

ORDINANCE NO. _____

An ordinance amending the Foreclosure Registry Program, Article 4 of Chapter XVI of the Los Angeles Municipal Code, to provide for exemptions from its requirements for governmental entities and natural persons, to establish a formal appeals process, and to make other technical changes.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Section 164.02 of Article 4 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 164.02. DEFINITIONS.

The following words and phrases, whenever used in this article, shall be construed as defined in this section unless the context within an individual section clearly indicates otherwise. Words and phrases not defined here shall be construed as defined in Sections 12.03, 12.20.3, 91.8901, *et seq.*, and 98.0702, *et seq.*, of this Code.

A. **“Abandoned”** means any building, structure or real property that is vacant or occupied by a person or persons without a legal right of occupancy.

B. **“Assignment of deed of trust”** and/or **“assignment of rents”** means an instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another.

C. **“Beneficiary”** means a lender or entity holding, owning, participating in, or otherwise having an interest in the proceeds of a loan represented by a note secured by a deed of trust, including as applicable, the holders of credit instruments issued under a trust indenture, pooling and servicing agreement, mortgage, or deed of trust pursuant to which such holders act by and through a trustee therein named.

D. **“Days”** means consecutive calendar days.

E. **“Deed in lieu of foreclosure and/or sale”** means a recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust, without completion of a foreclosure proceeding.

F. **“Deed of trust”** means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition applies to all deeds of trust regardless of priority.

G. **“Default”** means the failure to fulfill a contractual obligation, monetary or nonmonetary.

H. **“Evidence of occupancy”** means any condition that on its own or combined with other conditions would lead a reasonable person to believe that the property is legally occupied. Such conditions include, but are not limited to, secured/locked structures; active utility services; the absence of overgrown and/or dead vegetation; the absence of an accumulation of newspapers, circulars, flyers and/or mail; the presence of window coverings such as curtains, blinds, and/or shutters; the presence of furnishings and/or personal items consistent with residential habitation; statements by neighbors, delivery agents or government employees that the property is legally occupied; or actual contact with occupants.

I. **“Evidence of vacancy”** means any condition that on its own or combined with other conditions would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk, and/or debris; the absence of window coverings such as curtains, blinds, and/or shutters; the absence of furnishings and/or personal items consistent with residential habitation; and statements by neighbors, delivery agents or government employees that the property is vacant.

J. **“Foreclosed”** or **“foreclosed property”** means a property that was the subject of a foreclosure sale where the title was transferred to the beneficiary or the trustee of a deed of trust involved in the foreclosure or transferred under a deed in lieu of foreclosure and/or sale, and for which the trustee's deed upon sale or deed in lieu of foreclosure and/or sale has been recorded.

K. **“Foreclosure”** means the process by which a property, placed as security for a real estate loan, is sold to satisfy the debt of the defaulting trustor, including a transfer by deed in lieu of foreclosure and/or sale.

L. **“Individual lender”** means a natural person who is a beneficiary of a deed of trust.

M. **“Inspection”** means a physical investigation by a beneficiary and/or trustee at a property to obtain evidence of occupancy or vacancy, to assess the physical condition of the property and to verify compliance with this article and any other applicable code or law.

N. **“Local”** means within 100 road/driving miles distance of the subject property.

O. **"Notice of default"** means a recorded notice that a default has occurred under a deed of trust.

P. **"Occupied"** means the lawful habitation of the property by trustor or tenants.

Q. **"Out of area"** means in excess of 100 road/driving miles distance of the subject property.

R. **"Property"** means any unimproved or improved residential real property, or portion thereof, situated in the City of Los Angeles, including the buildings, structures or other improvements located on the property regardless of condition.

S. **"Property in foreclosure"** means any property upon which a notice of default has been issued by a lender, mortgagee or beneficiary of any deed of trust.

T. **"Real Estate Owned Property" or "REO property"** means a property that was the subject of a foreclosure sale where the title was transferred to the beneficiary involved in the foreclosure or where the title was transferred to the beneficiary under a deed in lieu of foreclosure and/or sale.

U. **"Trustee"** means the person, firm, entity or corporation holding a deed of trust on a property.

V. **"Trustor"** means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

Sec. 2. Section 164.03 of Article 4 of Chapter XVI of the Los Angeles Municipal Code is amended to read as follows:

SEC. 164.03. RECORDATION OF TRANSFER OF LOAN AND/OR DEED OF TRUST AND/OR ASSIGNMENT OF RENTS.

Within 10 days of the purchase and/or transfer of a loan and/or deed of trust secured by property the new beneficiary and/or trustee shall record, with the Los Angeles County Recorder's Office, an assignment of deed of trust, an assignment of rents, or similar document, that lists the name, mailing address, and contact phone number of the new beneficiary and/or trustee responsible for receiving payments associated with the loan and/or deed of trust.

Sec. 3. Section 164.04 of Article 4 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 164.04. REGISTRATION OF PROPERTIES IN FORECLOSURE.

