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A legal update from Dechert LLP

## Update Regarding the Chicago City Council Vacant Property Registration and Maintenance Ordinance

An amendment to the ordinance addressing mortgagee and securitization trustee liability for vacant properties in Chicago (replacing the more onerous provisions of the ordinance that were passed by the Chicago City Council on July 28, 2011)<sup>1</sup> recently became effective by unanimous vote of the Chicago City Council. In response to concerns raised by the servicing community, the amendments remove mortgagees, their assignees and agents from the definition of “owner” for the purposes of Section 13-12-125 (the provision setting forth the registration and maintenance standards for owners of vacant property). While mortgagee obligations have been removed from Section 13-12-125, the amendments set up a separate set of standards for compliance with registration and maintenance requirements for mortgagees of residential properties under Sections 13-12-126, -127 and -128 of the Municipal Code of Chicago. The amendments do not contain any registration or maintenance requirements for mortgages of commercial properties. This *DechertOnPoint* will provide a brief overview of the recently enacted requirements.

### Registration and Maintenance Obligations

Section 13-12-126 provides that mortgagees<sup>2</sup> must (i) register vacant<sup>3</sup> residential buildings

subject to their mortgage with the Chicago Department of Buildings every six months so long as any such building is vacant and (ii) designate an authorized agent (with an office in Cook County, Illinois) for service of process with respect to violations concerning the registered buildings. Additionally, mortgagees would be required to maintain the vacant residential building in a manner to ensure they are secure and limit potential health and safety issues.<sup>4</sup>

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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as successor and (C) any person identified as such in a recorded document which has not been released, assigned, or superseded of record.” *Mun. Code of Chicago §13-12-126*, available at <http://chicago.legistar.com/LegislationDetail.aspx?ID=986507&GUID=4F651E52-334B-41EB-88CE-177766FE044B&Options=Advanced&Search=>.

<sup>3</sup> “Vacant” is defined in Section 13-12-126(e)(5) as any property “with a complete structure containing one or more dwelling units or an incomplete structure if the real estate is zoned for residential development, 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 several enumerated conditions exist. *Id.*

<sup>4</sup> For example, some of the required maintenance activities under Section 13-12-126 include securing the registered building doors and windows, clearing or removing snow, maintaining structural safety of stairs leading to the main entrance of a registered building and keeping the exterior of the property free from vermin and rodents. *Id.*

<sup>1</sup> For a description of the July 2011 ordinance, see our *DechertOnPoint* entitled “[City Councils Impose Greater Liability on Mortgagees and Securitization Trustees.](#)”

<sup>2</sup> “Mortgagee” is defined in Section 13-12-126(e)(3) as “(A) the holder of an indebtedness



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