S T A T E O F N E W Y O R K

1723

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. ESPAILLAT, KRUEGER, MONTGOMERY, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the real property actions and proceedings law and the county law, in relation to representation of certain persons in private residential foreclosure actions

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

Section 1. The real property actions and proceedings law is amended by adding a new section 1308 to read as follows:

S 1308. ASSIGNMENT OF COUNSEL. A HOMEOWNER IN A FORECLOSURE ACTION WHO IS FINANCIALLY UNABLE TO OBTAIN COUNSEL FOR REPRESENTATION IN SUCH ACTION SHALL HAVE A RIGHT TO ASSIGNED COUNSEL BY THE COURT. ASSIGNMENT OF COUNSEL ISSUED UNDER THIS SECTION SHALL BE IMPLEMENTED AS PROVIDED IN ARTICLE EIGHTEEN-B OF THE COUNTY LAW.

S 2. Subdivision 3 of section 1303 of the real property actions and proceedings law, as amended by chapter 507 of the laws of 2009 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

3. The notice to any mortgagor required by paragraph (a) of subdivision one of this section shall appear as follows:

Help for Homeowners in Foreclosure

New York State Law requires that we send you this notice about the foreclosure process. Please read it carefully.

Summons and Complaint

You are in danger of losing your home. If you fail to respond to the summons and complaint in this foreclosure action, you may lose your home. Please read the summons and complaint carefully. You should immediately contact an attorney or your local legal aid office to obtain advice on how to protect yourself.

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

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Sources of Information and Assistance

The State encourages you to become informed about your options in foreclosure. In addition to seeking assistance from an attorney or legal aid office, there are government agencies and non-profit organizations that you may contact for information about possible options, including trying to work with your lender during this process. YOU MAY BE ENTITLED TO ASSIGNED COUNSEL IF YOU ARE FINANCIALLY UNABLE TO OBTAIN REPRESENTATION.

To locate an entity near you, you may call the toll-free helpline maintained by the New York State Department of Financial Services at (enter number) or visit the Department's website at (enter web address).

Foreclosure rescue scams

Be careful of people who approach you with offers to "save" your home. There are individuals who watch for notices of foreclosure actions in order to unfairly profit from a homeowner's distress. You should be extremely careful about any such promises and any suggestions that you pay them a fee or sign over your deed. State law requires anyone offering such services for profit to enter into a contract which fully describes the services they will perform and fees they will charge, and which prohibits them from taking any money from you until they have completed all such promised services.

S 3. The article heading of article 18-B of the county law, as amended by chapter 682 of the laws of 1977, is amended to read as follows:

REPRESENTATION OF PERSONS ACCUSED OF CRIME OR PARTIES BEFORE THE FAMILY COURT OR SURROGATE'S COURT OR IN CERTAIN FORECLOSURE ACTIONS

S 4. The opening paragraph of section 722 of the county law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

The governing body of each county and the governing body of the city in which a county is wholly contained shall place in operation throughout the county a plan for providing counsel to persons charged with a crime or who are entitled to counsel pursuant to section two hundred sixty-two or section eleven hundred twenty of the family court act, article six-C of the correction law, section four hundred seven of the surrogate's court procedure act [or], article ten of the mental hygiene law OR SECTION THIRTEEN HUNDRED EIGHT OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW, who are financially unable to obtain counsel. Each plan shall also provide for investigative, expert and other services necessary for an adequate defense. The plan shall conform to one of the following:

S 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.