STATE OF NEW YORK

8854

IN ASSEMBLY

January 18, 2022

Introduced by M. of A. WEINSTEIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to complaints served in a proceeding initiated on a residential mortgage covering a one to four family dwelling

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

Section 1. Section 1302 of the real property actions and proceedings law, as amended by a chapter of the laws of 2021, amending the real property actions and proceedings law relating to foreclosure of residential mortgages covering one to four family dwellings, as proposed in legislative bills numbers S. 5785-A and A. 2502-A, is amended to read as follows:

§ 1302. Foreclosure of certain residential mortgages. 1. Any complaint served in a proceeding initiated on a residential mortgage covering a one to four family dwelling pursuant to this article must contain an affirmative allegation that at the time the proceeding is commenced, the plaintiff:

(a) is the owner and holder of the subject mortgage and note, or has been delegated the authority to institute a mortgage foreclosure action by the owner and holder of the subject mortgage and note; and

(b) has complied with all of the provisions of section five hundred ninety-five-a of the banking law and any rules and regulations promulgated thereunder, **and** section six-l or six-m of the banking law, for loans governed by [~~those provisions~~] **section six-l or six-m of the banking law**, and section thirteen hundred four of this article **for all residential mortgage loans covering a one to four family dwelling**.

2. It shall be a defense to an action to foreclose a mortgage that the terms of the home loan or the actions of the lender violate any provision of section six-l or six-m of the banking law or section thirteen hundred four of this article**, for loans governed by these provisions**.

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2021, amending the real property actions and proceedings law relating to foreclosure of residential mortgages covering one to four family dwellings, as proposed in legislative bills numbers S. 5785-A and A. 2502-A, takes effect.

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

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