

# 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:

1 Section 1. Except as provided in section two of this act, foreclosure  
2 proceedings for non-payment of mortgage payments that would be eligible  
3 for coverage under the New York state homeowner assistance fund adminis-  
4 tered by the division of housing and community renewal shall not be  
5 commenced against a mortgagor who has applied for such coverage or any  
6 local program administering federal emergency mortgage assistance  
7 program funds unless or until a determination of ineligibility is made.  
8 Except as provided in section two of this act, in any pending foreclo-  
9 sure proceeding, whether filed prior to, on, or after the effective date  
10 of this act, against a mortgagor who has applied or subsequently applies  
11 for benefits under the New York state homeowner assistance fund or any  
12 local program administering federal emergency mortgage assistance  
13 program funds to cover all or part of the arrears claimed by the peti-  
14 tioner, all proceedings shall be stayed pending a determination of  
15 eligibility. Evidence of a payment received pursuant to the New York  
16 state homeowner assistance fund or a local program administering federal  
17 emergency mortgage assistance program funds may be presented in such  
18 proceeding and create a presumption that the mortgagor's obligation for  
19 the time period covered by the payment has been fully satisfied.

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

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

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

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1 2. If a foreclosure proceeding is pending on the effective date of  
2 this act, but the petitioner has not previously alleged that the mortga-  
3 gor intentionally caused significant damage to the property, the peti-  
4 tioner shall be required to submit a new petition with such allegations  
5 and comply with all notice and service requirements under article thir-  
6 teen of the real property actions and proceedings law.

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

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

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

22 § 3. This act shall take effect immediately.