

# STATE OF NEW YORK

8397--A

## IN SENATE

February 22, 2022

Introduced by Sens. KAVANAGH, MYRIE, RIVERA, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend subpart B of part C of chapter 417 of the laws of 2021, relating to foreclosure proceedings, in relation to extending residential foreclosure protections until June thirtieth (Part A); to amend subpart C of part C of chapter 417 of the laws of 2021, relating to tax sales, in relation to extending residential foreclosure protections until June thirtieth (Part B); and to amend subpart D of part C of chapter 417 of the laws of 2021, relating to establishing hardship declarations for owners of residential real property, in relation to extending residential foreclosure protections until June thirtieth (Part C)

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

1 Section 1. This act enacts into law components of legislation relating  
2 to residential foreclosure protections. Each component is wholly  
3 contained within a Part identified as Parts A through C. The effective  
4 date for each particular provision contained within such Part is set  
5 forth in the last section of such Part. Any provision in any section  
6 contained within a Part, including the effective date of the Part, which  
7 makes reference to a section "of this act", when used in connection with  
8 that particular component, shall be deemed to mean and refer to the  
9 corresponding section of the Part in which it is found. Section four of  
10 this act sets forth the general effective date of this act.

11 PART A

12 Section 1. Paragraph b of subdivision 1 of section 2, section 5 and  
13 section 6 of subpart B of part C of chapter 417 of the laws of 2021,  
14 relating to foreclosure proceedings, are amended to read as follows:

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

LBD14672-03-2

1 b. the following statement, or a substantially equivalent statement in  
2 the mortgagor's primary language, in 14-point type, published by the  
3 office of court administration, whether in physical or electronic writ-  
4 ten form:

5 "NOTICE TO MORTGAGOR: If you have lost income or had increased costs  
6 during the COVID-19 pandemic, and you sign and deliver this hardship  
7 declaration form to your mortgage lender or other foreclosing party, you  
8 may be protected from foreclosure until at least [~~January 15~~] June 30,  
9 2022. If a foreclosure action is filed against you and you provide this  
10 form to the plaintiff or the court, the action will be postponed until  
11 [~~January 15~~] June 30, 2022 unless the plaintiff moves to challenge your  
12 declaration of hardship. If the court finds your hardship claim valid,  
13 the foreclosure action will be postponed until after [~~January 15~~] June  
14 30, 2022. While the action is postponed, you may remain in possession.

15 If your mortgage lender or other foreclosing party provided you with  
16 this form, the mortgage lender or other foreclosing party must also  
17 provide you with a mailing address and e-mail address to which you can  
18 return this form. If you are already in foreclosure proceedings, you may  
19 return this form to the court. You should keep a copy or picture of the  
20 signed form for your records. You will still owe any unpaid mortgage  
21 payments and lawful fees to your lender. You should also keep careful  
22 track of what you have paid and any amount you still owe. Financial  
23 assistance may be available to you, even if you have previously been  
24 denied. You should contact your local housing assistance office for  
25 application information.

26 MORTGAGOR'S DECLARATION OF COVID-19-RELATED HARDSHIP

27 I am the mortgagor of the property at (address of dwelling unit).  
28 Including my primary residence, I own, whether directly or indirectly,  
29 ten or fewer residential dwelling units. I am experiencing financial  
30 hardship, and I am unable to pay my mortgage in full because of one or  
31 more of the following:

- 32 1. Significant loss of household income during the COVID-19 pandemic.
- 33 2. Increase in necessary out-of-pocket expenses related to performing  
34 essential work or related to health impacts during the COVID-19 pandem-  
35 ic.
- 36 3. Childcare responsibilities or responsibilities to care for an  
37 elderly, disabled, or sick family member during the COVID-19 pandemic  
38 have negatively affected my ability or the ability of someone in my  
39 household to obtain meaningful employment or earn income or increased my  
40 necessary out-of-pocket expenses.
- 41 4. Moving expenses and difficulty I have securing alternative housing  
42 make it a hardship for me to relocate to another residence during the  
43 COVID-19 pandemic.
- 44 5. Other circumstances related to the COVID-19 pandemic have negative-  
45 ly affected my ability to obtain meaningful employment or earn income or  
46 have significantly reduced my household income or significantly  
47 increased my expenses.
- 48 6. One or more of my tenants has defaulted on a significant amount of  
49 their rent payments since March 1, 2020.

