

# STATE OF NEW YORK

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1827

2023-2024 Regular Sessions

## IN ASSEMBLY

January 23, 2023

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Introduced by M. of A. JEAN-PIERRE, SILLITTI, COLTON, ANDERSON, BARRETT, SIMON, DAVILA, STECK, TAYLOR, DE LOS SANTOS -- read once and referred to the Committee on Judiciary

AN ACT to stay certain foreclosure proceedings

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

1 Section 1. Except as provided in section two of this act, foreclosure  
2 proceedings for non-payment of mortgage payments that would be eligible  
3 for coverage under the New York state homeowner assistance fund adminis-  
4 tered by the division of housing and community renewal shall not be  
5 commenced against a mortgagor who has applied for such coverage or any  
6 local program administering federal emergency mortgage assistance  
7 program funds unless or until a determination of ineligibility is made.  
8 Except as provided in section two of this act, in any pending foreclo-  
9 sure proceeding, whether filed prior to, on, or after the effective date  
10 of this act, against a mortgagor who has applied or subsequently applies  
11 for benefits under the New York state homeowner assistance fund or any  
12 local program administering federal emergency mortgage assistance  
13 program funds to cover all or part of the arrears claimed by the peti-  
14 tioner, all proceedings shall be stayed pending a determination of  
15 eligibility. Evidence of a payment received pursuant to the New York  
16 state homeowner assistance fund or a local program administering federal  
17 emergency mortgage assistance program funds may be presented in such  
18 proceeding and create a presumption that the mortgagor's obligation for  
19 the time period covered by the payment has been fully satisfied.

20 § 2. Section one of this act shall not apply if a mortgagor inten-  
21 tionally causes significant damage to the property that is the subject  
22 of the mortgage agreement, provided:

23 1. If a foreclosure proceeding is not pending on the effective date of  
24 this act, the petitioner shall file an affidavit under penalty of perju-  
25 ry with the petition attesting that the respondent intentionally caused

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

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1 significant damage to the property, with a specific description of the  
2 damages alleged.

3 2. If a foreclosure proceeding is pending on the effective date of  
4 this act, but the petitioner has not previously alleged that the mortga-  
5 gor intentionally caused significant damage to the property, the peti-  
6 tioner shall be required to submit a new petition with such allegations  
7 and comply with all notice and service requirements under article thir-  
8 teen of the real property actions and proceedings law.

9 3. For the purposes of this act, a mere allegation of the behavior by  
10 the petitioner or an agent of the petitioner alleging such behavior  
11 shall not be sufficient evidence to establish that the mortgagor has  
12 intentionally caused significant damage to the property.

13 4. If the petitioner fails to establish that the mortgagor inten-  
14 tionally caused significant damage to the property: (i) if the  
15 mortgagor's application is still pending, the court shall stay or  
16 continue to stay any further proceedings pending a determination of  
17 eligibility pursuant to section one of this act; or (ii) if the mortga-  
18 gee has accepted payment of mortgage arrears and agreed not to foreclose  
19 the mortgage, the court shall dismiss the proceeding with prejudice.

20 5. If the petitioner establishes that the mortgagor intentionally  
21 caused significant damage to the property, the proceeding may continue  
22 pursuant to article thirteen of the real property actions and  
23 proceedings law.

24 § 3. This act shall take effect immediately.