S T A T E O F N E W Y O R K

5428

2009-2010 Regular Sessions

I N S E N A T E

May 4, 2009

Introduced by Sens. AUBERTINE, STACHOWSKI, VALESKY, WINNER, YOUNG -- (at request of the Legislative Commission on Rural Resources) -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law and the real property law, in relation to agricultural disclosure requirements for agricultural districts

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

Section 1. Subdivision 5 of section 308 of the agriculture and markets law, as added by chapter 248 of the laws of 2006, is amended to read as follows:

5. The commissioner shall develop and make available to prospective grantors and purchasers of ANY PARCEL OF real property located partially or wholly within any agricultural district, OR PARTIALLY OR WHOLLY WITHIN FIVE HUNDRED FEET OF THE BOUNDARY OF AN AGRICULTURAL DISTRICT, in this state and to the general public, practical information related to the right to farm as set forth in this article including, but not limited to right to farm disclosure requirements established pursuant to section three hundred ten of this article and section three hundred thirty-three-c of the real property law. THE COMMISSIONER SHALL ASSIST COUNTY GOVERNMENTS TO MAKE AVAILABLE AND ACCESSIBLE, TO THE MAXIMUM EXTENT PRACTICABLE, INFORMATION INCLUDING BUT NOT LIMITED TO MAPS OF SUCH AGRICULTURAL DISTRICTS IN A MANNER THAT CAN BE USED TO ASSIST SUCH GRANTORS AND PURCHASERS TO READILY IDENTIFY PROPERTIES THAT ARE SUBJECT TO RIGHT TO FARM DISCLOSURE REQUIREMENTS ESTABLISHED PURSUANT TO SECTION THREE HUNDRED TEN OF THIS ARTICLE AND SECTION THREE HUNDRED THIRTY-THREE-C OF THE REAL PROPERTY LAW, PROVIDED, HOWEVER, THE COMMISSIONER SHALL NOT BE RESPONSIBLE FOR VERIFYING INDIVIDUAL PARCELS.

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

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S 2. Subdivision 1 of section 310 of the agriculture and markets law, as amended by chapter 248 of the laws of 2006, is amended to read as follows:

1. When any purchase and sale contract is presented for the sale, purchase, or exchange of A PARCEL OF real property located partially or wholly within an agricultural district, OR PARTIALLY OR WHOLLY WITHIN FIVE HUNDRED FEET OF THE BOUNDARY OF AN AGRICULTURAL DISTRICT, established pursuant to the provisions of this article, the prospective grantor shall present to the prospective grantee a disclosure notice which states the following:

"It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district, OR PARTIALLY OR WHOLLY WITHIN FIVE HUNDRED FEET OF THE BOUNDARY OF AN AGRICULTURAL DISTRICT, and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district OR WITHIN FIVE HUNDRED FEET OF THE BOUNDARY OF AN AGRICULTURAL DISTRICT may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law." IN DETERMINING IF THE PARCEL OF REAL PROPERTY IN THE SALES CONTRACT IS SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION, SUCH GRANTOR OR SELLER SHALL ONLY BE REQUIRED TO USE INFORMATION THAT IS READILY AVAILABLE FROM COUNTY GOVERNMENTS, INCLUDING BUT NOT LIMITED TO MAPS OF PARCELS OF REAL PROPERTY THAT ARE PARTIALLY OR WHOLLY WITHIN AN AGRICULTURAL DISTRICT, OR PARTIALLY OR WHOLLY WITHIN FIVE HUNDRED FEET OF THE BOUNDARY OF AN AGRICULTURAL DISTRICT.

S 3. Subparagraph 5 of paragraph ii of subdivision 1-e of section 333 of the real property law, as amended by section 1 of part B of chapter 57 of the laws of 2004, is amended to read as follows:

(5) a statement indicating whether the parcel is located in an agricultural district OR WITHIN FIVE HUNDRED FEET OF THE BOUNDARY OF AN AGRICULTURAL DISTRICT and, if so, whether a disclosure notice has been provided pursuant to section three hundred thirty-three-c of this article and section three hundred ten of the agriculture and markets law;

S 4. Section 333-c of the real property law, as amended by chapter 411 of the laws of 1998, subdivision 1 as amended by chapter 248 of the laws of 2006, is amended to read as follows:

S 333-c. Lands in agricultural districts; disclosure. 1. When any purchase and sales contract is presented for the sale, purchase, or exchange of A PARCEL OF real property located partially or wholly within an agricultural district, OR PARTIALLY OR WHOLLY WITHIN FIVE HUNDRED FEET OF THE BOUNDARY OF AN AGRICULTURAL DISTRICT, established pursuant to the provisions of article twenty-five-AA of the agriculture and markets law, the prospective grantor shall present to the prospective grantee a disclosure notice which states the following:

"It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its

natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district, OR WITHIN FIVE HUNDRED FEET OF THE BOUNDARY OF AN AGRICULTURAL DISTRICT, and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law."

2. IN DETERMINING IF THE PARCEL OF REAL PROPERTY IN THE SALES CONTRACT IS SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION, SUCH GRANTOR OR SELLER SHALL ONLY BE REQUIRED TO USE INFORMATION THAT IS READILY AVAILABLE FROM COUNTY GOVERNMENTS, INCLUDING BUT NOT LIMITED TO MAPS OF PARCELS OF REAL PROPERTY THAT ARE PARTIALLY OR WHOLLY WITHIN AN AGRICULTURAL DISTRICT, OR PARTIALLY OR WHOLLY WITHIN FIVE HUNDRED FEET OF THE BOUNDARY OF AN AGRICULTURAL DISTRICT.

3. Such disclosure notice shall be signed by the prospective grantor and grantee prior to the sale, purchase or exchange of such real property.

[3.] 4. Failure of the seller to provide such information to the buyer shall not prevent the recording officer from filing such deed.

S 5. This act shall take effect immediately.