50 To the extent I have lost household income or had increased expenses,  
51 any public assistance, including unemployment insurance, pandemic unem-  
52 ployment assistance, disability insurance, or paid family leave, that I  
53 have received since the start of the COVID-19 pandemic does not fully  
54 make up for my loss of household income or increased expenses.

55 I understand that I must comply with all other lawful terms under my  
56 mortgage agreement. I further understand that lawful fees, penalties or

1 interest for not having paid my mortgage in full as required by my mort-  
2 gage agreement may still be charged or collected and may result in a  
3 monetary judgment against me. I further understand that my mortgage  
4 lender, or other foreclosing party may request a hearing to challenge  
5 the certification of hardship made herein, and that I will have the  
6 opportunity to participate in any actions or proceedings regarding my  
7 mortgage interest. I also understand that my mortgage lender or other  
8 foreclosing party may pursue a foreclosure action against me on or after  
9 [~~January 15~~] June 30, 2022, if I do not fully repay any missed or  
10 partial payments and lawful fees.

11 Signed:

12 Printed Name:

13 Date Signed:

14 NOTICE: You are signing and submitting this form under penalty of law.  
15 That means it is against the law to make a statement on this form that  
16 you know is false."

17 § 5. In any action to foreclose a mortgage in which a judgment of sale  
18 has not been issued, including actions filed on or before March 7, 2020,  
19 if the mortgagor provides a hardship declaration to the foreclosing  
20 party, the court, or an agent of the foreclosing party or the court, the  
21 proceeding shall be stayed until at least [~~January 15~~] June 30, 2022. If  
22 such hardship declaration is provided to the foreclosing party or agent  
23 of the foreclosing party, such foreclosing party or agent shall promptly  
24 file it with the court, advising the court in writing the index number  
25 of all relevant cases.

26 § 6. In any action to foreclose a mortgage in which a judgment of sale  
27 has been issued prior to the effective date of this act but has not yet  
28 been executed as of the effective date of this act, including actions  
29 filed on or before March 7, 2020, the court shall stay the execution of  
30 the judgment at least until the court has held a status conference with  
31 the parties. In any action to foreclose a mortgage, if the mortgagor  
32 provides a hardship declaration to the foreclosing party, the court, or  
33 an agent of the foreclosing party or the court, prior to the execution  
34 of the judgment, the execution shall be stayed until at least [~~January~~  
35 ~~15~~] June 30, 2022. If such hardship declaration is provided to the fore-  
36 closing party or agent of the foreclosing party, such foreclosing party  
37 or agent shall promptly file it with the court, advising the court in  
38 writing the index number of all relevant cases.

39 § 2. Section 10 of subpart B of part C of chapter 417 of the laws of  
40 2021, relating to foreclosure proceedings, is amended to read as  
41 follows:

42 § 10. This act shall take effect immediately and sections one, two,  
43 three, four, five, six, seven and nine of this act shall expire [~~January~~  
44 ~~15~~] June 30, 2022.

45 § 3. This act shall take effect immediately and shall be deemed to  
46 have been in full force and effect on and after January 15, 2022;  
47 provided, however, that the amendments to sections 2, 5 and 6 of subpart  
48 B of part C of chapter 417 of the laws of 2021 made by section one of  
49 this act shall not affect the expiration of such sections and shall be  
50 deemed to expire therewith.

