# STATE OF NEW YORK

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3216

2019-2020 Regular Sessions

# IN SENATE

February 4, 2019
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Introduced by Sen. COMRIE -- 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:**

1      Section 1.  Section 1302 of the real property actions and proceedings
2  law, as amended by chapter 472 of the laws of 2008, is amended to  read
3  as follows:
4      § 1302. Foreclosure of [high-cost home loans and subprime home loans]
5  **mortgages**. 1.  Any complaint served in a proceeding  initiated  pursuant
6  to  this  article  [relating to a high-cost home loan or a subprime home
7  loan, as such terms are defined in section six-l and six-m of the  bank-
8  ing  law,  respectively,] must contain an affirmative allegation that at
9  the time the proceeding is commenced, the plaintiff:
10     (a) is the owner and holder of the subject mortgage and note,  or  has
11  been  delegated the authority to institute a mortgage foreclosure action
12  by the owner and holder of the subject mortgage and note; and
13     (b) has complied with all of the provisions of  section  five  hundred
14  ninety-five-a  of  the banking law and any rules and regulations promul-
15  gated thereunder, section six-l or six-m of the banking law, and section
16  thirteen hundred four of this article.
17     2. It shall be a defense to an action to foreclose a mortgage  [for  a
18  high-cost  home  loan  or subprime home loan] that the terms of the home
19  loan or the actions of the lender violate any provision of section six-l
20  or six-m of the banking law or section thirteen  hundred  four  of  this
21  article.
22     §  2. This act shall take effect on the first of January next succeed-
23  ing the date on which it shall have become a  law  and  shall  apply  to
24  actions commenced on or after such date.

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

LBD00876-01-9