

Municipal Code of Chicago

13-12-126 Vacant buildings – Mortgagee required to act – Enforcement authority.

(a) (1) The mortgagee of any building which is vacant and not registered pursuant to this section or Section 13-12-125(a) of this Code shall, within the later of 30 days after the building becomes vacant and unregistered or 10 days after a default, file a registration statement with the department of buildings on forms provided by that department for such purposes and pay a registration fee of \$700. The registration shall remain valid for six months from the date of registration. The mortgagee shall be required to renew the registration every six months, at a renewal fee of \$300, as long as the building remains vacant and unregistered by an owner pursuant to Section 13-12-125. Governmental entities shall be exempt from the payment of the registration and renewal fees. The mortgagee shall notify the department of buildings within 20 days of any change in the registration information by filing an amended registration statement on a form provided by the department of buildings for such purposes. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted under this section by the city against the mortgagee with respect to the registered building.*

* **Editor's note** – Pursuant to Coun. J. 9-6-17, p. 54189, § 7 and Coun. J. 3-28-18, p. 74459, Art. V, § 13, the amendments to this subsection (a)(1) shall take effect on a date determined by the Commissioner of Buildings, but in the absence of such determination, shall become effective no later than January 1, 2019.

(2) In addition to other information required by the commissioner of buildings, the registration statement shall include the name, street address and telephone number of a natural person, 21 years of age or older, or business entity registered with the Illinois Secretary of State designated by the mortgagee as an authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such mortgagee in connection with enforcement of this section. This person or business entity must maintain an office in Cook County, Illinois, or must actually reside in Cook County, Illinois. A mortgagee meeting these criteria may designate itself as agent. By designating an authorized agent under the provisions of this subsection a mortgagee consents to receive any and all notices of violations of this section concerning the registered building and all process in any court proceeding or administrative enforcement proceeding brought to enforce this section with respect to the registered building by service of the notice or process on the authorized agent. Any mortgagee who has designated an authorized agent under the provisions of this subsection shall be deemed to consent to the continuation of the agent's designation for the purposes of this subsection until the mortgagee notifies the department of buildings of a change of authorized agent or until the mortgagee files a new registration statement. The city shall notify the designated agent of all violations and enforcement proceedings brought under this section.

(b) The mortgagee of any building that has become vacant and which is not registered pursuant to Section 13-12-125(a) of this Code shall, within 30 days after the building becomes vacant and unregistered:

(1) secure the building's doors and windows so that all such building openings are closed and secured, using secure doors, windows without broken or cracked panes, commercial-quality metal security panels, filled with like-kind material as the surrounding wall, polycarbonate boarding, or boarded with plywood installed and secured in accordance with rules and regulations issued by the commissioner of buildings. At least one building entrance shall be accessible from the exterior and secured with a door that is locked to allow access only to authorized persons. If two or more exit doors exist, a minimum of two exit doors shall be available to exit from the interior of the building, with at least one exit door available per 150 linear feet of horizontal travel at ground-floor level;

(2) maintain all grass and weeds on the real estate premises, below 10 inches in height and cut and remove all dead or broken trees, tree limbs or shrubbery;

(3) clear or remove snow from the walkway leading to the main entry door, and any public sidewalk adjoining the lot;

(4) abate the accumulation of debris, trash and litter that does not constitute personal property on any portion of the exterior lot of the building;

(5) reasonably maintain fences and gates;

(6) reasonably maintain the structural integrity of stairs and steps that lead to the main entrance of the building;

(7) winterize the building, which shall mean cleaning all toilets and completely draining all plumbing and heating systems;

(8) maintain and secure the exterior of the building;

(9) post signs affixed to the building indicating: the vacant building registration number and the name, address and telephone number of the mortgagee and the mortgagee's authorized agent for the purpose of service of process. The name, address and telephone number of a person responsible for day-to-day supervision and management of the building, if such person is different from the mortgagee or authorized agent shall be indicated on the signs as well. The signs shall be no smaller than 8.5 inches by 11 inches and placed in such a location so as to be visible and legible from the nearest public street or sidewalk, whichever is nearer, and from the alley;

(10) maintain the building in a secure and closed condition and maintain the sign until the building is reoccupied or demolished with all permits required by this Code. If during the registration period and following the initial boarding and securing of the property in compliance with this section the department of buildings notifies the mortgagee in writing that the property was found open or it has been judicially or administratively found to be open, in each case on two separate occasions at least 30 days apart then the building shall thereafter be secured only with commercial-quality metal security panels or a method deemed equivalent by the commissioner of buildings; and

(11) keep the exterior of the property free of vermin and rodents.

