

STATE OF NEW YORK

229

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the religious corporations law, in relation to the sale, mortgage and lease of real property of a religious corporation

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

1 Section 1. Subdivisions 1 and 9 of section 12 of the religious corpo-
2 rations law, subdivision 1 as amended by chapter 555 of the laws of 2015
3 and subdivision 9 as amended by chapter 962 of the laws of 1969, are
4 amended to read as follows:

5 1. (a) A religious corporation shall not sell, mortgage or lease for a
6 term exceeding five years any of its real property without applying for
7 and obtaining leave of the court or the attorney general therefor pursu-
8 ant to section five hundred eleven of the not-for-profit corporation law
9 as that section is modified by paragraph (d-1) of subdivision one of
10 section two-b of this chapter or section five hundred eleven-a of the
11 not-for-profit corporation law, except that a religious corporation may
12 execute a purchase money mortgage or a purchase money security agreement
13 creating a security interest in personal property purchased by it with-
14 out obtaining leave of the court therefor.

15 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
16 sion, any solvent religious corporation may sell any of its real proper-
17 ty without a court order in the following circumstances:

18 (i) The religious corporation shall have and maintain in its records
19 an appraisal report prepared by a professional appraiser and dated or
20 updated within ninety days of the sale showing the fair market value to
21 be less than two hundred thousand dollars;

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

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1 (ii) The sale shall be an arm's length transaction for a cash consid-
2 eration at the fair market value of the property which shall be within
3 ten percent of the appraised value;

4 (iii) The governing body of the religious corporation shall have given
5 notice for not less than thirty days to the members of the congregation
6 served by the religious corporation in a manner likely to be seen by a
7 majority of such members including but not limited to publication in any
8 bulletin, newsletter, or similar document normally distributed to such
9 members; and

10 (iv) A certificate of compliance with the requirements of this para-
11 graph executed by the person or persons executing the deed on behalf of
12 the religious corporation under the penalties of perjury shall be
13 attached to and recorded with the deed; and with respect to religious
14 corporations subject to subdivision two, three, four, five, five-a,
15 five-b, or five-c of this section, such certificate shall have endorsed
16 thereon the consent of the church authority or authorities whose consent
17 would be required under such subdivisions of this section before the
18 filing of an application to the court.

19 (c) Notwithstanding the provisions of paragraph (a) of this subdivi-
20 sion, any solvent religious corporation may mortgage any of its real
21 property without a court order in the following circumstances:

22 (i) The religious corporation shall have and maintain in its records
23 an appraisal report prepared by a professional appraiser and dated or
24 updated within ninety days of the mortgage showing the fair market value
25 to be less than two hundred thousand dollars;

26 (ii) The mortgage shall be an arm's length transaction with a mortga-
27 gee licensed to make mortgage loans in the state for an advance of cash
28 in a principal amount not more than two hundred thousand dollars;

29 (iii) The governing body of the religious corporation shall have given
30 notice for not less than thirty days to the members of the congregation
31 served by the religious corporation in a manner likely to be seen by a
32 majority of such members including but not limited to publication in any
33 bulletin, newsletter, or similar document normally distributed to such
34 members; and

35 (iv) A certificate of compliance with the requirements of this para-
36 graph executed by the person or persons executing the deed on behalf of
37 the religious corporation under the penalties of perjury shall be
38 attached to and recorded with the mortgage; and with respect to reli-
39 gious corporations subject to subdivision two, three, four, five,
40 five-a, five-b, or five-c of this section, such certificate shall have
41 endorsed thereon the consent of the church authority or authorities
42 whose consent would be required under such subdivisions of this section
43 before the filing of an application to the court.

44 9. If a sale, mortgage or lease for a term exceeding five years of any
45 real property of any such religious corporation with respect to which a
46 court order was required under subdivision one of this section has been
47 heretofore or shall be hereafter made and a conveyance or mortgage
48 executed and delivered without the authority of a court of competent
49 jurisdiction, obtained as required by law, or not in accordance with its
50 directions, the court may, thereafter, upon the application of the
51 corporation, or of the grantee or mortgagee in any such conveyance or
52 mortgage or of any person claiming through or under any such grantee or
53 mortgagee upon such notice to such corporation, or its successor, and
54 such other person or persons as may be interested in such property, as
55 the court may prescribe, confirm said previously executed conveyance or
56 mortgage, and order and direct the execution and delivery of a confirma-

1 tory deed or mortgage, or the recording of such confirmatory order in
2 the office where deeds and mortgages are recorded in the county in which
3 the property is located; and upon compliance with the said order such
4 original conveyance or mortgage shall be as valid and of the same force
5 and effect as if it had been executed and delivered after due
6 proceedings had in accordance with the statute and the direction of the
7 court. But no confirmatory order may be granted unless the consents
8 required in the first part of this section for a Protestant Episcopal,
9 Roman Catholic, Presbyterian church or an incorporated African Methodist
10 Episcopal Zion church or an incorporated United Methodist church have
11 first been given by the prescribed authority thereof, either upon the
12 original application or upon the application for the confirmatory order.
13 § 2. This act shall take effect immediately and shall apply to sales
14 and mortgages of real property occurring on or after the effective date
15 of this act.