

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:

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

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

12 2. Such notice shall include, but is not limited to, the following
13 information: (i) the name of the mortgagee plaintiff commencing such
14 action and the mailing address, telephone number and e-mail address of
15 such mortgagee plaintiff, and, when applicable, the name of a principal
16 or corporate officer of such mortgagee plaintiff, and the mailing
17 address, telephone number and e-mail address of such principal or corpo-
18 rate officer; (ii) the name, mailing address, telephone number and
19 e-mail address of the defendant in such action; (iii) the identification
20 of such residential real property by street address and block and lot
21 number; (iv) the date of the commencement of such action; (v) the court
22 in which such action was commenced and the index number of such action;
23 (vi) the property's appraised fair market value; (vii) the amount of the
24 principal balance owed under the mortgage being foreclosed, including
25 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.

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

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

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

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

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

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

38 § 27-2130 Grounds for appointment of receiver. 1. Whenever the depart-
39 ment certifies that any condition in violation of this chapter or other
40 applicable law in any multiple dwelling or any part of its premises
41 constitutes a serious fire hazard or is a serious threat to life, health
42 or safety, it may, upon failure of the owner to comply with an order to
43 correct such conditions issued pursuant to section 27-2125 of article
44 five of this subchapter, apply for the appointment of a receiver to
45 repair and correct the violations.

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

56 § 3. This act shall take effect immediately.