

MEMORANDUM IN SUPPORT
A.09592/S.01992-A

BILL NUMBER: A.9592(Weinstein)/S.1992-A(Hamilton)

TITLE OF BILL: AN ACT to amend the real property actions and proceedings law and the civil practice law and rules, in relation to foreclosure upon a reverse mortgage.

Long Island Housing Services, Inc. strongly supports A.9592/S.1992-A, which corrects a technical error with respect to the effective date of legislation passed in 2017. The 2017 legislation intended to include reverse mortgage loans in the definition of “home loan” and extend consumer protections to senior homeowners at risk of losing their homes to foreclosure of a reverse mortgage.

Long Island Housing Services’ mission is the elimination of unlawful housing discrimination and promotion of decent and affordable housing through advocacy and education.

Reverse mortgage loans can be a useful tool for seniors as they allow homeowners aged 62 and older to tap into their home equity to supplement their income. Monthly payments are not made; the entire balance including principal and interest that accrues is due when the borrower moves or upon death. The borrower remains responsible for payment of taxes and insurance. Because these loans are typically federally insured and can be lucrative for lenders and brokers to make, deceptive practices proliferate in both the making and the servicing of reverse mortgages.

Advocates have seen a dramatic increase in the number of foreclosures brought against senior citizens with reverse mortgages in the past few years. Unfortunately, consumer protections enacted by New York State in 2009 - 2010 for homeowners with “home loans” facing default and foreclosure, excluded reverse mortgages from the definition of “home loan” (defined in Real Property Actions and Proceedings Law section 1304). Thus, senior citizens facing foreclosure on a reverse mortgage do not have the same level of consumer protections as other borrowers. The protections most notably include (1) a 90 pre-foreclosure filing notice which directs distressed homeowners to free foreclosure prevention services in their area (pursuant to RPAPL sec. 1304), and (2) a mandatory settlement conference as part of the judicial foreclosure process intended to bring the parties together in a court-supervised meeting to see if the foreclosure can be avoided by workout or settlement (pursuant to CPLR 3408).

Legislation enacted in last year’s budget (Chapter 55 of the laws of 2017, Part FF, 2017 Sess. Laws of N.Y., Ch. 58 (S. 2008C) intended to rectify the exclusion of reverse mortgages from the “home loan” definition contained in RPAPL section 1304. Because of a drafting error, however, the amendments to the “home loan” definition were made to the version of RPAPL 1304 which goes back into effect in 2020, but not to the version that is presently in effect *until* 2020. While Governor Cuomo and the Legislature’s intent in including these amendments in

the budget legislation was clearly to provide these protections to senior citizens faced with the loss of their homes *now*—not three years in the future—the error in the codification of the amendments has caused confusion and some lenders refuse to apply these consumer protections to reverse mortgage cases.

A.9592/S.1992A fixes a technical error in legislation passed in 2017. Expanding the definition of “home loans” to cover reverse mortgage affords senior citizens facing foreclosure with the same consumer protections as all residential home loan borrowers. These basic protections have prevented thousands of foreclosures across New York State; providing these basic consumer protections to vulnerable seniors with reverse mortgages will ensure that seniors at risk of foreclosure are given the same opportunities to save their homes from foreclosures that conventional mortgage holders have been given.

For more information, please contact Ian Wilder, Esq., Executive Director at 631-567-5111 ext. 314 or Ian@LIFairHousing.org

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