



NEW YORK STATE SENATOR

Joseph P. Addabbo Jr.

Addabbo Co-Sponsors Foreclosure Fraud Prevention Act of 2012

JOSEPH P. ADDABBO JR. September 18, 2012

| ISSUE: **FORECLOSURE**

Senator Will Introduce Further Bill Enacting a One-Year Moratorium on NYS Foreclosures to Assist Struggling Homeowners and Reduce Future Abandoned Homes

Queens, NY, September 18, 2012 -- In order to better protect New Yorkers facing the foreclosures of their homes, **NYS Senator Joseph P. Addabbo, Jr.** (D-Howard Beach) co-sponsored a bill (**S7759-2011/A10629A-2011**) that is now before the Senate's Rules Committee, which amends the penal law to prevent the fraudulent and widespread practice of "robo-signing" during the foreclosure process. The bill would impose both misdemeanor and felony-level penalties on those who intentionally engage in such conduct and on "high managerial agents" of residential mortgage businesses who recklessly tolerate such fraudulent conduct by their employees and agents. It creates the crimes of residential mortgage foreclosure fraud in the first- and second degrees. The senator also stated that later this year, when the Legislature is called back into an expected special session by Governor Cuomo, he plans to introduce his own bill to enact a one-year moratorium on foreclosures in New York State.

"With the increasing number of foreclosures, we have seen a rise in vacant, bank-owned homes in our communities. These premises have become places for criminal activity and negatively affected the good neighbors surrounding them. I am hopeful that by addressing the foreclosure issue and assisting those homeowners facing financial difficulties, I can also address the issue of vacated homes," explained Addabbo. The senator cited that there are about 800 homes in Howard Beach alone that currently are in foreclosure—foreclosures have reached an all-time high during the current economic recession and that one in ten residential mortgages in New York City is seriously delinquent. Queens has among the highest percentages of seriously delinquent mortgages citywide. Addabbo also noted the recently growing concern among the residents of Woodhaven regarding vacated homes that have become a problem for the community.

"My new bill would impose a one-year moratorium on foreclosures, provided that the homeowner maintains a reduced mortgage payment agreed to as a result of negotiations with the bank or other mortgage holder. This will stop the hemorrhaging of foreclosures while the economy, hopefully, slowly recovers over the next year. And, it will allow New

Yorkers to secure employment and get their finances back on track, which in turn will assist in stabilizing our state's economy," Addabbo added.

As for the current legislation pending in Albany, the senator stated, "The abuses committed in recent years by mortgage servicers in mortgage foreclosure proceedings are well documented. Multiple employees of the major servicers have admitted in sworn testimony that they perpetrated systematic fraud on the courts in foreclosure proceedings by 'robo-signing' affidavits, such as attesting to personal knowledge about mortgages and properties despite having no such knowledge." Addabbo believes these fraudulent abuses occurred in hundreds of thousands of proceedings nationwide and that the dramatic increase in the number of foreclosure proceedings being brought compounded the problem. According to Realty Trac, Inc., there have been more than 54,000 homes in foreclosure over the past four years statewide. The widespread practice of "robo-signing" has prompted a number of investigations by governmental authorities, including several by the Office of the NYS Attorney General (OAG) to determine the scope of the fraud committed against the courts of New York.

"Robo-signing" and related foreclosure abuses have also prompted a coordinated review by state and federal regulators. In 2010, following revelations of the widespread use of "robo-signed" affidavits in foreclosure proceedings across the country, New York State, along with other state attorneys general, formed a working group to investigate the problem. The major mortgage servicing banks soon acknowledged that individuals had been signing thousands of foreclosure affidavits without reviewing the validity or accuracy of the sworn statements. Several national banks then agreed to stop their foreclosure filings and sales until corrective action could be taken. In April 2012, New York and 48 other state attorneys general along with federal agencies, including the Departments of Justice, Treasury, and Housing and Urban Development reached a landmark settlement with the five leading bank mortgage servicers resulting in substantial changes to their servicing and foreclosure-related practices and approximately \$25 billion in monetary sanctions and relief.

The New York Legislature responded to the residential mortgage crisis with comprehensive legislation enacted in 2008 and 2009. Intended to address the high number of defaults by unrepresented defendants in residential foreclosure proceedings, the new legislation provided additional protections for homeowners, including but not limited to, a requirement that, at least 90 days before commencing foreclosure proceedings, mortgage lenders and assignees notify homeowners about the availability of housing counseling and foreclosure prevention services. Within 60 days of the filing of proof of service, the court must hold a mandatory settlement conference, to which the plaintiff must bring specified key documents, including the mortgage and note, or the name, address and phone number of the legal holder of the mortgage if it is not the plaintiff; payment history; and an itemization of the amounts needed to cure and pay off the loan.

Addabbo concluded, "While an important step in the right direction, these recent legislative advances and civil enforcement actions against so-called 'foreclosure mills' are not enough to ensure that New Yorkers are fully protected from ongoing misconduct and outright fraud during residential foreclosure processes. But this legislation would impose

tough new criminal sanctions – including felony-level penalties – against agents and employees of residential mortgage businesses who intentionally engage in fraud or deception. In addition, with this bill, those ‘high managerial agents’ of a residential mortgage business who know of such fraudulent or deceptive conduct by their agents and employees, but do nothing to prevent it, will face similar, felony-level punishment as well.”

Addabbo urges his constituents to report any nearby property they’re aware of that is owned by a bank and is in disrepair or in need of a clean-up, to simply call either his Howard Beach or Middle Village district offices at 718-738-1111 or 718-497-1630.

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