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

7011

I N S E N A T E

April 20, 2012

Introduced by Sen. YOUNG -- 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 establishing requirements for land contracts

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 246-a to read as follows:

S 246-A. REQUIREMENTS FOR LAND CONTRACTS. 1. DEFINITION. FOR THE PURPOSES OF THIS SECTION, "LAND CONTRACT" MEANS ANY WRITTEN AGREEMENT EXECUTED BETWEEN A BUYER AND SELLER OF RESIDENTIAL REAL PROPERTY OR A PARCEL OF REAL PROPERTY FOR RESIDENTIAL USE, BY INSTALLMENT PAYMENTS, WITH A DEPOSIT OF ONE THOUSAND DOLLARS OR MORE, AND A TERM OF NINETY DAYS OR MORE, PURSUANT TO WHICH SUCH BUYER IS RESPONSIBLE FOR ALL REPAIRS UPON THE REAL PROPERTY AND WILL BE GRANTED TITLE TO THE REAL PROPERTY UPON THE FULL PAYMENT OF THE STATED PURCHASE PRICE. SUCH TERM SHALL NOT INCLUDE A MORTGAGE PURSUANT TO WHICH THE SELLER EXECUTES AND RECORDS A DEED TO THE REAL PROPERTY UPON THE BUYER'S EXECUTION AND RECORDING OF A MORTGAGE UPON THE REAL PROPERTY; NOR SHALL SUCH TERM INCLUDE A LEASE OF REAL PROPERTY PURSUANT TO WHICH THE LESSOR IS OBLIGATED TO MAKE REPAIRS AND PAY REAL PROPERTY TAXES UPON SUCH PROPERTY UNTIL THE LESSEE TENDERS THE STATED PURCHASE PRICE.

2. DISCLOSURE NOTICE. NOT LESS THAN TEN DAYS PRIOR TO THE EXECUTION OF A LAND CONTRACT, THE SELLER SHALL PROVIDE TO THE BUYER A WRITTEN NOTICE DELIVERED BY CERTIFIED MAIL. SUCH NOTICE SHALL BE ENTITLED "LAND CONTRACT-CONSUMER CAUTION AND COUNSELING NOTICE" AND SHALL INCLUDE THE FOLLOWING NOTICES:

(A) "YOU CAN LOSE THIS PROPERTY IF YOU FAIL TO MAKE THE PAYMENTS AND MEET THE OTHER REQUIREMENTS OF THE LAND CONTRACT.";

(B) "YOU CAN LOSE THIS PROPERTY IF THE SELLER OF THIS PROPERTY LOSES TITLE TO THIS PROPERTY DUE TO THE FORECLOSURE OF AN EXISTING MORTGAGE OR OTHER LIEN, OR OTHER LEGAL ACTIONS WHICH MAY BE BROUGHT AGAINST THE SELLER BY CREDITORS OR OTHERS.";

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

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(C) "YOU CAN LOSE THIS PROPERTY IF OTHER PERSONS HAVE A LEGAL INTEREST OR CLAIM AGAINST THE PROPERTY.";

(D) "UNDER THE TERMS OF THIS CONTRACT YOU ARE RESPONSIBLE FOR REPAIRS TO THIS PROPERTY AND THEREFORE YOU SHOULD HAVE THE PROPERTY ADEQUATELY INSPECTED BEFORE ENTERING INTO THIS CONTRACT.";

(E) THE NAME AND ADDRESSES OF THE HOLDERS OF ANY MORTGAGES ON THE PROPERTY WHOSE CONSENT IS REQUIRED BEFORE THE PROPERTY CAN BE SOLD;

(F) THE EXISTENCE OF ANY MORTGAGES OR LIENS OF RECORD ON THE PROPERTY; AND

(G) THE UNPAID PROPERTY TAXES OR ASSESSMENTS ON SUCH PROPERTY, IF ANY.

3. MANDATORY PROVISIONS. EVERY LAND CONTRACT SHALL PROVIDE:

(A) THAT IF THE SELLER IS TO PROVIDE THE BUYER WITH ESCROW PAYMENTS, THE SELLER MUST MAINTAIN THE ESCROW FUNDS IN A SEPARATE ACCOUNT AND PROVIDE THE BUYER WITH AN ANNUALIZED ACCOUNTING AND PROOF OF TAXES PAID;

(B) THAT IF THE SELLER DOES NOT RECORD THE LAND CONTRACT WITHIN FIVE DAYS OF THE EXECUTION OF SUCH CONTRACT, THE BUYER SHALL BE GRANTED A RIGHT OF RECOVERY AGAINST THE SELLER FOR ALL PAYMENTS MADE UNDER THE LAND CONTRACT;

(C) THAT THE BUYER MUST BE PROVIDED WITH A COPY OF THE RECEIPT FOR FILING THE LAND CONTRACT WITH THE COUNTY CLERK; AND

(D) THAT THE SELLER MUST PROVIDE THE BUYER WITH WRITTEN RECEIPTS FOR ANY PAYMENTS MADE UNDER THE LAND CONTRACT, INCLUDING DOWN PAYMENTS.

4. RECORDING REQUIREMENT. WITHIN FIVE BUSINESS DAYS AFTER THE EXECUTION OF A LAND CONTRACT, SUCH CONTRACT SHALL BE RECORDED BY THE SELLER IN THE COUNTY CLERK'S OFFICE IN THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED. THE SELLER SHALL PROVIDE THE BUYER WITH A COPY OF THE RECEIPT ISSUED FOR SUCH RECORDING.

5. PROHIBITED TERMS. NO LAND CONTRACT SHALL CONTAIN THE FOLLOWING:

(A) A PROVISION WHICH IMPOSES EXCESSIVE LATE FEES;

(B) A PROVISION IN WHICH THE BUYER CONSENTS TO HIS OR HER REMOVAL FROM THE CONTRACT BY THE BUYER WITHOUT THE OPTION OF JUDICIAL INTERVENTION OR A PROVISION IN WHICH THE BUYER AUTOMATICALLY CONSENTS TO SUMMARY PROCEEDINGS BY THE SELLER;

(C) A PROVISION IN WHICH THE BUYER FORFEITS EQUITY IN THE EVENT OF DEFAULT; OR

(D) A PROVISION WHICH WAIVES ANY OF THE PROVISIONS OF THIS SECTION.

6. ENFORCEMENT. THE ATTORNEY GENERAL MAY COMMENCE AN ACTION IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO ENFORCE THE TERMS OF THIS SECTION. A COURT MAY GRANT INJUNCTIVE, DECLARATORY OR OTHER EQUITABLE RELIEF IN ANY SUCH ACTION BROUGHT TO ENFORCE THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.