

STATE OF NEW YORK

11579

IN ASSEMBLY

June 5, 2026

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Walker) --
read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to the rights of
parties involved in actions commenced upon real property related
instruments

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

1 Section 1. Section 282 of the real property law, as added by chapter
2 550 of the laws of 2010, is amended to read as follows:
3 § 282. [~~Mortgagor's right~~] Right to recover attorneys' fees in actions
4 or proceedings arising out of [~~foreclosures of residential property~~]
5 certain real property related instruments. 1. Whenever a covenant
6 contained in [~~a mortgage on~~] an instrument described in subdivision four
7 of section two hundred thirteen of the civil practice law and rules
8 relating to residential real property [~~shall provide~~] provides that in
9 any action or proceeding [~~to foreclose the mortgage~~] relating to the
10 instrument that the [~~mortgagee~~] lender may recover attorneys' fees,
11 costs, disbursements and/or expenses incurred as the result of the fail-
12 ure of the [~~mortgagor~~] borrower to perform any covenant or agreement
13 contained in such [~~mortgage~~] instrument, or that amounts paid by the
14 [~~mortgagee~~] lender therefor shall be paid by the [~~mortgagor~~] borrower as
15 additional payment, there shall be implied in such [~~mortgage~~] instrument
16 a covenant by the [~~mortgagee~~] lender to pay to the [~~mortgagor~~] borrower
17 the reasonable attorneys' fees, costs, disbursements and/or expenses
18 incurred by the [~~mortgagor~~] borrower, which shall include fees on fees,
19 as the result of the failure of the [~~mortgagee~~] lender to perform any
20 covenant or agreement on its part to be performed under the [~~mortgage~~]
21 instrument or upon prevailing in [~~the successful defense of~~] any action
22 or proceeding pending or commenced by the [~~mortgagee~~] lender against the
23 [~~mortgagor~~] borrower arising out of the [~~contract~~] instrument, and an
24 agreement that such fees, costs, disbursements and expenses may be
25 recovered as provided by law in [~~an~~] any action or proceeding pending or
26 commenced by the borrower against the [~~mortgagee~~] lender or by way of
27 counterclaim in any action or proceeding pending or commenced by the

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

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1 [~~mortgagee~~] lender against the [~~mortgagor~~] borrower. Any waiver of this
2 section shall be void as against public policy.

3 2. For the purposes of this section^[7]:

4 (a) "borrower" shall mean any and all borrowers, mortgagors, obligors,
5 debtors, and guarantors named in an instrument described in subdivision
6 four of section two hundred thirteen of the civil practice law and
7 rules, and shall also include any and all owners or transferees of the
8 residential real property related to such instrument;

9 (b) "lender" shall mean any and all lenders, mortgagees, obligees,
10 note holders, and creditors named in an instrument described in subdivi-
11 sion four of section two hundred thirteen of the civil practice law and
12 rules, and shall also include any assignee of the instrument or servicer
13 as defined under 3 NYCRR § 418.1;

14 (c) "residential real property" means real property [improved by a
15 one-to-four-family residence, a condominium that is occupied by the
16 mortgagor or a cooperative unit that is occupied by the mortgagor.]
17 located in this state improved by any building or structure that is or
18 may be used, in whole or in part, as the home or residence of one or
19 more persons, and shall include any building or structure used for both
20 residential and commercial purposes; and

21 (d) "prevailing" shall mean:

22 (i) receipt of any decree, decision, determination, finding, judgment,
23 order, or ruling dismissing an action or proceeding pending or commenced
24 by a lender, with or without prejudice, on the court's own initiative,
25 after trial, or upon application or motion made by the borrower; or

26 (ii) receipt of any decree, decision, determination, finding, judg-
27 ment, order, or ruling in favor of a borrower, on a counterclaim or in
28 any action or proceeding pending or commenced, cancelling and discharg-
29 ing of record a mortgage pursuant to subdivision four of section fifteen
30 hundred one of the real property actions and proceedings law.

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