

765

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

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-

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

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1 IN THE COUNTY OF THE MORTGAGOR AND APPROVED BY THE NEW YORK STATE ATTOR-
2 NEY GENERAL.

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

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

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

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

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

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

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

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

40 LEGAL SERVICE PROVIDERS:.....(ENTER NAME AND CONTACT INFORMATION
41 FOR PROVIDER).

42 HOUSING COUNSELOR:.....(ENTER NAME AND CONTACT INFORMATION FOR
43 HOUSING COUNSELOR).

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

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

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

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

54 S 2. This act shall take effect immediately.