STATE OF NEW YORK

8397

IN SENATE

February 22, 2022

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend subpart B of part C of chapter 417 of the laws of 2021, relating to foreclosure proceedings, in relation to extending residential foreclosure protections until May fifteenth (Part A); to amend subpart C of part C of chapter 417 of the laws of 2021, relating to tax sales, in relation to extending residential foreclosure protections until May fifteenth (Part B); and to amend subpart D of part C of chapter 417 of the laws of 2021, relating to establishing hardship declarations for owners of residential real property, in relation to extending residential foreclosure protections until May fifteenth (Part C)

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

Section 1. This act enacts into law components of legislation relating to residential foreclosure protections. Each component is wholly contained within a Part identified as Parts A through C. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

PART A

Section 1. Paragraph b of subdivision 1 of section 2, section 5 and section 6 of subpart B of part C of chapter 417 of the laws of 2021, relating to foreclosure proceedings, are amended to read as follows:

b. the following statement, or a substantially equivalent statement in the mortgagor's primary language, in 14-point type, published by the

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

LBD14672-02-2

office of court administration, whether in physical or electronic written form:

"NOTICE TO MORTGAGOR: If you have lost income or had increased costs during the COVID-19 pandemic, and you sign and deliver this hardship declaration form to your mortgage lender or other foreclosing party, you may be protected from foreclosure until at least [~~January~~] May 15, 2022. If a foreclosure action is filed against you and you provide this form to the plaintiff or the court, the action will be postponed until [~~January~~] May 15, 2022 unless the plaintiff moves to challenge your declaration of hardship. If the court finds your hardship claim valid, the foreclosure action will be postponed until after [~~January~~] May 15, 2022. While the action is postponed, you may remain in possession.

If your mortgage lender or other foreclosing party provided you with this form, the mortgage lender or other foreclosing party must also provide you with a mailing address and e-mail address to which you can return this form. If you are already in foreclosure proceedings, you may return this form to the court. You should keep a copy or picture of the signed form for your records. You will still owe any unpaid mortgage payments and lawful fees to your lender. You should also keep careful track of what you have paid and any amount you still owe. Financial assistance may be available to you, even if you have previously been denied. You should contact your local housing assistance office for application information.

MORTGAGOR'S DECLARATION OF COVID-19-RELATED HARDSHIP

I am the mortgagor of the property at (address of dwelling unit). Including my primary residence, I own, whether directly or indirectly, ten or fewer residential dwelling units. I am experiencing financial hardship, and I am unable to pay my mortgage in full because of one or more of the following:

1. Significant loss of household income during the COVID-19 pandemic.

2. Increase in necessary out-of-pocket expenses related to performing essential work or related to health impacts during the COVID-19 pandemic.

3. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member during the COVID-19 pandemic have negatively affected my ability or the ability of someone in my household to obtain meaningful employment or earn income or increased my necessary out-of-pocket expenses.

4. Moving expenses and difficulty I have securing alternative housing make it a hardship for me to relocate to another residence during the COVID-19 pandemic.

5. Other circumstances related to the COVID-19 pandemic have negatively affected my ability to obtain meaningful employment or earn income or have significantly reduced my household income or significantly increased my expenses.

6. One or more of my tenants has defaulted on a significant amount of their rent payments since March 1, 2020.

To the extent I have lost household income or had increased expenses, any public assistance, including unemployment insurance, pandemic unemployment assistance, disability insurance, or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of household income or increased expenses.

I understand that I must comply with all other lawful terms under my mortgage agreement. I further understand that lawful fees, penalties or interest for not having paid my mortgage in full as required by my mortgage agreement may still be charged or collected and may result in a monetary judgment against me. I further understand that my mortgage lender, or other foreclosing party may request a hearing to challenge the certification of hardship made herein, and that I will have the opportunity to participate in any actions or proceedings regarding my mortgage interest. I also understand that my mortgage lender or other foreclosing party may pursue a foreclosure action against me on or after [~~January~~] May 15, 2022, if I do not fully repay any missed or partial payments and lawful fees.

