

9341

I N A S S E M B L Y

April 16, 2014

Introduced by M. of A. WEINSTEIN -- (at request of the Department of Law) -- read once and referred to the Committee on Judiciary

AN ACT establishing the "New York state abandoned property neighborhood relief act of 2014"; and to amend the real property actions and proceedings law, in relation to the duty of the mortgagee or its loan servicing agent to maintain property secured by delinquent mortgage

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "New York  
2 state abandoned property neighborhood relief act of 2014".  
3 S 2. Section 1307 of the real property actions and proceedings law, as  
4 added by chapter 507 of the laws of 2009, is amended to read as follows:  
5 S 1307. Duty to maintain [foreclosed] property SECURED BY DELINQUENT  
6 MORTGAGE. 1. [A plaintiff in a mortgage foreclosure action who obtains  
7 a judgment of foreclosure and sale pursuant to section thirteen hundred  
8 fifty-one of this article, involving residential real property, as  
9 defined in section thirteen hundred five of this article, that is  
10 vacant, or becomes vacant after the issuance of such judgment, or is  
11 abandoned by the mortgagor but occupied by a tenant] (A) WITH RESPECT TO  
12 A MORTGAGE LOAN SECURED BY RESIDENTIAL REAL PROPERTY, as defined under  
13 section thirteen hundred five of this article, WHERE THE PROPERTY IS  
14 "VACANT AND ABANDONED" AS DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION  
15 OR A FORECLOSURE ACTION HAS BEEN COMMENCED AGAINST THE PROPERTY BECAUSE  
16 THE MORTGAGOR HAS FAILED TO MAINTAIN THE PROPERTY OR WHERE A JUDGMENT OF  
17 FORECLOSURE UNDER SECTION THIRTEEN HUNDRED FIFTY-ONE OF THIS ARTICLE HAS  
18 BEEN OBTAINED ON THE PROPERTY THAT HAS BEEN ABANDONED BY THE MORTGAGOR  
19 BUT REMAINS OCCUPIED BY A TENANT LAWFULLY IN POSSESSION, THE MORTGAGEE  
20 OR ITS LOAN SERVICING AGENT shall maintain such property until such time  
21 as ownership has been transferred through the closing of title in fore-  
22 closure, or other disposition, and the deed for such property has been  
23 duly recorded; provided, however, that if a municipality or governmental  
24 entity holds a mortgage subordinate to one or more mortgages on the  
25 residential real property, the municipality or governmental entity shall  
26 not be subject to the requirements of this section.

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

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1 (B) FOR PURPOSES OF THIS SECTION, RESIDENTIAL REAL PROPERTY SHALL BE  
2 DEEMED "VACANT AND ABANDONED" WHEN: (I) AT LEAST THREE MONTHLY PAYMENTS  
3 ARE PAST DUE ON THE MORTGAGE LOAN OR THE MORTGAGOR HAS INFORMED THE  
4 MORTGAGEE OR LOAN SERVICING COMPANY IN WRITING THAT THE MORTGAGOR DOES  
5 NOT INTEND TO OCCUPY THE PROPERTY IN THE FUTURE; AND (II) EITHER: (A)  
6 THERE IS A REASONABLE BASIS TO BELIEVE THAT THE PROPERTY IS NOT OCCUPIED  
7 WHICH SHALL BE DETERMINED IN ACCORDANCE WITH THE REQUIREMENTS OF PARA-  
8 GRAPH (B-1) OF THIS SUBDIVISION; OR (B) A COURT OR OTHER APPROPRIATE  
9 STATE OR LOCAL GOVERNMENTAL ENTITY HAS DETERMINED THAT SUCH RESIDENTIAL  
10 REAL PROPERTY IS A RISK TO THE HEALTH, SAFETY OR WELFARE OF THE PUBLIC  
11 OR ANY ADJOINING OR ADJACENT PROPERTY OWNERS, OR HAS OTHERWISE DECLARED  
12 THE PROPERTY UNFIT FOR OCCUPANCY. WHERE A MORTGAGEE OR LOAN SERVICING  
13 COMPANY HAS RECEIVED WRITTEN NOTICE FROM A MORTGAGOR THAT SUCH MORTGAGOR  
14 DOES NOT INTEND TO OCCUPY SUCH PROPERTY IN THE FUTURE, THE MORTGAGEE OR  
15 LOAN SERVICING COMPANY SHALL PROMPTLY NOTIFY THE ATTORNEY GENERAL IN  
16 WRITING OF ITS RECEIPT OF SUCH NOTIFICATION AND THE DATE THEREOF.

