

STATE OF NEW YORK

10529

IN SENATE

May 19, 2026

Introduced by Sen. SCARCELLA-SPANTON -- 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 clarifying that a default judgment against a defendant in
a foreclosure action does not need to be vacated for such defendant to
claim the plaintiff lacks standing or that the statute of limitations
has expired

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

1 Section 1. Section 1302-a of the real property actions and proceedings
2 law, as added by chapter 739 of the laws of 2019, is amended to read as
3 follows:
4 § 1302-a. [~~Defense~~] Defenses of lack of standing and statute of limi-
5 tations; not waived. Notwithstanding the provisions of subdivision (e)
6 of rule thirty-two hundred eleven of the civil practice law and rules,
7 any objection or defense based on the plaintiff's lack of standing or
8 expiration of the statute of limitations in a foreclosure proceeding
9 related to a home loan, as defined in paragraph (a) of subdivision six
10 of section thirteen hundred four of this article, shall not be waived if
11 a defendant fails to raise the objection or defense in a responsive
12 pleading or pre-answer motion to dismiss. A defendant may [~~not~~] raise an
13 objection or defense of lack of standing or expiration of the statute of
14 limitations following a foreclosure sale[~~, however, unless~~] if the judg-
15 ment of foreclosure and sale was issued upon such defendant's default,
16 even if such judgment has not been vacated.
17 § 2. This act shall take effect immediately, and shall apply to:
18 (a) all actions commencing on or after such date; and
19 (b) any action commencing prior to such date in which a final judgment
20 of foreclosure and sale has not yet been enforced upon such effective
21 date.

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

LBD13246-02-5