

STATE OF NEW YORK

8243--A

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 -- committee discharged, bill amended, 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) "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 whose principal dwelling is encumbered by a home loan pursuant to para-
12 graph (a) of subdivision six of section thirteen hundred four of the
13 real property actions and proceedings law or whose principal dwelling is
14 a co-operative unit whose shares are encumbered by any loan otherwise
15 meeting the requirements of a home loan under paragraph (a) of subdivi-
16 sion six of section thirteen hundred four of the real property actions
17 and proceedings law, from or serviced by a regulated institution;

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

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

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

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

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1 (a) make applications for forbearance of any payment due on a residen-
2 tial mortgage of a property located in New York widely available to any
3 qualified mortgagor including those who are already in arrears or on a
4 trial period plan or who have applied for loss mitigation and who demon-
5 strate financial hardship as a result of the COVID-19 pandemic; and

6 (b) grant such forbearance for a period of one hundred eighty days to
7 any such qualified mortgagor, including those who are already in arrears
8 or on a trial period plan or who have applied for loss mitigation and
9 who demonstrate financial hardship, with the option to extend an addi-
10 tional one hundred eighty days.

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

13 (d) The request for forbearance under this section shall be a presump-
14 tive demonstration of hardship for the purposes of this section.

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, this section, or any other law, rule or regulation to the
18 qualified mortgagor as a result of financial hardship due to the COVID-
19 19 pandemic shall be subject to the following provisions:

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

24 (b) the mortgagor shall have the option to defer arrears accumulated
25 during the forbearance period as a non-interest bearing balloon payment
26 payable at the maturity of the loan or at the time the loan is satisfied
27 through a refinance or sale of the property.

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

31 4. Notwithstanding any other provision of law, adherence with this
32 section shall be a condition precedent to commencing a foreclosure
33 action stemming from missed payments which would have otherwise been
34 subject to this section. A defendant may raise the violation of this
35 section as a defense to a foreclosure action commenced on the defend-
36 ant's property when such action is based on missed payments that would
37 have otherwise been subject to this section.

38 5. Notwithstanding anything to the contrary in this section, this
39 section shall not apply to, and does not affect any mortgage loans made,
40 insured, or securitized by any agency or instrumentality of the United
41 States, any government sponsored enterprise, or a federal home loan
42 bank, or the rights and obligations of any lender, issuer, servicer or
43 trustee of such obligations, including servicers for the Government
44 National Mortgage Association.

45 § 2. This act shall take effect immediately.