

# STATE OF NEW YORK

8243--B

## IN SENATE

April 27, 2020

Introduced by Sens. KAVANAGH, KAMINSKY, ADDABBO, GIANARIS, GOUNARDES, 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 -- 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) "Covered period" means the period during which the restrictions  
6 constituting New York on PAUSE, as defined by executive order number  
7 202.31 of two thousand twenty, applied in the county of the applicant's  
8 residence;

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

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

20 (d) "trial period plan" means an agreement whereby the mortgagor is  
21 required to make trial payments in full and on-time in order to be  
22 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 including those who are already in arrears or on a  
6 trial period plan or who have applied for loss mitigation and who demon-  
7 strate 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, including those who are already in arrears  
10 or on a trial period plan or who have applied for loss mitigation and  
11 who demonstrate financial hardship, with the option to extend an addi-  
12 tional one hundred eighty days.

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

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

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

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

27 (b) the mortgagor shall have the option to defer arrears accumulated  
28 during the forbearance period as a non-interest bearing balloon payment  
29 payable at the maturity of the loan or at the time the loan is satisfied  
30 through a refinance or sale of the property. Any late fees accumulated  
31 as a result of the forbearance shall be waived.

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

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

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

49 § 2. This act shall take effect immediately.