

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2020**

**A LOCAL LAW ESTABLISHING CHAPTER 28B OF THE TOWN CODE
ENTITLED “MORTGAGE REGISTRY”**

BE IT ENACTED by the Town Board of the Town of North Hempstead as follows:

Section 1. Legislative Intent

The Board finds that it is in the best interest of the Town of North Hempstead to establish Chapter 28B of the Town Code entitled “Mortgage Registry” in order to create a registry of all those properties with defaulted mortgages and subject to foreclosure action or foreclosed upon as such properties oftentimes become vacant or abandoned, fall into disrepair and pose a significant health and safety risk.

Section 2.

Chapter 28B of the Town Code of the Town of North Hempstead is hereby established to read as follows:

Chapter 28B
Mortgage Registry

§ 28B-1. Legislative findings and intent.

A. It is the finding of this Board that properties with defaulted mortgages and subject to foreclosure action or foreclosed upon, are in increased danger of serving as attractive nuisances for children who are oftentimes injured therein. Such buildings are, in addition, in increased danger of becoming places of congregation by vagrants and transients. Such properties oftentimes become dilapidated buildings and structures that are frequently infested with rodents, thereby creating a significant health hazard to the community.

B. The Board finds that it is in the best interest of the Town of North Hempstead to establish a method for the identification and registration of properties with defaulted mortgages and subject to foreclosure action or foreclosed upon to establish the responsibilities of owners of such properties in order to protect the health, safety and welfare of Town residents.

C. Accordingly, Chapter 28B of the Code of the Town of North Hempstead is enacted to safeguard against the dangers posed by properties with defaulted mortgages and subject to foreclosure action or foreclosed upon by requiring that such properties be registered with the Town in order to prevent the dangers of dilapidation and disrepair.

§ 28B-2. Definitions.

A. Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section. Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular. Where terms are not defined in this section, then the words as defined in § 70-231 shall prevail; and if the term is not defined in either, then the word as defined in the most current edition of Webster's Dictionary shall prevail.

B. For the purpose of this chapter, the terms used herein are defined as follows:

BUILDING DEPARTMENT

The Department of Building, Safety Inspection and Enforcement of the Town of North Hempstead.

BUILDING OFFICIAL

The Commissioner of the Department of Building, Safety Inspection and Enforcement, or his duly authorized representative, charged with the administration and enforcement of this chapter.

BUILDING or STRUCTURE

Includes anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including but not limited to buildings of all types and use groups, advertising signs, swimming pools, detached garages or accessory structures.

COMMISSIONER OF THE BUILDING DEPARTMENT

The official, duly appointed by the Town Board, who is the Commissioner of the Department of Building, Safety Inspection and Enforcement of the Town of North Hempstead.

COMMISSIONER OF THE DEPARTMENT OF PUBLIC SAFETY

The official, duly appointed by the Town Board, who is the Commissioner of the Department of Public Safety of the Town of North Hempstead

DEFAULT

The condition in which a Mortgagee has determined that the Mortgagor is no longer able to make payments on the Real Property. Research identifying properties in default will be conducted by the Town or the Town's contractor.

ENFORCEMENT OFFICER

All building officials, code enforcement officers, inspectors or other employees of the Town of North Hempstead authorized to enforce this code.

EVIDENCE OF VACANCY

Any condition that, on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, electricity, water or other utilities turned off, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

FORECLOSURE OR FORECLOSURE ACTION

The legal process by which a Mortgagee, or other lien holder, attempts to recover the balance of a loan from a Mortgagor who has stopped making payments to the Mortgagee by forcing the sale of the asset used as the collateral for the loan.

MORTGAGEE

A creditor, including but not limited to, trustees; mortgage servicing companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of creditor's rights, interests, or obligations under a mortgage agreement; or any other person or entity with the legal rights to foreclose on Real Property, excluding governmental entities.

MORTGAGOR

A person who has borrowed money and pledged Real Property as security for the payment of the monies borrowed.

