STATE OF NEW YORK

70

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. KAVANAGH, ADDABBO, BRISPORT, JACKSON, MAY, MYRIE, RAMOS, SANDERS, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT to amend the banking law, in relation to mortgage loan servicers

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

Section 1. Section 595-b of the banking law is amended by adding two new subdivisions 3 and 4 to read as follows:

3. Actions and damages. (a) Any person who has been injured by reason of any violation of any such rules, regulations or policies as the superintendent may promulgate to effectuate the purposes of this article, including but not limited to 3 NYCRR 419 or any subsequently promulgated mortgage servicing rules pursuant to this subdivision, may:

(i) Bring an action in such person's own name;

(ii) Assert a counterclaim; or

(iii) If an action is commenced by the mortgagee or anyone acting on its behalf, bring a third party claim, against either the mortgagee and/or the mortgage servicer to enjoin any violations thereof.

(b) The person injured pursuant to this section:

(i) May recover statutory damages of one thousand dollars per violation;

(ii) May recover treble actual damages; and

(iii) If awarded damages or injunctive relief, shall also be entitled to recover costs and expenses, including but not limited to reasonable attorneys' fees.

(c) The mortgagee and the mortgage servicer shall be jointly and severally liable for any recoveries by an injured mortgagor in any action brought pursuant to this subdivision.

4. Compliance with rules, regulations or policies. Material compliance with any such rules, regulations or policies as the superintendent may

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

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promulgate to effectuate the purposes of this article, including but not limited to 3 NYCRR 419 or any subsequently promulgated mortgage servicing rules pursuant to this subdivision, shall be a condition precedent to commencing an action to foreclose upon a mortgage subject to this article or an action on the note, and the failure to materially comply with such rules, regulations or policies shall be a defense to a foreclosure action or action on the note, even if servicing has been transferred to a different mortgage servicer when a foreclosure action or action on the note is commenced.

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