

7338

2011-2012 Regular Sessions

I N A S S E M B L Y

April 29, 2011

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

AN ACT to amend the civil practice law and rules, in relation to mandatory settlement conferences in residential foreclosure actions and requiring good faith settlement discussions in connection with such foreclosure actions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision (a) of rule 3408 of the civil practice law and
2 rules, as added by chapter 507 of the laws of 2009, is amended to read
3 as follows:
4 (a) In any residential foreclosure action involving a home loan as
5 such term is defined in section thirteen hundred four of the real prop-
6 erty actions and proceedings law, in which the defendant is a resident
7 of the property subject to foreclosure, the court shall hold a mandatory
8 conference within sixty days after the date when proof of service is
9 filed with the county clerk, or on such adjourned date as has been
10 agreed to by the parties, for the purpose of holding settlement
11 discussions pertaining to the relative rights and obligations of the
12 parties under the mortgage loan documents, including, but not limited to
13 determining whether the parties can reach a mutually agreeable resolu-
14 tion to help the defendant avoid losing his or her home, and evaluating
15 the potential for a resolution in which payment schedules or amounts may
16 be modified or other workout options may be agreed to, and for whatever
17 other purposes the court deems appropriate. BOTH THE PLAINTIFF AND THE
18 DEFENDANT MUST MAKE GOOD FAITH EFFORTS TO REACH A MUTUALLY AGREEABLE
19 RESOLUTION. SUCH GOOD FAITH EFFORTS MUST INCLUDE, AT A MINIMUM, FOLLOW-
20 ING THE UNITED STATES DEPARTMENT OF TREASURY HOME AFFORDABLE MODIFICA-
21 TION PROGRAM GUIDELINES ISSUED ON MARCH FOURTH, TWO THOUSAND NINE, AND
22 ANY AMENDMENTS THERETO.

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

LBD09652-01-1

1 S 2. Subdivision (a) of rule 3408 of the civil practice law and rules,
2 as added by chapter 472 of the laws of 2008, is amended to read as
3 follows:

4 (a) In any residential foreclosure action involving a high-cost home
5 loan consummated between January first, two thousand three and September
6 first, two thousand eight, or a subprime or nontraditional home loan, as
7 those terms are defined under section thirteen hundred four of the real
8 property actions and proceedings law, in which the defendant is a resi-
9 dent of the property subject to foreclosure, the court shall hold a
10 mandatory conference within sixty days after the date when proof of
11 service is filed with the county clerk, or on such adjourned date as has
12 been agreed to by the parties, for the purpose of holding settlement
13 discussions pertaining to the relative rights and obligations of the
14 parties under the mortgage loan documents, including, but not limited to
15 determining whether the parties can reach a mutually agreeable resolu-
16 tion to help the defendant avoid losing his or her home, and evaluating
17 the potential for a resolution in which payment schedules or amounts may
18 be modified or other workout options may be agreed to, and for whatever
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23 TION PROGRAM GUIDELINES ISSUED ON MARCH FOURTH, TWO THOUSAND NINE, AND
24 ANY AMENDMENTS THERETO.

25 S 3. This act shall take effect immediately; provided, however, that
26 the amendments to subdivision (a) of rule 3408 of the civil practice law
27 and rules made by section one of this act shall be subject to the expi-
28 ration and reversion of such subdivision pursuant to subdivision e of
29 section 25 of chapter 507 of the laws of 2009, as amended, when upon
30 such date the provisions of section two of this act shall take effect.