

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS DIXON, MILLS, RATH, HARDWICK, LORIGO,
GRANT, MAZUR, HOGUES, MARINELLI & LOUGHRAN**

Re: Supporting Increased Maintenance of Properties in Foreclosure

WHEREAS, on February 7, 2013, this body unanimously offered its support of New York State Assembly Bill 824-A; and

WHEREAS, it was believed that this bill created a duty of mortgage foreclosure plaintiffs to provide contact information through written notice to the municipality in which the property is located; and

WHEREAS, in fact, the bill that creates this requirement is A. 88; and

WHEREAS, A. 824-A expands the duty to maintain properties in foreclosure to include a lender, an assignee or a mortgage loan servicer seeking a judgment of foreclosure; and

WHEREAS, in tandem, these bills strengthen requirements to maintain properties facing foreclosure, resulting in safer and more appealing neighborhoods; and

WHEREAS, the companion bill to New York State Assembly Bill 88 is New York State Senate Bill 3655; and

WHEREAS, the companion bill to New York State Assembly Bill 824-A is New York State Senate Bill 4277; and

WHEREAS, sponsors of these bills have requested clarification of our support to protect our neighborhoods through passage of these bills.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby supports passage and enactment of New York State Assembly Bills 88 and 824-A and New York State Senate Bills 3655 and 4277; and be it further

RESOLVED, that a certified copy of this resolution be forwarded to Governor Andrew Cuomo, Assembly Speaker Sheldon Silver, Senate Majority Leaders Dean Skelos and Jeffrey Klein and the local delegation to the New York State Legislature.

Fiscal Impact: None.

S T A T E O F N E W Y O R K

88

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KEARNS -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to notice of contact information of a plaintiff in a mortgage foreclosure action

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Section 1307 of the real property actions and proceedings
 2 law is amended by adding a new subdivision 9 to read as follows:
 3 9. A MORTGAGE FORECLOSURE PLAINTIFF WITH A DUTY TO MAINTAIN FORECLOSED
 4 PROPERTY SHALL PROVIDE THE CONTACT INFORMATION OF THE EMPLOYEE OR AGENT
 5 OF THE PLAINTIFF RESPONSIBLE FOR MAINTENANCE OF THE FORECLOSED PROPERTY.
 6 SUCH CONTACT INFORMATION SHALL INCLUDE, BUT NOT BE LIMITED TO, A DIRECT
 7 TELEPHONE NUMBER AND THE NAME OF THE EMPLOYEE OR AGENT OF THE PLAINTIFF
 8 RESPONSIBLE FOR MAINTENANCE OF THE FORECLOSED PROPERTY. SUCH CONTACT
 9 INFORMATION SHALL BE PROVIDED TO THE MUNICIPALITY IN WHICH THE FORE-
 10 CLOSED PROPERTY IS LOCATED THROUGH WRITTEN NOTICE TO THE CHIEF FINANCIAL
 11 OFFICER OF THE MUNICIPALITY AND SHALL BE POSTED ON ANY VACANT DWELLING
 12 OR ANY DWELLING THAT BECOMES VACANT AFTER THE ISSUANCE OF THE JUDGMENT
 13 OF FORECLOSURE AND SALE.
 14 S 2. This act shall take effect immediately.

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

LBD00115-01-3

S T A T E O F N E W Y O R K

3655

2013-2014 Regular Sessions

I N S E N A T E

February 8, 2013

Introduced by Sen. GALLIVAN -- 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 notice of contact information of a plaintiff in a mortgage foreclosure action

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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LBD00115-01-3

S T A T E O F N E W Y O R K

824--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KEARNS, JAFFEE, STECK, GABRYSZAK, ROBINSON, SCARBOROUGH, SCHIMEL -- Multi-Sponsored by -- M. of A. CORWIN, GOTTFRIED, McDONALD, STEC -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property actions and proceedings law, in relation to requiring a plaintiff in a mortgage foreclosure action to maintain the subject property in good faith

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 1307 of the real property actions
2 and proceedings law, as added by chapter 507 of the laws of 2009, is
3 amended to read as follows:
4 1. A plaintiff [in] WHO COMMENCES a mortgage foreclosure action [who
5 obtains], INCLUDING A LENDER, AN ASSIGNEE OR A MORTGAGE LOAN SERVICER,
6 SEEKING a judgment of foreclosure and sale pursuant to section thirteen
7 hundred fifty-one of this article, involving residential real property,
8 as defined in section thirteen hundred five of this article, that is
9 vacant, or becomes vacant after COMMENCEMENT OF THE ACTION OR the issu-
10 ance of such judgment, or is abandoned by the mortgagor but occupied by
11 a tenant, as defined under section thirteen hundred five of this arti-
12 cle, shall IN GOOD FAITH maintain such property until such time as
13 ownership has been transferred through the closing of title in foreclo-
14 sure, or other disposition, and the deed for such property has been duly
15 recorded; provided, however, that if a municipality or governmental
16 entity holds a mortgage subordinate to one or more mortgages on the
17 residential real property, the municipality or governmental entity shall
18 not be subject to the requirements of this section. AS USED IN THIS
19 SECTION, THE TERM "GOOD FAITH" SHALL BE DEFINED AS HONESTY IN FACT AND
20 THE OBSERVANCE OF REASONABLE STANDARDS OF FAIR DEALING.
21 S 2. This act shall take effect immediately.

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

LBD01068-02-3

S T A T E O F N E W Y O R K

4277

2013-2014 Regular Sessions

I N S E N A T E

March 19, 2013

Introduced by Sen. GALLIVAN -- 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 requiring a plaintiff in a mortgage foreclosure action to maintain the subject property in good faith

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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7 hundred fifty-one of this article, involving residential real property,
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17 residential real property, the municipality or governmental entity shall
18 not be subject to the requirements of this section. AS USED IN THIS
19 SECTION, THE TERM "GOOD FAITH" SHALL BE DEFINED AS HONESTY IN FACT AND
20 THE OBSERVANCE OF REASONABLE STANDARDS OF FAIR DEALING.
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LBD01068-05-3