

§ 1304. Required prior notices. 1. Notwithstanding any other provision of law, with regard to a home loan, at least ninety days before a lender, an assignee or a mortgage loan servicer commences legal action against the borrower, or borrowers at the property address and any other address of record, including mortgage foreclosure, such lender, assignee or mortgage loan servicer shall give notice to the borrower in at least fourteen-point type which shall include the following:

"YOU MAY BE AT RISK OF FORECLOSURE. PLEASE READ THE FOLLOWING NOTICE
CAREFULLY"

"As of ___, your home loan is ___ days and ___ dollars in default. Under New York State Law, we are required to send you this notice to inform you that you are at risk of losing your home.

Attached to this notice is a list of government approved housing counseling agencies in your area which provide free counseling. You can also call the NYS Office of the Attorney General's Homeowner Protection Program (HOPP) toll-free consumer hotline to be connected to free housing counseling services in your area at 1-855-HOME-456 (1-855-466-3456), or visit their website at <http://www.aghomehelp.com/>. A statewide listing by county is also available at http://www.dfs.ny.gov/consumer/mortg_nys_np_counseling_agencies.htm. Qualified free help is available; watch out for companies or people who charge a fee for these services.

Housing counselors from New York-based agencies listed on the website above are trained to help homeowners who are having problems making their mortgage payments and can help you find the best option for your situation. If you wish, you may also contact us directly at _____ and ask to discuss possible options.

While we cannot assure that a mutually agreeable resolution is possible, we encourage you to take immediate steps to try to achieve a resolution. The longer you wait, the fewer options you may have.

If you have not taken any actions to resolve this matter within 90 days from the date this notice was mailed, we may commence legal action against you (or sooner if you cease to live in the dwelling as your

primary residence.)

If you need further information, please call the New York State Department of Financial Services' toll-free helpline at (show number) or visit the Department's website at (show web address).

IMPORTANT: You have the right to remain in your home until you receive a court order telling you to leave the property. If a foreclosure action is filed against you in court, you still have the right to remain in the home until a court orders you to leave. You legally remain the owner of and are responsible for the property until the property is sold by you or by order of the court at the conclusion of any foreclosure proceedings. This notice is not an eviction notice, and a foreclosure action has not yet been commenced against you.

1-a. Notwithstanding any other provision of law, with regard to a reverse mortgage home loan, at least ninety days before a lender, an assignee or a mortgage loan servicer commences legal action against the borrower or borrowers at the property address and any other addresses of record, including reverse mortgage foreclosure, such lender, assignee or mortgage loan servicer shall give notice to the borrower in at least fourteen-point type except for the heading which shall be in at least sixteen-point type which shall include the following:

"YOU COULD LOSE YOUR HOME TO FORECLOSURE.

PLEASE READ THE FOLLOWING NOTICE CAREFULLY.

Date

Borrower's address

Loan Number:

Property Address:

Dear Borrower(s):

As of _____, we as your lender or servicer claim that your reverse mortgage loan is ____ days in default. Under New York State Law, we are required to send you this notice to inform you that you may be at risk of losing your home.

We, the lender or servicer of your loan, are claiming that your reverse mortgage loan is in default because you have not complied with the following conditions of your loan:

- _____ You are not occupying your home as your principal residence
- _____ You did not submit the required annual certificate of occupancy
- _____ The named borrower on the reverse mortgage has died
- _____ You did not pay property taxes
 {Servicer name} paid your property taxes for the following
 time periods:_____
- _____ {quarter/year}
- _____ You did not maintain homeowner's insurance
 {Servicer name} purchased homeowner's insurance for you on the
 following date(s) and for the following cost(s):

- _____ You did not pay water/sewer charges
 {Servicer name} paid water/sewer charges for you on the
 following date(s) and for the following cost(s):

- _____ You did not make required repairs to your home

If the claim is based on your failure to pay property or water and sewer charges or maintain homeowner's insurance, you can cure this default by making the payment of \$_____ for the advancements we made towards these payments on your behalf.

You have the right to dispute the claims listed above by contacting us, by calling _____ or sending a letter to _____. This may include proof of payments made for property taxes or water and sewer charges or a current declaration page from your insurance company, or any other proof to dispute the servicer's claim.

If you are in default for failure to pay property charges (property taxes, homeowner's insurance and/or water/sewer charges) you may qualify for a grant, loan, or re-payment plan to cure the default balance owed. If you are in default due to the death of your spouse, you may be considered an eligible "Non-Borrowing Spouse" under a HUD program which allows you to remain in your home for the rest of your life.