Signed:

Printed Name:

Date Signed:

NOTICE: You are signing and submitting this form under penalty of law. That means it is against the law to make a statement on this form that you know is false."

§ 5. In any action to foreclose a mortgage in which a judgment of sale has not been issued, including actions filed on or before March 7, 2020, if the mortgagor provides a hardship declaration to the foreclosing party, the court, or an agent of the foreclosing party or the court, the proceeding shall be stayed until at least [~~January~~] May 15, 2022. If such hardship declaration is provided to the foreclosing party or agent of the foreclosing party, such foreclosing party or agent shall promptly file it with the court, advising the court in writing the index number of all relevant cases.

§ 6. In any action to foreclose a mortgage in which a judgment of sale has been issued prior to the effective date of this act but has not yet been executed as of the effective date of this act, including actions filed on or before March 7, 2020, the court shall stay the execution of the judgment at least until the court has held a status conference with the parties. In any action to foreclose a mortgage, if the mortgagor provides a hardship declaration to the foreclosing party, the court, or an agent of the foreclosing party or the court, prior to the execution of the judgment, the execution shall be stayed until at least [~~January~~] May 15, 2022. If such hardship declaration is provided to the foreclosing party or agent of the foreclosing party, such foreclosing party or agent shall promptly file it with the court, advising the court in writing the index number of all relevant cases.

§ 2. Section 10 of subpart B of part C of chapter 417 of the laws of 2021, relating to foreclosure proceedings, is amended to read as follows:

§ 10. This act shall take effect immediately and sections one, two, three, four, five, six, seven and nine of this act shall expire [~~January~~] May 15, 2022.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 15, 2022; provided, however, that the amendments to sections 2, 5 and 6 of subpart B of part C of chapter 417 of the laws of 2021 made by section one of this act shall not affect the expiration of such sections and shall be deemed to expire therewith.

PART B

Section 1. Paragraph b of subdivision 3 of section 2 and subdivision 3 of section 3 of subpart C of part C of chapter 417 of the laws of 2021, relating to tax sales, are amended to read as follows:

b. the following statement, or a substantially equivalent statement in the owner's primary language, in 14-point type, whether in physical or electronic written form:

"OWNER DECLARATION OF COVID-19-RELATED HARDSHIP

I am the owner of the property at (address). Including my primary residence, I own, whether directly or indirectly, ten or fewer residential dwelling units. I am experiencing financial hardship, and I am unable to pay my full tax bill because of one or more of the following:

1. Significant loss of household income during the COVID-19 pandemic.

2. Increase in necessary out-of-pocket expenses related to performing essential work or related to health impacts during the COVID-19 pandemic.

3. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member during the COVID-19 pandemic have negatively affected my ability or the ability of someone in my household to obtain meaningful employment or earn income or increased my necessary out-of-pocket expenses.

4. Moving expenses and difficulty I have securing alternative housing make it a hardship for me to relocate to another residence during the COVID-19 pandemic.

5. Other circumstances related to the COVID-19 pandemic have negatively affected my ability to obtain meaningful employment or earn income or have significantly reduced my household income or significantly increased my expenses.

6. One or more of my tenants has defaulted on a significant amount of their rent payments since March 1, 2020.

To the extent that I have lost household income or had increased expenses, any public assistance, including unemployment insurance, pandemic unemployment assistance, disability insurance, or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of household income or increased expenses.

I understand that lawful fees, penalties or interest for not having paid my taxes in full may still be charged or collected and may result in a foreclosure action against me on or after [~~January~~] May 15, 2022, if I do not fully repay any missed or partial payments and fees.

Signed:

Printed Name:

Date Signed:

NOTICE: You are signing and submitting this form under penalty of law. That means it is against the law to make a statement on this form that you know is false."

