

Memorandum in Opposition

REAL PROPERTY LAW SECTION

RPLS #5

June 3, 2013

A. 2863

By: M. of A. Clark
Assembly Committee: Housing
Effective Date: Immediately

AN ACT to amend the real property actions and proceedings law, in relation to right of redemption in a foreclosure action of a residence.

LAW AND SECTIONS REFERRED TO: Adds a new Section 1352-a to the Real Property Actions and Proceedings Law.

THE REAL PROPERTY LAW SECTION OPPOSES THIS LEGISLATION

This bill seeks to address the mortgage foreclosure crisis in New York State by allowing a mortgagor, at any time within one year from the date of a mortgage foreclosure judgment, to cure the indebtedness related to the foreclosure of his or her residence by paying the amount of moneys specified in the judgment plus reasonable foreclosure proceeding expenses and reasonable attorney's fees of the mortgagee.

The bill is **OPPOSED** for the following reasons:

The lengthy judicial process in New York allows enough time for mortgagors to work out, modify, reinstate or pay off a loan in foreclosure. The average time from commencement to completion of a mortgage foreclosure in the State of New York is currently five hundred days in the downstate area and three hundred days upstate. Adding another twelve months would serve no additional purpose.

Additional rights are provided to mortgagors by the settlement conferences now being held by courts around the state. These conferences allow an early resolution to the foreclosure.

The redemption would put a chill on foreclosure sales in that few buyers would be willing to wait out the redemption period. Title insurance would not be available to a purchaser at foreclosure sale until the redemption period expired.

Eviction would be unaffected and thus homeowners will be evicted from their residences, leaving homes vacant for the remainder of the redemption period. No one would be available or motivated to maintain the home during the redemption period.

Redemption has been traditionally available in non judicial foreclosure states where the time to foreclose is much shorter than in New York, and where opportunities for borrowers to appear in an action or otherwise work out their loan are limited.

The Real Property Law Section of the New York State Bar Association **OPPOSES** the passage of this legislation.

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