

5245

2013-2014 Regular Sessions

I N S E N A T E

May 15, 2013

Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to ground leases

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

1 Section 1. The real property law is amended by adding a new section
2 220-a to read as follows:
3 S 220-A. GROUND LEASES. 1. DEFINITIONS. FOR THE PURPOSES OF THIS
4 SECTION A "GROUND LEASE" SHALL BE DEFINED AS A RENTAL AGREEMENT THAT:
5 (A) HAS A TERM OF AT LEAST TEN YEARS;
6 (B) IS FOR THE USE OF REAL PROPERTY, WHICH MAY OR MAY NOT INCLUDE ANY
7 IMPROVEMENTS OR STRUCTURES; AND
8 (C) ALLOWS A TENANT TO CONSTRUCT OR SUBSTANTIALLY IMPROVE, RENOVATE,
9 OR REHABILITATE STRUCTURES OR IMPROVEMENTS UPON SUCH REAL PROPERTY.
10 2. REFINANCING. (A) IF ANY GROUND LEASE DOES NOT CONTAIN EXPRESS
11 PROVISIONS PROHIBITING A LESSEE FROM ENCUMBERING ITS INTEREST IN A
12 GROUND LEASE, A LESSEE MAY ENCUMBER UP TO AND INCLUDING ITS ENTIRE
13 INTEREST IN SUCH GROUND LEASE. IF SUCH GROUND LEASE CONTAINS PROVISIONS
14 RESTRICTING THE LESSEE'S ABILITY TO ENCUMBER ITS INTEREST, THE LESSEE
15 MUST OBTAIN THE LESSOR'S WRITTEN PERMISSION PRIOR TO SUCH ENCUMBRANCE.
16 (B) IF THE LESSEE IS REQUIRED TO OBTAIN THE LESSOR'S PERMISSION TO
17 ENCUMBER THE LESSEE'S INTEREST, THE LESSOR MAY ONLY REFUSE TO GRANT SUCH
18 PERMISSION FOR REASONABLE CAUSE AND MUST PROVIDE THE LESSEE WITH A WRIT-
19 TEN STATEMENT THAT SETS FORTH THE BASIS FOR THE REFUSAL WITHIN FIFTEEN
20 DAYS OF A WRITTEN REQUEST FOR PERMISSION FROM THE LESSEE.
21 (C) ANY GROUND LEASE PROVISION THAT LIMITS THE AMOUNT A LESSEE COULD
22 ENCUMBER ITS INTEREST, UP TO AND INCLUDING ITS ENTIRE INTEREST IN SUCH
23 GROUND LEASE, SHALL ALSO ADJUST SUCH AMOUNT ANNUALLY ON THE FIRST DAY OF
24 OCTOBER OF EACH YEAR BY THE CHANGE IN THE REGIONAL CONSUMER PRICE INDEX
25 FOR ALL URBAN CONSUMERS, NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND,
26 NY-NJ-CT-PA, AS ESTABLISHED THE PRECEDING AUGUST.

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

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1 IF A LESSEE HAS ENCUMBERED ITS INTEREST IN A GROUND LEASE, NO ADJUST-
2 MENT PURSUANT TO THIS PARAGRAPH THAT REDUCES THE AMOUNT SUCH LESSEE
3 COULD RECEIVE SHALL BE CONSIDERED A BREACH OF THE GROUND LEASE. ANY
4 AGREEMENT BY A LESSEE WAIVING OR MODIFYING THE PROVISIONS AS SET FORTH
5 IN THIS PARAGRAPH SHALL BE VOID AS CONTRARY TO PUBLIC POLICY.
6 S 2. This act shall take effect immediately.