

Friday, May 29, 2020

To: New York Community Banks

New York State Legislature Passes Chapter Amendment On Mortgage Forbearance

We have attached the Chapter Amendment to the residential mortgage forbearance legislation initially passed by the Legislature Wednesday. (Part C is the forbearance chapter amendment; it is included with several other chapter amendments). **The Chapter Amendment was passed Thursday night by the Senate and early Friday morning by the Assembly.** It will be sent to the Governor for his signature. This initiative is targeted only at state chartered banks. Federally chartered banks are not impacted. (Interestingly, the credit unions supported the legislation.)

IBANYS issued a strong Memo in Opposition to the original legislation, and continued to work with the Legislature, Governor's Office and NYS Department of Financial Services (DFS) throughout the process that eventually resulted in the Chapter Amendment.

Mortgages currently receiving forbearance under the Governor's Executive Order 202.9, at the time of such forbearance, shall be considered as part of the requirement to provide forbearance under the new statute.

At the end of the 180 days of forbearance provided, the borrower has an option to extend the forbearance for a second 180 day period if still in financial distress, as provided in the Chapter Amendment.

While we opposed the initiative, the Chapter Amendment is an improvement over the original legislation. If a bank determines that it unable to offer a mortgagor relief based on concerns regarding sufficient capital and liquidity, it must notify DFS within 5 business days of making the determination. The bank must also notify the mortgagor, who may file a complaint with DFS.

The Chapter Amendment clarified that forbearance applies to "monthly payments" due on the mortgage. It also prohibits the bank from charging additional interest or any late fees or penalties on the forborne payment.

IBANYS intends to closely monitor developments, and invites community banks to please provide updates on how this new scenario impacts your banks. We are committed to continuing to work on this and related issues going forward.

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IBANYS will continue to provide updates as additional information becomes available. Thank you all for your continued participation and support.

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