

# STATE OF NEW YORK

8243

## IN SENATE

April 27, 2020

Introduced by Sens. KAVANAGH, KAMINSKY, ADDABBO, GIANARIS, HOYLMAN, KENNEDY, LITTLE, MARTINEZ, METZGER, SAVINO, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

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) "COVID-19 pandemic" means the global outbreak of COVID-19, the  
6 disease caused by the novel coronavirus first identified in Wuhan,  
7 China, in or about December two thousand nineteen, that has been  
8 detected in increasing numbers in the United States, including the state  
9 of New York;

10 (b) "qualified mortgagor" means an individual who resides in New York  
11 who has a mortgage on real residential property in New York from or  
12 served by a regulated institution;

13 (c) "regulated institution" means any New York regulated banking  
14 organization as defined under this chapter and any New York regulated  
15 mortgage servicer entity subject to the authority of the department; and

16 (d) "trial period plan" means the time after a mortgage modification  
17 agreement where the mortgagor is required to make full, on-time payments  
18 in order for the mortgage modification to become permanent.

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

21 (a) make applications for forbearance of any payment due on a residen-  
22 tial mortgage of a property located in New York widely available to any  
23 qualified mortgagor including those who are already in arrears or on a  
24 trial period plan and who demonstrate financial hardship as a result of  
25 the COVID-19 pandemic; and

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

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1 (b) subject to the safety and soundness requirements of the regulated  
2 institution, grant such forbearance for a period of ninety days to any  
3 such qualified mortgagor, including those who are already in arrears or  
4 on a trial period plan.

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

7 3. Notwithstanding any other provision of law, any mortgage forbear-  
8 ance granted by a regulated institution pursuant to executive order  
9 number 202.9, this section, or any other law, rule or regulation to the  
10 qualified mortgagor as a result of financial hardship due to the COVID-  
11 19 pandemic shall be subject to the following provisions:

12 (a) the mortgagor shall have the option to extend the term of the loan  
13 for the length of the period of forbearance, subject to the safety and  
14 soundness requirements of the regulated institution. The regulated  
15 institution shall waive interest on the principal for the term of the  
16 forbearance and waive any late fees accumulated as a result of the  
17 forbearance; or

18 (b) the mortgagor shall have the option to defer arrears accumulated  
19 during the forbearance period as a non-interest bearing balloon payment  
20 payable at the maturity of the loan or at the time the loan is satisfied  
21 through a refinance or sale of the property, subject to the safety and  
22 soundness requirements of the regulated institution.

23 (c) The exercising of options provided for in paragraph (a) or (b) of  
24 this subdivision by a qualified mortgagor shall not be reported nega-  
25 tively to any credit bureau by any regulated institution.

26 4. Notwithstanding anything to the contrary in this section, this  
27 section shall not apply to, and does not affect any mortgage loans made,  
28 insured, or securitized by any agency or instrumentality of the United  
29 States, any government sponsored enterprise, or a federal home loan  
30 bank, or the rights and obligations of any lender, issuer, servicer or  
31 trustee of such obligations, including servicers for the Government  
32 National Mortgage Association.

33 § 2. This act shall take effect immediately.