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I N   A S S E M B L Y

April 16, 2014

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Introduced by M. of A. WEINSTEIN, JAFFEE, ROSENTHAL, LUPARDO, JACOBS, THIELE, GOTTFRIED, ZEBROWSKI, STECK, CLARK, PEOPLES-STOKES, MAGNARELLI, MOSLEY, BUCHWALD, ABBATE, COLTON, ROBINSON, GALEF, MARKEY, SCARBOROUGH, CAMARA, TITONE, DAVILA, RYAN, MAYER, COOK, BRAUNSTEIN, ABINANTI, WEPRIN, BROOK-KRASNY, FAHY, McDONALD, ORTIZ, GOLDFEDER, SANTABARBARA -- Multi-Sponsored by -- M. of A. BRENNAN, PERRY, RIVERA, SKARTADOS, SWEENEY -- (at request of the Department of Law) -- read once and referred to the Committee on Judiciary -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 BEEN OBTAINED ON THE PROPERTY THAT HAS BEEN ABANDONED BY THE MORTGAGOR  
2 BUT REMAINS OCCUPIED BY A TENANT LAWFULLY IN POSSESSION, THE MORTGAGEE  
3 OR ITS LOAN SERVICING AGENT shall maintain such property until such time  
4 as ownership has been transferred through the closing of title in fore-  
5 closure, or other disposition, and the deed for such property has been  
6 duly recorded; provided, however, that if a municipality or governmental  
7 entity holds a mortgage [subordinate to one or more mortgages] on the  
8 residential real property, the municipality or governmental entity shall  
9 not be subject to the requirements of this section.

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

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

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

50 (B-3) FOR PURPOSES OF PARAGRAPH (B) OF THIS SUBDIVISION, RESIDENTIAL  
51 REAL PROPERTY SHALL NOT BE DEEMED "VACANT AND ABANDONED" WHERE SUCH  
52 PROPERTY IS: (I) AN UNOCCUPIED BUILDING WHICH IS UNDERGOING  
53 CONSTRUCTION, RENOVATION OR REHABILITATION THAT IS PROCEEDING TO  
54 COMPLETION, AND THE BUILDING IS IN COMPLIANCE WITH ALL APPLICABLE ORDI-  
55 NANCES, CODES, REGULATIONS AND STATUTES; (II) A BUILDING OCCUPIED ON A  
56 SEASONAL BASIS THAT IS OTHERWISE SECURE; (III) A BUILDING THAT IS

1 SECURE, BUT IS THE SUBJECT OF A PROBATE ACTION, ACTION TO QUIET TITLE,  
2 OR OTHER SIMILAR OWNERSHIP DISPUTE; (IV) A BUILDING DAMAGED BY A NATURAL  
3 DISASTER AND ONE OR MORE OWNER INTENDS TO REPAIR AND REOCCUPY THE PROP-  
4 erty; OR (V) OCCUPIED BY THE MORTGAGOR, A RELATIVE OF THE MORTGAGOR OR A  
5 TENANT LAWFULLY IN POSSESSION.

6 2. Such [plaintiff] MORTGAGEE AND/OR ITS LOAN SERVICING AGENT shall  
7 have the right to peaceably enter upon such property DETERMINED TO BE  
8 VACANT AND ABANDONED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, or to  
9 cause others to peaceably enter upon the property for the limited  
10 purpose of inspections, repairs and maintenance as required by this  
11 section, or as otherwise ordered by court; provided, however, that if  
12 the property is occupied by a tenant LAWFULLY IN POSSESSION, at least  
13 seven days notice must be given to such tenant, unless emergency repairs  
14 are required in which case reasonable notice shall be provided to the  
15 tenant.

