

PUBLICATION UPDATE

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Bergman on New York Mortgage Foreclosures

Publication 461 Release 41 September 2014

HIGHLIGHTS

Release 41 of *Bergman on New York Mortgage Foreclosures* includes extensive new commentary, chapter revisions, new subdivisions and new forms. We have also expanded into four volumes to accommodate current and future updates to the publication.

Chapter 1—Mortgage Drafting and Its Relationship to Foreclosure

Chapter 2—Mortgage Foreclosure Basics

Chapter 10—Receiverships in the Foreclosure Action

Chapter 16—The Foreclosure Complaint

Also included is a completely updated index.

Chapter 2 A new subsection, *Definition of Lender*, has been added to the chapter. A vital component of the obligation to send the ninety-day notice is that the party so

obliged is a lender (or assignee of the lender or a mortgage loan servicer). A lender is then defined in the statute, RPAPL §1304(5)(b), to mean a mortgage banker pursuant to Banking Law §590(1)(f) or an exempt organization defined in Banking Law §590(1)(e).

Chapter 34 A new subsection and form, *Alternate Form: Liability Imposed Upon Mortgagor and Guarantor for Certain Acts, More Extensive Delineation*, has been added to the chapter. Lender shall not enforce the liability and obligation of Borrower to perform and observe the obligations contained in the Loan Documents by any action or proceeding wherein a money judgment shall be sought against Borrower, and Lender shall not sue for, seek or demand any deficiency judgment against Borrower in any such action or proceeding under or by reason of or under or in connection with any Loan Document, except to the extent of any loss, damage, cost, expense, liability, claim or other obligation incurred by Lender (including reasonable attorneys' fees and costs reasonably in-

curred) caused by the following (all such liability and obligation of Borrower for any or all of the following being referred to herein as “Borrower’s Recourse Liabilities”).

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Publication 461 Release 41

September 2014

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