

## Real Estate

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# Changes to New York Disclosure Requirements for LLCs Buying or Selling Residential Property

By **Stacey C. Tyler**

New York state recently changed the disclosure requirements for limited liability companies (LLCs) upon a sale or purchase of any one- to four-family residence or a residential condominium. These new requirements can prove especially onerous for complex LLC ownership structures.

## Amended New York State LLC Disclosure Requirements

As of September 13, 2019, Tax Law Section 1409 and NYC Admin Code Section 11-2105 were **amended** to require any LLC which is a seller or buyer of a one- to four-family residence or a residential condominium located in New York state to include with the required transfer forms filed with the deed transferring ownership documentation that identifies **the names, business addresses, and taxpayer identification numbers (Social Security number for individuals and employment identification number for entities) of all members, managers, and other authorized persons of the LLC**. If any member of the LLC is itself an LLC or other business entity, the aforementioned information must also be provided for the shareholders, directors, officers, members, managers, and/or partners of that LLC or other business entity **all the way up through each entity in the organizational chart until ultimate ownership by individual people is disclosed**.

This disclosure requirement applies even if the deed is for no consideration (for example, due to a gift or conveyance pursuant to a will) and/or if no tax is due. The law does not apply if the grantor or grantee is a corporation, partnership, or another legal entity other than an LLC. Other

business entities are covered only if they are members, managers, or authorized persons for the LLC grantor or LLC grantee. This disclosure requirement does not apply to easements or licenses granted to a public utility.

## Effects, Industry Reaction

There has been a lot of uproar and confusion around this new law. The intent was to address code compliance issues with abandoned homes upstate in scenarios in which municipalities were unable to determine the individuals responsible for the property due to an opaque LLC ownership structure. Apparently, some legislators were surprised that this has represented a drastic change in the real estate market, especially in New York City, where developers and wealthy buyers routinely use complex LLC structures to shield identities and insulate against risk. Now, the LLC developer of a new condo building selling off individual units will have to attempt to disclose every layer of ownership all the way up its organizational chart, which might be next to impossible, considering the participation of real estate investment trusts (REITs), retirement funds, and publicly traded corporations.

While the forms requiring the additional disclosures are filed administratively rather than recorded with the deed in the public land records at the applicable county clerk's office, the disclosed information will be available to the public through freedom-of-information requests, presenting immense privacy concerns for buyers and sellers in New York state.

There is growing outrage among real estate professionals about this new disclosure

requirement, with industry groups like REBNY and NYSLTA already lobbying the legislature for additional guidance and, hopefully, changes to the legislation.

## Summary

If you're considering purchasing or selling any one- to four-family residence or a residential condominium in the state of New York, or considering how to structure your ownership of such an asset, give us a call to discuss how these disclosure requirements may affect you.

We can help you determine how best to structure your ownership or transaction, and what disclosures may need to be made. We can also help you navigate the particular interpretation of these requirements in the county where the property is located.

## Contacts

Please contact the listed attorneys for further information on the matters discussed herein.

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