§ 294. Recording executory contracts and powers of attorney. 1. An executory contract for the sale, purchase or exchange of real property, or an instrument canceling such a contract, or an instrument containing a power to convey real property, as the agent or attorney for the owner of the property, acknowledged or proved, and certified, in the manner to entitle a conveyance to be recorded, may be recorded in the office of the recording officer of any county in which any of the real property to which it relates is situated, and such recording officer shall, upon the request of any party, on tender of the lawful fees therefor, record the same in his said office.

2. In lieu of the recording of an executory contract, there may be recorded a memorandum thereof, executed by the parties, and acknowledged or proved, and certified, in the manner to entitle a conveyance to be recorded, containing at least the following information with respect to the contract: the names of the parties to the contract, the time fixed by the contract for the conveyance of title, and a description of the property. The executory contract shall be deemed duly recorded upon the recording of a memorandum in conformity with this subdivision.

If the purchaser is entitled to possession of the property under the terms of the contract, the memorandum must so state. The provisions of article eleven of the tax law shall not be applicable to an executory contract for the sale, purchase or exchange of real property, or memorandum thereof, unless the contract provides that the purchaser is entitled to possession of the property.

3. Every executory contract for the sale, purchase or exchange of real property not recorded as provided in this section shall be void as against any person who subsequently purchases or acquires by exchange or contracts to purchase or acquire by exchange, the same real property or any portion thereof, or acquires by assignment the rent to accrue therefrom as provided in section two hundred ninety-four-a of the real property law, in good faith and for a valuable consideration, from the same vendor or assignor, his distributees or devisees, and whose conveyance, contract or assignment is first duly recorded, and shall be void as against the lien upon the same real property or any portion

thereof arising from payments made upon the execution of or pursuant to the terms of a contract with the same vendor, his distributees or devisees, if such contract is made in good faith and is first duly recorded.

4. (a) Where an executory contract is duly recorded as provided in this section the right of the purchaser to performance of the contract is enforceable against a person who, subsequent to the recording and while the recording is effective as provided in this section, purchases or acquires by exchange the same real property or any part thereof, from the same vendor, his distributees or devisees.

(b) If the recorded contract provides for payments made or to be made by the purchaser before conveyance of title, including payments made at the execution of the contract, or if the recorded memorandum states that the contract so provides, the lien of the purchaser arising from any such payments actually made is enforceable against any such person described in paragraph (a) to the extent of such payments, not exceeding the total amount specified in the recorded contract or memorandum, and is so enforceable without regard to any notice of the estate or interest of such person.

5. The recording of the executory contract or memorandum shall be effective for the purposes of subdivision four up to and including the thirtieth day after the day fixed by the contract for the conveyance of title. An agreement extending the time for the conveyance of title, acknowledged or proved, and certified, in the manner to entitle a conveyance to be recorded, may be recorded, and the recording shall be effective up to and including the thirtieth day after the day fixed by such agreement for the conveyance of title.

6. An executory contract or memorandum thereof shall not be deemed recorded as provided in this section if it is recorded more than one year previous to the date on which the vendor acquired title to the real property to which the contract relates.

An executory contract recorded before the date when the vendor acquired title shall not be deemed recorded as provided in this section

as against a person to whom the real property is conveyed or contracted to be sold or exchanged, by a conveyance or contract which is part of the transaction in which the vendor acquired title.

7. An option to purchase or lease real property shall be deemed an executory contract within the meaning of this section, except that the recording of the option agreement shall be effective only up to and including the thirtieth day after the last day fixed by the agreement for the exercise of the option. If the option is exercised in accordance with the terms of the option agreement, the optionee may extend the effectiveness of the recording of the option agreement to and including the thirtieth day after the day fixed pursuant to the option agreement for the conveyance of title or the execution and delivery of the lease, as the case may be, by recording, within thirty days after the last day fixed by the option agreement for the exercise of the option, a written declaration executed by the optionor and the optionee, or by the optionee alone, and acknowledged or proved and certified in the manner to entitle a conveyance to be recorded, stating that the said option has been duly exercised and setting forth the day fixed pursuant to the option agreement for the conveyance of title or the execution and delivery of the lease, as the case may be. In the event that such declaration is executed by the optionee alone, it shall be verified by the optionee and shall also set forth the time and manner in which such option was exercised and, if the last day for the conveyance of title or the execution and delivery of the lease is not specified in the option agreement, the extension of the effectiveness of the recording of the option agreement shall in no event exceed ninety days from the date of the recording of such declaration.

8. (a) After the recording of an executory contract or memorandum has ceased to be effective as provided in subdivision five, or the recording of an option to purchase or lease real property has ceased to be effective as provided in subdivision seven, such executory contract, memorandum or option shall be (1) void as against a subsequent purchaser in good faith and for a valuable consideration, who has no other notice of an estate or interest of the contract vendee or optionee in the premises to which such contract, memorandum or option refers, or of any

claim thereof, and (2) ineffective to give notice to such subsequent purchaser of any estate or interest of the contract vendee or optionee in such premises, or of any claim thereof, or to create any duty of inquiry with respect thereto.

(b) For the purposes of this subdivision, "purchaser" includes a person who purchases or acquires by exchange or contracts to purchase or acquire by exchange the same premises or any portion thereof or estate or interest therein, or acquires by assignment the rent to accrue from tenancies or subtenancies thereof in existence at the time of the assignment.