STATE OF NEW YORK

5549

2023-2024 Regular Sessions

IN ASSEMBLY

March 16, 2023

Introduced by M. of A. THIELE, NORRIS, BARRETT, WOERNER, J. A. GIGLIO, RIVERA, KELLES, WALLACE, SMITH, GANDOLFO, BRABENEC, HUNTER, STECK, SANTABARBARA, MEEKS -- read once and referred to the Committee on Housing

AN ACT to amend the real property law, in relation to manufactured home parks

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

Section 1. Section 233-a of the real property law, as added by chapter 561 of the laws of 2008, paragraphs (a) and (c) of subdivision 2 as amended by section 10 and subdivision 3 as amended by section 11 of part O of chapter 36 of the laws of 2019, is amended to read as follows:

§ 233-a. Sale of manufactured home parks. 1. Whenever used in this section:

(a) The term "notify" shall mean the placing of a notice in the United States mail, addressed to the officers of the manufactured homeowners' association or the manufactured home park owner by certified mail, return receipt requested, or personal delivery upon the officers of the manufactured homeowners' association, or if no manufactured homeowners' association exists, upon all manufactured homeowners in the manufactured home park or the manufactured home park owner. Each such notice shall be deemed to have been given upon the deposit of the notice in the United States mail or upon receipt of personal delivery.

(b) The term "manufactured homeowners' association", whether incorporated or not, shall mean an association [~~of at least fifty-one~~] **greater than fifty** percent of all manufactured homeowners within the manufactured home park, who shall have given written consent to forming a manufactured homeowners' association, and which association has notified the park owner of its establishment and has provided to the park owner the names and addresses of the officers of such association. The provisions

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

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of section two hundred twenty-three-b of this article shall apply to the formation of a manufactured homeowners' association.

2. [~~(a) If a manufactured home park owner receives a bona fide offer to purchase a manufactured home park that such manufactured home park owner intends to accept, or respond with a counteroffer, such manufactured home park owner shall require the prospective purchaser to provide, in writing, the certification required by paragraph (b) of this subdivision, and shall not accept any offer to purchase, nor respond with a counteroffer until such manufactured home park owner has received such certification and met the requirements of this section.~~

~~(b) A purchaser seeking to purchase a manufactured home park, or the land upon which a manufactured home park is located, shall provide such owner with a written letter certifying whether or not the purchaser will, upon the closing of the sale of the park, or within sixty months of such closing, give the notice required pursuant to paragraph six of subdivision b of section two hundred thirty-three of this article, of its intention to use the land upon which the manufactured home park is located for a purpose other than manufactured home lot rentals.~~

~~(c)~~] If a manufactured home park owner takes any action to market or offer the park for sale, or receives a bona fide offer to purchase a manufactured home park that such manufactured home park owner intends to accept or respond to with a counteroffer, a manufactured home park owner shall include a notice stating that such acceptance or counteroffer shall be subject to the right of the homeowners of the manufactured home park to purchase the manufactured home park pursuant to this subdivision. Notwithstanding any provision of law or agreement to the contrary, every agreement to purchase a manufactured home park by a prospective purchaser of a manufactured home park shall be subject to the right of the homeowners of the manufactured home park to purchase the manufactured home park pursuant to this subdivision [~~if the purchaser certifies pursuant to paragraph (b) of this subdivision that he or she intends to change the use of the land~~].

3. (a) If a manufactured home park owner receives a bona fide offer to purchase a manufactured home park that such manufactured home park owner intends to accept or respond to with a counteroffer, [~~and the purchaser has certified pursuant to paragraph (b) of subdivision two of this section that he intends to change the use of the land,~~] such manufactured home park owner shall notify:

(i) the officers of the manufactured homeowners' association within such park of all the terms thereof; provided that the park owner has been notified of the establishment of a manufactured homeowners' association and been provided with the names and addresses of the officers of such association; or

(ii) if no homeowners' association exists, all manufactured homeowners in the manufactured home park; and

(iii) the commissioner of housing and community renewal.

