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I N S E N A T E

February 21, 2012

Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to definitions of private transfer fee obligations

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 2 of section 472 of the real property law is
2 amended by adding three new paragraphs (j), (k) and (l) to read as
3 follows:

4 (J) ANY FEE, CHARGE OR ASSESSMENT PAYABLE BY THE TRANSFEREE TO A
5 CORPORATION OR COMPANY FORMED PURSUANT TO THE PRIVATE HOUSING FINANCE
6 LAW.

7 (K) ANY FEE, CHARGE OR ASSESSMENT PAYABLE BY THE TRANSFEREE TO A
8 CORPORATION OR COMPANY THAT HAS RECEIVED A LOAN OR SUBSIDY PURSUANT TO
9 THE PRIVATE HOUSING FINANCE LAW OR GENERAL MUNICIPAL LAW.

10 (L) ANY AMOUNTS PAYABLE TO A GOVERNMENT ENTITY.

11 S 2. Paragraph (g) of subdivision 2 of section 472 of the real proper-
12 ty law, as added by chapter 522 of the laws of 2011, is amended to read
13 as follows:

14 (g) Any fee, charge, assessment, fine, or other amount payable to a
15 homeowners', condominium, cooperative, mobile home, or property owners'
16 association pursuant to a declaration [or], covenant, DULY ADOPTED
17 BY-LAW, PROPRIETARY LEASE or law applicable to such association, includ-
18 ing, but not limited to, fees or charges payable for estoppel letters or
19 certificates issued by the association or its authorized agent. No
20 amount shall be paid to a homeowners', condominium, cooperative, mobile
21 home, or property owners' association for the payment to the declarant
22 of the condominium or the creator of a homeowners', cooperative, mobile
23 home or property owners' association, or their designee.

24 S 3. Section 473 of the real property law, as added by chapter 522 of
25 the laws of 2011, is amended to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 S 473. Prohibition. A private transfer fee obligation recorded or
2 entered into in this state on or after the effective date of this
3 section does not run with the land and is not binding on or enforceable
4 at law or in equity against any owner, purchaser, or mortgagee of any
5 interest in real property as an equitable servitude or otherwise. Any
6 private transfer fee obligation that is recorded or entered into in this
7 state on or after the effective date of this section is void and unen-
8 forceable. This section shall not apply to a private transfer fee obli-
9 gation recorded or entered into prior to the effective date of this
10 section. This section shall not be deemed to require that a private
11 transfer fee obligation recorded, filed or entered into in this state
12 before the effective date of this section is presumed valid and enforce-
13 able. It is the public policy of this state that no private transfer fee
14 obligation shall be valid or enforceable whenever entered into, recorded
15 or filed. Furthermore, this article shall not validate any private
16 transfer fee agreement that is contrary to the [laws] LAW of this state.
17 S 4. This act shall take effect immediately and shall be deemed to
18 have been in full force and effect on and after September 23, 2011.