STATE OF NEW YORK

5928

2017-2018 Regular Sessions

IN SENATE

May 8, 2017

Introduced by Sen. AVELLA -- 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, in relation to foreclosure of mortgages

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

Section 1. Section 1302 of the real property actions and proceedings law, as amended by chapter 472 of the laws of 2008, is amended to read as follows:

§ 1302. Foreclosure of [~~high-cost home loans and subprime home loans~~] mortgages. 1. Any complaint served in a proceeding initiated pursuant to this article [~~relating to a high-cost home loan or a subprime home loan, as such terms are defined in section six-l and six-m of the banking law, respectively,~~] must contain an affirmative allegation that at the time the proceeding is commenced, the plaintiff:

(a) is the owner and holder of the subject mortgage and note, or has been delegated the authority to institute a mortgage foreclosure action by the owner and holder of the subject mortgage and note; and

(b) has complied with all of the provisions of section five hundred ninety-five-a of the banking law and any rules and regulations promulgated thereunder, section six-l or six-m of the banking law, and section thirteen hundred four of this article.

2. It shall be a defense to an action to foreclose a mortgage [~~for a high-cost home loan or subprime home loan~~] that the terms of the home loan or the actions of the lender violate any provision of section six-l or six-m of the banking law or section thirteen hundred four of this article.

§ 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to actions commenced on or after such date.

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

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