51

#### PART B

52 Section 1. Paragraph b of subdivision 3 of section 2 and subdivision 3  
53 of section 3 of subpart C of part C of chapter 417 of the laws of 2021,  
54 relating to tax sales, are amended to read as follows:

1 b. the following statement, or a substantially equivalent statement in  
2 the owner's primary language, in 14-point type, whether in physical or  
3 electronic written form:

4 "OWNER DECLARATION OF COVID-19-RELATED HARDSHIP

5 I am the owner of the property at (address). Including my primary  
6 residence, I own, whether directly or indirectly, ten or fewer residen-  
7 tial dwelling units. I am experiencing financial hardship, and I am  
8 unable to pay my full tax bill because of one or more of the following:

9 1. Significant loss of household income during the COVID-19 pandemic.

10 2. Increase in necessary out-of-pocket expenses related to performing  
11 essential work or related to health impacts during the COVID-19 pandem-  
12 ic.

13 3. Childcare responsibilities or responsibilities to care for an  
14 elderly, disabled, or sick family member during the COVID-19 pandemic  
15 have negatively affected my ability or the ability of someone in my  
16 household to obtain meaningful employment or earn income or increased my  
17 necessary out-of-pocket expenses.

18 4. Moving expenses and difficulty I have securing alternative housing  
19 make it a hardship for me to relocate to another residence during the  
20 COVID-19 pandemic.

21 5. Other circumstances related to the COVID-19 pandemic have negative-  
22 ly affected my ability to obtain meaningful employment or earn income or  
23 have significantly reduced my household income or significantly  
24 increased my expenses.

25 6. One or more of my tenants has defaulted on a significant amount of  
26 their rent payments since March 1, 2020.

27 To the extent that I have lost household income or had increased  
28 expenses, any public assistance, including unemployment insurance,  
29 pandemic unemployment assistance, disability insurance, or paid family  
30 leave, that I have received since the start of the COVID-19 pandemic  
31 does not fully make up for my loss of household income or increased  
32 expenses.

33 I understand that lawful fees, penalties or interest for not having  
34 paid my taxes in full may still be charged or collected and may result  
35 in a foreclosure action against me on or after [~~January 15~~] June 30,  
36 2022, if I do not fully repay any missed or partial payments and fees.

37 Signed:

38 Printed Name:

39 Date Signed:

40 NOTICE: You are signing and submitting this form under penalty of law.  
41 That means it is against the law to make a statement on this form that  
42 you know is false."

43 3. The submission of such a declaration, unless withdrawn by the  
44 owner, shall act as a temporary stay applicable to all entities and  
45 persons of all such tax lien sales and tax foreclosure actions and  
46 proceedings against such owner for such property that have been  
47 commenced or could have been commenced before [~~January 15~~] June 30,  
48 2022.

49 § 2. Section 4 of subpart C of part C of chapter 417 of the laws of  
50 2021, relating to tax sales, is amended to read as follows:

51 § 4. This act shall take effect immediately and sections one and two  
52 and subdivisions one, two, three, four, five and seven of section three  
53 shall expire [~~January 15~~] June 30, 2022.

54 § 3. This act shall take effect immediately and shall be deemed to  
55 have been in full force and effect on and after January 15, 2022  
56 provided, however, that the amendments to sections 2 and 3 of subpart C

1 of part C of chapter 417 of the laws of 2021 made by section one of this  
2 act shall not affect the expiration of such sections and shall be deemed  
3 to expire therewith.

4 PART C

5 Section 1. Paragraph b of subdivision 2 of section 1 of subpart D of  
6 part C of chapter 417 of the laws of 2021, relating to establishing  
7 hardship declarations for owners of residential real property, is  
8 amended to read as follows:

9 b. the following statement, or a substantially equivalent statement in  
10 the owner or mortgagor's primary language, in 14-point type, whether in  
11 physical or electronic written form, and the department of financial  
12 services shall publish a copy of the hardship declaration on its  
13 website:

14 "NOTICE TO OWNER/MORTGAGOR: If you have lost income or had increased  
15 costs due to the COVID-19 pandemic, and you sign and deliver this hard-  
16 ship declaration form to your lending institution, you cannot be  
17 discriminated against in the determination of whether credit should be  
18 extended or reported negatively to a credit reporting agency until at  
19 least [~~January 15~~] June 30, 2022.

