

New York Passes Vacant and Abandoned Property Law

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On June 23, 2016, New York Governor Andrew Cuomo signed AB 10741/SB 8159 into law as 2016 Laws of New York, Chapter 73. Part Q of Chapter 73 amends the New York Real Property Actions and Proceedings Law and the Civil Practice Law and Rules in relation to foreclosure proceedings, pre-foreclosure notices, and pre-foreclosure property security maintenance requirements.

The portion of the new law addressing property security and maintenance requirements applies to mortgage loans secured by 1-4 family residential real property. That section of the law applies only to first lien mortgage holders and servicers. Within 90 days of a delinquency (not defined), and then every 25 to 35 days thereafter at different times of the day, the servicer must conduct an exterior examination of the property to determine its occupancy status. If the property is vacant and abandoned as defined in the statute, and after a notice procedure, the servicer must take specific steps to secure and maintain the property. The new law also requires lenders and/or servicers to provide information to the New York State Department of Financial Services ("DFS") regarding vacant and abandoned property and provide updates as necessary regarding changes in the information.

The statute exempts state or federally chartered banks, savings banks, savings and loan associations, and credit unions that: (1) originate, own, service, and maintain their mortgages or a portion thereof; and (2) have less than 3/10 of 1% of the total loans in the state that they either originate, own, service, or maintain for a defined period. The DFS is authorized to promulgate such regulations as are necessary to implement the requirements of the statute. The statute preempts local laws, ordinances, and resolutions that are inconsistent with the statute. The statute also authorizes the plaintiff to apply for an expedited judgment of foreclosure and sale for vacant and abandoned property.

In addition, the statute amends existing home loan foreclosure laws. It amends the contents of certain pre-foreclosure notices, requires the DFS to develop a "Consumer Bill of Rights," and requires specific information to be brought by the plaintiff and defendant to the mandatory settlement conference. The new law also gives a defendant who attends a mandatory settlement conference an extended period to answer the original complaint. Finally, the new law sets deadlines for the disposition of foreclosed property after judgment of foreclosure, and sets deadlines for resale if the plaintiff or an affiliated party buys the property at the foreclosure sale.

The law will generally be effective 180 days after enactment.

[AB 10741/SB 8159 - Bill Summary and Text](#)

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