

NEW YORK MORTGAGE TRUST INC
Form 8-K
May 31, 2012

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): May 25, 2012

NEW YORK MORTGAGE TRUST, INC.
(Exact name of registrant as specified in its charter)

| | | |
|---|--------------------------|--------------------------------------|
| Maryland | 001-32216 | 47-0934168 |
| (State or other jurisdiction of incorporation) | (Commission File Number) | (IRS Employer Identification No.) |

52 Vanderbilt Avenue, Suite 403
New York, New York 10017
(Address and zip code of
principal executive offices)

Registrant's telephone number, including area code: (212) 792-0107

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

On May 25, 2012, New York Mortgage Trust, Inc. (the “Company”) entered into an underwriting agreement (the “Underwriting Agreement”) with Ladenburg Thalmann & Co. Inc., as representative of the several underwriters named therein (the “Underwriters”), relating to the offer and sale of 2,750,000 shares of the Company’s common stock, par value \$0.01 per share (“Common Stock”), at a public offering price of \$6.65 per share. In addition, the Company granted the Underwriters a 30-day option to purchase up to an additional 412,500 shares of Common Stock to cover-over allotments, on the same terms and conditions. The Underwriters exercised their over-allotment option in full on May 30, 2012. The issuance and sale of the 3,162,500 shares of Common Stock (including the 412,500 additional shares) closed on May 31, 2012.

The Underwriting Agreement contains customary representations, warranties and covenants by the Company. The Company also agreed to indemnify the Underwriters against certain specified types of liabilities, including liabilities under the Securities Act of 1933, and to contribute to payments the Underwriters may be required to make in respect of these liabilities. In the ordinary course of business the Underwriters or their affiliates may in the future engage in various financing, commercial banking and investment banking services with, and provide financial advisory services to, the Company and its affiliates for which they may receive customary fees and expenses.

The shares of Common Stock were issued pursuant to the Company’s shelf registration statement on Form S-3 (File No. 333-179314), which was declared effective by the Securities and Exchange Commission on April 11, 2012.

A copy of the Underwriting Agreement is attached hereto as Exhibit 1.1 and is incorporated herein by reference. The foregoing description of the Underwriting Agreement is qualified in its entirety by reference to the full text of the Underwriting Agreement. In connection with the filing of the Underwriting Agreement, the Company is filing the opinion of its special Maryland counsel, Venable LLP, as Exhibit 5.1 hereto.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits. The following exhibits are being filed herewith:

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| 1.1 | Underwriting Agreement, dated as of May 25, 2012, between the Company and Ladenburg Thalmann and Co. Inc. |
| 5.1 | Opinion of Venable LLP regarding legality of shares. |
| 8.1 | Opinion of Hunton & Williams LLP as to certain U.S. federal tax matters (incorporated by reference to Exhibit 8.1 to the Company’s Registration Statement on Form S-3 (File No. 333-179314) filed with the Securities and Exchange Commission on February 2, 2012) |
| 23.1 | Consent of Venable LLP (included in Exhibit 5.1). |
| 23.2 | Consent of Hunton & Williams LLP (included in Exhibit 8.1). |

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

NEW YORK MORTGAGE TRUST, INC.
(Registrant)

Date: May 31, 2012

By: /s/ Steven R. Mumma
Steven R. Mumma
Chief Executive Officer and
President

EXHIBIT INDEX

Exhibit Description

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