



COUNTY OF ERIE
MICHAEL P. KEARNS
ERIE COUNTY CLERK

To: Real Estate Counsel &
Title Companies

From: Erie County Clerk's Office
John J. Fenz, Esq., Deputy County Clerk – Legal

Date: February 28, 2020

Re: Amendment to Real Property Law §291
Notice of Sale or Transfer of Ownership of Residential Real Property

On January 11, 2020, Governor Cuomo signed into law an amendment to Real Property Law §291 that requires the County Clerk to mail a written notification to the owner(s) of record of **residential real property** that a sale or transfer of ownership of their property has occurred. It is the intention of the New York State legislature to curb fraud related to title transfers. A copy of the law is attached.

Effective March 11, 2020, when recording a deed in the Erie County Clerk's Office, the party seeking to record the transfer of residential real property shall prepare the statutorily required notice to the **current owner of record** and submit it to the cashier at the time of recording. The Clerk's Office will then mail it to the owner of record set forth in the notice. **There will be no fee associated with this filing.**

A form of the statutorily mandated notice has been prepared by the Erie County Clerk's Office and is attached to this memorandum. Copies will be available the Customer Service Desk. For your convenience, a fillable "pdf" version will also be made available on the Clerk's Office website and can be found at erie.gov/clerk/conveyanceform.

The recent legislative amendment to Real Property Law §291 is imprecise. It will be interpreted differently from county to county. Some may require a fee and some may require the notice to be sent for all transfers of interest which meet the definition of "conveyance" as set forth in Real Property Law §290(3) (ie – mortgage, lease greater than 3 years). Before recording in neighboring counties, it is recommended that you consult with the appropriate County Clerk's Office to verify their policy.

Should you have any questions, please feel free to call me at (716) 858-6348.

STATE OF NEW YORK

5372

2019-2020 Regular Sessions

IN SENATE

April 29, 2019

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to notice of sale or transfer of ownership of residential property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 291 of the real property law, as amended by chapter
2 447 of the laws of 1984, is amended to read as follows:
3 § 291. Recording of conveyances. A conveyance of real property, with-
4 in the state, on being duly acknowledged by the person executing the
5 same, or proved as required by this chapter, and such acknowledgment or
6 proof duly certified when required by this chapter, may be recorded in
7 the office of the clerk of the county where such real property is situ-
8 ated, and such county clerk or city registrar where applicable shall,
9 upon the request of any party, on tender of the lawful fees therefor,
10 record the same in [~~his~~] said office. Every such conveyance not so
11 recorded is void as against any person who subsequently purchases or
12 acquires by exchange or contracts to purchase or acquire by exchange,
13 the same real property or any portion thereof, or acquires by assignment
14 the rent to accrue therefrom as provided in section two hundred ninety-
15 four-a of [~~the real property law~~] this article, in good faith and for a
16 valuable consideration, from the same vendor or assignor, his distribu-
17 tees or devisees, and whose conveyance, contract or assignment is first
18 duly recorded, and is void as against the lien upon the same real prop-
19 erty or any portion thereof arising from payments made upon the
20 execution of or pursuant to the terms of a contract with the same
21 vendor, his distributees or devisees, if such contract is made in good
22 faith and is first duly recorded. Notwithstanding the foregoing, any
23 increase in the principal balance of a mortgage lien by virtue of the
24 addition thereto of unpaid interest in accordance with the terms of the
25 mortgage shall retain the priority of the original mortgage lien as so

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD05315-03-9

1 increased provided that any such mortgage instrument sets forth its
 2 terms of repayment. The clerk of the county or city registrar where
 3 such conveyance of residential real property is recorded and maintained
 4 shall mail a written notice of such conveyance to the owner of record.
 5 The notice shall have the heading printed in 20 point bold type and read
 6 as follows:

7 "NOTICE OF SALE OR TRANSFER OF OWNERSHIP OF YOUR RESIDENTIAL PROPERTY.

8 To:

9 Name of owner of record

10 Our records show that you are listed as the current owner of record for
 11 residential property:

12 Block # _____ Lot # _____

13 Located At: _____
 14 street address

15 in the county of _____ New York

16 On _____, documents were filed at this
 17 date

18 office to change ownership and transfer title of your property.

19 To: _____
 20 name of new owner

21 If you have any questions regarding the validity of the documents, and
 22 wish to dispute the recording of the transfer, you should obtain legal
 23 counsel. If you believe you are a victim of a crime related to this
 24 recording, contact your local law enforcement agency or, if in the City
 25 of New York, the office of the sheriff."

26 The party seeking to record such conveyance shall bear the cost of such
 27 written notice. The clerk of the county or city registrar is entitled
 28 to charge a reasonable fee to cover the cost of mailing the envelope to
 29 the owner of record. Failure to mail such notice or the failure of any
 30 party to receive the same, shall not affect the validity of the convey-
 31 ance of the property.

32 § 2. This act shall take effect on the ninetieth day after it shall
 33 have become a law.



Michael P. Kearns
 Erie County Clerk
 92 Franklin Street
 Buffalo, New York 14202

To: _____

NOTICE

From
 County Clerk Michael P. Kearns
 regarding a change in ownership
 of your property

NOTICE OF SALE OR TRANSFER OF OWNERSHIP OF YOUR RESIDENTIAL PROPERTY

To: _____
 (name of owner of record)

Our records show that you are listed as the current owner of record for residential property:

Section: _____ Block: _____ Lot: _____

Located At: _____, County of Erie, New York.
 (street address) (city/town)

On _____, documents were filed at this office to change ownership and transfer title of your property.
 (date)

To: _____
 (name of new owner)

If you have any questions regarding the validity of the documents, and wish to dispute the recording of the transfer, you should obtain legal counsel. If you believe you are a victim of a crime related to this recording, contact your local law enforcement agency or, if in the City of New York, the office of the sheriff.