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

3913

2009-2010 Regular Sessions

I N S E N A T E

April 6, 2009

Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to requiring service of notice of foreclosure upon all tenants of the building to be foreclosed upon and to amend the real property law, in relation to requiring an updated list of tenants within mortgaged property

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 1303-a to read as follows:

S 1303-A. FORECLOSURES; NOTICE TO TENANTS. 1. NOT LATER THAN TEN DAYS AFTER COMMENCING THE NON-JUDICIAL PROCEEDING BY FILING THE NOTICE OF PENDENCY PURSUANT TO SECTION FOURTEEN HUNDRED THREE OF THIS CHAPTER, AND NOT LESS THAN TEN DAYS PRIOR TO THE FIRST SERVICE OF THE NOTICE OF SALE PURSUANT TO SECTION FOURTEEN HUNDRED SIX OF THIS CHAPTER, THE FORECLOSING PARTY SHALL SERVE UPON EACH LISTED TENANT, AS PRESCRIBED BY SECTION TWO HUNDRED SIXTY-TWO OF THE REAL PROPERTY LAW, A COPY OF THE NOTICE OF PENDENCY, TOGETHER WITH A NOTICE OF INTENTION OF FORECLOSURE, IN A WRITING COMPLYING WITH SUBDIVISIONS TWO AND THREE OF THIS SECTION.

2. THE NOTICE REQUIRED BY THIS SECTION SHALL BE IN BOLD, FOURTEEN-POINT TYPE AND THE TITLE OF THE NOTICE SHALL BE IN BOLD, TWENTY-POINT TYPE. THE NOTICE OF INTENTION OF FORECLOSURE SHALL BE ON ITS OWN PAGE.

3. THE NOTICE REQUIRED BY THIS SECTION SHALL APPEAR AS FOLLOWS:

HELP FOR TENANTS OCCUPYING A FORECLOSURE PROPERTY

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

YOU ARE CURRENTLY OCCUPYING A PROPERTY WHICH IS IN DANGER OF FORECLOSURE, YOU MAY LOSE YOUR HOME. YOU SHOULD IMMEDIATELY CONTACT AN ATTORNEY

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

LBD05412-01-9

OR YOUR LOCAL LEGAL AID OFFICE TO OBTAIN ADVICE ON HOW TO PROTECT YOURSELF.

THE STATE ENCOURAGES YOU TO BECOME INFORMED ABOUT YOUR OPTIONS AS A TENANT, DURING A FORECLOSURE. IN ADDITION TO SEEKING ASSISTANCE FROM AN ATTORNEY OR LEGAL AID OFFICE, THERE ARE GOVERNMENT AGENCIES AND NON-PROFIT ORGANIZATIONS THAT YOU MAY CONTACT FOR INFORMATION ABOUT POSSIBLE OPTIONS.

TO LOCATE AN ENTITY NEAR YOU, YOU MAY CALL THE TOLL-FREE HELPLINE MAINTAINED BY THE NEW YORK STATE BANKING DEPARTMENT AT 1-877-BANK-NYS (1-877-226-5697) OR VISIT THE DEPARTMENT'S WEBSITE AT HTTP://WWW.BANKING.STATE.NY.US.

4. THE BANKING DEPARTMENT SHALL POST ON ITS WEBSITE OR OTHERWISE MAKE READILY AVAILABLE THE NAME AND CONTACT INFORMATION OF GOVERNMENT AGENCIES OR NON-PROFIT ORGANIZATIONS THAT MAY BE CONTACTED FOR INFORMATION ABOUT THE FORECLOSURE PROCESS, INCLUDING MAINTAINING A TOLL-FREE HELPLINE TO DISSEMINATE THE INFORMATION REQUIRED BY THIS SECTION.

S 2. The real property law is amended by adding a new section 262 to read as follows:

S 262. LIST OF TENANTS. ANY PERSON OR PERSONS OWNING REAL PROPERTY OR AN INTEREST IN REAL PROPERTY WHICH IS SUBJECT TO A MORTGAGE MUST IDENTIFY ANY PERSON OR PERSONS IN ACTUAL PHYSICAL POSSESSION OF SUCH PROPERTY BY MAILING A COPY OF THE LEASE BY CERTIFIED MAIL TO THE MORTGAGEE WITHIN TEN DAYS OF ENTERING OR RENEWING A LEASE. SUCH MORTGAGEE MUST MAINTAIN AN UPDATED LIST OF ANY PERSON IN PHYSICAL POSSESSION OF THE MORTGAGED PROPERTY.

S 3. This act shall take effect June 1, 2009 and apply to foreclosure actions and leases commenced on or after such date; provided, however, that effective immediately the promulgation of any rules, regulations or actions necessary for the timely implementation of the provisions of this act are hereby authorized.