

Introduction to the 2025-2026 Edition

Mortgage Liens in New York provides an up-to-date scholarly resource for determining the law relating to real estate mortgages in New York. Although it covers mortgages, sections covered include priority disputes between mortgages, non-consensual liens; such as judgment liens, mechanics' liens real estate tax liens and federal and state liens.

Recent developments in the 2025-2026 Edition include:

- *Krupp v. Martin-Neyrey*, the Court, citing numerous precedents, reiterated that restrictive covenants, although not favored, are enforceable where the covenant is clear and reasonable and does not offend public policy. The proponent must show the extent of the covenant by clear and convincing evidence. Where there are questions of interpretation, “the interpretation which limits the restriction must be adopted.” *Matter of Gedney Assn., Inc. v. Common Council of City of White Plains*.
- *Clarke v. Clarke*, where a daughter was not seized or possessed property in which she sought 50% interest from her mother within ten years before she commenced her action to determine her claim to the property, her action to compel the determination of her claim to the property was barred by applicable limitations period.
- *Brennan v. Deutsche Bank Trust Company Americas*, where a bank was precluded from asserting the limitations period had not expired because mortgage had not been validly accelerated due to the bank's mortgage foreclosure action against mortgagors. The action was brought more than six years before this action, under the Foreclosure Abuse Prevention Act (FAPA), in mortgagors' action to cancel and discharge the record of mortgage; the foreclosure action was dismissed due to bank's failure to strictly comply with the required prior notice statute, which was a condition precedent to commencing foreclosure action but was not precondition for acceleration of debt.
- *U.S. Bank National Association v. Hayon*, where the referee did not exceed his authority in his report by directing the sale of mortgaged property, in the lender's purported

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successor's action against the borrower to foreclose a mortgage, and the trial court's order of reference directed the referee to ascertain and compute the amount due to successor and to examine and report whether or not the mortgaged premises should have been sold in parcels, and the referee complied with these directives; *Deutsche Bank National Trust Company as Trustee for American Home Mortgage Assets Trust 2006-5 v. Marino*.