

STATE OF NEW YORK

4428

2023-2024 Regular Sessions

IN ASSEMBLY

February 14, 2023

Introduced by M. of A. STECK, HUNTER, SANTABARBARA -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to requiring the modification of restrictive covenants prior to the sale of real property

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
2 327-a to read as follows:

3 § 327-a. Modification of restrictive covenants. 1. (a) If any coven-
4 ants, conditions and restrictions exist in a document to be recorded
5 which discriminate on the basis of race, color, religion, sex, sexual
6 orientation, familial status, marital status, disability, national
7 origin, source of income, or ancestry, any seller shall:

8 (i) have such unlawful restrictions removed from such document by
9 submitting a restrictive covenant modification document, which shall be
10 available from the county recorder, either with the deed for recording,
11 or separately;

12 (ii) provide the purchaser or title insurance applicant with a copy of
13 the appropriate restrictive covenant modification document prior to or
14 at the closing of title;

15 (iii) record the restrictive covenant modification document, however,
16 such seller shall not be required to pay filing fees for the recording
17 of the restrictive covenant modification document.

18 (b) Within one year of the effective date of this section, the board
19 of managers of a condominium, the board of directors of a cooperative
20 apartment corporation or a homeowners association if such real property
21 is subject to the rules and regulations of such an association, shall
22 delete or amend any covenants, conditions and restrictions that exist in
23 a recorded document which discriminate on the basis of race, color,
24 religion, sex, sexual orientation, familial status, marital status,

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

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1 disability, national origin, source of income, or ancestry. Such
2 deletions or amendments shall not be subject to the approval of property
3 owners.

4 (c) This section shall not apply to any lawful restrictions under
5 state and federal law.

6 2. The restrictive covenant modification document shall be indexed in
7 the same manner as any previously recorded document or documents to
8 which the modification document refers and shall reference the original
9 document by book and page number or instrument number and the date of
10 recording.

11 3. Subject to covenants, conditions, and restrictions recorded after
12 the original document containing unlawful restrictions, and subject to
13 covenants, conditions and restrictions recorded after the restrictive
14 covenant modification document, the restrictive covenant modification,
15 once recorded, shall be deemed the only restrictions having effect on
16 the property.

17 4. Any person holding an ownership interest in real property that he
18 or she believes is subject to an unlawfully restrictive covenant in
19 violation of state or federal law prohibiting restriction based on race,
20 color, religion, sex, sexual orientation, familial status, marital
21 status, disability, national origin, source of income, or ancestry may
22 record a restrictive covenant modification document pursuant to subdivi-
23 sion one of this section. Such recording shall include a complete copy
24 of the original document containing the unlawful language with the
25 unlawful language stricken and shall be signed under penalty of law.

26 5. The county recorder shall make available to the public forms for
27 preparation of a restrictive covenant modification document.

28 6. If the holder of an ownership interest in property causes to be
29 recorded a restrictive covenant modification document pursuant to this
30 section which contains language not authorized by this section, any
31 liability which derives from such recording shall be the sole responsi-
32 bility of the holder of the ownership interest of record and the county
33 recorder shall not incur any liability for recording such document.

34 § 2. This act shall take effect on the one hundred eightieth day after
35 it shall have become a law. Effective immediately, the addition, amend-
36 ment and/or repeal of any rule or regulation necessary for the implemen-
37 tation of this act on its effective date are authorized to be made and
38 completed on or before such effective date.