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

1933

2009-2010 Regular Sessions

I N S E N A T E

February 10, 2009

Introduced by Sens. PARKER, DUANE, KRUEGER, ONORATO -- 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 recording of restrictive covenant modification documents

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

Section 1. The real property law is amended by adding a new section 291-i to read as follows:

S 291-I. RECORDING OF RESTRICTIVE COVENANT MODIFICATION DOCUMENT. 1. (A) IF ANY COVENANTS, CONDITIONS AND RESTRICTIONS EXIST IN A DOCUMENT TO BE RECORDED WHICH DISCRIMINATE ON THE BASIS OF RACE, COLOR, RELIGION, SEX, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, NATIONAL ORIGIN, SOURCE OF INCOME, OR ANCESTRY THEN ANY TITLE INSURANCE COMPANY, TITLE ABSTRACT COMPANY OR ESCROW COMPANY, SHALL:

(I) NOTIFY IN AT LEAST EIGHTEEN-POINT BOLDFACE TYPE ON A SEPARATE PAGE WITHIN THE TITLE ABSTRACT REPORT TO THE PURCHASER/TITLE INSURANCE APPLICANT, THE FOLLOWING LANGUAGE: "THIS DOCUMENT CONTAINS ILLEGAL RESTRICTIONS BASED ON RACE, COLOR, RELIGION, SEX, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, NATIONAL ORIGIN, SOURCE OF INCOME, OR ANCESTRY, THAT VIOLATE STATE AND FEDERAL HOUSING LAW." THE PURCHASER/TITLE INSURANCE APPLICANT OF REAL PROPERTY MAY HAVE SUCH ILLEGAL RESTRICTIONS REMOVED FROM SUCH DOCUMENT BY SUBMITTING A RESTRICTIVE COVENANT MODIFICATION DOCUMENT, WHICH SHALL BE AVAILABLE FROM THE COUNTY RECORDER, EITHER WITH THE DEED FOR RECORDING, OR SEPARATELY;

(II) PROVIDE THE PURCHASER/TITLE INSURANCE APPLICANT WITH A LEGIBLE COPY OF THE ILLEGAL LANGUAGE ON A SEPARATE PAGE IN THE TITLE ABSTRACT REPORT;

(III) PROVIDE THE PURCHASER/TITLE INSURANCE APPLICANT WITH A COPY OF THE APPROPRIATE RESTRICTIVE COVENANT MODIFICATION DOCUMENT PRIOR TO OR AT THE CLOSING OF TITLE;

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

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

(B) THIS SECTION SHALL NOT APPLY TO ANY LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL HOUSING LAW.

2. THE RESTRICTIVE COVENANT MODIFICATION DOCUMENT SHALL BE INDEXED IN THE SAME MANNER AS ANY PREVIOUSLY RECORDED DOCUMENT OR DOCUMENTS TO WHICH THE MODIFICATION DOCUMENT REFERS AND SHALL REFERENCE THE ORIGINAL DOCUMENT BY BOOK AND PAGE OR INSTRUMENT NUMBER AND THE DATE OF RECORDING.

3. SUBJECT TO COVENANTS, CONDITIONS, AND RESTRICTIONS RECORDED AFTER THE ORIGINAL DOCUMENT CONTAINING UNLAWFUL RESTRICTIONS, AND SUBJECT TO COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED AFTER THE RESTRICTIVE COVENANT MODIFICATION DOCUMENT, THE RESTRICTIVE COVENANT MODIFICATION, ONCE RECORDED, SHALL BE DEEMED THE ONLY RESTRICTIONS HAVING EFFECT ON THE PROPERTY.

4. ANY PERSON HOLDING AN OWNERSHIP INTEREST IN REAL PROPERTY THAT HE OR SHE BELIEVES IS SUBJECT TO AN UNLAWFULLY RESTRICTIVE COVENANT IN VIOLATION OF STATE OR FEDERAL LAW PROHIBITING RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, NATIONAL ORIGIN, SOURCE OF INCOME, OR ANCESTRY MAY RECORD A RESTRICTIVE COVENANT MODIFICATION DOCUMENT PURSUANT TO SUBDIVISION ONE OF THIS SECTION. SUCH RECORDING SHALL INCLUDE A COMPLETE COPY OF THE ORIGINAL DOCUMENT CONTAINING THE ILLEGAL LANGUAGE WITH THE ILLEGAL LANGUAGE STRICKEN AND SHALL BE SIGNED UNDER PENALTY OF LAW.

5. THE COUNTY RECORDER SHALL MAKE AVAILABLE TO THE PUBLIC FORMS FOR PREPARATION OF A RESTRICTIVE COVENANT MODIFICATION DOCUMENT.

6. IF THE HOLDER OF AN OWNERSHIP INTEREST IN PROPERTY CAUSES TO BE RECORDED A RESTRICTIVE COVENANT MODIFICATION DOCUMENT PURSUANT TO THIS SECTION WHICH CONTAINS LANGUAGE NOT AUTHORIZED BY THIS SECTION, ANY LIABILITY WHICH DERIVES FROM SUCH RECORDING SHALL BE THE SOLE RESPONSIBILITY OF THE HOLDER OF THE OWNERSHIP INTEREST OF RECORD AND THE COUNTY RECORDER SHALL NOT INCUR ANY LIABILITY FOR RECORDING SUCH DOCUMENT.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.