STATE OF NEW YORK

2846

2021-2022 Regular Sessions

IN SENATE

January 26, 2021

Introduced by Sens. KAVANAGH, COMRIE, HARCKHAM, SEPULVEDA, SKOUFIS -- 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 the timing of decisions for the sales of cooperative apartments

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

Section 1. Legislative findings. The legislature hereby finds and declares that residential cooperative purchasers are subject to processes and conditions that do not also apply to the purchases of other single-family residences. The provisions of this act are not intended and do not diminish the duty of cooperative boards to uphold their established fiduciary duties. It is the intent of this act to significantly improve the transparency of the cooperative purchase process to the benefit of all parties involved in the transaction.

§ 2. The real property law is amended by adding a new article 11 to read as follows:

ARTICLE 11

COOPERATIVE CORPORATIONS; TIMING OF DECISIONS

Section 360. Short title.
361. Definitions.
362. Requirements for determination.
363. Acknowledgement of receipt of application.
364. Time for determination.
365. Tolling of time.
366. Construction.

§ 360. Short title. This article shall be known and may be cited as the "fairness in cooperative homeownership act".

§ 361. Definitions. As used in this article, unless the context otherwise requires:

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

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1. "Application" means the set of documents utilized by a cooperative corporation to facilitate a prospective purchaser's acquisition of certificates of stock, a proprietary lease, or other evidence of an ownership interest in such cooperative corporation.

2. "Cooperative corporation" means any corporation governed by the requirements of the state cooperative corporation law or the general business law, which among other things, grants persons the right to reside in a cooperative apartment, that right existing by such person's ownership of certificates of stock, proprietary lease, or other evidence of ownership of an interest in such entity.

3. "Proprietary lease" means the lease or occupancy agreement by which a cooperative corporation permits a person to occupy an apartment in the premises owned by the cooperative corporation.

4. "Prospective purchaser" means a person who has entered into a contract of sale to purchase the proprietary lease and the ownership interest in a cooperative corporation from a prospective seller.

5. "Prospective seller" means a person who has a proprietary lease and an ownership interest in a cooperative corporation and who has entered into a contract of sale to sell the person's proprietary lease and ownership interest in a cooperative corporation to a prospective purchaser.

6. "Sale" means the transfer of a person's ownership interest in a cooperative corporation and that person's proprietary lease to another person.

§ 362. Requirements for determination. 1. The board of directors or managing agent of each cooperative corporation shall maintain a standardized application and list of requirements for all cooperative apartments subject to the by-laws or proprietary lease of such corporation.

2. The board of directors or managing agent of every cooperative corporation shall provide the corporation's standardized application and list of requirements to any prospective purchasers and prospective sellers, or their respective real estate agents, promptly upon request, and shall include instructions as to where and how to submit the required materials including the mailing address and designated email address for the cooperative corporation.

§ 363. Acknowledgement of receipt of application. 1. A prospective purchaser shall submit an application via registered mail, and such application shall include a mailing address and email address. Within ten business days of receiving an application from a prospective purchaser, a cooperative corporation shall provide to a prospective purchaser via electronic mail and registered mail a written acknowledgment of the receipt of such application. Electronic mail delivery shall serve as an additional notice, but shall not replace the requirement for delivery by registered mail. The requirements of this subdivision shall apply both to a prospective purchaser's initial submission and to any subsequent submissions the prospective purchaser may make.

2. An acknowledgement of receipt shall set forth with specificity whether the application submitted fully satisfies the requirements therefor and list of the requirements provided for in section three hundred sixty-two of this article, the way or ways the submitted application failed to comply with the cooperative corporation's list of requirements maintained and provided by the cooperative corporation pursuant to such section, and if additional materials are requested for clarification of a previously submitted application, what materials are desired.

3. Failure by a cooperative corporation to provide a written acknowledgement pursuant to this section within ten business days from the date of receipt of the submission of an application shall result in the application being deemed to be complete.

§ 364. Time for determination. 1. Following the submission of a completed application containing the information and documents contained in the list required to be maintained and provided pursuant to section three hundred sixty-two of this article and any additional materials requested for clarification, a cooperative corporation shall inform a prospective purchaser whether its consent to a sale is granted or whether its consent to a sale is denied within forty-five days.

2. The time period provided in subdivision one of this section may be extended at any time with the consent of the prospective purchaser. The cooperative corporation shall be entitled to one fourteen day extension without the consent of the purchaser after sending notice to the prospective purchaser via registered mail within forty-five days of receiving a completed application.

3. If after the forty-five day period for determination and any applicable extensions, the cooperative corporation does not act on an application, a prospective purchaser may inform the board of such corporation that if no action is taken within ten days then the failure to act will constitute consent by the cooperative corporation to the sale.

4. If no action is taken following the ten day notice period pursuant to subdivision three of this section, the cooperative corporation shall be deemed to have consented to the sale.

5. Nothing in this section shall be construed to prohibit a cooperative corporation from lawfully denying its consent to a sale at any time prior to the expiration of the forty-five day determination period and ten day notice period.

§ 365. Tolling of time. If a cooperative corporation's board of directors has placed a memorandum or other writing in its files stating that such board does not ordinarily meet in the months of July and August, then such board of directors or managing agent shall have sixty calendar days or until the tenth of September, whichever is later, after receiving an application to acknowledge receipt thereof and begin the determination process for any application received on or after July first but before September tenth of any calendar year.

§ 366. Construction. Nothing in this article shall be construed or interpreted to limit or restrict the rights and remedies granted by any other provision of law.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to applications submitted and received on or after such date; provided, however, that effective immediately the state commissioner of human rights is authorized to take any actions necessary prior to such effective date for the implementation of the provisions of this act on its effective date including, but not limited to, establishing guidelines and promulgating rules.