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:

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

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

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

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

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

(b) Within one year of the effective date of this section, the board of managers of a condominium, the board of directors of a cooperative apartment corporation or a homeowners association if such real property is subject to the rules and regulations of such an association, shall delete or amend any covenants, conditions and restrictions that exist in 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.

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

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

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

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

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

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

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

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.