(c) Any person who violates any provision of this section or of the rules and regulations issued hereunder shall be fined not less than \$500.00 and not more than \$1,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. The following shall be affirmative defenses under Section 13-12-126 and Section 13-12-127:

(1) that at the time of the violation the building was occupied by any number of persons lawfully or unlawfully;

(2) that the owner or another mortgagee has registered the building pursuant to Section 13-12-125 or Section 13-12-126 as applicable and such registration is current;

(3) that the mortgagee is barred from doing any action required by this section by an automatic stay pursuant to a bankruptcy proceeding, provided that the mortgagee tenders evidence including the bankruptcy case number;

(4) that the mortgagee has cured all violations within 30 days of receiving written notice of such violations. Notice sent by U.S. mail shall be deemed received seven days after mailing. An affidavit shall be conclusive proof of mailing;

(5) that at the time of the violation, the mortgage was not in default;

(6) that at the time of the violation, the mortgagee was not the senior lienholder of record on the real estate;

(7) that a receiver has been appointed for the property by a court of competent jurisdiction;

(8) that in a foreclosure of the property, the owner or mortgagor is taking any of the following acts:

- (A) filing any pleading which asserts claims against the mortgagee or defenses;
- (B) filing any motion which asserts defenses or claims against the mortgagee;
- (C) filing any discovery for response by the mortgagee; or
- (D) filing a request for mediation.

(d) The commissioner of buildings may issue rules for the administration of this section, and is further authorized to administer the notification, registration and other recordkeeping requirements of this section, Section 13-12-125 and Section 13-12-128 either directly or through one or more third-party agents. Subject to the availability of duly appropriated funds, the commissioner is authorized to: (i) contract with third parties to administer these notification, registration and other recordkeeping requirements and any ancillary aspects, and (ii) execute ancillary documents and provide ancillary information, assurances or certifications as needed to carry out this subsection (d). If authorized by the commissioner, notification and other filing/registration requirements in this section, Section 13-12-125 and in Section 13-12-128 shall be deemed satisfied by such notifications being provided to or by, or filings and registrations submitted to, the commissioner's agent.

(e) For purposes of this section, the following terms shall be defined as set forth below:

(1) "Default" shall mean, with respect to a building containing four or fewer dwelling units, when the mortgagor is 60 days past due on the mortgagor's obligation to make a scheduled payment under a mortgage or a mortgage note. With respect to all other buildings, "default" shall mean when the mortgagor is 90 days past due on the mortgagor's obligation to make a scheduled payment under a mortgage or a mortgage note.

(2) "Mortgage" shall mean any consensual lien created by a written instrument which grants or retains an interest in real estate to secure a debt or other obligation. The term includes, without limitation: (A) mortgages securing reverse mortgage loans; (B) mortgages securing revolving credit loans; (C) every deed conveying real estate, although an absolute conveyance in its terms, which shall have been intended only as a security in the nature of a mortgage; and (D) equitable mortgages.

(3) "Mortgagee" shall mean (A) the holder of an indebtedness or obligee of a non-monetary obligation secured by a mortgage or any person designated or authorized to act on behalf of such holder, (B) any person claiming through a mortgagee as successor, and (C) any person identified as such in a recorded document which has not been released, assigned, or superseded of record.

(4) "Mortgagor" shall mean (A) the person whose interest in the real estate is the subject of the mortgage and (B) any person claiming through a mortgagor as successor. Where a mortgage is executed by a trustee of a land trust, the mortgagor is the trustee and not the beneficiary or beneficiaries.

(5) "Vacant" shall mean any real estate improved with a complete structure or an incomplete structure where the structure is empty or otherwise uninhabited by persons and the structure or lot is in need of maintenance, repair or securing, and with respect to which one or more of the following conditions exist:

- (1) all lawful business or construction operations have ceased for 6 months;
- (2) it has been declared unfit for occupancy and ordered to remain vacant and unoccupied under an order issued by either the building commissioner, president of the board of health, the fire commissioner or the superintendent of police pursuant to Section 13-12-120 or by an order issued by court of competent jurisdiction;
- (3) no construction or legal repairs have commenced for 6 months;
- (4) the doors or windows are smashed through, broken, unhinged, removed or continuously unlocked;

(5) law enforcement officials have received at least one report of trespassers or vandalism or other illegal acts being committed at the property in the last 6 months; and

(6) gas, electrical or water services to the entire premises have been terminated.

A property shall not be considered vacant if: (i) there is an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion, and the building is in compliance with all applicable ordinances, codes, regulations and legislation; (ii) there is a building occupied on a seasonal basis, but otherwise secure; (iii) there is a secure building on which there are bona fide rental or sale signs; or (iv) there is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute; or (v) there is otherwise a building that is secure and in substantial compliance with all applicable ordinances.

(f) If a building is registered under paragraph (a) of this section, only the registered mortgagee shall be liable under this section during the registration period. Nothing in this section shall bar the concurrent enforcement of any provision of this Code against the owner or owners of a property.

(g) To the extent permitted by law, a mortgagee's acts or omissions required by this section shall not subject the mortgagee to civil or criminal liability unless the act or omission constitutes gross negligence or willful, wanton, or intentional misconduct. This provision shall not waive the requirement to obtain permits or licenses for performing certain work required under this section, as otherwise required by this Code, or the penalties provided for failure to do so.

(Added Coun. J. 11-2-11, p. 11801, § 2; Amend Coun. J. 5-18-16, p. 25021, § 1; Amend Coun. J. 7-20-16, p. 28070, § 2; Amend Coun. J. 2-22-17, p. 43876, § 19; Amend Coun. J. 9-6-17, p. 54189, § 5; Amend Coun. J. 3-28-18, p. 74459, Art. V, § 13)