16 2-A. (A) IT SHALL BE UNLAWFUL FOR A MORTGAGEE, ITS SERVICER OR A THIRD  
17 PARTY AGENT OR OTHER PERSON ACTING ON BEHALF OF A MORTGAGEE TO ENTER  
18 RESIDENTIAL REAL PROPERTY THAT IS NOT VACANT AND ABANDONED FOR THE  
19 PURPOSE OF FORCING, INTIMIDATING, HARASSING OR COERCING A LAWFUL OCCU-  
20 PANT OF SUCH RESIDENTIAL PROPERTY TO VACATE THAT PROPERTY IN ORDER TO  
21 RENDER THE PROPERTY VACANT AND ABANDONED, OR TO OTHERWISE FORCE, INTIM-  
22 IDATE, HARASS, OR COERCE A LAWFUL OCCUPANT OF RESIDENTIAL REAL PROPERTY  
23 TO VACATE THAT PROPERTY SO THAT IT MAY BE CONSIDERED AS VACANT AND ABAN-  
24 DONED.

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

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

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

40 3. [The] IN ADDITION TO THE AUTHORITY GRANTED TO THE ATTORNEY GENERAL  
41 PURSUANT TO SUBDIVISION THREE OF SECTION THIRTEEN HUNDRED SEVEN-A OF  
42 THIS ARTICLE, THE municipality in which such residential real property  
43 is located, any tenant lawfully in possession, and a board of managers  
44 of a condominium in which the premises are located or a homeowners asso-  
45 ciation if said premises are subject to the rules and regulations of  
46 such an association, shall have the right to enforce the obligations  
47 described in this section in any court of competent jurisdiction after  
48 at least seven days notice to the [plaintiff in the foreclosure action]  
49 MORTGAGEE OR ITS LOAN SERVICING AGENT unless emergency repairs are  
50 required. Any entity acting pursuant to this subdivision shall have a  
51 cause of action in any court of competent jurisdiction against the  
52 [plaintiff in the foreclosure action] MORTGAGEE OR ITS LOAN SERVICING  
53 AGENT to recover costs incurred as a result of maintaining the property.  
54 SUCH ENTITY SHALL PROVIDE THE ATTORNEY GENERAL WITH WRITTEN NOTICE AT  
55 LEAST TEN DAYS PRIOR TO BRINGING AN ACTION PURSUANT TO THIS SUBDIVISION;  
56 PROVIDED, HOWEVER, THAT FAILURE TO COMPLY WITH THIS NOTICE REQUIREMENT

1 SHALL NOT BE A DEFENSE TO THE ENTITY'S PROCEEDING. The authority  
2 provided by this subdivision shall be in addition to, and shall not be  
3 deemed to diminish or reduce, any rights of the parties described in  
4 this section under existing law against the mortgagor of such property  
5 for failure to maintain such property.

6 4. In the event the mortgagor of the property commences a proceeding  
7 in bankruptcy court prior to the completion of the public auction  
8 ordered in the judgment of sale, the duties created by this section  
9 shall be suspended during the pendency of the bankruptcy proceeding or  
10 until such time as an order has been entered in that proceeding lifting  
11 or removing the automatic stay of the foreclosure sale.

12 5. For the purposes of this section "maintain" shall mean keeping the  
13 subject property in a manner that is consistent with the standards set  
14 forth in the New York property maintenance code chapter 3 sections 301,  
15 302 (excluding 302.2, 302.6 and 302.8), 304.1, 304.3, 304.7, 304.10,  
16 304.12, 304.13, 304.15, 304.16, 307.1, and 308.1; provided, however,  
17 that if the property is occupied by a tenant, then such property must  
18 also be maintained in a safe and habitable condition.

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

24 7. Nothing contained in this section shall diminish in any way the  
25 obligations pursuant to any state or local law of the mortgagor of the  
26 property or a receiver of rents and profits appointed in an action to  
27 foreclose a mortgage to maintain the property prior to the closing of  
28 title pursuant to a foreclosure sale.