17 (B-1) FOR PURPOSES OF PARAGRAPH (B) OF THIS SUBDIVISION, A REASONABLE  
18 BASIS TO BELIEVE THAT RESIDENTIAL REAL PROPERTY IS NOT OCCUPIED SHALL,  
19 AT A MINIMUM, BE BASED UPON PERIODIC INSPECTIONS OF SUCH PROPERTY OVER A  
20 TWO-MONTH PERIOD AT DIFFERENT TIMES OF THE DAY WHERE THREE OR MORE SUCH  
21 INSPECTIONS REVEAL EVIDENCE OF ABANDONMENT. FOR PURPOSES OF THIS SUBDI-  
22 VISION, "EVIDENCE OF ABANDONMENT" SHALL INCLUDE BUT NOT BE LIMITED TO  
23 ANY OF THE FOLLOWING CONDITIONS: (I) OVERGROWN OR DEAD VEGETATION; (II)  
24 ACCUMULATION OF NEWSPAPERS, CIRCULARS, FLYERS OR MAIL; (III) PAST DUE  
25 UTILITY NOTICES, DISCONNECTED UTILITIES, OR UTILITIES NOT IN USE; (IV)  
26 ACCUMULATION OF TRASH REFUSE OR OTHER DEBRIS; (V) ABSENCE OF WINDOW  
27 COVERINGS SUCH AS CURTAINS, BLINDS, OR SHUTTERS; (VI) ONE OR MORE BOARD-  
28 ED, MISSING OR BROKEN WINDOWS; (VII) THE PROPERTY IS OPEN TO CASUAL  
29 ENTRY OR TRESPASS; OR (VIII) THE PROPERTY HAS A BUILDING OR STRUCTURE  
30 THAT IS OR APPEARS STRUCTURALLY UNSOUND OR HAS ANY OTHER CONDITION THAT  
31 PRESENTS A POTENTIAL HAZARD OR DANGER TO THE SAFETY OF PERSONS.

32 (B-2) FOR PURPOSES OF DETERMINING WHETHER RESIDENTIAL REAL PROPERTY IS  
33 OCCUPIED, THE MORTGAGEE OR LOAN SERVICING COMPANY SHALL CONDUCT OR CAUSE  
34 TO BE CONDUCTED PERIODIC INSPECTIONS OF SUCH PROPERTY AT LEAST ONCE  
35 EVERY THIRTY DAYS COMMENCING NO LATER THAN SEVEN DAYS AFTER THE DATE  
36 UPON WHICH TWO MORTGAGE PAYMENTS ON SUCH PROPERTY ARE PAST DUE, OR SOON-  
37 ER IF SO REQUIRED BY FEDERAL STATUTE, RULE, REGULATION, PUBLISHED GUID-  
38 ANCE, OR OTHER REQUIREMENTS OF THE FEDERAL NATIONAL MORTGAGE ASSOCI-  
39 ATION, FEDERAL HOME LOAN MORTGAGE CORPORATION OR FEDERAL HOUSING FINANCE  
40 AGENCY.

41 (B-3) FOR PURPOSES OF PARAGRAPH (B) OF THIS SUBDIVISION, RESIDENTIAL  
42 REAL PROPERTY SHALL NOT BE DEEMED "VACANT AND ABANDONED" WHERE SUCH  
43 PROPERTY IS: (I) AN UNOCCUPIED BUILDING WHICH IS UNDERGOING  
44 CONSTRUCTION, RENOVATION OR REHABILITATION THAT IS PROCEEDING TO  
45 COMPLETION, AND THE BUILDING IS IN COMPLIANCE WITH ALL APPLICABLE ORDI-  
46 NANCES, CODES, REGULATIONS AND STATUTES; (II) A BUILDING OCCUPIED ON A  
47 SEASONAL BASIS THAT IS OTHERWISE SECURE; (III) A BUILDING THAT IS  
48 SECURE, BUT IS THE SUBJECT OF A PROBATE ACTION, ACTION TO QUIET TITLE,  
49 OR OTHER SIMILAR OWNERSHIP DISPUTE; (IV) A BUILDING DAMAGED BY A NATURAL  
50 DISASTER AND ONE OR MORE OWNER INTENDS TO REPAIR AND REOCCUPY THE PROP-  
51 erty; OR (V) OCCUPIED BY THE MORTGAGOR, A RELATIVE OF THE MORTGAGOR OR A  
52 TENANT LAWFULLY IN POSSESSION.

