

# STATE OF NEW YORK

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5829

2023-2024 Regular Sessions

## IN SENATE

March 17, 2023

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Introduced by Sen. SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the real property actions and proceedings law, in relation to notices required prior to mortgage foreclosure

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

1 Section 1. The opening paragraph of subdivision 1 of section 1304 of  
2 the real property actions and proceedings law, as amended by section 6  
3 of part Q of chapter 73 of the laws of 2016, is amended to read as  
4 follows:

5 Notwithstanding any other provision of law, with regard to a home  
6 loan, at least ninety days before a lender, an assignee or a mortgage  
7 loan servicer commences legal action against the borrower, or borrowers  
8 at the property address and any other address of record, including mort-  
9 gage foreclosure, such lender, assignee or mortgage loan servicer shall  
10 give notice to the borrower in at least fourteen-point type which shall  
11 include only the following:

12 § 2. The opening paragraph of subdivision 1-a of section 1304 of the  
13 real property actions and proceedings law, as added by section 3 of part  
14 HH of chapter 58 of the laws of 2018, is amended to read as follows:

15 Notwithstanding any other provision of law, with regard to a reverse  
16 mortgage home loan, at least ninety days before a lender, an assignee or  
17 a mortgage loan servicer commences legal action against the borrower or  
18 borrowers at the property address and any other addresses of record,  
19 including reverse mortgage foreclosure, such lender, assignee or mort-  
20 gage loan servicer shall give notice to the borrower in at least four-  
21 teen-point type except for the heading which shall be in at least  
22 sixteen-point type which shall include only the following:

23 § 3. Section 1304 of the real property actions and proceedings law is  
24 amended by adding a new subdivision 8 to read as follows:

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

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1     8. To establish compliance with this section, the lender, assignee or  
2 mortgage loan servicer shall evidence strict compliance with the subdi-  
3 visions of this section, as pertinent, and shall demonstrate that the  
4 lender, assignee or mortgage loan servicer was entitled to enforce the  
5 subject note and mortgage at the time the notices were sent.

6     § 4. Severability clause. If any clause, sentence, paragraph, section  
7 or part of this act shall be adjudged by any court of competent juris-  
8 diction to be invalid, such judgment shall not affect, impair or invali-  
9 date the remainder thereof, but shall be confined in its operation to  
10 the clause, sentence, paragraph, section or part thereof directly  
11 involved in the controversy in which such judgment shall have been  
12 rendered.

13     § 5. This act shall take effect immediately and shall apply to all  
14 actions commenced on an instrument described under subdivision 4 of  
15 section 213 of the civil practice law and rules in which a final judg-  
16 ment of foreclosure and sale has not been enforced.