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

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

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

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

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

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

53 YOU ARE ALLOWED BY NEW YORK STATE LAW TO CONTINUE LIVING IN YOUR HOME  
54 REGARDLESS OF ANY COLLECTION METHODS WE PURSUE OR ORAL OR WRITTEN STATE-  
55 MENTS MADE DURING THE COLLECTIONS PROCESS, INCLUDING THE FORECLOSURE

1 PROCESS, UNTIL SUCH TIME AS YOU ARE ORDERED BY A COURT TO LEAVE YOUR  
2 PROPERTY."

3 2. (A) THE ATTORNEY GENERAL SHALL MAINTAIN A STATEWIDE VACANT AND  
4 ABANDONED PROPERTY REGISTRY IN THE FORM OF AN ELECTRONIC DATABASE. THE  
5 ATTORNEY GENERAL MAY, IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF  
6 THE STATE FINANCE LAW, RETAIN A PRIVATE CONTRACTOR TO ADMINISTER SUCH  
7 DATABASE FOR THE PURPOSES OF SATISFYING THIS REQUIREMENT, AND SHALL,  
8 UPON WRITTEN REQUEST, PROVIDE APPROPRIATE OFFICIALS OF ANY CITY, TOWN OR  
9 VILLAGE WITH DIRECT ELECTRONIC ACCESS TO INFORMATION MAINTAINED ON SUCH  
10 DATABASE FOR THE PURPOSE OF ENFORCING THIS SECTION, SECTION THIRTEEN  
11 HUNDRED SEVEN OF THIS ARTICLE OR ARTICLE NINETEEN-A OF THIS CHAPTER, OR  
12 ANY OTHER RELATED LAW, CODE, RULE, REGULATION OR ORDINANCE.

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

25 (C) WHERE ANY OF THE INFORMATION CONTAINED IN A MORTGAGEE'S OR ITS  
26 AGENT'S INITIAL SUBMISSION TO THE REGISTRY HAS MATERIALLY CHANGED SINCE  
27 SUCH SUBMISSION, SUCH MORTGAGE OR AGENT SHALL MAKE AN AMENDED SUBMISSION  
28 TO THE REGISTRY NOT LATER THAN THIRTY DAYS AFTER THE MORTGAGEE OR ITS  
29 AGENTS LEARN, OR REASONABLY SHOULD HAVE LEARNED, OF THE NEW OR CHANGED  
30 INFORMATION.

31 (D) THE ATTORNEY GENERAL IS AUTHORIZED AND EMPOWERED TO ADOPT SUCH  
32 RULES AND REGULATIONS AS MAY IN THE JUDGMENT OF THE ATTORNEY GENERAL BE  
33 NECESSARY FOR THE EFFECTIVE ADMINISTRATION AND OPERATION OF SUCH REGIS-  
34 TRY, INCLUDING BUT NOT LIMITED TO RULES AND REGULATIONS GOVERNING ACCESS  
35 TO THE REGISTRY AND SPECIFYING THE MANNER AND FREQUENCY OF REGISTRATION  
36 AND THE INFORMATION THAT MUST BE PROVIDED. THE ATTORNEY GENERAL MAY  
37 AMEND SUCH REGULATIONS FROM TIME TO TIME AS NECESSARY TO EFFECTUATE THE  
38 PURPOSE OF THIS SECTION AND SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTI-  
39 CLE.

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

55 3. (A) WHENEVER A MORTGAGEE OR AGENT OF A MORTGAGEE SHALL VIOLATE THIS  
56 SECTION OR SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTICLE, AN APPLICA-

1 TION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF  
2 THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A  
3 SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE  
4 DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN OR RESTRAIN THE CONTIN-  
5 UANCE OF SUCH VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF  
6 THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS  
7 SECTION OR SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTICLE, AN INJUNCTION  
8 MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY  
9 FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT,  
10 BEEN INJURED OR DAMAGED THEREBY. IN CONNECTION WITH ANY SUCH PROPOSED  
11 APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A  
12 DETERMINATION OF THE RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE  
13 WITH THE CIVIL PRACTICE LAW AND RULES.

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

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

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

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

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