STATE OF NEW YORK

4663

2017-2018 Regular Sessions

IN SENATE

February 23, 2017

Introduced by Sen. AVELLA -- 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 rebuttal of the right of an incumbrancer

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 266 of the real property law is amended to read as follows:

§ 266. Rights of purchaser or incumbrancer for valuable consideration protected. This article does not in any manner affect or impair the title of a purchaser or incumbrancer for a valuable consideration, unless it appears that he had previous notice of the fraudulent intent of his immediate grantor, or of the fraud rendering void the title of such grantor. **There shall be a rebuttable presumption that this section shall not apply in the case of a transfer of mortgaged real property, between a purchaser and seller who are not associated parties, that is not accompanied by the recording with the clerk of the county or with the commissioner of deeds in which the property is located, of a statement, executed by the mortgagee, and duly acknowledged, stating, substantially, that (1) a party is assuming the seller's indebtedness secured by the mortgage; or (2) that the indebtedness secured by the mortgage has been satisfied.**

For the purposes of this section, "associated parties" means spouses, ex-spouses, parents and children, siblings, a homeowner and that homeowner's family trust, or a homeowner and that homeowner's wholly-owned limited liability company.

§ 2. This act shall take effect immediately.

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

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