

5497

2009-2010 Regular Sessions

I N   S E N A T E

May 12, 2009

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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:

1     Section 1. Legislative findings. The legislature hereby finds and  
2 declares that residential cooperative purchasers are subject to proc-  
3 esses and conditions that do not also apply to purchasers of other  
4 single family residences. The legislature also finds that these proc-  
5 esses and conditions, at a minimum, give the appearance and have the  
6 potential to be misused to illegally discriminate against a purchaser of  
7 cooperative housing. Because this state strongly opposes all illegal  
8 discrimination and promotes fair housing laws and regulations, it is  
9 essential that the process for purchasing a cooperative dwelling include  
10 additional safeguards to protect against illegal discrimination. This  
11 act is not intended and does not diminish the duty of cooperative boards  
12 to uphold their established fiduciary duties. This act will significant-  
13 ly improve the transparency of the cooperative purchase process to the  
14 benefit of all parties involved in the transaction.  
15     S 2. The real property law is amended by adding a new article 11 to  
16 read as follows:

17                     ARTICLE 11  
18                     COOPERATIVE PURCHASE  
19                     APPLICATIONS

20     SECTION 360. SHORT TITLE.  
21                     361. DEFINITIONS.  
22                     362. PURCHASE APPLICATIONS.  
23                     363. ACTION UPON APPLICATIONS.  
24                     364. PUBLIC POLICY.

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

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

3 S 361. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHER-  
4 WISE REQUIRES:

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

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

14 3. "PERSON" MEANS A NATURAL PERSON, CORPORATION, PARTNERSHIP, ASSOCI-  
15 ATE, TRUSTEE, LIMITED LIABILITY COMPANY OR OTHER LEGAL ENTITY.

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

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

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

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

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

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

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

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

47 S 364. PUBLIC POLICY. EVERY AGREEMENT, NEGATIVE COVENANT, RESTRICTIVE  
48 COVENANT OR OTHER PROVISION, WHETHER WRITTEN OR ORAL AND WHEREVER  
49 CONTAINED, INCONSISTENT WITH THIS ARTICLE SHALL BE VOID AND UNENFORCEA-  
50 BLE.

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