

STATE OF NEW YORK

10351--B

IN ASSEMBLY

April 29, 2020

Introduced by M. of A. ROZIC, GRIFFIN, CARROLL -- read once and referred to the Committee on Banks -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to the forbearance of residential mortgage payments

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

1 Section 1. The banking law is amended by adding a new section 9-x to
2 read as follows:

3 § 9-x. Mortgage forbearance. 1. As used in this section, the following
4 terms shall have the following meanings:

5 (a) "Covered period" means March 7, 2020 until the date on which none
6 of the provisions that closed or otherwise restricted public or private
7 businesses or places of public accommodation, or required postponement
8 or cancellation of all non-essential gatherings of individuals of any
9 size for any reason in Executive Orders 202.3, 202.4, 202.5, 202.6,
10 202.7, 202.8, 202.10, 202.11, 202.13 or 202.14, as extended by Executive
11 Orders 202.28 and 202.31 and as further extended by any future Executive
12 Order, issued in response to the COVID-19 pandemic continue to apply in
13 the county of the qualified mortgagor's residence;

14 (b) "qualified mortgagor" means an individual who resides in New York
15 whose principal dwelling is encumbered by a home loan pursuant to para-
16 graph (a) of subdivision six of section thirteen hundred four of the
17 real property actions and proceedings law or whose principal dwelling is
18 a co-operative unit whose shares are encumbered by any loan otherwise
19 meeting the requirements of a home loan under paragraph (a) of subdivi-
20 sion six of section thirteen hundred four of the real property actions
21 and proceedings law, from or serviced by a regulated institution;

22 (c) "regulated institution" means any New York regulated banking
23 organization as defined in this chapter and any New York regulated mort-
24 gage servicer entity subject to supervision by the department; and

25 (d) "trial period plan" means an agreement whereby the mortgagor is
26 required to make trial payments in full and on-time in order to be
27 considered for a permanent loan modification.

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

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1 2. Notwithstanding any other provision of law, New York regulated
2 institutions shall:

3 (a) make applications for forbearance of any payment due on a residen-
4 tial mortgage of a property located in New York widely available to any
5 qualified mortgagor who, during the covered period, is in arrears or on
6 a trial period plan, or who has applied for loss mitigation and demon-
7 strates financial hardship during the covered period; and

8 (b) grant such forbearance for a period of one hundred eighty days to
9 any such qualified mortgagor who is in arrears or on a trial period
10 plan, or who has applied for loss mitigation and demonstrates financial
11 hardship, with the option to extend an additional one hundred eighty
12 days.

13 (c) Such forbearance may be backdated to March seventh, two thousand
14 twenty.

15 3. Notwithstanding any other provision of law, any mortgage forbear-
16 ance granted by a regulated institution pursuant to executive order
17 number 202.9 of two thousand twenty, this section, or any other law,
18 rule or regulation to the qualified mortgagor as a result of financial
19 hardship during the covered period shall be subject to the following
20 provisions:

21 (a) the mortgagor shall have the option to extend the term of the loan
22 for the length of the period of forbearance. The regulated institution
23 shall waive interest on the principal for the term of the forbearance
24 and waive any late fees accumulated as a result of the forbearance; or

25 (b) the mortgagor shall have the option to have the arrears accumu-
26 lated during the forbearance period payable on a monthly basis for the
27 remaining term of the loan without being subject to penalties or late
28 fees incurred as a result of the forbearance; or

29 (c) if the mortgagor is unable to make mortgage payments due to mort-
30 gagors' demonstrated hardship and the mortgagor and regulated institu-
31 tion cannot agree on a mutually acceptable loan modification, the mort-
32 gagor shall have the option to defer arrears accumulated during the
33 forbearance period as a non-interest bearing balloon payment payable at
34 the maturity of the loan consistent with the safety and soundness of
35 such regulated institution, or at the time the loan is satisfied through
36 a refinance or sale of the property. Any late fees accumulated as a
37 result of the forbearance shall be waived.

38 (d) The exercising of options provided for in paragraph (a), (b) or
39 (c) of this subdivision by a qualified mortgagor shall not be reported
40 negatively to any credit bureau by any regulated institution.

41 4. Notwithstanding any other provision of law, adherence with this
42 section shall be a condition precedent to commencing a foreclosure
43 action stemming from missed payments which would have otherwise been
44 subject to this section. A defendant may raise the violation of this
45 section as a defense to a foreclosure action commenced on the defend-
46 ant's property when such action is based on missed payments that would
47 have otherwise been subject to this section.

48 5. Notwithstanding anything to the contrary in this section, this
49 section shall not apply to, and does not affect any mortgage loans made,
50 insured, or securitized by any agency or instrumentality of the United
51 States, any government sponsored enterprise, or a federal home loan
52 bank, or the rights and obligations of any lender, issuer, servicer or
53 trustee of such obligations, including servicers for the Government
54 National Mortgage Association.

55 § 2. This act shall take effect immediately.