



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

TO: Lenders, Assignees, and Mortgage Loan Services Subject to the New York State Pre-foreclosure Filing Requirements

FROM: Peter Dean, Executive Deputy Superintendent Real Estate Finance Division

RE: Guidance on Late Pre-Foreclosure Filings as a Result of Technical Issues with the Foreclosure Database from March 24, 2018 – March 29, 2018.

DATE: March 29, 2018

Section 1304 of the New York Real Property Actions and Proceedings Law (“RPAPL”) requires all lenders, assignees, and mortgage loan servicers subject to the New York State Pre-Foreclosure Filing Requirements (“Mortgagees”) to give borrowers at least ninety days’ prior notice before commencing legal action, including a foreclosure proceeding (the “Pre-Foreclosure Notice”). RPAPL Section 1306, in turn, requires that within three business days of the mailing of each Pre-Foreclosure Notice, Mortgagees must file with the New York State Department of Financial Services (the “Department”) certain information regarding borrowers and their loans (the “Pre-Foreclosure Filing”). In order to facilitate this process, the Department created an online filing system (the “Database”).

The Department is issuing this guidance in response to the technical issues experienced between March 24, 2018 – March 29, 2018 which rendered the Database inoperable and prevented Mortgagees from making timely Pre-Foreclosure Filings.

The Department recognizes that a lis pendens filing in a foreclosure action must be accompanied by a proof of filing from the Department verifying the date on which the Pre-Foreclosure Notice was sent and the Pre-Foreclosure Filing was made (“Proof of Filing”) and advises all Mortgagees effected by the period during which the Database was inoperable to include a copy of this guidance with any Proof of Filing associated with a delayed Pre-Foreclosure Filing.

For further information, please contact the Department at ForeclosureDatabase@dfs.ny.gov.