If you are over the age of 80 and have a long term illness, you may also qualify for the "At-Risk Extension," which allows you to remain in your home for one additional year and requires an annual re-certification. Attached to this notice is a list of government-approved housing counseling agencies and legal services in your area which provide free counseling. You can also call the NYS Office of the Attorney General's

Homeowner Protection Program (HOPP) toll-free consumer hotline to be connected to free housing counseling services in your area at 1-855-HOME-456 (1-855-466-3456), or visit their website at <http://www.aghomehelp.com>. A statewide listing by county is also available at http://www.dfs.ny.gov/consumer/mortg_nys_np_counseling_agencies.htm. You may also call your local Department of Aging for a referral or call 311 if you live in New York City. Qualified free help is available; watch out for companies or people who charge a fee for these services.

You may also contact us directly at _____ and ask to discuss all possible options to allow you to cure your default and prevent the foreclosure of your home. While we cannot ensure that a resolution is possible, we encourage you to take immediate steps to try to achieve a resolution. The longer you wait, the fewer options you may have. If you have not taken any actions to resolve this matter within 90 days from the date this notice was mailed, we may commence legal action against you (or sooner if you cease to live in the dwelling as your primary residence).

If you need further information, please call the New York State Department of Financial Services' toll-free helpline at 877-226-5697 or visit the Department's website at <http://www.dfs.ny.gov>.

IMPORTANT: You have the right to remain in your home until you receive a court order telling you to leave the property. If a foreclosure action is filed against you in court, you still have the right to remain in the home until a court orders you to leave. You legally remain the owner of and are responsible for the property until the property is sold by you or by order of the court at the conclusion of any foreclosure proceedings. This notice is not an eviction notice, and a foreclosure action has not yet been commenced against you."

A lender, assignee or mortgage loan servicer of a reverse mortgage home loan which provides notice to the borrower as required by this subdivision is not required to provide notice to such borrower with regard to such loan pursuant to subdivision one of this section.

2. The notices required by this section shall be sent by such lender,

assignee (including purchasing investor) or mortgage loan servicer to the borrower, by registered or certified mail and also by first-class mail to the last known address of the borrower, and to the residence that is the subject of the mortgage. The notices required by this section shall be sent by the lender, assignee or mortgage loan servicer in a separate envelope from any other mailing or notice. Notice is considered given as of the date it is mailed. The notices required by this section shall contain a current list of at least five housing counseling agencies serving the county where the property is located from the most recent listing available from department of financial services. The list shall include the counseling agencies' last known addresses and telephone numbers. The department of financial services shall make available on its websites a listing, by county, of such agencies. The lender, assignee or mortgage loan servicer shall use such lists to meet the requirements of this section.

3. The ninety day period specified in the notices contained in subdivisions one and one-a of this section shall not apply, or shall cease to apply, if the borrower has filed for bankruptcy protection under federal law, or if the borrower no longer occupies the residence as the borrower's principal dwelling. Nothing herein shall relieve the lender, assignee or mortgage loan servicer of the obligation to send such notices, which notices shall be a condition precedent to commencing a foreclosure proceeding.

4. The notices required by this section and the ninety day period required by subdivisions one and one-a of this section need only be provided once in a twelve month period to the same borrower in connection with the same loan and same delinquency. Should a borrower cure a delinquency but re-default in the same twelve month period, the lender shall provide a new notice pursuant to this section.

5. For any borrower known to have limited English proficiency, the notices required by subdivisions one and one-a of this section shall be in the borrower's native language (or a language in which the borrower is proficient), provided that the language is one of the six most common non-English languages spoken by individuals with limited English

proficiency in the state of New York, based on United States census data. The department of financial services shall post the notices required by subdivisions one and one-a of this section on its website in the six most common non-English languages spoken by individuals with limited English proficiency in the state of New York, based on the United States census data.

6. (a) (1) "Home loan" means a loan, including an open-end credit plan, in which:

(i) The borrower is a natural person;

(ii) The debt is incurred by the borrower primarily for personal, family, or household purposes;

(iii) The loan is secured by a mortgage or deed of trust on real estate improved by a one to four family dwelling, or a condominium unit, in either case, used or occupied, or intended to be used or occupied wholly or partly, as the home or residence of one or more persons and which is or will be occupied by the borrower as the borrower's principal dwelling; and

(iv) The property is located in this state.

(2) A home loan shall include a loan secured by a reverse mortgage that meets the requirements of clauses (i) through (iv) of subparagraph one of this paragraph.

(b) "Lender" means a mortgage banker as defined in paragraph (f) of subdivision one of section five hundred ninety of the banking law or an exempt organization as defined in paragraph (e) of subdivision one of section five hundred ninety of the banking law.

7. The department of financial services shall prescribe the telephone number and web address to be included in the notice.