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

5497

2009-2010 Regular Sessions

I N S E N A T E

May 12, 2009

Introduced by Sen. SKELOS -- 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 cooperative purchase applications

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

Section 1. Legislative findings. The legislature hereby finds and declares that residential cooperative purchasers are subject to processes and conditions that do not also apply to purchasers of other single family residences. The legislature also finds that these processes and conditions, at a minimum, give the appearance and have the potential to be misused to illegally discriminate against a purchaser of cooperative housing. Because this state strongly opposes all illegal discrimination and promotes fair housing laws and regulations, it is essential that the process for purchasing a cooperative dwelling include additional safeguards to protect against illegal discrimination. This act is not intended and does not diminish the duty of cooperative boards to uphold their established fiduciary duties. This act will significantly improve the transparency of the cooperative purchase process to the benefit of all parties involved in the transaction.

S 2. The real property law is amended by adding a new article 11 to read as follows:

ARTICLE 11
COOPERATIVE PURCHASE
APPLICATIONS

SECTION 360. SHORT TITLE.
361. DEFINITIONS.
362. PURCHASE APPLICATIONS.
363. ACTION UPON APPLICATIONS.
364. PUBLIC POLICY.

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

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S 360. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "FAIRNESS IN COOPERATIVE HOME OWNERSHIP ACT".

S 361. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "APPLICATION" MEANS THE STANDARDIZED FORM DEVELOPED AND UTILIZED BY A COOPERATIVE FOR THE ACQUISITION OF CERTIFICATES OF STOCK OR OTHER EVIDENCE OF OWNERSHIP OF AN INTEREST IN THE COOPERATIVE.

2. "COOPERATIVE" MEANS REAL PROPERTY WHICH IS IMPROVED AND USED OR OCCUPIED, OR INTENDED TO BE USED OR OCCUPIED, AS THE HOME OR RESIDENCE OF ONE OR MORE PERSONS, WHICH IS SUBJECT TO ARTICLE TWENTY-THREE-A OF THE GENERAL BUSINESS LAW, AND SHALL INCLUDE ITS COOPERATIVE MANAGEMENT, COOPERATIVE TENANTS, COOPERATIVE SHAREHOLDERS OR ANY APPOINTEES OR SUCCESSORS IN INTEREST THEREOF.

3. "PERSON" MEANS A NATURAL PERSON, CORPORATION, PARTNERSHIP, ASSOCIATE, TRUSTEE, LIMITED LIABILITY COMPANY OR OTHER LEGAL ENTITY.

4. "PURCHASE" MEANS THE ACQUISITION OF CERTIFICATES OF STOCK OR OTHER EVIDENCE OF OWNERSHIP OF AN INTEREST IN A COOPERATIVE.

5. "UNIT" MEANS A PART OF THE COOPERATIVE PROPERTY USED OR INTENDED TO BE USED FOR THE HOME OR RESIDENCE OF ONE OR MORE PERSONS.

S 362. PURCHASE APPLICATIONS. EVERY COOPERATIVE SHALL DEVELOP A STANDARDIZED FORM APPLICATION AND SHALL PROVIDE SUCH APPLICATION TO ANY PERSON SEEKING TO PURCHASE A UNIT IN SUCH COOPERATIVE. EVERY APPLICATION SHALL SET FORTH THE REQUIREMENTS FOR PURCHASE OF A UNIT AND INCLUDE A NOTICE TO THE APPLICANT ADVISING HOW THEY MAY ACCESS INFORMATION ON FAIR HOUSING AND ANTI-DISCRIMINATION LAWS. SUCH NOTICE SHALL BE PROMULGATED BY THE DIVISION OF HUMAN RIGHTS.

S 363. ACTION UPON APPLICATIONS. 1. WITHIN TEN DAYS OF RECEIPT OF A COMPLETED APPLICATION, THE COOPERATIVE SHALL PROVIDE THE APPLICANT WITH WRITTEN ACKNOWLEDGMENT OF RECEIPT OF THE APPLICATION AND, IF APPLICABLE, WRITTEN NOTICE OF ANY WAY IN WHICH THE APPLICATION IS INCOMPLETE. AN APPLICATION SHALL BE DEEMED COMPLETE UPON THE FAILURE OF A COOPERATIVE TO TIMELY PROVIDE THE APPLICANT WITH SUCH NOTICE.

2. WITHIN FORTY-FIVE DAYS OF RECEIPT OF AN APPLICATION, THE COOPERATIVE SHALL EITHER REJECT OR APPROVE THE APPLICATION AND PROVIDE THE APPLICANT WITH WRITTEN NOTICE THEREOF.

3. FOR EVERY APPLICATION SUBMITTED TO A COOPERATIVE, SUCH COOPERATIVE SHALL BE SUBJECT TO THE PROVISIONS OF SUBDIVISION FIVE OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW.

4. DEPOSIT BY A PURCHASER OF AN APPLICATION IN THE UNITED STATES MAIL CERTIFIED AND ADDRESSED TO THE REGISTERED OFFICE OF THE COOPERATIVE OR ITS MANAGING AGENT SHALL BE DEEMED SUBMITTED AND RECEIVED BY THE COOPERATIVE FIVE DAYS AFTER SUCH DEPOSIT.

5. FAILURE BY A COOPERATIVE TO TAKE ACTION ON A COMPLETED APPLICATION WITHIN FORTY-FIVE DAYS OF RECEIPT THEREOF BY EITHER NOTIFYING THE PURCHASER OF ITS APPROVAL OR REJECTION SHALL BE DEEMED TO BE AN APPROVAL OF THE APPLICATION.

S 364. PUBLIC POLICY. EVERY AGREEMENT, NEGATIVE COVENANT, RESTRICTIVE COVENANT OR OTHER PROVISION, WHETHER WRITTEN OR ORAL AND WHEREVER CONTAINED, INCONSISTENT WITH THIS ARTICLE SHALL BE VOID AND UNENFORCEABLE.

S 3. This act shall take effect on the sixtieth day after it shall have become a law and shall apply to applications submitted and received on or after such date.