STATE OF NEW YORK

698

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

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

AN ACT to amend the administrative code of the city of New York, in relation to requiring notification by mortgagees commencing foreclosure actions to aid in the identification and improvements of at-risk properties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 27-2109.1 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

d. 1. Any mortgagee that commences an action in a court of competent jurisdiction in the state of New York to foreclose a mortgage on a multiple dwelling with ten or more units shall provide written notice to the department within fifteen days of service of the pleadings commencing such action. If such action was commenced before the effective date of the local law that added this section, and remains pending as of such effective date, notification shall be provided within thirty days of such effective date. For purposes of this subdivision department shall mean the department of housing preservation and development.

2. Such notice shall include, but is not limited to, the following information: (i) the name of the mortgagee plaintiff commencing such action and the mailing address, telephone number and e-mail address of such mortgagee plaintiff, and, when applicable, the name of a principal or corporate officer of such mortgagee plaintiff, and the mailing address, telephone number and e-mail address of such principal or corporate officer; (ii) the name, mailing address, telephone number and e-mail address of the defendant in such action; (iii) the identification of such residential real property by street address and block and lot number; (iv) the date of the commencement of such action; (v) the court in which such action was commenced and the index number of such action; (vi) the property's appraised fair market value; (vii) the amount of the principal balance owed under the mortgage being foreclosed, including interest and principal arrears, late fees and any other sums due and

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

LBD04685-01-9

owing as of the date of filing of the complaint; (viii) the interest rate and maturity date of the mortgage being foreclosed, including the amount, if any, necessary to bring the loan current as of the date of filing of the complaint; (ix) a list, including amounts, of any other indebtedness on the residential real property that is the subject of the foreclosure action as set forth in the pleadings; (x) whether there is any government investment in the property; (xi) whether there are any outstanding municipal arrears; (xii) whether such property has a certificate of occupancy; (xiii) any code violations that the property currently has; and (xiv) such other information as the department may require by rule.

3. The department shall then make a determination of whether such property being foreclosed on is an "at-risk" property. In making its determination the department shall consider subparagraphs (vi) through (xiii) of paragraph two of this subdivision, and any other information the department finds relevant to making its determination. For purposes of this section an "at-risk" property shall mean a property in physical and/or financial distress.

4. In any foreclosure proceeding under this section where the department has declared the property to be at-risk, the department may move to have a receiver appointed or replaced. The department shall provide a list of approved receivers and managing agents to the office of court administration which shall require that the court appoint a receiver from such list within one hundred eighty days after the effective date of this subdivision. Any receiver or managing agents shall be made a party to the foreclosure proceedings.

5. A mortgagee shall notify the department within fifteen days of the discontinuance of an action for which notice pursuant to paragraph one of this subdivision has been received by the department, the issuance of a judgment in such action, or the sale of the real property as a result of such action.

6. The department may collect a two percent fee on the sale of the real property as a result of such action. Such monies shall be provided to the receiver for the purposes of rehabilitating the property, with the expended money becoming a priority lien on the property.

§ 2. Section 27-2130 of the administrative code of the city of New York is amended to read as follows:

§ 27-2130 Grounds for appointment of receiver. 1. Whenever the department certifies that any condition in violation of this chapter or other applicable law in any multiple dwelling or any part of its premises constitutes a serious fire hazard or is a serious threat to life, health or safety, it may, upon failure of the owner to comply with an order to correct such conditions issued pursuant to section 27-2125 of article five of this subchapter, apply for the appointment of a receiver to repair and correct the violations.

2. Whenever any mortgagee commences an action in a court of competent jurisdiction in the state of New York to foreclose a mortgage on a multiple dwelling with ten or more units and where the department has declared the property being foreclosed on to be an "at-risk" property pursuant to section 27-2109.1 of this chapter, the department may move to have a receiver appointed or replaced. The department may provide a list of approved receivers and managing agents to the office of court administration which shall require that the court appoint a receiver from such list. For purposes of this subdivision department shall mean the department of housing preservation and development.

§ 3. This act shall take effect immediately.