

Notice of Proposed Rulemaking
Proposed Part 422
(Inspecting, Securing and Maintaining Vacant and Abandoned Residential Real Property)

Regulatory Impact Statement

1. Statutory Authority.

Part Q of Chapter 73 of the Laws of 2016 enacted two new sections of the Real Property Actions and Proceedings Law (“RPAPL”), 1308 and 1310, which impose requirements on certain persons to maintain vacant and abandoned residential real property in New York and to report vacant and abandoned properties to the New York State Department of Financial Services (the “Department”), and authorizes the Department to promulgate regulations to implement the new requirements.

In addition, RPAPL Section 1306 requires that lenders, assignees and mortgage loan servicers file a notice with the Department before commencing a foreclosure proceeding in New York.

2. Legislative Objectives.

The Legislature added Sections 1308 and 1310 to the RPAPL to address the vacant and abandoned property problems facing New York. These properties create health and safety concerns for the communities in which they are located, drag down property values in the neighborhood and may be subject to criminal activity. The new RPAPL sections address these issues by requiring that all vacant and abandoned properties be reported to a database maintained by the Department and imposing requirements on certain persons to inspect, secure and maintain vacant and abandoned properties.

3. Needs and benefits.

The proposed regulation explains the process that will be used to identify the state or federally chartered banks, savings banks, savings and loan associations, or credit unions subject to the requirements of Section 1308; the reports that persons subject to the requirements of Section 1308 will have to submit to the Department regarding delinquent loans on residential real property and efforts to inspect, secure, maintain and foreclose on those properties; and the application of federal law and investor guidelines under Section 1308(10). In addition, the proposed regulation explains the process to be followed by covered persons in reporting vacant and abandoned properties to the Department and the procedures to be followed in the event that the Superintendent of Financial Services determines, in the exercise of her sole discretion, to release confidential information concerning vacant and abandoned properties.

4. Costs.

The proposed regulation imposes no costs beyond those already contemplated by RPAPL Sections 1308 and 1310.

5. Local government mandates.

The proposed regulation does not impose any new programs, services, duties or responsibilities on local government.

6. Paperwork.

The proposed regulation identifies the information that mortgagees and mortgage loan servicers are required to provide to the Department, as contemplated by RPAPL Sections 1308 and 1310.

7. Duplication.

There is no duplication, overlap or conflict with State or Federal regulations.

8. Alternatives.

The Department is not aware of any alternatives to the proposed rule.

9. Federal Standards.

The proposed regulation does not exceed any minimum standards of the Federal government. There are no relevant Federal standards related to this regulation.

10. Compliance Schedule.

The proposed rule will become applicable upon formal adoption.

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Regulatory Flexibility Analysis for Small Businesses and Local Governments

1. Effect of the Rule:

The proposed rule implements authority granted to the New York State Department of Financial Services (the “Department”) in Sections 1308 and 1310 of the Real Property Actions and Proceedings Law (“RPAPL”), as enacted by Part Q of Chapter 73 of the Laws of 2016. The proposed regulation explains the process that will be used to identify the state or federally chartered banks, savings banks, savings and loan associations, or credit unions that are subject to the requirements of Section 1308; the reports that persons subject to the requirements of Section 1308 will have to submit to the Department regarding delinquent loans on residential real property and efforts to inspect, secure, maintain and foreclose on those properties; and the application of federal law and investor guidelines under Section 1308(10). In addition, the proposed regulation explains the process to be followed by covered persons in reporting vacant and abandoned properties to the Department and the procedures to be followed in the event that the Superintendent of Financial Services determines, in the exercise of her sole discretion, to release confidential information concerning vacant and abandoned properties.

The proposed rule does not have any impact on local governments.

2. Compliance Requirements:

The proposed rule implements the compliance requirements imposed by Sections 1308 and 1310 of the RPAPL and clarifies how covered persons are to comply with those legal provisions.

3. Professional Services:

To the extent a small business is affected by the addition of Sections 1308 and 1310 to the RPAPL, a small business will not need any professional services, beyond any that may be required by the RPAPL, to comply with the proposed rule.

4. Compliance Costs:

There are no compliance costs beyond the existing costs of complying with the requirements of the RPAPL.

5. Economic and Technological Feasibility:

Filing of vacant and abandoned property notifications involves common, everyday functions performed by covered persons.

6. Minimizing Adverse Impacts:

The proposed regulation does not impose a new regulatory requirement, but implements the requirements imposed by the addition of RPAPL Sections 1308 and 1310. The proposed regulation is not expected to impact small businesses.

7. Small Business and Local Government Participation:

This proposed regulation does not impact local governments.

Due to the limited amount of time before the effective date of the RPAPL Sections 1308 and 1310, the publication of the proposed regulation will be the first opportunity for small businesses to comment on the proposal. The proposed regulation is not expected to impact small businesses.

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Rural Area Flexibility Analysis

1. Types and Estimated Numbers of Rural Areas:

While the regulation is expected to apply to residential real property located in rural areas, it is not expected to increase costs or otherwise have an adverse impact on private or public interests in rural areas.

2. Reporting, recordkeeping and other compliance requirements; professional services:

The proposed regulation identifies the information that mortgagees and mortgage loan servicers are required to provide to the Department of Financial Services, as contemplated by Real Property Actions and Proceedings Law Sections (“RPAPL”) Sections 1308 and 1310.

3. Costs:

The proposed regulation imposes no costs in addition to those already contemplated by RPAPL Sections 1308 and 1310.

4. Minimizing adverse impact:

The proposed regulation does not impose a new regulatory requirement, but implements the requirements imposed by the addition of RPAPL Sections 1308 and 1310.

5. Rural area participation:

Due to the limited amount of time before the effective date of the RPAPL Sections 1308 and 1310, the publication of the proposed regulation will be the first opportunity for private and public interests in rural areas to comment on the proposal.

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Job Impact Statement.

A Job Impact Statement for this proposed rule is not being submitted because it is apparent from the nature and purposes of the proposed rule that it will not have an adverse impact on jobs and/or employment opportunities.