OWNER OF RECORD

The person having a recorded title to the property at any given point in time the record is obtained from the Nassau County Clerk's office.

PROPERTY MANAGER

Any party designated by the Mortgagee as responsible for inspecting, maintaining and securing Real Property as required in accordance with this Chapter.

REAL PROPERTY

Any residential or commercial land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located within the Town of North Hempstead

REGISTRABLE PROPERTY

Any Real Property located in the unincorporated areas of the Town of North Hempstead, whether vacant or occupied, that is encumbered by a mortgage in Default, is subject to an ongoing Foreclosure Action by the Mortgagee, has been the subject of Foreclosure Action by a Mortgagee or; Judgment has been entered, has been the subject of a Foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the Foreclosure, and any properties transferred under a deed in lieu of foreclosure/sale.

REGISTRATION

The act of registering Real Property with the Town of North Hempstead as a Registrable Property.

REGISTRY

A web-based electronic database of searchable Real Property records, allowing Mortgagees and Owners of Record to register Registrable Properties and pay applicable fees as required by this Chapter.

UTILITIES AND SERVICES

Any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with the Town Code of the Town of North Hempstead, including, but not limited to, electrical, gas, water, sewer, lawn maintenance, pool maintenance, and snow removal.

VACANT

A building's or portion of a building's condition of not being occupied

§ 28B-3. Establishment of a registry.

The Town of North Hempstead shall establish a Registry containing the information required by this Chapter.

§ 28B-4. Inspection and registration of Real Property.

A. Any Mortgagee who holds a mortgage on Real Property located within the unincorporated areas of the Town of North Hempstead shall inspect the property for evidence of vacancy upon it becoming in Default or prior to the issuance of a notice of Default.

B. Within ten (10) days of the date a mortgage on Real Property becomes in Default, the Mortgagee shall register the Real Property in the Registry.

C. A separate registration is required for each parcel of Real Property in Default.

D. Initial registration pursuant to this section shall indicate, at a minimum:

(1) Whether the property is Vacant;

(2) If Vacant, the identity of a Property Manager retained to inspect, maintain and secure the Real Property subject to the mortgage in Default;

(3) The location of the Registrable Property;

(4) Name and mailing address of the Mortgagee; and

(5) Name, mailing address, e-mail address, and telephone number of the Property Manager.

E. Each registrant shall:

(1) Register the property

(2) Pay a non-refundable fee in an amount shown on the Town of North Hempstead Fee Schedule for each parcel of Real Property in Default

(3) The fee shall be collected by the Town or by the Town's contracted registration provider. The Town's contracted registration provider will retain \$100 per registration fee and will remit the balance of the fee to the Town by the 15th of each month.

F. Real Property inspected pursuant to subsection (A) above that remains in Default, shall be so inspected for evidence of vacancy every thirty (30) days by the Mortgagee or Mortgagee's designee. If an inspection shows a change in the Real Property's occupancy status, Mortgagee shall update the occupancy status of the Real Property in the registry within ten (10) days of that inspection.

G. If the Mortgagee sells or transfers the parcel of Property in Default to a related entity or person, the transferee is subject to all the terms of this Chapter. In addition,

(1) Within ten (10) days of the transfer, the transferee shall register the property or update the existing registration.

(2) At time a registration is updated, the transferee will be responsible for any and all previous unpaid fees, fines, and penalties, regardless of who the Mortgagee was at the time registration was required, including, but not limited to, periods during a Foreclosure process in which the Real Property was not registered.

(3) Each Mortgagee shall be jointly and severally liable for payment of all unpaid fees, fines and penalties that accrue on Real Property during that Mortgagee's involvement with the Real Property.

H. The designation of Real Property as Registrable Property shall remain in place until such time as that Real Property is sold to a non-related bona fide purchaser in an arm's length transaction or the Foreclosure Action has been dismissed and any Default on the mortgage has been cured.

I. Registrations shall be valid for one (1) year. Registrations must be renewed annually and a renewal fee must be paid, which fee shall be shown on the Town of North Hempstead fee schedule.

