

STATE OF NEW YORK

9592

IN ASSEMBLY

January 25, 2018

Introduced by M. of A. WEINSTEIN -- read once and referred to the
Committee on Judiciary

AN ACT to amend the real property actions and proceedings law and the
civil practice law and rules, in relation to foreclosure upon a
reverse mortgage

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 6 of section 1304 of the real
2 property actions and proceedings law, as amended by section 6 of part Q
3 of chapter 73 of the laws of 2016, is amended to read as follows:

4 (a) (1) "Home loan" means a loan, including an open-end credit plan,
5 [~~other than a reverse mortgage transaction,~~] in which:

6 (i) The borrower is a natural person;

7 (ii) The debt is incurred by the borrower primarily for personal,
8 family, or household purposes;

9 (iii) The loan is secured by a mortgage or deed of trust on real
10 estate improved by a one to four family dwelling, or a condominium unit,
11 in either case, used or occupied, or intended to be used or occupied
12 wholly or partly, as the home or residence of one or more persons and
13 which is or will be occupied by the borrower as the borrower's principal
14 dwelling; and

15 (iv) The property is located in this state.

16 (2) A home loan shall include a loan secured by a reverse mortgage
17 that meets the requirements of clauses (i) through (iv) of subparagraph
18 one of this paragraph.

19 § 2. Subdivision (a) of rule 3408 of the civil practice law and rules,
20 as amended by section 3 of part Q of chapter 73 of the laws of 2016, is
21 amended to read as follows:

22 (a) [~~1a~~] 1. Except as provided in paragraph two of this subdivision,
23 in any residential foreclosure action involving a high-cost home loan
24 consummated between January first, two thousand three and September
25 first, two thousand eight, or a subprime or nontraditional home loan, as
26 those terms are defined under section thirteen hundred four of the real
27 property actions and proceedings law, in which the defendant is a resi-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

LBD13316-01-7

1 dent of the property subject to foreclosure, the court shall hold a
2 mandatory conference within sixty days after the date when proof of
3 service is filed with the county clerk, or on such adjourned date as has
4 been agreed to by the parties, for the purpose of holding settlement
5 discussions pertaining to the relative rights and obligations of the
6 parties under the mortgage loan documents, including, but not limited
7 to: ~~1-~~ (i) determining whether the parties can reach a mutually agree-
8 able resolution to help the defendant avoid losing his or her home, and
9 evaluating the potential for a resolution in which payment schedules or
10 amounts may be modified or other workout options may be agreed to
11 including, but not limited to, a loan modification, short sale, deed in
12 lieu of foreclosure, or any other loss mitigation option; or ~~2-~~ (ii)
13 whatever other purposes the court deems appropriate.

14 2. (i) Paragraph one of this subdivision shall not apply to a home
15 loan secured by a reverse mortgage where the default was triggered by
16 the death of the last surviving borrower unless:

17 (A) the last surviving borrower's spouse, if any, is a resident of the
18 property subject to foreclosure; or

19 (B) the last surviving borrower's successor in interest, who, by
20 bequest or through intestacy, owns, or has a claim to the ownership of
21 the property subject to foreclosure, and who was a resident of such
22 property at the time of the death of such last surviving borrower.

23 (ii) The superintendent of financial services may promulgate such
24 rules and regulations as he or she shall deem necessary to implement the
25 provisions of this paragraph.

26 § 3. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on and after April 20, 2017; provided
28 that:

29 (a) the amendments to subdivision 6 of section 1304 of the real prop-
30 erty actions and proceedings law, made by section one of this act, shall
31 not affect the expiration and reversion of such subdivision pursuant to
32 subdivision a of section 25 of chapter 507 of the laws of 2009, as
33 amended, and shall be deemed repealed therewith; and

34 (b) the amendments to subdivision (a) of rule 3408 of the civil prac-
35 tice law and rules, made by section two of this act, shall take effect
36 on the same date and in the same manner as section 3 of part Q of chap-
37 ter 73 of the laws of 2016 takes effect.