

Department of Financial Services Fines PHH Mortgage \$119,000 for Violation of New York Vacant and Abandoned Property Law

December 19, 2017

The New York State Department of Financial Services (“DFS”) has announced its first enforcement action under the New York State vacant and abandoned property law, also known as the “zombie properties” law, which took effect in December 2016. DFS also released further guidance reminding mortgagees and mortgage loan servicers of their responsibility to inspect, register, and maintain “vacant and abandoned” properties across New York State.

The enforcement action was against PHH Mortgage Corp. (“PHH”) for failing to maintain a “vacant and abandoned” property in New Lebanon, New York for at least 238 days from the time the property was registered in the DFS registry as being “vacant and abandoned.” PHH was fined \$500 per day for each of the 238 days that the violation continued, resulting in a fine of \$119,000. DFS stated that this fine “is part of DFS’s aggressive strategy to combat the blight of vacant and abandoned properties in New York State.”

In connection with the announcement, DFS also issued guidance to remind mortgagees and mortgage loan servicers of their responsibilities under the “zombie properties” law and accompanying regulation. Mortgagees and mortgage loan servicers are required under this law to inspect one-to-four family properties securing loans that have been delinquent for 90 days or more, to register properties with DFS that meet the statutory definition of “vacant and abandoned” property, and to maintain such properties. Mortgagees and mortgage loan servicers are also required to submit quarterly reports detailing compliance efforts after registering a “vacant and abandoned” property with DFS.

In its guidance, DFS also reminds mortgagees and services that the law requires the registry to be updated within 30 days of any material change to the status of a registered property. A material change to the status includes the occurrence of any event that would remove the property from the requirements under the law (for example, completion of the foreclosure process, demolition of the house, a lien release, or the property becoming real estate owned) and a transfer in servicing rights.

The DFS announcement stated that these are the requirements that mortgagees and mortgage loan servicers must abide by and “anything less will be met with swift enforcement action.”

If you have any questions regarding compliance with the New York State “zombie properties” law, please feel free to contact Joseph D. Simon at [516-357-3710](tel:516-357-3710) or via email at jsimon@cullenanddykman.com or Elizabeth Murphy at [516-296-9154](tel:516-296-9154) or via email at emurphy@cullenanddykman.com

Practices

- Banking and Financial Services
- Banking and Financial Services Litigation
- Regulatory and Compliance

Industries

- Financial Institutions

Attorneys

- Joseph D. Simon