

**CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**

**NOTICE OF ADOPTION OF RULE**

Pursuant to the authority vested in the City of New York Department of Housing Preservation and Development ("HPD") by Chapter 61 of the New York City Charter and by New York City Administrative Code §27-2109.1 and in accordance with section 1043(b) of the Charter, HPD hereby adopts rules relating to notification by a mortgagee commencing an action to recover residential real property.

A hearing was held on April 17, 2012 from 10:00 AM to 11:00 AM at 100 Gold Street, New York, N.Y. 10038 in room 5R1.

**STATEMENT OF BASIS AND PURPOSE**

The New York City Council recently enacted legislation (Local Law #4 of 2012) requiring mortgagees to notify the Department of Housing Preservation and Development (HPD) within fifteen days when they do any of the following:

- Commence a mortgage foreclosure action against any residential property in New York City (the mortgagee must provide the notification within fifteen days of service of the pleadings in the foreclosure action);
- Discontinue a mortgage foreclosure action;
- Receive a judgment in a foreclosure action against residential property; or
- Sell the foreclosed property.

Mortgagees are not required to provide notice if the related foreclosure action commenced prior to February 13, 2010.

HPD is authorized to prescribe the form and contents for such notices pursuant to Local Law 4 of 2012, codified at Administrative Code §27-2109.1. Those requirements are set forth in the final rule, and include the following information, among others:

- Contact information for the mortgagee plaintiff, defendant, mortgage servicer and others involved in the foreclosure proceeding;
- Location of the property being foreclosed;
- Date of the foreclosure commencement and the foreclosure court information;
- Financial information including principal and interest owed and in arrears, interest rate and maturity date, and other indebtedness on the property
- The City Register file number or reel and page number for the mortgage; and
- Other information, where applicable, as described in the rule's language below.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

New material in the following is underlined.

Section one. Title 28 of the rules of the city of New York is amended by adding a new chapter 43 to read as follows:

§43-01 (a) Within fifteen days of service of pleadings commencing a mortgage foreclosure action against residential real property in the city of New York, or within thirty days after June 15, 2012 where such mortgage foreclosure action was commenced after February 13, 2010, and prior to June 15, 2012 and is still pending, the mortgagee must provide notice to the Department of Housing Preservation and Development (Department) by electronic submission, if possible, or by regular mail, in a form prescribed by the Department. The form is available on the Department's website, at its offices at 100 Gold Street, New York, or by dialing 311 and requesting the form.

(b) The notice to the Department provided pursuant to subdivision (a) of this section must include the following information:

(1) the name, mailing address, telephone number and e-mail address of the mortgagee plaintiff commencing the action;

(2) the name, mailing address, telephone number and, if known, the e-mail address of the beneficial holder of the note of indebtedness;

(3) the name, mailing address, telephone number and, if known, the e-mail address of the attorney representing the mortgagee plaintiff;

(4) the name, mailing address, telephone number and e-mail address of the principal or corporate officer of such mortgagee plaintiff, where applicable;

(5) the name, mailing address, telephone number and e-mail address of the servicer of the mortgage, where applicable;

(6) the name, mailing address, telephone number and e-mail address of any assignee of the mortgage after commencement of the foreclosure action, where applicable;

(7) the name, mailing address, telephone number and, if known, the e-mail address of the defendant(s) borrower(s) and the name(s) of any other defendant(s) in the foreclosure action, that are named in the pleadings;

(8) the street address and block and lot number of the residential real property that is the subject of the foreclosure action and the number of units;

(9) the date of commencement of the foreclosure action;

(10) the court in which the foreclosure action was commenced and the index number of the action;

(11) the amount of the principal balance owed under the mortgage being foreclosed, including interest and principal arrearages, late fees and any other sums due and owing as of the date of filing of the complaint;

(12) the interest rate and maturity date of the mortgage being foreclosed, including the amount, if any, necessary to bring the loan current as of the date of filing of the complaint;

(13) a list, including amounts, of any other indebtedness on the residential real property that is the subject of the foreclosure action as set forth in the pleadings;

(14) the city register file number or reel and page number assigned to the recorded mortgage being foreclosed, if applicable;

(15) the name and, if known, the mailing address, phone number, 24-hour emergency contact phone number, and e-mail address of any receiver who is appointed by the court in the mortgage foreclosure proceeding, and his or her agent. Where such receiver is appointed after the filing of the initial notice with the Department pursuant to this section, the mortgagee must provide the information required by this paragraph within fifteen days of such appointment; and

(16) the name, mailing address, phone number, and, if known, e-mail address for any company retained by the mortgagee to maintain the residential real property that is the

subject of the foreclosure action. Where such company is retained after the filing of the initial notice with the Department pursuant to this section, the mortgagee must provide the information required by this paragraph within fifteen days of retaining such company.

§43-02 (a) Within fifteen days of discontinuance of a mortgage foreclosure action against residential real property in the city of New York for which notification of the mortgage foreclosure action was required pursuant to subdivision a of section 43-01 of these rules, the mortgagee must provide notice to the Department of such discontinuance by electronic submission, if possible, or by regular mail, in a form prescribed by the Department. The form is available on the Department's website, at its offices at 100 Gold Street, New York, or by dialing 311 and requesting the form.

(b) The notice to the Department provided pursuant to subdivision a of this section must include the following information:

(1) all of the information required under section 43-01 of this chapter if an initial notice of commencement of foreclosure was not provided to the Department; and

(2) the reason for the discontinuance of the action.

§43-03 (a) Within fifteen days of entry of a judgment in a mortgage foreclosure action against residential real property in the city of New York for which notification of the mortgage foreclosure action was required pursuant to subdivision a of section 43-01 of these rules, the mortgagee must provide notice to the Department of such entry of judgment by electronic submission, if possible, or by regular mail, in a form prescribed by the Department. The form is available on the Department's website, at its offices at 100 Gold Street, New York, or by dialing 311 and requesting the form.

(b) The notice to the Department provided pursuant to subdivision a of this section must include the following information:

(1) all of the information required under section 43-01 of this chapter if an initial notice of commencement of foreclosure was not provided to the Department; and

(2) a statement that the judgment of foreclosure has been entered and the date of entry of the judgment.

§43-04 (a) Within fifteen days of closing of a sale with the referee pursuant to a judgment of foreclosure of residential real property in the city of New York for which notification of the mortgage foreclosure action was required pursuant to subdivision a of section 43-01 of these rules, the mortgagee must provide notice to the Department of such closing of sale by electronic submission, if possible, or by regular mail, in a form prescribed by the Department. The form is available on the Department's website, at its offices at 100 Gold Street, New York, or by dialing 311 and requesting the form.

(b) The notice provided to the Department pursuant to subdivision a of this section must include the following information:

(1) all of the information required under section 43-01 of this chapter if an initial notice of commencement of foreclosure was not provided to the Department;

(2) the sale price of the property; and

(3) the name, mailing address, and telephone number of the purchaser of the property.

§43-05 The term "mortgagee" as used in these rules has the meaning set forth in section 27-2109.1(a)(1) of the administrative code of the city of New York.