



Amendment to the Administrative Code of the City of New York Requiring Mortgagees

July 7, 2012

Introduction No. 501-A, titled *A Local Law to amend the administrative code of the city of New York, in relation to notification by a mortgagee commencing an action to recover residential real property*, was approved by the Committee on Housing and Buildings of the New York City Council (“the Council”) on January 18, 2012, the full body of the Council on February 1, 2012, and signed into law by Mayor Bloomberg on February 16, 2012. This bill amends chapter 2 of Title 27 by adding a new section 27-2109.1. This legislation will take effect on June 15, 2012 (“effective date”); one hundred twenty (120) days after its enactment, except that the Commissioner of the Department of Housing Preservation and Development (“HPD”) may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

Purpose of Introduction No. 501-A

The number of foreclosure filings in New York City rose by 31.7 percent from 2006 to 2009, up to 22,886 foreclosures annually. New York University’s Furman Center for Real Estate and Urban Policy, in its 2010 State of the City’s Housing and Neighborhoods Report, showed the impetus for this legislation in that “foreclosures are associated with a substantial uptick in housing code violations, which indicates that tenants are likely to experience deteriorating building maintenance and physical conditions while building finances are in distress.”

This legislation is designed to ensure that HPD has access to accurate information regarding the status of residential properties in foreclosure. HPD requires this accurate, real-time information because properties in foreclosure are more likely than financially healthy properties to fall into physical disrepair and require complaint-based inspections. By providing HPD with notice shortly after a foreclosure action is commenced, this bill seeks to allow HPD to focus its resources on providing support to certain financially distressed properties before they begin to deteriorate.

How this Legislation Affects Mortgagees

This amendment only affects *residential* (defined below) real property, not commercial property, and the provisions of this section do not apply to any foreclosure actions brought by a governmental entity. For the purposes of this bill, “mortgagee” means any person that commences an action to foreclose a mortgage on the residential real property including, but not limited to, a lender, assignee or mortgage loan service provider that commences such an action. The mortgagee commencing an action, in any court of competent jurisdiction in the

State of New York, to foreclose on residential real property located *only* within New York City must conform to the following requirements:

(1) The lender must provide notice to HPD, in a form prescribed by the department, within fifteen (15) days of service of the pleadings commencing the foreclosure action.

(a) if the action was commenced prior to the effective date of this local law and remains pending as of such effective date, the notification must be provided within thirty (30) days of the said effective date.

i) However, no notice is required for actions commenced prior to February 13, 2010, regardless of whether such action remains pending as of such effective date

(2) The notice to HPD must provide the following:

- a. the name of the mortgagee plaintiff commencing the action and the mailing address, telephone number and e-mail address of such mortgagee plaintiff, and, when applicable, the name of a principal or corporate officer of such mortgagee plaintiff, and the mailing address, telephone number and e-mail address of such principal or corporate officer; and
- b. the name of the defendant in such action; and
- c. the identification of such residential real property by street address, and block and lot number; and
- d. the date of the commencement of such action; and
- e. the court in which such action was commenced; and
- f. such other information as the HPD may require by rule.

(3) The mortgagee must notify HPD within fifteen (15) days of the discontinuance of an action which notice pursuant to this local law has been received by HPD, the issuance of a judgment in such action, or the sale of the real property as a result of such action.

(4) Any mortgagee who fails to notify the department in accordance with this legislation shall be liable for a civil penalty enforceable by HPD. Such civil penalty will not exceed one thousand dollars (\$1,000) for each week that there is a failure to notify. The failure to notify will not affect in any way any pending legal proceeding related to such residential real property.

HPD Website Resources Required by Law and Reporting Information

HPD will be required to maintain, on its website, a list of all properties with twenty or more units identified by block and lot number, along with the name, mailing address and telephone number of the mortgagee plaintiff and the name of the defendant for which notice pursuant to this bill has been received.

These lists will be updated at a minimum on the first business day of each month. HPD will report on its website every three months the following information:

- i. the total number of foreclosure actions commenced during the immediately preceding three months for which notice pursuant to section (a)(1) of this legislation (sections (1) and (2) above) has been received by the department, disaggregated by community district; and

- ii. the total number of foreclosure actions pending, for which notice pursuant to paragraphs one and two of this subdivision (sections (1)-(3) above) has been received by the department, disaggregated by community district.

The department will provide the information provided to it pursuant to paragraphs one and two of this subdivision (Section (1)-(3) above) to one or more agencies for which the department determines that such information furthers such agency or agencies' duties, including but not limited to the enforcement of section 28-210.1 (relating to illegal residential conversion to accommodate more than the legally authorized number of families) of this code or related provisions, and to any other city agency upon request by such agency.

Classifications of Residential Buildings Under Title 27 of the Administrative Code of the City of New York

Title 27 of the Administrative Code of the City of New York classifies every building in the City by "occupancy group," and the following sections provide those groups relating to residential property.

- 27-263 Classification. Buildings and spaces shall be classified in the residential occupancy group when families or households dwell therein, or when sleeping accommodations, with or without dining facilities, are provided therein for individuals. Excluded from this group are those buildings and spaces classified under the institutional occupancy group. The residential occupancy consists of subgroups J-1, J-2, and J-3.
- 27-264 Occupancy group J-1. Shall include buildings and spaces that are primarily occupied for the shelter and sleeping accommodation of individuals on a day-to-day or week-to-week basis.
- 27-265 Occupancy group J-2. Shall include buildings with three or more dwelling units that are occupied for permanent residence purposes as defined in subparagraph (a) of paragraph eight of subdivision (a) of section 27-2004 of the housing maintenance code.
- 27-266 Occupancy group J-3. Shall include buildings occupied as one-family or two-family dwellings, or as convents or rectories.

If you have any questions or concerns regarding Introduction 501-A, please contact Daniel Devine at [516-357-3826](tel:516-357-3826) or via e-mail at ddevine@cullenanddykman.com.

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