STATE OF NEW YORK

7088

2023-2024 Regular Sessions

IN SENATE

May 17, 2023

Introduced by Sen. MAY -- 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 enacting the "low impact landscaping rights act"

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

Section 1. Short title. This act shall be known and may be cited as the "low impact landscaping rights act".

§ 2. The real property law is amended by adding a new article 9-e to read as follows:

ARTICLE 9-E

LOW IMPACT LANDSCAPING RIGHTS ACT

Section 344. Legislative intent.

344-a. Certain covenants, conditions, and restrictions of homeowners' associations prohibited.

§ 344. Legislative intent. It is in the interest of the state to encourage biodiversity in the natural landscapes across New York. Residential lawns compose a significant portion of localities' landscapes, and the turfgrass monocultures that are typically cultivated on lawns adversely affect biodiversity of flora and fauna. Turfgrass monocultures provide little to no benefit for pollinators and other native wildlife, and require pesticides, herbicides, and large amounts of water to retain the artificial environment. This legislation will ensure that homeowners are not prevented by homeowners' associations from installing and maintaining beneficial low impact landscaping on their property.

§ 344-a. Certain covenants, conditions, and restrictions of homeowners' associations prohibited. 1. Definitions. For the purposes of this section:

(a) "restriction on use" means any covenant, restriction, or condition contained in:

(i) a deed;

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

LBD10502-01-3

(ii) a contract;
(iii) the by-laws of a homeowners' association;
(iv) any rules or regulations adopted by a homeowners' association;
(v) a security agreement; or
(vi) any other instrument affecting the transfer or sale of, or any interest in, real property.
(b) "low impact landscaping" means:
(i) pollinator gardens designed to attract and promote the health of pollinator species;
(ii) rain gardens designed to collect and retain rain water in the soil and to filter and reduce runoff;
(iii) habitat gardens designed to attract and promote the health of native wildlife; or
(iv) natural gardening that uses plants native to the state of New York.
2. A homeowners' association shall not adopt or enforce any rules or regulations that would effectively prohibit, or impose unreasonable limitations on, the installation or maintenance of low impact landscaping. A restriction on use which effectively prohibits the installation or maintenance of low impact landscaping shall be unenforceable and shall be void as contrary to public policy.
3. Notwithstanding subdivision two of this section, a homeowners' association may adopt or enforce a restriction on use to prohibit the installation or maintenance of low impact landscaping that is:
(a) located on property owned by the homeowners' association or that is located on property owned in common by the members of the homeowners' association;
(b) not reasonably maintained by the homeowner; or
(c) not designed within reasonable expectations regarding public safety, and regarding encroachment on common space and neighboring properties.
4. Any denial of a homeowner's installation of low impact landscaping by a homeowners' association shall include a detailed description of the exact basis for rejection in writing with specific examples of such homeowners' association's concerns, if applicable.

§ 3. This act shall take effect on the sixtieth day after it shall have become a law.