

1379--A

2015-2016 Regular Sessions

I N S E N A T E

January 12, 2015

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to designating the county of Queens a cease and desist zone and establishing an affirmative defense to violations of nonsolicitation orders and cease and desist zones

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
2 442-hh to read as follows:
3 S 442-HH. DESIGNATING THE COUNTY OF QUEENS A CEASE AND DESIST ZONE.
4 NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, THE
5 COUNTY OF QUEENS SHALL BE INCLUDED ON THE CEASE AND DESIST LIST COMPILED
6 BY THE SECRETARY OF STATE PURSUANT TO SECTION FOUR HUNDRED FORTY-TWO-H
7 OF THIS ARTICLE.
8 S 2. Paragraph (a) of subdivision 2 and paragraph (c) of subdivision 3
9 of section 442-h of the real property law, as amended by chapter 505 of
10 the laws of 2001, are amended to read as follows:
11 (a) If, after a public hearing and a reasonable investigation, the
12 secretary of state determines that the owners of residential real prop-
13 erty within a defined geographic area are subject to intense and
14 repeated solicitations by real estate brokers and salespersons or others
15 to place their property for sale with such real estate brokers or sales-
16 persons, or otherwise to sell their property, and that such solicita-
17 tions have caused owners to reasonably believe that property values may
18 decrease because persons of different race, ethnic, social, or religious
19 backgrounds are moving or are about to move into the neighborhood or
20 geographic area, the secretary of state may adopt a rule, to be known as

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

LBD01582-02-5

1 a nonsolicitation order, directing all real estate brokers, salespersons
2 and other persons regularly engaged in the trade or business of buying
3 and selling real estate to refrain from soliciting residential real
4 estate listings or otherwise soliciting the sale of residential real
5 estate within the subject area. Each area subject to such an order shall
6 be bounded or otherwise specifically defined in the order. The nonsolic-
7 itation order shall be subject to such terms and conditions as the
8 secretary of state may determine are, on balance, in the best interest
9 of the public, including but not limited to the affected owners and
10 licensees. A nonsolicitation order may prohibit any or all types of
11 solicitation directed towards particular home-owners, including but not
12 limited to letters, postcards, telephone calls, door-to-door calls, and
13 handbills. Every nonsolicitation order shall contain a provision setting
14 forth the day, month and year that the order shall become effective, as
15 well as the day, month and year that the order shall expire. A nonsolic-
16 itation order shall not be effective for more than [five] TEN years.
17 However, a nonsolicitation order and the boundaries of the area where it
18 applies may be re-adopted or amended from time to time in accordance
19 with the procedures set forth herein.

20 (c) No rule establishing a cease and desist zone shall be effective
21 for longer than [five] TEN years. However, the secretary of state may
22 re-adopt the rule to continue the cease and desist zone for additional
23 periods not to exceed [five] TEN years each. Whenever a rule establish-
24 ing a cease and desist zone shall have expired or shall have been
25 repealed, all owner's statements filed with the secretary of state
26 pursuant to that rule shall also expire. However, an owner may file a
27 new statement with the secretary of state if a new rule is adopted
28 establishing a cease and desist zone containing the owner's property.
29 Once the boundaries of a cease and desist zone have been established by
30 rule of the secretary of state, the boundaries may not be changed except
31 by repeal of the existing rule and adoption of a new rule establishing
32 the new boundaries.

33 S 3. Section 442-h of the real property law is amended by adding a new
34 subdivision 4 to read as follows:

35 4. IN ANY ACTION ALLEGING A VIOLATION OF THIS SECTION, IT SHALL BE AN
36 AFFIRMATIVE DEFENSE THAT THE OWNER OF RESIDENTIAL REAL PROPERTY INCLUDED
37 IN A NONSOLICITATION ORDER OR CEASE AND DESIST ZONE PUBLICIZED THAT SUCH
38 PROPERTY WAS FOR SALE THROUGH MEANS INCLUDING BUT NOT LIMITED TO ADVER-
39 TISEMENTS OR REAL ESTATE LISTINGS.

40 S 4. This act shall take effect on the thirtieth day after it shall
41 have become a law and shall apply to all nonsolicitation orders issued
42 on and after such effective date.