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

769

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 and the penal law, in relation to requiring a plaintiff in a mortgage foreclosure action to maintain the subject property in good faith

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

Section 1. This act shall be known and may be cited as the "Good Neighbor Act".

S 2. Subdivision 1 of section 1307 of the real property actions and proceedings law, as added by chapter 507 of the laws of 2009, is amended to read as follows:

1. A plaintiff [in] WHO COMMENCES a mortgage foreclosure action [who obtains], INCLUDING A LENDER, AN ASSIGNEE OR A MORTGAGE LOAN SERVICER, SEEKING a judgment of foreclosure and sale pursuant to section thirteen hundred fifty-one of this article, involving residential real property, as defined in section thirteen hundred five of this article, that is vacant, or becomes vacant after COMMENCEMENT OF THE ACTION OR the issuance of such judgment, or is abandoned by the mortgagor but occupied by a tenant, as defined under section thirteen hundred five of this article, shall IN GOOD FAITH maintain such property until such time as ownership has been transferred through the closing of title in foreclosure, or other disposition, and the deed for such property has been duly recorded; provided, however, that if a municipality or governmental entity holds a mortgage subordinate to one or more mortgages on the residential real property, the municipality or governmental entity shall not be subject to the requirements of this section. AS USED IN THIS SECTION, THE TERM "GOOD FAITH" SHALL BE DEFINED AS HONESTY IN FACT AND THE OBSERVANCE OF REASONABLE STANDARDS OF FAIR DEALING.

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

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S 3. The penal law is amended by adding a new section 270.40 to read as follows:

S 270.40 CRIMINAL NEGLIGENCE OF VACANT REAL PROPERTY UNDER FORECLOSURE PROCEEDINGS.

A PERSON IS GUILTY OF CRIMINAL NEGLIGENCE OF VACANT REAL PROPERTY UNDER FORECLOSURE PROCEEDINGS WHEN HE OR SHE VIOLATES THE PROVISIONS OF SUBDIVISION ONE OF SECTION THIRTEEN HUNDRED SEVEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW.

CRIMINAL NEGLIGENCE OF VACANT REAL PROPERTY UNDER FORECLOSURE PROCEEDINGS IS A CLASS B MISDEMEANOR.

S 4. This act shall take effect immediately.