

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:

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

7 § 1302. Foreclosure of certain residential mortgages. 1. Any complaint
8 served in a proceeding initiated on a residential mortgage covering a
9 one to four family dwelling pursuant to this article must contain an
10 affirmative allegation that at the time the proceeding is commenced, the
11 plaintiff:

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

15 (b) has complied with all of the provisions of section five hundred
16 ninety-five-a of the banking law and any rules and regulations promul-
17 gated thereunder, ~~and~~ section six-l or six-m of the banking law, for
18 loans governed by [~~those provisions~~] section six-l or six-m of the bank-
19 ing law, and section thirteen hundred four of this article for all resi-
20 dential mortgage loans covering a one to four family dwelling.

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

26 § 2. This act shall take effect on the same date and in the same
27 manner as a chapter of the laws of 2021, amending the real property
28 actions and proceedings law relating to foreclosure of residential mort-
29 gages covering one to four family dwellings, as proposed in legislative
30 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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