3. The submission of such a declaration, unless withdrawn by the owner, shall act as a temporary stay applicable to all entities and persons of all such tax lien sales and tax foreclosure actions and proceedings against such owner for such property that have been commenced or could have been commenced before [~~January~~] May 15, 2022.

§ 2. Section 4 of subpart C of part C of chapter 417 of the laws of 2021, relating to tax sales, is amended to read as follows:

§ 4. This act shall take effect immediately and sections one and two and subdivisions one, two, three, four, five and seven of section three shall expire [~~January~~] May 15, 2022.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 15, 2022 provided, however, that the amendments to sections 2 and 3 of subpart C of part C of chapter 417 of the laws of 2021 made by section one of this act shall not affect the expiration of such sections and shall be deemed to expire therewith.

PART C

Section 1. Paragraph b of subdivision 2 of section 1 of subpart D of part C of chapter 417 of the laws of 2021, relating to establishing hardship declarations for owners of residential real property, is amended to read as follows:

b. the following statement, or a substantially equivalent statement in the owner or mortgagor's primary language, in 14-point type, whether in physical or electronic written form, and the department of financial services shall publish a copy of the hardship declaration on its website:

"NOTICE TO OWNER/MORTGAGOR: If you have lost income or had increased costs due to the COVID-19 pandemic, and you sign and deliver this hardship declaration form to your lending institution, you cannot be discriminated against in the determination of whether credit should be extended or reported negatively to a credit reporting agency until at least [~~January~~] **May** 15, 2022.

If a lending institution provided you with this form, the lending institution must also provide you with a mailing address and e-mail address to which you can return this form. You should keep a copy or picture of the signed form for your records.

OWNER/MORTGAGOR DECLARATION OF COVID-19-RELATED HARDSHIP

I am the OWNER/MORTGAGOR of the property at (address of dwelling unit). Including my primary residence, I own, whether directly or indirectly, ten or fewer residential dwelling units. I am experiencing financial hardship, and I am unable to pay my mortgage in full because of one or more of the following:

1. Significant loss of household income during the COVID-19 pandemic.

2. Increase in necessary out-of-pocket expenses related to performing essential work or related to health impacts during the COVID-19 pandemic.

3. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member during the COVID-19 pandemic have negatively affected my ability or the ability of someone in my household to obtain meaningful employment or earn income or increased my necessary out-of-pocket expenses.

4. Moving expenses and difficulty I have securing alternative housing make it a hardship for me to relocate to another residence during the COVID-19 pandemic.

5. Other circumstances related to the COVID-19 pandemic have negatively affected my ability to obtain meaningful employment or earn income or have significantly reduced my household income or significantly increased my expenses.

6. One or more of my tenants has defaulted on a significant amount of their rent payments since March 1, 2020.

To the extent that I have lost household income or had increased expenses, any public assistance, including unemployment insurance, pandemic unemployment assistance, disability insurance, or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of household income or increased expenses.

Signed:

Printed Name:

Date Signed:
NOTICE: You are signing and submitting this form under penalty of law. That means it is against the law to make a statement on this form that you know is false."

§ 2. Section 2 of subpart D of part C of chapter 417 of the laws of 2021, relating to establishing hardship declarations for owners of residential real property, is amended to read as follows:

§ 2. This act take effect immediately and shall expire [~~January~~] **<u>May</u>** 15, 2022.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 15, 2022; provided, however, that the amendments to section 1 of subpart D of part C of chapter 417 of the laws of 2021 made by section one of this act shall not affect the expiration of such sections and shall be deemed to expire therewith.

§ 2. Notwithstanding the provisions of article 5 of the general construction law, the provisions of subparts B, C and D of part C of chapter 417 of the laws of 2021, as amended by parts A, B and C of this act, are hereby revived and shall continue in full force and effect as such provisions existed on January 14, 2022.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through C of this act shall be as specifically set forth in the last section of such Parts.