

5362

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. TITUS, ROBINSON, LAVINE -- Multi-Sponsored by --
M. of A. PHEFFER, WEISENBERG -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to recording of restrictive covenant modification documents

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
2 291-i to read as follows:
3 S 291-I. RECORDING OF RESTRICTIVE COVENANT MODIFICATION DOCUMENT. 1.
4 (A) IF ANY COVENANTS, CONDITIONS AND RESTRICTIONS EXIST IN A DOCUMENT TO
5 BE RECORDED WHICH DISCRIMINATE ON THE BASIS OF RACE, COLOR, RELIGION,
6 SEX, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, NATIONAL ORIGIN,
7 SOURCE OF INCOME, OR ANCESTRY THEN ANY TITLE INSURANCE COMPANY, TITLE
8 ABSTRACT COMPANY OR ESCROW COMPANY, SHALL:
9 (I) NOTIFY IN AT LEAST EIGHTEEN-POINT BOLDFACE TYPE ON A SEPARATE PAGE
10 WITHIN THE TITLE ABSTRACT REPORT TO THE PURCHASER/TITLE INSURANCE APPLI-
11 CANT, THE FOLLOWING LANGUAGE: "THIS DOCUMENT CONTAINS ILLEGAL
12 RESTRICTIONS BASED ON RACE, COLOR, RELIGION, SEX, FAMILIAL STATUS, MARI-
13 TAL STATUS, DISABILITY, NATIONAL ORIGIN, SOURCE OF INCOME, OR ANCESTRY,
14 THAT VIOLATE STATE AND FEDERAL HOUSING LAW." THE PURCHASER/TITLE INSUR-
15 ANCE APPLICANT OF REAL PROPERTY MAY HAVE SUCH ILLEGAL RESTRICTIONS
16 REMOVED FROM SUCH DOCUMENT BY SUBMITTING A RESTRICTIVE COVENANT MODIFI-
17 CATION DOCUMENT, WHICH SHALL BE AVAILABLE FROM THE COUNTY RECORDER,
18 EITHER WITH THE DEED FOR RECORDING, OR SEPARATELY;
19 (II) PROVIDE THE PURCHASER/TITLE INSURANCE APPLICANT WITH A LEGIBLE
20 COPY OF THE ILLEGAL LANGUAGE ON A SEPARATE PAGE IN THE TITLE ABSTRACT
21 REPORT;
22 (III) PROVIDE THE PURCHASER/TITLE INSURANCE APPLICANT WITH A COPY OF
23 THE APPROPRIATE RESTRICTIVE COVENANT MODIFICATION DOCUMENT PRIOR TO OR
24 AT THE CLOSING OF TITLE;

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

LBD02250-01-9

1 (IV) RECORD THE RESTRICTIVE COVENANT MODIFICATION DOCUMENT, WHICH
2 PURCHASER SHALL PAY THE APPROPRIATE FILING FEES, UNLESS THE
3 PURCHASER/TITLE INSURANCE APPLICANT OBJECTS IN WRITING.

4 (B) THIS SECTION SHALL NOT APPLY TO ANY LAWFUL RESTRICTIONS UNDER
5 STATE AND FEDERAL HOUSING 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 OR INSTRUMENT NUMBER AND THE DATE OF RECORD-
10 ING.

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, FAMILIAL STATUS, MARITAL STATUS, DISABILITY,
21 NATIONAL ORIGIN, SOURCE OF INCOME, OR ANCESTRY MAY RECORD A RESTRICTIVE
22 COVENANT MODIFICATION DOCUMENT PURSUANT TO SUBDIVISION ONE OF THIS
23 SECTION. SUCH RECORDING SHALL INCLUDE A COMPLETE COPY OF THE ORIGINAL
24 DOCUMENT CONTAINING THE ILLEGAL LANGUAGE WITH THE ILLEGAL LANGUAGE
25 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 S 2. This act shall take effect on the one hundred eightieth day after
35 it shall have become a law; provided, however that effective immediate-
36 ly, the addition, amendment and/or repeal of any rule or regulation
37 necessary for the implementation of this act on its effective date are
38 authorized and directed to be made and completed on or before such
39 effective date.