A. Properties Subject to Registration Requirements.

1. Any beneficiary or trustee who holds or has an interest in a deed of trust on a property in foreclosure located within the City of Los Angeles ("City") shall register the property in foreclosure with the Los Angeles Housing Department ("LAHD") within 30 days of the issuance of a notice of default.

2. The registration requirements of this article also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary or the trustee of a deed of trust involved in the foreclosure or transferred under a deed in lieu of foreclosure and/or sale.

Registration shall be renewed annually until the property is no longer subject to this article.

B. Registration Methods.

Registration in satisfaction of this article shall be with LAHD pursuant to the rules, regulations and methodology it promulgates to carry out the provisions of this article. Registration shall only be deemed complete once the information and registration fees required under this article have been received by LAHD.

C. Required Registration Information.

1. Registrants under this article shall provide LAHD with contact information, including name, street address, direct telephone number, and actively monitored email address for the beneficiary and/or trustee. Post office boxes do not constitute an acceptable address.

2. The beneficiary and/or trustee must be empowered to promptly: (1) comply with code enforcement orders issued by the City and other enforcement entities; (2) provide a trespass authorization upon request of local law enforcement authorities; (3) conduct inspections of the property in foreclosure; and (4) accept rental payments from tenants of the property if no management company is otherwise employed for such purpose.

3. If the beneficiary and/or trustee is located out of area, registrants under this article shall also provide the contact information, including name, street address, direct telephone number, and actively monitored email address for the staff of the local property management or property preservation company

responsible for the security, maintenance, inspection and marketing of the property.

4. The registration required by this section shall also include, as applicable, the contact information, including the name, street address, direct contact name and telephone number, and actively monitored email address of any servicer or agent responsible for the property or for receiving payments associated with the loan and/or deed of trust. Post office boxes do not constitute an acceptable address.

D. Change of Property Status and/or Information; De-Registering.

1. Any entity, firm or corporation that has registered a property under this article must report any change of status or information contained in the registration to LAHD within 10 calendar days of the change. This includes, but is not limited to, a change in the property servicer or management, change in occupancy status and bank owned status, or any change affecting the ownership or condition of the property.

2. The beneficiary and/or trustee are required to request de-registration of the property within 10 calendar days after the property is no longer subject to the registry, as a result of the notice of default being cancelled or the property being sold to an unrelated third party. All requests for de-registration shall be submitted to LAHD along with copies of documentation recorded with the Los Angeles County Recorder's Office establishing that the property is no longer subject to the registry.

3. It is the obligation of the beneficiary and/or trustee to inform the City, and upon request, provide LAHD with documentation establishing the existence of any pending action, such as bankruptcy or other court or administrative action, or governmental action, such as the declaration of a disaster area, that would prohibit the beneficiary and/or trustee from taking any of the actions required in this article. The beneficiary and/or trustee shall provide LAHD with the requested documentation within the timeframe specified by LAHD.

4. If a property is found to be vacant and has already been registered as occupied, the beneficiary and/or trustee shall change the status of the property to vacant on the City's registration.

5. All vacant properties subject to this article shall be secured against unauthorized entry and shall have recorded against the property with the Los Angeles County Recorder's Office a declaration stating that the property is and shall remain vacant.

E. Annual Registration Fee.

1. A non-refundable annual registration fee in the amount of \$155 shall be paid to LAHD at the time of registration.

2. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Registration fees will not be prorated.

3. Subsequent annual registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due.

4. Registration fees collected by LAHD pursuant to this article shall be deposited into the Foreclosure Registry Program Fund established by Article 28 of Chapter 5 of Division 5 of the Los Angeles Administrative Code.

5. The City Council may adjust the amount of the annual registration fee. Such adjustments must be supported by a fee study.

Sec. 4. Section 164.06 of Article 4 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 164.06. INSPECTION REQUIREMENTS.

A. Inspection by Beneficiary or Trustee.

1. Any beneficiary and/or trustee who holds a deed of trust on a property in foreclosure shall perform an inspection of the property that is the security for the deed of trust, upon default by the trustor, prior to recording a notice of default with the Los Angeles County Recorder's Office.

2. A property with a recorded notice of default shall be inspected by the beneficiary and/or trustee monthly until the trustor or other party remedies the default, or until the foreclosure process is complete. The beneficiary and/or trustee shall provide monthly reports to LAHD that record the date of the monthly inspection and the condition of the property as observed during that inspection, and shall do so in writing upon the form(s) provided by LAHD that have been approved by the General Manager.

3. Once the foreclosure process is complete, if the beneficiary or trustee takes title to the property, the beneficiary or trustee shall continue to inspect the property monthly and provide monthly reports to LAHD that record the date of the monthly inspection and the condition of the property as observed during that inspection, and shall do so in writing upon the form(s) provided by LAHD that have been approved by the General Manager.

4. Failure to satisfy the inspection and reporting requirements of this section shall result in the imposition of penalties under Section 164.09 of this article.

