

247

2015-2016 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2015

---

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, in  
relation to the failure to raise the defense of lack of standing in a  
mortgage foreclosure action

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

1     Section 1. The real property actions and proceedings law is amended by  
2     adding a new section 1302-a to read as follows:  
3     S 1302-A. DEFENSE OF LACK OF STANDING; NOT WAIVED. NOTWITHSTANDING THE  
4     PROVISIONS OF SUBDIVISION (E) OF RULE THIRTY-TWO HUNDRED ELEVEN OF THE  
5     CIVIL PRACTICE LAW AND RULES, ANY OBJECTION OR DEFENSE BASED ON THE  
6     PLAINTIFF'S LACK OF STANDING IN A FORECLOSURE PROCEEDING RELATED TO A  
7     HOME LOAN, AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION  
8     THIRTEEN HUNDRED FOUR OF THIS ARTICLE, SHALL NOT BE WAIVED IF A DEFEND-  
9     ANT FAILS TO RAISE THE OBJECTION OR DEFENSE IN A RESPONSIVE PLEADING OR  
10    PRE-ANSWER MOTION TO DISMISS. A DEFENDANT MAY NOT RAISE AN OBJECTION OR  
11    DEFENSE OF LACK OF STANDING FOLLOWING A FORECLOSURE SALE, HOWEVER,  
12    UNLESS THE JUDGMENT OF FORECLOSURE AND SALE WAS ISSUED UPON DEFENDANT'S  
13    DEFAULT.  
14    S 2. This act shall take effect immediately.

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

LBD00117-01-5