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

8481--A

2011-2012 Regular Sessions

I N A S S E M B L Y

June 17, 2011

Introduced by M. of A. LIFTON, P. RIVERA, JAFFEE, ENGLEBRIGHT, ABINANTI, TITONE -- Multi-Sponsored by -- M. of A. DINOWITZ, GLICK, GOTTFRIED, JACOBS, MAGEE, NOLAN -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general obligations law and the real property law, in relation to requiring the signatures of all owners of leased premises for every lease for oil, gas or mineral rights, and any modification, extension or renewal thereof

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

Section 1. Subdivision 6 of section 5-333 of the general obligations law, as added by chapter 386 of the laws of 2005, is amended, and two new subdivisions 3-a and 5-a are added to read as follows:

3-A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, ANY OIL, GAS OR MINERAL LEASE CONCERNING OIL, GAS OR MINERAL RIGHTS SHALL BE SIGNED BY ALL OWNERS OF THE LEASED PREMISES AS OF THE DATE THE LEASE IS SIGNED. ANY LEASE WHICH CONTAINS LESS THAN EVERY SIGNATURE OF ALL OWNERS OF THE LEASED PERMITS SHALL BE VOID AND UNENFORCEABLE IN ITS ENTIRETY AS TO ANY SURFACE RIGHTS, AND VOID AND UNENFORCEABLE AS TO ANY SUB-SURFACE INTEREST.

5-A. NO MODIFICATIONS, INCLUDING EXTENSIONS AND RENEWALS, OF ANY LEASE SHALL BE EFFECTIVE UNLESS IT CONTAINS THE NOTICE OF CANCELLATION PROVISIONS SET FORTH IN SUBDIVISION FIVE OF THIS SECTION.

6. The provisions of subdivisions one, two, three and four of this section shall apply to leases entered into on or after January first, nineteen hundred eighty-five [and], the provisions of subdivision five of this section shall apply to leases entered into on or after January first, two thousand six, AND THE PROVISIONS OF SUBDIVISIONS THREE-A AND

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

LBD11772-03-2

FIVE-A OF THIS SECTION SHALL APPLY TO LEASES ENTERED INTO ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN.

S 2. Section 291-c of the real property law is amended by adding a new closing paragraph to read as follows:

FOR ANY OIL, GAS OR MINERAL LEASE CONCERNING OIL, GAS OR MINERAL RIGHTS SIGNED ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, ANY RECORDING OF A MEMORANDUM OF LEASE, INCLUDING ANY MODIFICATION, EXTENSION OR RENEWAL, SHALL BE SIGNED BY ALL OWNERS OF THE LEASED PREMISES. ANY MEMORANDA NOT SIGNED BY ALL OWNERS OF THE LEASED PREMISES IS VOID AND UNENFORCEABLE.

S 3. Section 291-cc of the real property law, as added by chapter 472 of the laws of 1962, is added to read as follows:

S 291-cc. [1.] Recording modifications of leases. 1. Where a lease or memorandum of such lease has been recorded, an unrecorded agreement modifying such lease or memorandum is void as against a subsequent purchaser in good faith and for a valuable consideration, and the possession of the tenant shall not be deemed notice of the modification, unless the agreement of modification or a memorandum thereof is recorded prior to the recording of the instrument by which the subsequent purchaser acquires his estate or interest.

2. A memorandum of an agreement modifying a lease shall contain at least the following information with respect to the agreement: the names of the parties and the addresses, if any, set forth in the agreement; a reference to the agreement with its date of execution; a brief description of the leased premises in form sufficient to identify the same; any changes made by the agreement in the term of the lease and the date of the termination of the lease as modified, and any changes in the provisions of the lease as to the rights of extension or renewal.

3. For the purpose of this section the word "purchaser" includes a person who purchases or acquires by exchange or contracts to purchase or acquire by exchange the leased premises or the real property of which the leased premises are part or any estate or interest therein, or acquires by assignment the rent to accrue from tenancies or subtenancies thereof in existence at the time of the assignment.

4. FOR ANY OIL, GAS OR MINERAL LEASE CONCERNING OIL, GAS OR MINERAL RIGHTS SIGNED ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, ANY RECORDING OF A MODIFICATION OF A LEASE, INCLUDING ANY EXTENSION OR RENEWAL, SHALL BE SIGNED BY ALL OWNERS OF THE LEASED PREMISES. ANY MODIFICATIONS NOT SIGNED BY ALL OWNERS OF THE LEASED PREMISES IS VOID AND UNENFORCEABLE.

S 4. This act shall take effect January 1, 2013.