

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:

1 Section 1. The real property actions and proceedings law is amended by
2 adding a new section 1304-a to read as follows:
3 S 1304-A. NOTICE TO MORTGAGORS IN DEFAULT FOR THIRTY DAYS OR MORE. 1.
4 WHEN A MORTGAGOR OF RESIDENTIAL REAL PROPERTY, INCLUDING OWNER-OCCUPIED
5 ONE-TO-FOUR-FAMILY DWELLINGS, DEFAULTS ON SUCH MORTGAGE FOR THIRTY DAYS
6 OR MORE, THE LENDER, ASSIGNEE OR MORTGAGE LOAN SERVICER SHALL PROVIDE
7 NOTICE TO THE MORTGAGOR REGARDING INFORMATION AND ASSISTANCE ABOUT THE
8 FORECLOSURE PROCESS IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.
9 2. THE NOTICE REQUIRED BY THIS SECTION SHALL BE DELIVERED TO THE MORT-
10 GAGOR BY REGISTERED OR CERTIFIED MAIL TO THE RESIDENCE WHICH IS THE
11 SUBJECT OF THE MORTGAGE NO LATER THAN FORTY-FIVE DAYS AFTER THE MORTGA-
12 GOR DEFAULTS ON HIS OR HER MORTGAGE. THE NOTICE REQUIRED BY THIS SECTION
13 SHALL BE IN BOLD, FOURTEEN-POINT TYPE AND SHALL BE PRINTED ON COLORED
14 PAPER THAT IS OTHER THAN THE COLOR OF ANY ADDITIONAL LETTER ACCOMPANYING
15 THE NOTICE. THE TITLE OF THE NOTICE SHALL BE BOLD, TWENTY-POINT TYPE.
16 THE NOTICE SHALL BE ON ITS OWN PAGE.
17 3. THE NOTICE SHALL LIST THE NAME AND CONTACT INFORMATION FOR NO LESS
18 THAN ONE LEGAL SERVICE PROVIDER THAT IS APPROVED BY THE NEW YORK STATE
19 ATTORNEY GENERAL THAT IS LOCATED WITHIN THE COUNTY WHERE SUCH MORTGAGED
20 RESIDENTIAL REAL PROPERTY IS LOCATED. THE NOTICE SHALL LIST THE NAME AND
21 CONTACT INFORMATION FOR NO LESS THAN ONE HOUSING COUNSELOR LOCATED WITH-
22 IN THE COUNTY OF THE MORTGAGOR AND APPROVED BY THE NEW YORK STATE ATTOR-
23 NEY GENERAL.

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

LBD08050-02-3

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 S 2. This act shall take effect immediately.