53 2. Such [plaintiff] MORTGAGEE AND/OR ITS LOAN SERVICING AGENT shall  
54 have the right to peaceably enter upon such property DETERMINED TO BE  
55 VACANT AND ABANDONED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, or to  
56 cause others to peaceably enter upon the property for the limited

1 purpose of inspections, repairs and maintenance as required by this  
2 section, or as otherwise ordered by court; provided, however, that if  
3 the property is occupied by a tenant LAWFULLY IN POSSESSION, at least  
4 seven days notice must be given to such tenant, unless emergency repairs  
5 are required in which case reasonable notice shall be provided to the  
6 tenant.

7 2-A. (A) IT SHALL BE UNLAWFUL FOR A MORTGAGEE, ITS SERVICER OR A THIRD  
8 PARTY AGENT OR OTHER PERSON ACTING ON BEHALF OF A MORTGAGEE TO ENTER  
9 RESIDENTIAL REAL PROPERTY THAT IS NOT VACANT AND ABANDONED FOR THE  
10 PURPOSE OF FORCING, INTIMIDATING, HARASSING OR COERCING A LAWFUL OCCU-  
11 PANT OF SUCH RESIDENTIAL PROPERTY TO VACATE THAT PROPERTY IN ORDER TO  
12 RENDER THE PROPERTY VACANT AND ABANDONED, OR TO OTHERWISE FORCE, INTIM-  
13 IDATE, HARASS, OR COERCE A LAWFUL OCCUPANT OF RESIDENTIAL REAL PROPERTY  
14 TO VACATE THAT PROPERTY SO THAT IT MAY BE CONSIDERED AS VACANT AND ABAN-  
15 DONED.

16 (B) LIABILITY FOR SUCH UNLAWFUL CONDUCT SHALL EXTEND TO ANY MORTGAGEE  
17 FOR WHOSE BENEFIT THE ACTIONS WERE INITIATED, IN ADDITION TO ANY AGENT,  
18 EMPLOYEE OR SUBCONTRACTOR OF THE MORTGAGEE WHO RETAINED, HIRED OR OTHER-  
19 WISE ENLISTED THE PERPETRATOR.

20 (C) A HOMEOWNER AND/OR OCCUPANT WHO HAS BEEN SUBJECTED TO SUCH UNLAW-  
21 FUL CONDUCT MAY BRING AN ACTION FOR DAMAGES AND INJUNCTIVE RELIEF WHICH  
22 MAY BE RAISED AS A COUNTERCLAIM IN A FORECLOSURE OR EVICTION PROCEEDING,  
23 OR IN ANY OTHER ACTION OR PROCEEDING BROUGHT TO REGAIN POSSESSION OF, OR  
24 QUIET TITLE TO, RESIDENTIAL REAL PROPERTY, OR MAY BE RAISED AS AN AFFIR-  
25 MATIVE ACTION IN ANY COURT OF COMPETENT JURISDICTION.

26 (D) PUNITIVE DAMAGES, COSTS AND/OR ATTORNEY FEES, MAY BE AWARDED WHEN  
27 THE CONDUCT COMPLAINED OF HAS BEEN CARRIED OUT WITH KNOWING DISREGARD OF  
28 THE RIGHTS OF THE OCCUPANT OR WAS PART OF A PATTERN OF CONDUCT INTENDED  
29 TO SECURE THE VACATING OF PROPERTIES SO THAT THOSE PROPERTIES WOULD BE  
30 CONSIDERED AS VACANT AND ABANDONED FOR PURPOSES OF THIS SECTION.