(b) The manufactured home park owner's notification shall state:

(i) the price;

(ii) the material terms and conditions of sale upon which such manufactured home park owner would sell the park;

(iii) that the manufactured homeowners have the right to organize a manufactured homeowners' association or a manufactured homeowners' cooperative for the park;

(iv) that purchase financing may be available through the New York state homes and community renewal; and

(v) that the manufactured homeowners' association, a cooperative, or manufactured home owners or tenants have one hundred forty days to exercise their right to purchase the park in accordance with this section.

(c) (i) If a manufactured homeowners' association exists at the time of the offer, the association shall [~~have the right to purchase the park;~~], within sixty days of receipt of notice from the park owner, deliver to the park owner a notice of intent to make an offer to purchase the park. If such notice is not delivered within the sixty days, the park owner has no further obligation under this section.

(ii) If the manufactured homeowners' association delivers such intent to the park owner as required by subparagraph (i) of this paragraph, the association shall have the right to purchase the park; provided that the association shall have delivered to the manufactured home park owner an executed offer to purchase which meets the identical price, terms, and conditions of the offer or counteroffer provided in the notice of the manufactured home park owner within one hundred forty days of receipt of notice from the manufactured home park owner, unless otherwise agreed to in writing. During this time period, the park owner shall not accept a final unconditional offer to purchase the park.

[~~(ii)~~] (iii) If an offer to purchase by the association is not delivered within such one hundred forty day period, then, unless the park owner thereafter elects to offer to sell the park at a price lower than the price specified in the notice to the homeowners' association or at terms substantially different from those presented to the association, the park owner has no further obligations under this section.

[~~(iii)~~] (iv) If the park owner, after such one hundred forty day period, elects to offer to sell the park at a price lower than the price specified in the notice given or at terms substantially different from those previously presented to the association, then the association shall be entitled to notice thereof and shall have an additional thirty days after receipt of notice of the revised terms to deliver to the park owner an executed offer to purchase which meets the revised price, terms, and conditions as presented by the park owner.

(d) (i) If there is no existing homeowners' association at the time of the offer, the homeowners shall, within sixty days of receipt of notice from the park owner, deliver to the park owner a notice of intent to make an offer to purchase the park. Such notice must be signed by greater than fifty percent of all the manufactured home owners within the manufactured home park. If such notice is not delivered within the sixty days, the park owner has no further obligation under this section. If such notice is properly provided within sixty days, the homeowners shall have the right to purchase the park; provided the following conditions are met:

(A) The manufactured homeowners shall have the right to form a manufactured homeowners' association, whether incorporated or not.

(B) Such homeowners' association shall include [~~at least fifty-one~~] greater than fifty percent of all manufactured homeowners, who shall have given written consent to forming a manufactured homeowners' association. The provisions of section two hundred twenty-three-b of this article shall apply to the formation of a manufactured homeowners' association.

(C) The association, acting through its officers, shall have given notice to the park owner of its formation, the names and addresses of its officers, and delivered an executed offer to purchase the park at the identical price, terms, and conditions of the offer presented in the notification given by the park owner within one hundred forty days of

receipt of notice from the park owner, unless otherwise agreed to in writing. During this time period, the park owner shall not accept a final unconditional offer to purchase the park[~~.~~]**;**

(ii) If the homeowners fail to form a manufactured homeowners' association, or if upon the formation of a manufactured homeowners' association, the association does not deliver an executed offer to purchase as set forth in paragraph (a) of this subdivision within the one hundred forty day period, then, unless the park owner elects to offer the park at a price lower than the price specified in the notice previously presented to the homeowners, the park owner has no further obligation under this section; and

(iii) If the park owner thereafter elects to sell the park at a price lower than the price specified in the notice to the homeowners or at terms substantially different from those previously presented, then the association shall have an additional thirty days after receipt of notice of the revised terms to deliver to the park owner an executed offer to purchase which meets the revised price, terms, and conditions as presented by the park owner.

[~~3.~~] **4.** This section does not apply to:

(a) Any conveyance of an interest in a manufactured home park incidental to the financing of such manufactured home park.

(b) The purchase of a manufactured home park by a governmental entity under its powers of eminent domain.

[~~4.~~] **5.** Nothing in this section shall be construed to compel the manufactured home park owner to divide the land and sell it to individual manufactured homeowners.

6. Owners of manufactured homes, a manufactured homeowner's association, or any other impacted party may bring an action for injunctive relief, actual damages, and attorneys' fees and costs for any violation of this section.

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