

# STATE OF NEW YORK

1728

2023-2024 Regular Sessions

## IN SENATE

January 13, 2023

Introduced by Sens. SANDERS, COMRIE, RIVERA -- 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 requiring the modification of restrictive covenants prior to the sale of real property

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

1 Section 1. The real property law is amended by adding a new section  
2 327-a to read as follows:

3 § 327-a. Modification of restrictive covenants. 1. (a) If any coven-  
4 ants, conditions and restrictions exist in a document to be recorded  
5 which discriminate on the basis of race, color, religion, sex, sexual  
6 orientation, familial status, marital status, disability, national  
7 origin, source of income, or ancestry, any seller shall:

8 (i) have such unlawful restrictions removed from such document by  
9 submitting a restrictive covenant modification document, which shall be  
10 available from the county recorder, either with the deed for recording,  
11 or separately;

12 (ii) provide the purchaser or title insurance applicant with a copy of  
13 the appropriate restrictive covenant modification document prior to or  
14 at the closing of title;

15 (iii) record the restrictive covenant modification document, however,  
16 such seller shall not be required to pay filing fees for the recording  
17 of the restrictive covenant modification document.

18 (b) Within one year of the effective date of this section, the board  
19 of managers of a condominium, the board of directors of a cooperative  
20 apartment corporation or a homeowners association if such real property  
21 is subject to the rules and regulations of such an association, shall  
22 delete or amend any covenants, conditions and restrictions that exist in  
23 a recorded document which discriminate on the basis of race, color,

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

LBD05928-01-3

1 religion, sex, sexual orientation, familial status, marital status,  
2 disability, national origin, source of income, or ancestry. Such  
3 deletions or amendments shall not be subject to the approval of property  
4 owners.

5 (c) This section shall not apply to any lawful restrictions under  
6 state and federal law.

7 2. The restrictive covenant modification document shall be indexed in  
8 the same manner as any previously recorded document or documents to  
9 which the modification document refers and shall reference the original  
10 document by book and page number or instrument number and the date of  
11 recording.

12 3. Subject to covenants, conditions, and restrictions recorded after  
13 the original document containing unlawful restrictions, and subject to  
14 covenants, conditions and restrictions recorded after the restrictive  
15 covenant modification document, the restrictive covenant modification,  
16 once recorded, shall be deemed the only restrictions having effect on  
17 the property.

18 4. Any person holding an ownership interest in real property that he  
19 or she believes is subject to an unlawfully restrictive covenant in  
20 violation of state or federal law prohibiting restriction based on race,  
21 color, religion, sex, sexual orientation, familial status, marital  
22 status, disability, national origin, source of income, or ancestry may  
23 record a restrictive covenant modification document pursuant to subdivi-  
24 sion one of this section. Such recording shall include a complete copy  
25 of the original document containing the unlawful language with the  
26 unlawful language stricken and shall be signed under penalty of law.

27 5. The county recorder shall make available to the public forms for  
28 preparation of a restrictive covenant modification document.

29 6. If the holder of an ownership interest in property causes to be  
30 recorded a restrictive covenant modification document pursuant to this  
31 section which contains language not authorized by this section, any  
32 liability which derives from such recording shall be the sole responsi-  
33 bility of the holder of the ownership interest of record and the county  
34 recorder shall not incur any liability for recording such document.

35 § 2. This act shall take effect on the one hundred eightieth day after  
36 it shall have become a law. Effective immediately, the addition, amend-  
37 ment and/or repeal of any rule or regulation necessary for the implemen-  
38 tation of this act on its effective date are authorized to be made and  
39 completed on or before such effective date.