

Now & Next

Affordable Housing Alert

May 9, 2024

The New York Housing for the Future Homeownership Program

By Erica F. Buckley

New York's FY2025 budget includes a new program to bolster limited equity cooperatives.



What's the impact?

- The budget includes a new program to create more limited equity cooperatives.
- The program will be administered by the State and will provide payments, grants, and loans for limited equity cooperatives.
- The budget sets aside \$75 million to fund the program.

On April 20, 2024, the New York State Legislature passed the FY2025 budget, which included [several key measures related to housing production](#) and was immediately signed by Governor Hochul. Of particular interest is the New York Housing for the Future Homeownership Program, which is meant to bolster limited equity cooperatives. Dubbed "Mitchell Lama 2.0," the program aims to resurrect Mitchell-Lama, a mid-century program that funded the construction of housing for middle-income earners.

Summary of key provisions of New York Housing for the Future Homeownership Program

Below is a summary of the newly enacted Article 32 of the Private Housing Finance Law, which creates the “New York Housing for the Future Homeownership Program.”

- / Authorizes the Division of Housing and Community Renewal, the Housing Trust Fund Corporation, and the Housing Finance Agency (the State Housing Agencies) to develop and administer a program to assist in the creation of limited equity cooperatives by providing payments, grants, and loans.
- / Allows for:
 - The creation of limited equity cooperatives on appropriate sites, including, but not limited to, state-owned sites, municipally-owned sites, or sites owned by nonprofits or community land trusts
 - The creation of housing for persons and families up to 130% of the area median income at the time of purchase
 - The implementation of surcharges for over-income shareholders in the future
 - Shareholders to accrue equity over time but prohibits the use of a fixed percentage appreciation cap for determining resale prices
- / Requires:
 - Affordability in perpetuity
 - Independent property management
 - Annual maintenance fee increases
 - Sponsors to pay [prevailing wages](#) during construction unless a collective bargaining agreement is in place.

In addition to the above, Mitchell Lama 2.0 also empowers the State Housing Agencies to promulgate rules, regulations, guidance documents, or regulatory agreements to dictate many other key terms of a limited equity cooperative, such as:

- / Income qualifications and asset limits for new shareholders
- / Mechanisms to ensure new shareholders gain equity over time
- / Resale restrictions free of fixed percentage price caps
- / Criteria for shareholder selection of vacant apartments
- / Creation of boards of directors to manage limited equity cooperatives in a matter similar to not-for-profits.

Nixon Peabody’s [Cooperatives & Condominiums team](#) is on the cutting edge of the for-sale housing market in New York and stands ready to work with developers and sponsors on creating limited equity cooperatives under the New York Housing for the Future Homeownership Program. We will also keep a close watch on the development of Mitchell-Lama 2.0, as well as the

payments, grants, and loans that the State Housing Agencies allocate to jumpstart the launch of this exciting new program.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

[Erica F. Buckley](#)

212.940.3733

ebuckley@nixonpeabody.com

