

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

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 and the penal law, in relation to requiring a plaintiff in a mortgage foreclosure action to maintain the subject property in good faith

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 "Good
2 Neighbor Act".
3 S 2. Subdivision 1 of section 1307 of the real property actions and
4 proceedings law, as added by chapter 507 of the laws of 2009, is amended
5 to read as follows:
6 1. A plaintiff [in] WHO COMMENCES a mortgage foreclosure action [who
7 obtains], INCLUDING A LENDER, AN ASSIGNEE OR A MORTGAGE LOAN SERVICER,
8 SEEKING a judgment of foreclosure and sale pursuant to section thirteen
9 hundred fifty-one of this article, involving residential real property,
10 as defined in section thirteen hundred five of this article, that is
11 vacant, or becomes vacant after COMMENCEMENT OF THE ACTION OR the issu-
12 ance of such judgment, or is abandoned by the mortgagor but occupied by
13 a tenant, as defined under section thirteen hundred five of this arti-
14 cle, shall IN GOOD FAITH maintain such property until such time as
15 ownership has been transferred through the closing of title in foreclo-
16 sure, or other disposition, and the deed for such property has been duly
17 recorded; provided, however, that if a municipality or governmental
18 entity holds a mortgage subordinate to one or more mortgages on the
19 residential real property, the municipality or governmental entity shall
20 not be subject to the requirements of this section. AS USED IN THIS
21 SECTION, THE TERM "GOOD FAITH" SHALL BE DEFINED AS HONESTY IN FACT AND
22 THE OBSERVANCE OF REASONABLE STANDARDS OF FAIR DEALING.

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

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1 S 3. The penal law is amended by adding a new section 270.40 to read
2 as follows:
3 S 270.40 CRIMINAL NEGLIGENCE OF VACANT REAL PROPERTY UNDER FORECLOSURE
4 PROCEEDINGS.
5 A PERSON IS GUILTY OF CRIMINAL NEGLIGENCE OF VACANT REAL PROPERTY
6 UNDER FORECLOSURE PROCEEDINGS WHEN HE OR SHE VIOLATES THE PROVISIONS OF
7 SUBDIVISION ONE OF SECTION THIRTEEN HUNDRED SEVEN OF THE REAL PROPERTY
8 ACTIONS AND PROCEEDINGS LAW.
9 CRIMINAL NEGLIGENCE OF VACANT REAL PROPERTY UNDER FORECLOSURE
10 PROCEEDINGS IS A CLASS B MISDEMEANOR.
11 S 4. This act shall take effect immediately.