

WHEN DOES THE LAW NOT APPLY?

The law applies only to one- to four-family residential real properties that are subject to a mortgage. Larger residential buildings and commercial buildings, vacant lots, and any property that is not mortgaged, are not subject to the maintenance requirements.

Also, banks, credit unions and other specified financial institutions that do not engage in significant real estate lending are exempt from the requirements of the law.

Lastly, the maintenance and registration obligations will cease if:

- The borrower has filed for bankruptcy or is actively engaged in loss mitigation efforts
- The mortgagee sells the mortgage or releases the lien on the property
- An occupant of the property has asserted his or her right to occupy the property, as in the case of squatters
- The foreclosure action is complete

HOW CAN THE DEPARTMENT HELP?

Complaints about vacant and abandoned properties can be reported to the Department through our toll-free hotline (800-342-3736), or via the DFS online complaint portal, available at www.dfs.ny.gov/complaint

DFS will seek to determine whether the property is subject to a mortgage, and, if so, to identify the party responsible for inspecting, securing and maintaining the property in question.

Once identified, the Department will contact the responsible party to ensure that it is complying with its obligations under the law.

The public can greatly assist DFS by providing any information available (particularly from a posting on the property) about the identity of the mortgagee or any other company that can be contacted about the property.



What You Need to Know About...

VACANT AND ABANDONED PROPERTIES

This guide is provided for informational purposes only and does not constitute legal advice.

www.dfs.ny.gov
(800) 342-3736

Important information about vacant and abandoned properties and how to report them.

On June 23, 2016, legislation was signed to address the challenges posed by vacant and abandoned properties – so called “zombie properties” – to communities throughout New York.

WHAT IS A ZOMBIE PROPERTY?

Zombie properties are homes that the homeowner has abandoned, typically in the face of a foreclosure action. With no occupant to perform basic maintenance, these homes can fall into a state of serious disrepair.

Dilapidated vacant and abandoned properties can have a corrosive effect on local communities, lowering property values, attracting criminal activity, creating health and safety hazards, and imposing extra costs on local governments due to the additional police, fire and building safety resources they require.

The negative impact these properties create can last for years while the community waits for the property to be foreclosed and sold to a new owner.

The law seeks to limit the damage caused by zombie properties by requiring mortgage note holders (“mortgagees”) to inspect, register and maintain zombie properties until the foreclosure process is complete.

HOW IS A PROPERTY DETERMINED TO BE VACANT AND ABANDONED?

Mortgagees must begin conducting occupancy inspections of a home when the homeowner is 90 days behind on their mortgage payments. These inspections must be conducted every month for as long as the loan remains delinquent. The property is deemed to be vacant and abandoned if, after three consecutive inspections, the mortgagee finds that:

- No occupant was present and there was no evidence of occupancy at the property
- Basic maintenance work is not being performed

A property also may be deemed to be vacant and abandoned by an order of a court or an appropriate local official.

WHAT PROPERTY MAINTENANCE IS REQUIRED BY THE LAW?

Once a property has been deemed to be vacant and abandoned, the mortgagee must take reasonable steps to ensure that the property is secured and maintained in order to minimize public safety risks and related blight to the neighborhood and surrounding community.

Required maintenance includes cutting the grass, securing the property against squatters and removing garbage.

Maintenance requirements are intended to protect against health and safety issues and to avoid having properties fall into major disrepair. For example, boarding up the windows of a vacant and abandoned property may be an appropriate action to secure a property against vandalism or criminal activity, even though a boarded-up house may be an eyesore to the local community.

There are, however, limits to the extent of maintenance work required by the law.

A complete list of the maintenance requirements is available on the Department’s website at www.dfs.ny.gov/VacantProp

WHAT IS THE ZOMBIE PROPERTY REGISTRY?

The law requires mortgagees to register zombie properties with the Department of Financial Services within 21 business days of learning that the property is vacant.

The Department maintains a registry of vacant properties that it makes available to local government officials.

By law, the registry is confidential and not made available to the public.