31 3. [The] IN ADDITION TO THE AUTHORITY GRANTED TO THE ATTORNEY GENERAL  
32 PURSUANT TO SUBDIVISION THREE OF SECTION THIRTEEN HUNDRED SEVEN-A OF  
33 THIS ARTICLE, THE municipality in which such residential real property  
34 is located, any tenant lawfully in possession, and a board of managers  
35 of a condominium in which the premises are located or a homeowners asso-  
36 ciation if said premises are subject to the rules and regulations of  
37 such an association, shall have the right to enforce the obligations  
38 described in this section in any court of competent jurisdiction after  
39 at least seven days notice to the [plaintiff in the foreclosure action]  
40 MORTGAGEE OR ITS LOAN SERVICING AGENT unless emergency repairs are  
41 required. Any entity acting pursuant to this subdivision shall have a  
42 cause of action in any court of competent jurisdiction against the  
43 [plaintiff in the foreclosure action] MORTGAGEE OR ITS LOAN SERVICING  
44 AGENT to recover costs incurred as a result of maintaining the property.  
45 SUCH ENTITY SHALL PROVIDE THE ATTORNEY GENERAL WITH WRITTEN NOTICE AT  
46 LEAST TEN DAYS PRIOR TO BRINGING AN ACTION PURSUANT TO THIS SUBDIVISION;  
47 PROVIDED, HOWEVER, THAT FAILURE TO COMPLY WITH THIS NOTICE REQUIREMENT  
48 SHALL NOT BE A DEFENSE TO THE ENTITY'S PROCEEDING. The authority  
49 provided by this subdivision shall be in addition to, and shall not be  
50 deemed to diminish or reduce, any rights of the parties described in  
51 this section under existing law against the mortgagor of such property  
52 for failure to maintain such property.

53 4. In the event the mortgagor of the property commences a proceeding  
54 in bankruptcy court prior to the completion of the public auction  
55 ordered in the judgment of sale, the duties created by this section  
56 shall be suspended during the pendency of the bankruptcy proceeding or

1 until such time as an order has been entered in that proceeding lifting  
2 or removing the automatic stay of the foreclosure sale.

3 5. For the purposes of this section "maintain" shall mean keeping the  
4 subject property in a manner that is consistent with the standards set  
5 forth in the New York property maintenance code chapter 3 sections 301,  
6 302 (excluding 302.2, 302.6 and 302.8), 304.1, 304.3, 304.7, 304.10,  
7 304.12, 304.13, 304.15, 304.16, 307.1, and 308.1; provided, however,  
8 that if the property is occupied by a tenant, then such property must  
9 also be maintained in a safe and habitable condition.

10 6. A [plaintiff] MORTGAGEE OR ITS LOAN SERVICING AGENT shall be  
11 relieved of its responsibilities [to maintain the residential real prop-  
12 erty that is the subject of a foreclosure action] UNDER PARAGRAPH (A) OF  
13 SUBDIVISION ONE OF THIS SECTION for the period that a receiver of such  
14 property is serving.

15 7. Nothing contained in this section shall diminish in any way the  
16 obligations pursuant to any state or local law of the mortgagor of the  
17 property or a receiver of rents and profits appointed in an action to  
18 foreclose a mortgage to maintain the property prior to the closing of  
19 title pursuant to a foreclosure sale.

20 8. This section shall not preempt, reduce or limit any rights or obli-  
21 gations imposed by any local laws with respect to property maintenance  
22 and the locality's ability to enforce those laws.

23 S 3. The real property actions and proceedings law is amended by  
24 adding a new section 1307-a to read as follows:

25 S 1307-A. DELINQUENT MORTGAGE; VACANT AND ABANDONED PROPERTY; STATE-  
26 WIDE VACANT AND ABANDONED PROPERTY ELECTRONIC REGISTRY. 1. WHERE A  
27 MORTGAGOR IS THREE MONTHLY PAYMENTS PAST DUE ON A MORTGAGE LOAN SECURED  
28 BY RESIDENTIAL REAL PROPERTY, THE MORTGAGEE OR ITS LOAN SERVICING AGENT  
29 SHALL PROVIDE WRITTEN NOTICE TO THE MORTGAGOR STATING THAT THE MORTGAGOR  
30 HAS THE RIGHT TO OCCUPY THE PROPERTY UNTIL HE OR SHE IS ORDERED TO LEAVE  
31 THE PROPERTY BY A COURT OF COMPETENT JURISDICTION. SUCH NOTICE SHALL BE  
32 PROVIDED TO THE MORTGAGOR WITHIN FIFTEEN DAYS OF THE DATE THAT THE HOME-  
33 OWNER'S ACCOUNT IS PAST DUE BY NINETY DAYS, AND A COPY OF SUCH NOTICE  
34 SHALL PROMPTLY BE PROVIDED BY SUCH MORTGAGEE OR LOAN SERVICING AGENT TO  
35 THE ATTORNEY GENERAL. THE NOTICE SHALL BE IN FOURTEEN-POINT FONT AND  
36 SHALL INCLUDE THE FOLLOWING LANGUAGE IN A CLEAR AND CONSPICUOUS FORMAT:

