Rep. Williams, Hills. 4
Rep. Fraser, Belk. 1
February 21, 2018
2018-0799h
03/04

Amendment to HB 1682-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to procedures for foreclosure and establishing a committee to study the pervasiveness of foreclosure practices that violate state or federal law.

Amend the bill by replacing all after the enacting clause with the following:

1 Sale Under the Power; Notice. Amend RSA 479:25, II(a) to read as follows:

II.(a) A copy of said notice shall be served upon the mortgagor [~~or~~] ***by the sheriff. A copy shall be*** sent by registered or certified mail to his or her last known address or to such person as may be agreed upon in the mortgage at least 25 days before the sale, or in the case of a residential mortgage, at least 45 days before the sale. The term "mortgagor" shall include the mortgagor and any grantee, assignee, devisee or heir of the mortgagor holding a recorded interest in the mortgaged premises subordinate to the lien of the mortgage, provided that such interest is recorded at least 30 days, or in the case of a residential mortgage, at least 50 days, before the date of the sale, in the registry of deeds for the county in which the mortgaged premises are situated. In this paragraph, the term "residential mortgage" means a mortgage on a dwelling, as defined in RSA 397-A:1, VI-c. Like notice shall be sent to any person having a lien of record on the mortgaged premises not less than 21 days before the sale, provided that the lien is recorded at least 30 days, or in the case of a residential mortgage, at least 50 days, before the date of the sale in the registry of deeds. Such notice of sale shall be sufficient if it fully sets forth the date, time, and place of sale; the town, county, street or highway and street number, if any, of the mortgaged premises; the date of the mortgage; the volume and page of the recording of the mortgage; and the terms of the sale. Any mortgagor or record lienholder who refuses to accept or claim mailed or served notice or who frustrates attempts by the mortgagee to give notice of the sale by failing to give or leave a forwarding address or by other act or omission shall be deemed to be notified of the sale, provided that such mortgagee shall have made a good faith effort to provide such notice.

2 Sale Under the Power; Notice. Amend RSA 479:25, II(c) to read as follows:

(c) Notice of the sale as served on or mailed to the mortgagor shall also in all cases include the following language:

"You are hereby notified that you have a right to [~~petition~~] ***file a complaint in*** the superior court for the county in which the mortgaged premises are situated, with service upon the mortgagee[~~, and upon such bond as the court may require, to enjoin the scheduled foreclosure sale~~]. ***The filing of a complaint against the mortgagee, followed by notice to the mortgagee, or his or her agent, will operate as an immediate injunction to stop the nonjudicial foreclosure. This injunction will continue until it is lifted by order of the superior court.***" Failure to [~~institute such petition~~] ***file such a complaint*** and complete service upon the foreclosing party, or his or her agent, conducting the sale prior to sale shall thereafter bar any action ***against any third party buyer of the foreclosed property*** or right of action of the mortgagor based on the validity of the foreclosure.

3 Committee Established.

I. There is established a committee to study the pervasiveness of foreclosure practices that violate state or federal law.

II. The members of the committee shall be as follows:

(a) Four members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

IV. The committee shall study the pervasiveness of foreclosure practices that violate state or federal law.

V. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

VI. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2018.

4 Effective Date.

I. Sections 1 and 2 of this act shall take effect January 1, 2019.

II. The remainder of this act shall take effect upon its passage.

2018-0799h

AMENDED ANALYSIS

This bill modifies procedures for power of sale mortgage foreclosures. This bill also establishes a committee to study the pervasiveness of foreclosure practices that violate state or federal law.