STATE OF NEW YORK

7637

IN SENATE

January 5, 2022

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to stay certain foreclosure proceedings

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

Section 1. Except as provided in section two of this act, foreclosure proceedings for non-payment of mortgage payments that would be eligible for coverage under the New York state homeowner assistance fund administered by the division of housing and community renewal shall not be commenced against a mortgagor who has applied for such coverage or any local program administering federal emergency mortgage assistance program funds unless or until a determination of ineligibility is made. Except as provided in section two of this act, in any pending foreclosure proceeding, whether filed prior to, on, or after the effective date of this act, against a mortgagor who has applied or subsequently applies for benefits under the New York state homeowner assistance fund or any local program administering federal emergency mortgage assistance program funds to cover all or part of the arrears claimed by the petitioner, all proceedings shall be stayed pending a determination of eligibility. Evidence of a payment received pursuant to the New York state homeowner assistance fund or a local program administering federal emergency mortgage assistance program funds may be presented in such proceeding and create a presumption that the mortgagor's obligation for the time period covered by the payment has been fully satisfied.

§ 2. Section one of this act shall not apply if a mortgagor intentionally causes significant damage to the property that is the subject of the mortgage agreement, provided:

1. If a foreclosure proceeding is not pending on the effective date of this act, the petitioner shall file an affidavit under penalty of perjury with the petition attesting that the respondent intentionally caused significant damage to the property, with a specific description of the damages alleged.

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

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2. If a foreclosure proceeding is pending on the effective date of this act, but the petitioner has not previously alleged that the mortgagor intentionally caused significant damage to the property, the petitioner shall be required to submit a new petition with such allegations and comply with all notice and service requirements under article thirteen of the real property actions and proceedings law.

3. For the purposes of this act, a mere allegation of the behavior by the petitioner or an agent of the petitioner alleging such behavior shall not be sufficient evidence to establish that the mortgagor has intentionally caused significant damage to the property.

4. If the petitioner fails to establish that the mortgagor intentionally caused significant damage to the property: (i) if the mortgagor's application is still pending, the court shall stay or continue to stay any further proceedings pending a determination of eligibility pursuant to section one of this act; or (ii) if the mortgagee has accepted payment of mortgage arrears and agreed not to foreclose the mortgage, the court shall dismiss the proceeding with prejudice.

5. If the petitioner establishes that the mortgagor intentionally caused significant damage to the property, the proceeding may continue pursuant to article thirteen of the real property actions and proceedings law.

§ 3. This act shall take effect immediately.