B. Inspection by the Los Angeles Department of Building and Safety.

1. The Department of Building and Safety shall inspect the exterior of all foreclosed single-family residential properties and vacant multi-family properties that are registered pursuant to this article. For purposes of this subsection and only as applicable to the Los Angeles Department of Building and Safety, "inspection" means a physical investigation to verify that the property is free from graffiti, debris, rubbish, garbage, trash, overgrown vegetation or other similar material, and is being maintained in a clean and sanitary condition.

2. When a registered single-family residential or vacant multi-family property's status changes to foreclosed, the beneficiary or trustee who acquired the property shall pay a proactive inspection fee in the amount of \$356. Failure to pay the inspection fee at the time the property's status is changed to reflect foreclosed on the registry, or at the time a foreclosed property is registered if it was not registered upon default, will result in penalties pursuant to Section 164.09 of this article.

C. Inspection by the Los Angeles Housing Department. The Los Angeles Housing Department shall inspect all foreclosed occupied multi-family residential properties that are registered pursuant to this article and may inspect any other foreclosed occupied multi-family residential property that is required to be registered pursuant to this article. The Department's inspection shall be conducted consistent with and pursuant to the standards and procedures provided in Article 1 of Chapter XVI of this Code.

Sec. 5. Section 164.09 of Article 4 of Chapter XVI of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 164.09. VIOLATIONS AND PENALTIES.

A. Violations of this article shall be treated as a strict liability offense regardless of intent. Any entity, firm or corporation that violates any portion of this article shall be subject to prosecution and administrative enforcement under the Los Angeles Municipal Code.

B. A beneficiary and/or trustee who has failed to comply with the registration requirements of this article, including the payment of any fees and satisfaction of inspection and reporting requirements, will be notified by LAHD in writing of such delinquency by letter deposited in the United States mail in a sealed envelope, postage prepaid, and addressed to such person to be notified at the address listed on: the notice of default; the most recent assignment of the loan in default; or the foreclosure deed

granting title to the foreclosing beneficiary, recorded with the Los Angeles County Recorder's Office.

C. A beneficiary and/or trustee who fails to comply with all registry registration requirements of this article, including the payment of any fees and satisfaction of inspection and reporting requirements, within 30 days of LAHD's notification, shall be assessed a penalty in the amount of \$250 per day for each day subsequent to such notification until the deficiency is cured.

D. If the beneficiary and/or trustee fail to pay any fee or penalty imposed under this article, LAHD may transmit any claim for unpaid fees to the appropriate City department for collection and/or appropriate legal recourse.

E. Administrative penalties imposed pursuant to this ordinance shall not exceed \$100,000 per property per violation.

Sec. 6. Section 164.10 of Article 4 of Chapter XVI of the Los Angeles Municipal Code is renumbered as SEC. 164.13.

Sec. 7. Sections 164.10, 164.11, and 164.12 are added to Article 4 of Chapter XVI of the Los Angeles Municipal Code to read as follows:

SEC. 164.10. GOVERNMENTAL EXEMPTION.

A. The provisions of this article shall not apply to any property owned by the United States of America, the State of California, the County of Los Angeles, the City of Los Angeles, or any of their respective agencies or political subdivisions, except that over which the City has authority to assert jurisdiction.

B. The provisions of this article shall not apply to any property in foreclosure for which the beneficiary of the deed of trust is the United States of America, the State of California, the County of Los Angeles, the City of Los Angeles, or any of their respective agencies or political subdivisions, except that over which the City has authority to assert jurisdiction.

C. Any entity asserting an exemption from the provisions of this article under this section may be required to demonstrate to the City's satisfaction that it is exempt or otherwise is not subject to regulation by the City on the basis of preemption or other legal basis and shall do so upon the form(s) provided by LAHD that have been approved by the General Manager.

SEC. 164.11. EXEMPTION FOR NATURAL PERSONS.

A. The provisions of this article shall not apply to a beneficiary who is an individual lender as provided in Section 164.02.L.

B. The exemption provided under this section shall apply retroactively to any individual lender who was subject to the requirements of this article prior to the enactment of this section, but otherwise would have met the definition of "individual lender" had this section been in effect during that time.

C. A person asserting an exemption from the provisions of this article under this section may be required to demonstrate to the City's satisfaction that the person is exempt from the provisions of this article as an individual lender, in writing upon the form(s) provided by LAHD that have been approved by the General Manager.

SEC. 164.12. APPEALS.

Any person or entity subject to a fee or penalty under this article may appeal the assessment of the fee or penalty to LAHD in accordance with this section.

A. Such appeal shall be made in writing, upon the form(s) provided by LAHD that have been approved by the General Manager, and shall specify the grounds for the appeal, with supporting documentation as necessary.

B. Such appeal shall be filed with LAHD within six months of notification of the challenged fee and/or penalty as provided in Section 164.09.B.

C. LAHD shall issue a decision within 90 calendar days of the filing of the appeal or within such further time as may be required. A copy of the decision shall be served by first class mail on the person or entity who filed the appeal.

Sec. 8 The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
CATHERINE V. PERRY
Deputy City Attorney

Date 2/16/2022

File No. 12-0647-S6

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____