a robust exemption to incentivize the development of affordable homeownership. Key features of the homeownership option of ANNY are as follows:

- / Available for both coops and condos
- / 100% of the units must be sold to households with incomes not exceeding 130% of the area median income, adjusted for family-size
- / 40-year tax exemption post-construction, with a pre-construction benefit up to three years
- / 40-year affordability requirement for initial and resales
- / Owners must use the unit as a primary residence for at least five years from the acquisition
- / Regulatory Agreement with oversight from the New York State Department of Housing Preservation and Development to ensure compliance with resales, primary residency requirements, and other program restrictions
- / Payment of prevailing wages to building service employees

ANNY provides another much-needed tax incentive to support the development of affordable homeownership, especially at a time when lenders have tightened lending requirements for coop purchases. Therefore, ANNY may serve as the missing tool to increase the development of affordable condominiums, by providing for an as-of-right exemption. To date, developers of affordable homeownership have primarily used Article XI under Section 577 of the New York Private Housing Finance Law, which is available for coops formed as housing development fund corporations.

Nixon Peabody will continue to monitor the ANNY proposal as it makes its way through the legislature and continually advise and update developers on the future of the 421-a tax incentive program.

For questions regarding ANNY or coops and condos, please contact your Nixon Peabody attorney or:

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