STATE OF NEW YORK

885

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

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 notice to tenants in mortgage foreclosure actions

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

Section 1. Subdivisions 2 and 3 of section 1305 of the real property actions and proceedings law, as added by chapter 507 of the laws of 2009, are amended to read as follows:

2. Notwithstanding any other provision of law, a tenant of a unit not subject to rent control or rent stabilization shall have the right to remain in occupancy of the unit of the subject residential real property where he or she resides on the date of [~~mailing~~] **service** of the notice required by subdivision three of this section for the greater of: (a) a period of ninety days from the date of the [~~mailing~~] **service** of such notice; or (b) for the remainder of the lease term **if the tenant occupied the premises at the commencement of the foreclosure action or received a notice pursuant to section thirteen hundred three of this article; or (c) for the remainder of the lease term, provided that the lease agreement was entered into in good faith pursuant to this section and federal law, up to a maximum of three years, for tenants who did not occupy the premises at the commencement of the foreclosure action and therefore did not receive the original notice of service required pursuant to section thirteen hundred three of this article**; provided that if a successor in interest who acquires title to such residential real property intends to occupy a single unit as his or her primary residence and the unit is not subject to a federal or state statutory system of subsidy or other federal or state statutory scheme, the successor may limit for one unit only, the tenant's right of occupancy to ninety days. For a lease to qualify under this subdivision, the tenant under such

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

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lease may not be the owner of the residential real property, and such lease must require the payment of rent for such unit that is not substantially less than the fair market rent for the unit, unless the unit is subject to federal or state statutory system of subsidy or other federal or state statutory scheme. A tenant under paragraph (a) [~~or~~], (b)**, or (c)** of this subdivision shall continue such tenancy **subject to any limitations in this subdivision** under the same terms and conditions as were in effect at the time of entry of the judgment of foreclosure and sale, or if no such judgment was entered, upon the terms and conditions that were in effect at the time of the transfer of ownership of such property. For purposes of this section, "fair market rent" shall mean rent for a unit of residential real property of similar size, location and condition.

3. Notwithstanding any other provision of law, and consistent with subdivision two of this section, a successor in interest of residential real property shall provide written notice to all tenants **in the same manner as required by subdivision four of section thirteen hundred three of this article**: (a) that they are entitled to remain in occupancy of such property for the remainder of the lease term, or a period of ninety days from the date of mailing of such notice, whichever is greater, on the same terms and conditions as were in effect at the time of entry of the judgment of foreclosure and sale, or if no such judgment was entered, upon the terms and conditions as were in effect at the time of transfer of ownership of such property; and (b) of the name and address of the new owner. Any person or entity who or which becomes a successor in interest after the issuance of the ninety-day notice provided for in this subdivision, shall notify all tenants of its name and address and shall assume such interest subject to the right of the tenant to maintain possession as provided in this subdivision.

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2020 amending the real property actions and proceedings law relating to the definition of "tenant" for purposes of mortgage foreclosures, as proposed in legislative bills numbers S. 5357 and A. 6370, take effect.