S T A T E O F N E W Y O R K

3818

2013-2014 Regular Sessions

I N S E N A T E

February 21, 2013

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the real property actions and proceedings law, in relation to requiring the provision of notice to mortgagors in default for thirty days or more

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

Section 1. The real property actions and proceedings law is amended by adding a new section 1304-a to read as follows:

S 1304-A. NOTICE TO MORTGAGORS IN DEFAULT FOR THIRTY DAYS OR MORE. 1. WHEN A MORTGAGOR OF RESIDENTIAL REAL PROPERTY, INCLUDING OWNER-OCCUPIED ONE-TO-FOUR-FAMILY DWELLINGS, DEFAULTS ON SUCH MORTGAGE FOR THIRTY DAYS OR MORE, THE LENDER, ASSIGNEE OR MORTGAGE LOAN SERVICER SHALL PROVIDE NOTICE TO THE MORTGAGOR REGARDING INFORMATION AND ASSISTANCE ABOUT THE FORECLOSURE PROCESS IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

2. THE NOTICE REQUIRED BY THIS SECTION SHALL BE DELIVERED TO THE MORTGAGOR BY REGISTERED OR CERTIFIED MAIL TO THE RESIDENCE WHICH IS THE SUBJECT OF THE MORTGAGE NO LATER THAN FORTY-FIVE DAYS AFTER THE MORTGAGOR DEFAULTS ON HIS OR HER MORTGAGE. THE NOTICE REQUIRED BY THIS SECTION SHALL BE IN BOLD, FOURTEEN-POINT TYPE AND SHALL BE PRINTED ON COLORED PAPER THAT IS OTHER THAN THE COLOR OF ANY ADDITIONAL LETTER ACCOMPANYING THE NOTICE. THE TITLE OF THE NOTICE SHALL BE BOLD, TWENTY-POINT TYPE. THE NOTICE SHALL BE ON ITS OWN PAGE.

3. THE NOTICE SHALL LIST THE NAME AND CONTACT INFORMATION FOR NO LESS THAN ONE LEGAL SERVICE PROVIDER THAT IS APPROVED BY THE NEW YORK STATE ATTORNEY GENERAL THAT IS LOCATED WITHIN THE COUNTY WHERE SUCH MORTGAGED RESIDENTIAL REAL PROPERTY IS LOCATED. THE NOTICE SHALL LIST THE NAME AND CONTACT INFORMATION FOR NO LESS THAN ONE HOUSING COUNSELOR LOCATED WITHIN THE COUNTY OF THE MORTGAGOR AND APPROVED BY THE NEW YORK STATE ATTORNEY GENERAL.

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

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4. THE NOTICE SHALL LIST CONTACT INFORMATION FOR THE TOLL-FREE FORECLOSURE HELPLINE MAINTAINED BY THE NEW YORK STATE ATTORNEY GENERAL AND THE TOLL-FREE HELPLINE MAINTAINED BY THE NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES.

5. THE NOTICE TO ANY MORTGAGOR REQUIRED BY THIS SECTION SHALL APPEAR AS FOLLOWS:

"HELP FOR HOMEOWNERS IN DEFAULT ON A MORTGAGE FOR 30 DAYS OR MORE"

"NEW YORK STATE LAW REQUIRES THAT WE SEND YOU THIS NOTICE ABOUT THE FORECLOSURE PROCESS. PLEASE READ IT CAREFULLY.

YOU ARE CURRENTLY IN DEFAULT ON YOUR MORTGAGE FOR 30 DAYS OR MORE. THIS IS NOT A FORECLOSURE NOTICE. THERE MAY BE SEVERAL WAYS IN WHICH YOU CAN SAVE YOUR HOME. WE STRONGLY ENCOURAGE YOU TO CONTACT ONE OF THE HOUSING COUNSELORS OR LOCAL LEGAL SERVICE AGENCIES LISTED BELOW. THE CONTACT INFORMATION FOR THE TOLL-FREE HELPLINE MAINTAINED BY THE NEW YORK STATE ATTORNEY GENERAL AND THE TOLL-FREE HELPLINE MAINTAINED BY THE NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES ARE ALSO LISTED BELOW.

YOU DO NOT NEED TO WAIT UNTIL YOUR HOME HAS BEEN FORECLOSED ON TO RECEIVE HELP. NUMEROUS PROGRAMS MAY BE AVAILABLE TO YOU RIGHT NOW. SOME MORTGAGE ASSISTANCE PROGRAMS HAVE STRICT TIME LIMITS. IF YOU WAIT TOO LONG, THEN YOU MAY BECOME INELIGIBLE FOR ASSISTANCE BY SOME OF THESE PROGRAMS. PROFESSIONAL HOUSING COUNSELORS AND ATTORNEYS MAY BE ABLE TO ASSIST YOU IN ACCESSING THESE PROGRAMS FREE OF CHARGE.

YOU HAVE THE RIGHT TO REMAIN IN YOUR HOME UNTIL A FORECLOSURE SALE IS SCHEDULED AND YOUR HOUSE IS SOLD AT THE AUCTION. THIS PROCESS MAY TAKE UP TO SEVERAL YEARS. UNTIL SUCH TIME AS A JUDGMENT OF FORECLOSURE IS ENTERED BY A JUDGE AND THE HOUSE IS SOLD AT THE FORECLOSURE AUCTION, NO ONE MAY FORCE YOU TO LEAVE YOUR HOME. THIS INCLUDES THE LENDER THAT HOLDS YOUR MORTGAGE.

UNTIL A JUDGMENT OF FORECLOSURE IS ENTERED, YOU ARE RESPONSIBLE FOR THE UPKEEP OF YOUR HOME. THIS INCLUDES PAYMENT OF WATER BILLS, PROPERTY TAXES (UNLESS THE LENDER IS PAYING SUCH TAXES), AND UPKEEP OF THE EXTERIOR. IF YOU CHOOSE TO LEAVE YOUR HOME BEFORE A JUDGMENT OF FORECLOSURE IS RENDERED, YOU ARE STILL RESPONSIBLE FOR THE UPKEEP OF THE HOME AND THE EXTERIOR, INCLUDING THE YARD. FAILURE TO MAINTAIN THE PROPERTY MAY RESULT IN ADDITIONAL COSTS ABOVE AND BEYOND THE FORECLOSURE PROCEEDINGS, AS WELL AS BUILDING CODE VIOLATIONS WHICH, IF NOT ADDRESSED, MAY LEAD TO AN ARREST WARRANT.

LEGAL SERVICE PROVIDERS:.....(ENTER NAME AND CONTACT INFORMATION FOR PROVIDER).

HOUSING COUNSELOR:.....(ENTER NAME AND CONTACT INFORMATION FOR HOUSING COUNSELOR).

NEW YORK STATE ATTORNEY GENERAL'S TOLL-FREE HOTLINE.....(ENTER NUMBER) OR VISIT THE ATTORNEY GENERAL'S WEBSITE AT.....(ENTER WEB ADDRESS)

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES' TOLL-FREE HOTLINE.....(ENTER NUMBER) OR VISIT THE DEPARTMENT'S WEBSITE AT.....(ENTER WEB ADDRESS)"

6. THE ATTORNEY GENERAL SHALL PRESCRIBE THE TELEPHONE NUMBER AND WEB ADDRESS TO BE INCLUDED IN THE NOTICE.

7. THE DEPARTMENT OF FINANCIAL SERVICES SHALL PRESCRIBE THE TELEPHONE NUMBER AND WEB ADDRESS TO BE INCLUDED IN THE NOTICE.

S 2. This act shall take effect immediately.