

9784--C

Cal. No. 841

I N   A S S E M B L Y

January 28, 2010

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Introduced by M. of A. GIANARIS, SCHROEDER, KELLNER, STIRPE, GUNTHER, MILLMAN, HOYT, ESPAILLAT, ZEBROWSKI, CASTRO, TITUS, COOK, DenDEKKER, BOYLAND, KAVANAGH, N. RIVERA, MAISEL, BARRON -- Multi-Sponsored by -- M. of A. BRENNAN, COLTON, CRESPO, DESTITO, GIBSON, GLICK, HYER-SPENCER, JAFFEE, KOON, MARKEY, MAYERSOHN, M. MILLER, NOLAN, PERRY, PHEFFER, REILLY, SWEENEY, TITONE, WEISENBERG -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the real property law, in relation to distressed property consultants advertisements

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

1     Section 1. Section 265-b of the real property law is amended by adding  
2     a new subdivision 3-a to read as follows:  
3     3-A. DISTRESSED PROPERTY CONSULTANT ADVERTISEMENTS. (A) ALL ADVERTISE-  
4     MENTS DISSEMINATED BY A DISTRESSED PROPERTY CONSULTANT MUST PROMINENTLY  
5     INCLUDE THE FOLLOWING STATEMENT: "IN NEW YORK STATE, HOUSING COUNSELORS,  
6     WHO ARE APPROVED BY THE U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT  
7     OR THE NEW YORK STATE BANKING DEPARTMENT, MAY PROVIDE THE SAME OR SIMI-  
8     LAR SERVICES AS A DISTRESSED PROPERTY CONSULTANT FOR FREE. A LIST OF  
9     APPROVED HOUSING COUNSELORS CAN BE FOUND ON THE NEW YORK STATE BANKING  
10    DEPARTMENT WEBSITE AT WWW.BANKING.STATE.NY.US OR BY CONTACTING THE NEW  
11    YORK STATE BANKING DEPARTMENT TOLL-FREE AT 1-877-BANK-NYS  
12    (1-877-226-5697). YOU SHOULD CONSIDER CONSULTING AN ATTORNEY OR A  
13    GOVERNMENT-APPROVED HOUSING COUNSELOR BEFORE SIGNING ANY LEGAL DOCUMENT  
14    CONCERNING A DISTRESSED PROPERTY CONSULTANT." SUCH STATEMENT, IF  
15    DISSEMINATED BY PRINT MEDIA OR THE INTERNET, SHALL BE CLEARLY AND LEGI-  
16    BLY PRINTED OR DISPLAYED IN NOT LESS THAN TWELVE-POINT BOLD TYPE, OR, IF  
17    THE ADVERTISEMENT IS PRINTED TO BE DISPLAYED IN PRINT THAT IS SMALLER

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

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1 THAN TWELVE POINT, IN BOLD TYPE PRINT THAT IS NO SMALLER THAN THE PRINT  
2 IN WHICH THE TEXT OF THE ADVERTISEMENT IS PRINTED OR DISPLAYED.

3 (B) FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "ADVERTISEMENT"  
4 SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL FORMS OF MARKETING, SOLICITA-  
5 TION, OR DISSEMINATION OF INFORMATION RELATED, DIRECTLY OR INDIRECTLY,  
6 TO SECURING OR OBTAINING A CONSULTING CONTRACT OR SERVICES. FURTHER, IT  
7 SHALL INCLUDE ANY AND ALL COMMONLY RECOGNIZED FORMS OF MEDIA MARKETING  
8 VIA TELEVISION, RADIO, PRINT MEDIA, ALL FORMS OF ELECTRONIC COMMUNI-  
9 CATION VIA THE INTERNET, AND ALL PREPARED SALES PRESENTATIONS GIVEN IN  
10 PERSON OR OVER THE INTERNET TO THE GENERAL PUBLIC.

11 (C) THE ADVERTISING PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO ALL  
12 DISTRESSED PROPERTY CONSULTANTS WHO DISSEMINATE ADVERTISEMENTS IN THE  
13 STATE OF NEW YORK OR WHO INTEND TO DIRECTLY OR INDIRECTLY CONTACT A  
14 HOMEOWNER WHO HAS PROPERTY LOCATED IN NEW YORK STATE. DISTRESSED PROPER-  
15 TY CONSULTANTS SHALL ESTABLISH AND AT ALL TIMES MAINTAIN CONTROL OVER  
16 THE CONTENT, FORM AND METHOD OF DISSEMINATION OF ALL ADVERTISEMENTS OF  
17 ITS SERVICES. FURTHER, ALL ADVERTISEMENTS SHALL BE SUFFICIENTLY COMPLETE  
18 AND CLEAR TO AVOID THE POSSIBILITY OF DECEPTION OR THE ABILITY TO  
19 MISLEAD OR DECEIVE.

20 S 2. This act shall take effect on the sixtieth day after it shall  
21 have become a law.