



A Division of Ohio Bar Title Insurance Company

A First American Company

Date: 09/23/11

Title Alert: Act 91 Notice Not Required Prior to Foreclosure
Actions Filed On or After August 1, 2011

Purpose: To advise of a change in the law pertaining to the mortgage foreclosure process in Pennsylvania, and a change to Penn Attorneys/Ohio Bar Title Insurance Company's (PA/OBT) underwriting review of foreclosures commenced on or after August 1, 2011.

Background: Pursuant to Article IV-C of the Housing Finance Agency Law (35 P.S. §1680.401c *et seq.*), mortgagees were required to provide written notice of their intent to foreclose to mortgagors who were at least 60 days delinquent in their mortgage payments. The notice, commonly referred to as the "Act 91 notice", was intended to give the mortgagors an opportunity to apply for emergency assistance from the Housing Finance Agency ("the Agency") through the Homeowner's Emergency Mortgage Assistance Fund ("the Fund"). When asked to insure a property that went through foreclosure, PA/OBT has required proof that Act 91 notice was given or was not required under the aforementioned statute.

On May 28, 2011, the Agency issued an announcement in the Pennsylvania Bulletin that, as of July 1, 2011, it would not have sufficient money available in the Fund to accept new applications for emergency mortgage assistance, and that, effective July 31, 2011, Article IV-C no longer applies (41 Pa. B. 2789). Therefore, on or after August 1, 2011, mortgagees can commence foreclosure proceedings without the necessity of sending Act 91 notice to the mortgagors prior to the filing of the foreclosure complaint.

The Agency's announcement has no effect on the requirement to provide "Act 6 notice" to mortgagors pursuant to 41 P.S. §403, which applies to certain residential mortgages with an original principal amount less than a statutory base amount, which is adjusted annually for inflation. (The base amount for 2011 is \$217,873.00.)

Guideline: When examining a foreclosure proceeding that is filed on or after August 1, 2011, you no longer have to look for proof that Act 91 notice was given. However, you must still look for proof that Act 6 notice was given or proof that it was not required.

This Alert is intended solely for title issuing offices, agents and approved attorneys of Ohio Bar Title Insurance Company and reliance by any other person or entity is unauthorized. This alert is intended solely for the purpose of underwriting policies of the Company.

Title Alerts from 1997 to present are available on our website at: <http://www.pennattorneys.com>

**Penn Attorneys, a Division of
Ohio Bar Title Insurance Company**

900 State Street, Ste 320 Erie, PA 16501
Tel 814-454-8278 or 800-352-2216 FAX 814-453-5983 or 1-800-234-2352
erie@pennattorneys.com