STATE OF NEW YORK

8641

2019-2020 Regular Sessions

IN ASSEMBLY

October 2, 2019

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:

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

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

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

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

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

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

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

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

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

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

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

[~~(i)~~] **ix.** respond to government inquiries regarding property condition, subject to restrictions regarding financial privacy; and

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

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

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

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

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