37 "AS YOUR LOAN SERVICER OR MORTGAGE HOLDER, WE ARE REQUIRED TO SEND YOU  
38 THIS NOTICE PURSUANT TO NEW YORK STATE LAW.

39 AS THE OWNER OF YOUR HOME, YOU HAVE THE RIGHT TO OCCUPY YOUR HOME  
40 UNTIL SUCH TIME AS YOU ARE ORDERED TO LEAVE BY A COURT OF COMPETENT  
41 JURISDICTION.

42 WE MAY INITIATE COLLECTION ACTIVITY INCLUDING TAKING STEPS TO COMMENCE  
43 AND LITIGATE A FORECLOSURE LAWSUIT AGAINST YOU AND THE PROPERTY.

44 YOU ARE ALLOWED BY NEW YORK STATE LAW TO CONTINUE LIVING IN YOUR HOME  
45 REGARDLESS OF ANY COLLECTION METHODS WE PURSUE OR ORAL OR WRITTEN STATE-  
46 MENTS MADE DURING THE COLLECTIONS PROCESS, INCLUDING THE FORECLOSURE  
47 PROCESS, UNTIL SUCH TIME AS YOU ARE ORDERED BY A COURT TO LEAVE YOUR  
48 PROPERTY."

49 2. (A) THE ATTORNEY GENERAL SHALL MAINTAIN A STATEWIDE VACANT AND  
50 ABANDONED PROPERTY REGISTRY IN THE FORM OF AN ELECTRONIC DATABASE. THE  
51 ATTORNEY GENERAL MAY, IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF  
52 THE STATE FINANCE LAW, RETAIN A PRIVATE CONTRACTOR TO ADMINISTER SUCH  
53 DATABASE FOR THE PURPOSES OF SATISFYING THIS REQUIREMENT, AND SHALL,  
54 UPON WRITTEN REQUEST, PROVIDE APPROPRIATE OFFICIALS OF ANY CITY, TOWN OR  
55 VILLAGE WITH DIRECT ELECTRONIC ACCESS TO INFORMATION MAINTAINED ON SUCH  
56 DATABASE FOR THE PURPOSE OF ENFORCING THIS SECTION, SECTION THIRTEEN

1 HUNDRED SEVEN OF THIS ARTICLE OR ARTICLE NINETEEN-A OF THIS CHAPTER, OR  
2 ANY OTHER RELATED LAW, CODE, RULE, REGULATION OR ORDINANCE.

3 (B) A MORTGAGEE OR ITS AGENT SHALL SUBMIT TO THE ATTORNEY GENERAL  
4 INFORMATION REQUIRED BY THE ATTORNEY GENERAL ABOUT ANY VACANT AND ABAN-  
5 DONED PROPERTY, AS THAT TERM IS DEFINED IN PARAGRAPH (B) OF SUBDIVISION  
6 ONE OF SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTICLE, WITHIN FIFTEEN  
7 DAYS OF WHEN THE MORTGAGEE OR ITS AGENTS LEARN, OR REASONABLY SHOULD  
8 HAVE LEARNED, THAT SUCH PROPERTY IS VACANT AND ABANDONED. SUCH INFORMA-  
9 TION SHALL, AT A MINIMUM, INCLUDE: (I) THE CURRENT NAME, ADDRESS AND  
10 CONTACT INFORMATION FOR THE LENDER OR SERVICER RESPONSIBLE FOR MAINTAIN-  
11 ING THE VACANT PROPERTY; (II) WHETHER A FORECLOSURE ACTION HAS BEEN  
12 FILED FOR THE PROPERTY IN QUESTION, AND, IF SO, THE DATE ON WHICH THE  
13 FORECLOSURE ACTION WAS COMMENCED; AND (III) THE LAST KNOWN ADDRESS AND  
14 CONTACT INFORMATION FOR THE MORTGAGEE OF RECORD.

