

STATE OF NEW YORK

5890

2023-2024 Regular Sessions

IN ASSEMBLY

March 24, 2023

Introduced by M. of A. FAHY -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to authorizing municipalities and the department of financial services to seek civil penalties for violations of the duty to maintain a foreclosed property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1307 of the real property actions and proceedings
2 law is amended by adding a new subdivision 3-a to read as follows:

3 3-a. (a) In addition to the rights to enforce certain obligations and
4 recover certain costs pursuant to subdivision three of this section,
5 violations of this section by a plaintiff in a mortgage foreclosure
6 action may be brought before a hearing officer or a court of competent
7 jurisdiction by an entity authorized pursuant to paragraph (b) or (c) of
8 this subdivision. If it shall appear to the satisfaction of such hearing
9 officer or court, based on the preponderance of the evidence, that such
10 plaintiff has violated this section, a civil penalty may be issued by
11 such hearing officer or court in the amount of up to five hundred
12 dollars per day for each day such violation persisted after the judgment
13 of foreclosure has been issued.

14 (b) The superintendent of financial services may, as appropriate and
15 in his or her sole discretion, pursue any suspected violation of this
16 section by a plaintiff in a mortgage foreclosure action. Before taking
17 such action, the superintendent of financial services shall give such
18 plaintiff at least seven days' notice of such violation.

19 (c) The municipality in which such residential real property is
20 located shall have the right to enforce the obligations described in
21 this section in any court of competent jurisdiction after at least seven
22 days' notice to the plaintiff in the mortgage foreclosure action for
23 such property, unless such property requires emergency repairs to

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

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1 address a threat to public health, safety or welfare, in which case such
2 municipality may enter and maintain such property to cure such emergen-
3 cy, provided however, notice shall be provided to such plaintiff as soon
4 as practicable. Such municipality shall provide the department of finan-
5 cial services with written notice at least ten days prior to bringing an
6 action pursuant to this subdivision; provided, however, that failure to
7 comply with such notice requirement shall not be a defense against the
8 action pursuant to this subdivision. The authority provided by this
9 subdivision shall be in addition to, and shall not be deemed to diminish
10 or reduce, any rights of the parties described in this section under
11 existing law against the plaintiff for failure to maintain such proper-
12 ty. Any civil penalty imposed pursuant to paragraph (a) of this subdi-
13 vision in an action brought by a municipality pursuant to this paragraph
14 shall be retained by such municipality.

15 (d) The department of financial services shall be authorized and
16 empowered to adopt such rules and regulations as may, in the judgment of
17 the superintendent of financial services, be necessary for the effective
18 implementation, administration, operation and enforcement of this
19 section.

20 § 2. This act shall take effect immediately.