

# STATE OF NEW YORK

7698

## IN SENATE

January 7, 2022

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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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