15 (C) WHERE ANY OF THE INFORMATION CONTAINED IN A MORTGAGEE'S OR ITS  
16 AGENT'S INITIAL SUBMISSION TO THE REGISTRY HAS MATERIALLY CHANGED SINCE  
17 SUCH SUBMISSION, SUCH MORTGAGE OR AGENT SHALL MAKE AN AMENDED SUBMISSION  
18 TO THE REGISTRY NOT LATER THAN THIRTY DAYS AFTER THE MORTGAGEE OR ITS  
19 AGENTS LEARN, OR REASONABLY SHOULD HAVE LEARNED, OF THE NEW OR CHANGED  
20 INFORMATION.

21 (D) THE ATTORNEY GENERAL IS AUTHORIZED AND EMPOWERED TO ADOPT SUCH  
22 RULES AND REGULATIONS AS MAY IN THE JUDGMENT OF THE ATTORNEY GENERAL BE  
23 NECESSARY FOR THE EFFECTIVE ADMINISTRATION AND OPERATION OF SUCH REGIS-  
24 TRY, INCLUDING BUT NOT LIMITED TO RULES AND REGULATIONS GOVERNING ACCESS  
25 TO THE REGISTRY AND SPECIFYING THE MANNER AND FREQUENCY OF REGISTRATION  
26 AND THE INFORMATION THAT MUST BE PROVIDED. THE ATTORNEY GENERAL MAY  
27 AMEND SUCH REGULATIONS FROM TIME TO TIME AS NECESSARY TO EFFECTUATE THE  
28 PURPOSE OF THIS SECTION AND SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTI-  
29 CLE.

30 (E) THE ATTORNEY GENERAL SHALL ESTABLISH AND MAINTAIN A TOLL-FREE  
31 HOTLINE THAT NEIGHBORS OF REAL PROPERTY THAT IS, OR APPEARS TO BE,  
32 VACANT AND ABANDONED RESIDENTIAL PROPERTY, AS SUCH TERM IS DEFINED IN  
33 PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION THIRTEEN HUNDRED SEVEN OF  
34 THIS ARTICLE, AND OTHER COMMUNITY RESIDENTS CAN USE TO REPORT TO THE  
35 ATTORNEY GENERAL ANY HAZARDS, BLIGHT OR OTHER CONCERNS RELATED TO SUCH  
36 PROPERTY AND TO OBTAIN PUBLICLY AVAILABLE INFORMATION CONCERNING THE  
37 STATUS OF SUCH PROPERTY. SUCH PUBLICLY AVAILABLE INFORMATION SHALL  
38 INCLUDE BUT NOT BE LIMITED TO WHETHER SUCH PROPERTY IS CURRENTLY LISTED  
39 ON THE STATEWIDE VACANT AND ABANDONED PROPERTY REGISTRY ESTABLISHED  
40 PURSUANT TO THIS SUBDIVISION, AND THE IDENTITY OF THE MORTGAGEE OR LOAN  
41 SERVICING COMPANY RESPONSIBLE FOR MAINTAINING SUCH VACANT AND ABANDONED  
42 PROPERTY PURSUANT TO SUBDIVISION ONE OF THIS SECTION. THE OFFICE OF THE  
43 ATTORNEY GENERAL SHALL INCLUDE ON ITS OFFICIAL PUBLIC WEBSITE INFORMA-  
44 TION ABOUT SUCH TOLL-FREE HOTLINE.

45 3. (A) WHENEVER A MORTGAGEE OR AGENT OF A MORTGAGEE SHALL VIOLATE THIS  
46 SECTION OR SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTICLE, AN APPLICA-  
47 TION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF  
48 THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A  
49 SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE  
50 DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN OR RESTRAIN THE CONTIN-  
51 UANCE OF SUCH VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF  
52 THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS  
53 SECTION OR SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTICLE, AN INJUNCTION  
54 MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY  
55 FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT,  
56 BEEN INJURED OR DAMAGED THEREBY. IN CONNECTION WITH ANY SUCH PROPOSED

1 APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A  
2 DETERMINATION OF THE RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE  
3 WITH THE CIVIL PRACTICE LAW AND RULES.

