STATE OF NEW YORK

5829--A

2023-2024 Regular Sessions

IN SENATE

March 17, 2023

Introduced by Sens. SALAZAR, SANDERS, BRISPORT, COMRIE, GONZALEZ, GOUNARDES, RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

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

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

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

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

§ 4. Severability clause. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 5. This act shall take effect immediately.