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

8478

2015-2016 Regular Sessions

I N A S S E M B L Y

October 9, 2015

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

AN ACT to amend the real property actions and proceedings law, in relation to establishing a duty for a plaintiff in a mortgage foreclosure action, and/or a mortgagee or its loan servicing agent to provide written notice to both the mortgagor and the municipality in which such residential real property is located

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 7 and 8 of section 1307 of the real property actions and proceedings law are renumbered subdivisions 8 and 9 and a new subdivision 7 is added to read as follows:

7. (A) WHERE A PLAINTIFF IN A MORTGAGE FORECLOSURE ACTION, AND/OR A MORTGAGEE OR ITS LOAN SERVICING AGENT HAS FILED LIS PENDENS DUE TO A MORTGAGOR'S PAST DUE PAYMENTS ON A MORTGAGE LOAN SECURED BY RESIDENTIAL REAL PROPERTY, THE PLAINTIFF IN THE MORTGAGE FORECLOSURE ACTION, AND/OR A MORTGAGEE OR ITS LOAN SERVICING AGENT SHALL PROVIDE WRITTEN NOTICE TO THE COUNTY CLERKS OF THE COUNTY IN WHICH SUCH RESIDENTIAL REAL PROPERTY IS LOCATED, INCLUDING, BUT NOT LIMITED TO THE ADDRESS OF THE RESIDENTIAL REAL PROPERTY AND THE MORTGAGEE OR LOAN SERVICING AGENT'S TELEPHONE NUMBER AND ADDRESS.

(B) WHERE A PLAINTIFF IN A MORTGAGE FORECLOSURE ACTION, AND/OR A MORTGAGEE OR ITS LOAN SERVICING AGENT HAS FILED LIS PENDENS DUE TO A MORTGAGOR'S PAST DUE PAYMENTS ON A MORTGAGE LOAN SECURED BY RESIDENTIAL REAL PROPERTY, THE PLAINTIFF IN THE MORTGAGE FORECLOSURE ACTION, AND/OR A MORTGAGEE OR ITS LOAN SERVICING AGENT SHALL PROVIDE WRITTEN NOTICE TO THE MORTGAGOR STATING THAT THE MORTGAGOR HAS THE RIGHT TO REMAIN ON THE RESIDENTIAL REAL PROPERTY UNTIL HE OR SHE IS ORDERED TO LEAVE THE PROPERTY BY A COURT OF COMPETENT JURISDICTION.

(C) WHEREVER A PLAINTIFF IN A MORTGAGE FORECLOSURE ACTION, AND/OR A MORTGAGEE OR ITS LOAN SERVICING AGENT, VIOLATES THIS SUBDIVISION, AN

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

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APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN TEN DAYS, TO ENJOIN OR RESTRAIN THE CONTINUANCE OF SUCH VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS SUBDIVISION, AN INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION. WHENEVER THE COURT SHALL DETERMINE THAT THERE HAS BEEN A VIOLATION OF THIS SUBDIVISION BY A PLAINTIFF IN A MORTGAGE FORECLOSURE ACTION, AND/OR A MORTGAGEE OR ITS LOAN SERVICING AGENT, THE COURT MAY IMPOSE A CIVIL PENALTY OF UP TO FIVE HUNDRED DOLLARS FOR EACH VIOLATION. THE PROVISIONS OF THIS SUBDIVISION MAY ALSO BE ENFORCED BY ANY MUNICIPALITY IN WHICH THE VACANT PROPERTY IS LOCATED, PROVIDED THAT THE LOCALITY OR MUNICIPALITY PROVIDES THE ATTORNEY GENERAL WITH WRITTEN NOTICE AT LEAST TEN DAY PRIOR TO COMMENCING SUCH AN ACTION UNDER THIS SUBDIVISION. ANY CIVIL PENALTY IMPOSED PURSUANT TO THIS SUBDIVISION IN AN ACTION BROUGHT BY A MUNICIPALITY SHALL BE RETAINED BY SUCH MUNICIPALITY. THIS SUBDIVISION SHALL NOT PREEMPT, REDUCE OR LIMIT ANY RIGHTS OR OBLIGATIONS IMPOSED BY ANY LOCAL LAW WITH RESPECT TO PROPERTY MAINTENANCE AND THE LOCALITY'S ABILITY TO ENFORCE THOSE LAWS.

S 2. This act shall take effect immediately.