STATE OF NEW YORK

3102

2019-2020 Regular Sessions

IN SENATE

February 4, 2019

Introduced by Sen. BIAGGI -- 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, in relation to directing the department of financial services to conduct periodic inspections of vacant and abandoned residential real property required to be maintained by the mortgagee, authorize the department of financial services and municipalities to impose a daily civil penalty upon mortgagees which fail to maintain abandoned and vacant residential real property, and requiring lenders having a duty to maintain residential real property to register with the statewide vacant and abandoned property registry

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

Section 1. Section 1307 of the real property actions and proceedings law is amended by adding a new subdivision 2-a to read as follows:

2-a. The department of financial services shall cause an inspection to be conducted, with regard to compliance with the provisions of this section, of each residential real property that is subject to the provisions of this section within four months of the date the lender, assignee or mortgage loan servicer registers with the statewide vacant and abandoned property registry pursuant to section thirteen hundred ten of this article and every six months thereafter until the property is no longer subject to the provisions of this section.

§ 2. Subdivision 3 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:

3. The **department of financial services, the** municipality in which such residential real property is located, any tenant lawfully in possession, and a board of managers of a condominium in which the premises are located or a homeowners association if said premises are

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

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subject to the rules and regulations of such an association, shall have the right to enforce the obligations described in this section in any court of competent jurisdiction after at least seven days notice to the plaintiff in the foreclosure action unless emergency repairs are required. Any entity acting pursuant to this subdivision shall have a cause of action in any court of competent jurisdiction against the plaintiff in the foreclosure action to recover costs incurred as a result of maintaining the property. **In addition, the department of financial services or the municipality in which the residential property is located may impose a civil penalty of five hundred dollars for each day a party required to maintain property pursuant to this section fails to do so or fails to comply with the provisions of section thirteen hundred ten of this article.** The authority provided by this subdivision shall be in addition to, and shall not be deemed to diminish or reduce, any rights of the parties described in this section under existing law against the mortgagor of such property for failure to maintain such property.

§ 3. Section 1308 of the real property actions and proceedings law is amended by adding a new subdivision 7-a to read as follows:

7-a. The department of financial services shall cause an inspection of the subject property to be conducted, with regard to compliance with the provisions of this section within four months of the date the servicer registers with the statewide vacant and abandoned property electronic registry pursuant to section thirteen hundred ten of this article, and every six months thereafter until such time as the property is no longer subject to the provisions of this section.

§ 4. Subdivision 2 of section 1310 of the real property actions and proceedings law, as added by section 4 of part Q of chapter 73 of the laws of 2016, is amended to read as follows:

2. A lender, assignee or mortgage loan servicer shall submit or cause to be submitted to the department of financial services information required by the superintendent of financial services about any vacant and abandoned residential real property, as that term is defined in subdivision two of section thirteen hundred nine of this article, or as the superintendent of financial services may otherwise define that term, **or about any foreclosed property for which the lender, assignee or mortgage loan servicer has a duty to maintain pursuant to section thirteen hundred seven or thirteen hundred eight of this article** within twenty-one business days of when the lender, assignee or mortgage loan servicer learns, or should have learned, that such property is vacant and abandoned**, or that the property is the subject of a judgment of foreclosure and sale and remains vacant and abandoned, as the case may be**. Such information shall, at a minimum, include: (a) the current name, address and contact information for the lender, assignee or mortgage loan servicer responsible for maintaining the vacant property; (b) whether a foreclosure action has been filed for the property in question, and, if so, the date on which the foreclosure action was commenced**, or the date the judgement of foreclosure and sale was entered, as the case may be**; [~~and~~] (c) the last known address and contact information for the [~~mortgagor(s)~~] **mortgagor or mortgagors** of record**; (d) the date the property was determined to be vacant or abandoned, or the date the duty of the lender, assignee or mortgage loan servicer to maintain the property accrued; and (e) the names of all officers of the lender, assignee or mortgage loan servicer upon which service of process may be made**.

§ 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.