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

6071

2009-2010 Regular Sessions

I N A S S E M B L Y

February 24, 2009

Introduced by M. of A. COOK -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to apartment information vendors; and to repeal article 12-C of such law relating thereto

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

Section 1. Article 12-C of the real property law is REPEALED.

S 2. Subdivision 1 of section 440 of the real property law, as amended by chapter 324 of the laws of 1998, is amended to read as follows:

1. Whenever used in this article "real estate broker" means any person, firm, limited liability company or corporation, who, for another and for a fee, commission or other valuable consideration, lists for sale, sells, at auction or otherwise, exchanges, buys or rents, or offers or attempts to negotiate a sale, at auction or otherwise, exchange, purchase or rental of an estate or interest in real estate, or collects or offers or attempts to collect rent for the use of real estate, or negotiates or offers or attempts to negotiate, a loan secured or to be secured by a mortgage, other than a residential mortgage loan, as defined in section five hundred ninety of the banking law, or other incumbrance upon or transfer of real estate, or is engaged in the business of a tenant relocator *OR APARTMENT INFORMATION VENDOR*, or who, notwithstanding any other provision of law, performs any of the above stated functions with respect to the resale of condominium property originally sold pursuant to the provisions of the general business law governing real estate syndication offerings. In the sale of lots pursuant to the provisions of article nine-A of this chapter, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall

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

LBD01251-01-9

sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate. For purposes of this subdivision the term, "interest in real estate" shall include the sale of a business wherein the value of the real estate transferred as part of the business is not merely incidental to the transaction, and shall not include the assignment of a lease, and further, the transaction itself is not otherwise subject to regulation under state or federal laws governing the sale of securities. In connection with the sale of a business the term "real estate broker" shall not include a person, firm or corporation registered pursuant to the provisions of article twenty-three-A of the general business law or federal securities laws.

S 3. Section 440 of the real property law is amended by adding a new subdivision 7 to read as follows:

7. "APARTMENT INFORMATION VENDOR" MEANS ANY PERSON WHO ENGAGES IN THE BUSINESS OF CLAIMING, DEMANDING, CHARGING, RECEIVING, COLLECTING, OR CONTRACTING FOR THE COLLECTION OF, A FEE FROM A CUSTOMER FOR FURNISHING INFORMATION CONCERNING THE LOCATION AND AVAILABILITY OF REAL PROPERTY, INCLUDING APARTMENT HOUSING, WHICH MAY BE LEASED, RENTED, SHARED OR SUBLET AS A PRIVATE DWELLING, ABODE, OR PLACE OF RESIDENCE. THE DEFINITION OF APARTMENT INFORMATION VENDOR SHALL INCLUDE AN APARTMENT SHARING AGENT WHICH MEANS ANY PERSON WHO, FOR A FEE, ARRANGES, CONDUCTS, COORDINATES, HANDLES OR CAUSES MEETINGS BETWEEN A CUSTOMER AND THE CURRENT OWNER OR OCCUPANT OF LEGALLY OCCUPIED REAL PROPERTY, INCLUDING APARTMENT HOUSING, WHO WISHES TO SHARE THAT HOUSING WITH ONE OR MORE INDIVIDUALS AS A PRIVATE DWELLING, ABODE OR PLACE OF RESIDENCE, BUT IT SHALL NOT APPLY TO ANY PERSON WHO FOR ANOTHER AND FOR A FEE, COMMISSION OR OTHER VALUABLE CONSIDERATION, SUPERVISES, ORGANIZES, ARRANGES, COORDINATES, HANDLES OR IS OTHERWISE IN CHARGE OF OR RESPONSIBLE FOR THE RELOCATION OF COMMERCIAL OR RESIDENTIAL TENANTS FROM BUILDINGS OR STRUCTURES THAT ARE TO BE DEMOLISHED, REHABILITATED, REMODELED OR OTHERWISE STRUCTURALLY ALTERED.

S 4. The provisions of this act requiring the licensure of apartment information vendors as real estate brokers shall not affect persons holding an apartment information vendor license, during the unexpired period of time such persons are currently licensed under article 12-C of the real property law, prior to the date this act shall have become a law, but all requirements of practice as set forth in article 12-A of the real property law shall govern the practice and conduct of such apartment information vendor licensees.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law, except that, effective immediately, the secretary of state and the state real estate board may adopt such rules and regulations as may be necessary for the implementation of this act.