4 (B) IN ADDITION TO, OR IN LIEU OF, THE RELIEF AUTHORIZED IN PARAGRAPHS  
5 (A) AND (C) OF THIS SUBDIVISION, A MUNICIPALITY WHERE THE PROPERTY IS  
6 LOCATED MAY INTERVENE AS A MATTER OF RIGHT IN ANY FORECLOSURE ACTION  
7 COMMENCED UNDER THIS ARTICLE FOR THE PURPOSES OF REQUESTING INJUNCTIVE  
8 RELIEF TO ASSURE THAT THE PROPERTY IN QUESTION IS MAINTAINED IN ACCORD-  
9 ANCE WITH ALL ORDINANCES, CODES REGULATIONS AND STATUTES AND THAT THE  
10 FORECLOSURE ACTION IS TIMELY PROSECUTED. THE INTERVENOR MAY MOVE TO HAVE  
11 ANY ADJOURNMENTS OR VOLUNTARY DISCONTINUANCES IN SUCH FORECLOSURE ACTION  
12 CONDITIONED UPON THE POSTING OF A BOND OR OTHER UNDERTAKING OR TO ORDER  
13 OTHER MEASURES INTENDED TO ENSURE ONGOING MAINTENANCE OF THE PROPERTY  
14 UNTIL SUCH TIME AS TITLE TO THE PROPERTY HAS BEEN TRANSFERRED THROUGH A  
15 FORECLOSURE SALE OR OTHERWISE. INTERVENTION IN A FORECLOSURE ACTION  
16 PURSUANT TO THIS PARAGRAPH SHALL BE AVAILABLE WITH RESPECT TO ANY RESI-  
17 DENTIAL PROPERTY SECURED BY A MORTGAGE LOAN AS DEFINED UNDER SECTION  
18 THIRTEEN HUNDRED FIVE OF THIS ARTICLE, REGARDLESS OF WHETHER THE PROPER-  
19 TY IS OCCUPIED, SO LONG AS ONE OF THE OTHER CONDITIONS DESCRIBED IN  
20 PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION THIRTEEN HUNDRED SEVEN OF  
21 THIS ARTICLE IS PRESENT.

22 (C) WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS  
23 SECTION OR SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTICLE BY A MORTGAGEE  
24 OR AGENT OF A MORTGAGEE HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL  
25 PENALTY OF UP TO ONE THOUSAND DOLLARS PER DAY FOR EACH DAY THE VIOLATION  
26 PERSISTED IN ADDITION TO THE COSTS OF MAINTAINING THE PROPERTY.

27 (D) THE PROVISIONS OF THIS SECTION MAY ALSO BE ENFORCED BY ANY LOCALI-  
28 TY OR MUNICIPALITY IN WHICH THE VACANT PROPERTY IS LOCATED, PROVIDED  
29 THAT THE LOCALITY OR MUNICIPALITY PROVIDES THE ATTORNEY GENERAL WITH  
30 WRITTEN NOTICE AT LEAST TEN DAYS PRIOR TO COMMENCING SUCH AN ACTION  
31 UNDER THIS SECTION; AND PROVIDED FURTHER THAT FAILURE TO COMPLY WITH  
32 THIS NOTICE REQUIREMENT SHALL NOT BE A DEFENSE TO THE LOCALITY'S OR  
33 MUNICIPALITY'S PROCEEDING.

34 4. THIS SECTION SHALL NOT PREEMPT, REDUCE OR LIMIT ANY RIGHTS OR OBLI-  
35 GATIONS IMPOSED BY ANY LOCAL LAW WITH RESPECT TO PROPERTY MAINTENANCE  
36 AND THE LOCALITY'S ABILITY TO ENFORCE THOSE LAWS.

37 S 4. This act shall take effect on the one hundred eightieth day after  
38 it shall have become a law; provided, however, that effective immediate-  
39 ly, the addition and/or repeal of any rule or regulation necessary for  
40 the implementation of this act on its effective date are authorized and  
41 directed to be made and completed on or before such effective date.