20 If a lending institution provided you with this form, the lending  
21 institution must also provide you with a mailing address and e-mail  
22 address to which you can return this form. You should keep a copy or  
23 picture of the signed form for your records.

24 OWNER/MORTGAGOR DECLARATION OF COVID-19-RELATED HARDSHIP

25 I am the OWNER/MORTGAGOR of the property at (address of dwelling  
26 unit). Including my primary residence, I own, whether directly or indi-  
27 rectly, ten or fewer residential dwelling units. I am experiencing  
28 financial hardship, and I am unable to pay my mortgage in full because  
29 of one or more of the following:

- 30 1. Significant loss of household income during the COVID-19 pandemic.
- 31 2. Increase in necessary out-of-pocket expenses related to performing  
32 essential work or related to health impacts during the COVID-19 pandem-  
33 ic.
- 34 3. Childcare responsibilities or responsibilities to care for an  
35 elderly, disabled, or sick family member during the COVID-19 pandemic  
36 have negatively affected my ability or the ability of someone in my  
37 household to obtain meaningful employment or earn income or increased my  
38 necessary out-of-pocket expenses.
- 39 4. Moving expenses and difficulty I have securing alternative housing  
40 make it a hardship for me to relocate to another residence during the  
41 COVID-19 pandemic.
- 42 5. Other circumstances related to the COVID-19 pandemic have negative-  
43 ly affected my ability to obtain meaningful employment or earn income or  
44 have significantly reduced my household income or significantly  
45 increased my expenses.

46 6. One or more of my tenants has defaulted on a significant amount of  
47 their rent payments since March 1, 2020.

48 To the extent that I have lost household income or had increased  
49 expenses, any public assistance, including unemployment insurance,  
50 pandemic unemployment assistance, disability insurance, or paid family  
51 leave, that I have received since the start of the COVID-19 pandemic  
52 does not fully make up for my loss of household income or increased  
53 expenses.

54 Signed:

1 Printed Name:

2 Date Signed:

3 NOTICE: You are signing and submitting this form under penalty of law.  
4 That means it is against the law to make a statement on this form that  
5 you know is false."

6 § 2. Section 2 of subpart D of part C of chapter 417 of the laws of  
7 2021, relating to establishing hardship declarations for owners of resi-  
8 dential real property, is amended to read as follows:

9 § 2. This act shall take effect immediately and shall expire [~~January~~  
10 ~~15~~] June 30, 2022.

11 § 3. This act shall take effect immediately and shall be deemed to  
12 have been in full force and effect on and after January 15, 2022;  
13 provided, however, that the amendments to section 1 of subpart D of part  
14 C of chapter 417 of the laws of 2021 made by section one of this act  
15 shall not affect the expiration of such sections and shall be deemed to  
16 expire therewith.

17 § 2. Notwithstanding the provisions of article 5 of the general  
18 construction law, the provisions of subparts B, C and D of part C of  
19 chapter 417 of the laws of 2021, as amended by parts A, B and C of this  
20 act, are hereby revived and shall continue in full force and effect as  
21 such provisions existed on January 14, 2022.

22 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-  
23 sion, section or part of this act shall be adjudged by any court of  
24 competent jurisdiction to be invalid, such judgment shall not affect,  
25 impair, or invalidate the remainder thereof, but shall be confined in  
26 its operation to the clause, sentence, paragraph, subdivision, section  
27 or part thereof directly involved in the controversy in which such judg-  
28 ment shall have been rendered. It is hereby declared to be the intent of  
29 the legislature that this act would have been enacted even if such  
30 invalid provisions had not been included herein.

31 § 4. This act shall take effect immediately provided, however, that  
32 the applicable effective date of Parts A through C of this act shall be  
33 as specifically set forth in the last section of such Parts.