

6283

2015-2016 Regular Sessions

I N A S S E M B L Y

March 20, 2015

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 amended by chapter 306 of the laws of 2013, 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, plaintiff shall file proof of  
8 service within twenty days of such service, however service is made, and  
9 the court shall hold a mandatory conference within sixty days after the  
10 date when proof of service upon such defendant is filed with the county  
11 clerk, or on such adjourned date as has been agreed to by the parties,  
12 for the purpose of holding settlement discussions pertaining to the  
13 relative rights and obligations of the parties under the mortgage loan  
14 documents, including, but not limited to determining whether the parties  
15 can reach a mutually agreeable resolution to help the defendant avoid  
16 losing his or her home, and evaluating the potential for a resolution in  
17 which payment schedules or amounts may be modified or other workout  
18 options may be agreed to, and for whatever other purposes the court  
19 deems appropriate. BOTH THE PLAINTIFF AND THE DEFENDANT MUST MAKE GOOD  
20 FAITH EFFORTS TO REACH A MUTUALLY AGREEABLE RESOLUTION. SUCH GOOD FAITH  
21 EFFORTS MUST INCLUDE, AT A MINIMUM, FOLLOWING THE UNITED STATES DEPART-  
22 MENT OF TREASURY HOME AFFORDABLE MODIFICATION PROGRAM GUIDELINES ISSUED  
23 ON MARCH FOURTH, TWO THOUSAND NINE, AND ANY AMENDMENTS THERETO.

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

LBD09517-01-5

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  
19 other purposes the court deems appropriate. BOTH THE PLAINTIFF AND THE  
20 DEFENDANT MUST MAKE GOOD FAITH EFFORTS TO REACH A MUTUALLY AGREEABLE  
21 RESOLUTION. SUCH GOOD FAITH EFFORTS MUST INCLUDE, AT A MINIMUM, FOLLOW-  
22 ING THE UNITED STATES DEPARTMENT OF TREASURY HOME AFFORDABLE MODIFICA-  
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.