STATE OF NEW YORK

5160

2019-2020 Regular Sessions

IN SENATE

April 11, 2019

Introduced by Sen. KAVANAGH -- 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 the failure to raise the defense of lack of standing in a mortgage foreclosure action

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

Section 1. The real property actions and proceedings law is amended by adding a new section 1302-a to read as follows:

§ 1302-a. Defense of lack of standing; not waived. Notwithstanding the provisions of subdivision (e) of rule thirty-two hundred eleven of the civil practice law and rules, any objection or defense based on the plaintiff's lack of standing in a foreclosure proceeding related to a home loan, as defined in paragraph (a) of subdivision six of section thirteen hundred four of this article, shall not be waived if a defendant fails to raise the objection or defense in a responsive pleading or pre-answer motion to dismiss. A defendant may not raise an objection or defense of lack of standing following a foreclosure sale, however, unless the judgment of foreclosure and sale was issued upon defendant's default.

§ 2. This act shall take effect immediately.

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

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