J. The Commissioner of the Department of Public Safety shall promulgate rules and develop forms for the implementation of this Section in accordance with the provisions of this Article.

§ 28B-5. Maintenance requirements

Properties subject to this Chapter shall be maintained in accordance with Chapter 28 of the Town Code. It shall be the responsibility of the Mortgagee or Owner of record to inspect the Registrable Property every thirty (30) days and bring the Real Property into compliance with the Town of North Hempstead Code.

§ 28B-6. Security requirements.

A. Registrable Properties shall be maintained in a secure manner so as not to be accessible by unauthorized persons.

B. If a Registrable Property has become vacant:

(1) A Property Manager shall be designated by the Mortgagee and/or Owner of record to perform the work necessary to bring the property into compliance with the Town Code.

(2) The Property Manager shall perform regular inspections every (30) days to verify compliance with the requirements of this Chapter, Chapter 28 of the Town Code, and any other applicable laws.

(3) The Property Manager shall post their name and twenty-four (24) hour contact telephone number and e-mail address.

(4) The sign shall be placed:

a. In a window facing the street and shall be visible from the street; or

b. Secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street; or

c. If neither of the abovementioned areas exist, on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property but not readily accessible to vandals.

(5) The posting shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be of a font double spaced that is legible from a distance of forty-five (45) feet. Each exterior posting shall be constructed of and printed with weather-resistant materials. The posting shall contain the following language and information:

**THIS PROPERTY IS MANAGED BY:
AND IS INSPECTED ON A REGULAR BASIS.
THE PROPERTY MANAGER CAN BE CONTACTED
BY TELEPHONE AT:
OR BY EMAIL AT:**

C. In addition to the above, the property is required to be secured in accordance with the applicable code(s) of the Town of North Hempstead.

§ 28B-7. Violations.

A. It shall be a violation of this Chapter for Mortgagee of record to:

**(1) Fail to properly register a parcel of Real Property subject to this Chapter;
or**

(2) Fail to modify the registration to reflect a change in circumstances; or

(3) Fail to properly inspect and secure a property subject to this Chapter; or

(4) Fail to post and maintain the signage noted in this section.

B. Upon violation of this Chapter, the Town of North Hempstead may:

(1) Place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to bring the property into compliance with this Chapter; or

(2) Take any action pursuant to Section 2A-21; or

(3) Take any action pursuant to Chapter 28 of the Town Code to remedy a violation of this section; or

(4) Bring any civil and/or injunction proceeding necessary to enforce and/or enjoin noncompliance with this chapter, in addition to any other remedy provided by law.

(5) The remedies available to the Town above shall not be deemed to be sole exhaustive remedies available to the Town. The Town may exercise one or more of the above remedies for each violation of this Article

§ 28B-8. Provisions supplemental.

The remedies available to the Town pursuant to this Chapter are supplemental to other available remedies. Nothing contained in this Chapter shall prohibit the Town of North Hempstead from collecting on fees, fines, and penalties stated in any other applicable provision of the Town Code or of other laws; or enforcing these provisions by any other means, including, but limited to, injunction, abatement, or as otherwise provided by law or ordinance.

§ 28B-9. Penalties for offenses.

A. Any person or persons, association, firm or corporation who violates any provisions of this chapter shall be guilty of a violation punishable by a fine of not less than \$500 nor more than \$2,500 or imprisonment for a period not to exceed six months, or both, for a first offense; for a conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$2,500 nor more than \$7,500 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$7,500 nor more than \$15,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate and additional violation.

B. In addition to any other remedy provided by law, the Town may bring any civil and/or injunction proceeding necessary to enforce and/or enjoin noncompliance with this chapter.

§ 28B-10. Severability.

If any clause, sentence, paragraph, section, word or part of this chapter is adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph, section, word or part of this chapter directly involved in the controversy in which judgment is rendered.

Section 3.

This Local Law shall take effect immediately upon filing with the Secretary of State.