STATE OF NEW YORK

5838

2023-2024 Regular Sessions

IN SENATE

March 20, 2023

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT authorizing certain state regulated institutions to offer disaster forbearance agreements to qualified mortgagors

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

Section 1. 1. As used in this act the following terms shall have the following meanings:

(a) "Disaster forbearance agreement" means (i) the deferment of total arrearages, including any escrow advances, to the end of the existing term of the loan, without charging or collection of any additional interest on the deferred amount; or (ii) the extension of the term of the mortgage loan, and capitalization, deferral or forgiveness of all escrow advances and other arrearages, provided this loss mitigation option reduces the principal and interest payment on the loan if the lender or servicer has information indicating that the borrower cannot resume the pre-forbearance mortgage payments or if the borrower is unable to make the payments under payment subparagraph (i) of this paragraph.

(b) "Qualified mortgagor" means a residential or commercial borrower whose mortgage loan became delinquent 60 days or more due directly or indirectly to the COVID-19 emergency or between March 7, 2020 and the effective date of this act.

(c) "Regulated institution" means any state regulated banking organization as defined in section 2 of the banking law and any state regulated mortgage servicer entity subject to the authority of the department of financial services.

2. Notwithstanding any provision of law to the contrary, every regulated institution is authorized to automatically offer a disaster forbearance agreement that begins on the effective date of this act for a period of 60 days. No documents will be required from the qualified

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

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mortgagor with respect to a disaster forbearance agreement other than the borrower's affirmation (oral or written) to a financial hardship that prevents the borrower from making timely payments on the mortgage loan due, directly or indirectly, to the COVID-19 emergency.

(a) A disaster forbearance agreement shall be extended for an additional 120 days upon the borrower's request, oral or written, submitted to the lender or servicer affirming that the borrower is experiencing a financial hardship that prevents the borrower from making payments on the mortgage due, directly or indirectly, to the COVID-19 emergency.

(b) A forbearance extended under paragraph (a) of this subdivision shall be extended for an additional 180 days not to exceed 360 days upon the borrower's request, oral or written, submitted to the lender or servicer affirming that the borrower is experiencing a financial hardship that prevents the borrower from making payments on the mortgage due, directly or indirectly, to the COVID-19 emergency.

3. Treatment after forbearance. A lender or servicer of such loan (a) may not charge any late fees, penalties or other charges with respect to payments on the loan that were due during the forbearance period, if such payments are made timely during the term of the agreement; and (b) is prohibited from reporting any adverse information to a credit agency with respect to any payments on the loan that were due during the forbearance period, if such payments are made timely during the term of the agreement.

4. The superintendent of financial services shall promulgate any rules and regulations necessary to implement the provisions of this act.

§ 2. This act shall take effect immediately.