



Legislation Text

File #: Res 1172-2019, **Version:** *

Res. No. 1172

Resolution calling on the New York State Legislature to pass, and the Governor to sign, A.5619/S.5160, relation to the failure to raise the defense of lack of standing in a mortgage foreclosure action.

By Council Members Cornegy, Kallos, Reynoso and Koslowitz

Whereas, New York State requires a plaintiff to own both the mortgage and note when it commences a foreclosure action on a borrower; and

Whereas, It has been reported that certain mortgage companies have taken actions that have been called into question due to the plaintiff's lack of standing and the ambiguity on who owns the mortgage or note; and

Whereas, There have been circumstances where the borrower does not know who owns the loan; and

Whereas, Numerous court decisions in New York have held that if the borrower does not raise concerns over the lack of standing upon the commencement of a foreclosure action then the borrower has waived their rights to take such action; and

Whereas, A.5619, introduced by Assembly Member Helene Weinstein in the New York State Assembly, and companion bill S.5160, introduced by State Senator Brian Kavanagh in the New York State Senate would provide that any defense based on a plaintiff's lack of standing in a foreclosure proceeding related to a home loan cannot be waived by a defendant's failure to raise these concerns upon the beginning of a foreclosure action; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, A.5619/S.5160, relation to the failure to raise the defense of lack of standing in a mortgage foreclosure action.

JLC
LS 12565

10/31/2019