STATE OF NEW YORK

1841

2023-2024 Regular Sessions

IN SENATE

January 17, 2023

Introduced by Sen. COMRIE -- 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 requiring plaintiffs to furnish proof that notice of possible foreclosure was delivered to the defendant

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

Section 1. Subdivision 2 of section 1304 of the real property actions and proceedings law, as amended by section 4 of part HH of chapter 58 of the laws of 2018, is amended to read as follows:

2. The notices required by this section shall be sent by such lender, assignee (including purchasing investor) or mortgage loan servicer to the borrower, by registered or certified mail and also by first-class mail **with a request for official proof of delivery,** to the last known address of the borrower, and to the residence that is the subject of the mortgage. The notices required by this section shall be sent by the lender, assignee or mortgage loan servicer in a separate envelope from any other mailing or notice. Notice is considered given as of the date it is mailed**, provided that the lender, assignee or mortgage loan servicer is able to furnish official proof of delivery of such notice, or if acceptance was refused by the borrower, the original envelope with a notation by the postal authorities that acceptance was refused. It shall be an affirmative defense in a foreclosure proceeding that the plaintiff is unable to furnish official proof of delivery or the original envelope with a notation by the postal authorities that acceptance was refused, as required by this subdivision**. The notices required by this section shall contain a current list of at least five housing counseling agencies serving the county where the property is located from the most recent listing available from department of financial services. The list shall include the counseling agencies' last known addresses and tele-

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

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phone numbers. The department of financial services shall make available on its websites a listing, by county, of such agencies. The lender, assignee or mortgage loan servicer shall use such lists to meet the requirements of this section.

§ 2. This act shall take effect on the thirtieth day after it shall have become a law.