

# STATE OF NEW YORK

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8641

2019-2020 Regular Sessions

## IN ASSEMBLY

October 2, 2019

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

AN ACT to amend the real property actions and proceedings law, in relation to prohibiting the use of plywood, wood composite, wood veneer or similar wood-based products to secure real property

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

1 Section 1. Subdivision 4 of section 1308 of the real property actions  
2 and proceedings law, as added by section 1 of part Q of chapter 73 of  
3 the laws of 2016, is amended to read as follows:

4 4. (a) If the posted notice is not responded to or persists for seven  
5 consecutive calendar days without contact with the borrower, property  
6 owner or occupant indicating that the property is not vacant or abandoned,  
7 or if an emergent property condition that could reasonably  
8 damage, destroy or harm the property arises, the servicer shall:

9 [-(a)] i. in cases where the property contains two or more points of  
10 ingress or egress, replace no more than one door lock to provide subsequent  
11 access to the property;

12 [-(b)] ii. secure, replace or board up broken doors and windows;

13 [-(c)] iii. secure any part of the property that may be deemed an  
14 attractive nuisance including, but not limited to, a water feature that  
15 could create a drowning risk, refrigerator or freezer units,  
16 outbuildings, wells or septic tanks;

17 [-(d)] iv. take reasonable measures to ensure that pipes, ducts,  
18 conductors, fans and blowers do not discharge harmful gases, steam,  
19 vapor, hot air, grease, smoke, odors or other gaseous or particulate  
20 waste directly upon abutting or adjacent public or private property or  
21 that of another tenant;

22 [-(e)] v. where appropriate, winterize the applicable plumbing and  
23 heating systems;

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

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1 ~~[(f)]~~ vi. provide basic utilities including, but not limited to,  
2 water, electricity, natural gas, propane and sewer service, as appropri-  
3 ate and when allowed by the local utility provider, that are needed for  
4 the operation of a sump pump or dehumidifier, or when there are jointly  
5 owned or shared utilities with adjoining properties or units, except for  
6 turning off water service to prevent flooding or water leaks in the  
7 property, or when other utility service could reasonably create a hazard  
8 to the property or an unauthorized occupant or person entering the prop-  
9 erty;

10 ~~[(g)]~~ vii. remove and remediate any significant health and safety  
11 issues, including outstanding code violations;

12 ~~[(h)]~~ viii. take reasonable measures to prevent the growth of harmful  
13 mold;

14 ~~[(i)]~~ ix. respond to government inquiries regarding property condi-  
15 tion, subject to restrictions regarding financial privacy; and

16 ~~[(j)]~~ x. ensure that the notice required to be posted in subdivision  
17 three of this section remains posted on an easily accessible part of the  
18 property that would be reasonably visible to the borrower, property  
19 owner or occupant so long as the duty to maintain applies.

20 (b) No person, municipality or governmental entity shall use plywood,  
21 wood composite, wood veneer, or similar wood-based products to secure  
22 any real property that is deemed vacant and abandoned based on the  
23 criteria set forth in subdivision two of this section.

24 § 2. Paragraph (a) of subdivision 8 of section 1308 of the real prop-  
25 erty actions and proceedings law, as added by section 1 of part Q of  
26 chapter 73 of the laws of 2016, is amended to read as follows:

27 (a) ~~Violations~~ Except for violations of paragraph (b) of subdivision  
28 four of this section, violations of this section may be heard before a  
29 hearing officer or a court of competent jurisdiction. If it shall appear  
30 to the satisfaction of the hearing officer or the court, based on the  
31 preponderance of the evidence, that the mortgagee or agent of a mortga-  
32 gee has violated this section, a civil penalty may be issued by the  
33 hearing officer or the court in the amount of up to five hundred dollars  
34 per day per property for each day the violation persisted.

35 § 3. This act shall take effect on the ninetieth day after it shall  
36 have become a law.