



NEW YORK STATE SENATOR

James Sanders Jr.

Senator James Sanders Jr. Pushes Bill to Help Stop Unjust Home Foreclosures

JAMES SANDERS JR. September 1, 2021



Senator James Sanders Jr. has introduced legislation (S.5473-C/SANDERS Same as A.7922-A/Walker) to help stop unjust home foreclosures. There is an urgent need to pass this bill to overrule the New York State Court of Appeals decision in *Freedom Mtge. Corp. v Engel* (2021),

The Engel decision allows banks, as mortgage lenders, in foreclosure actions to unilaterally reset the 6-year statute of limitations period by determining that a voluntary discontinuance acts as a revocation of the acceleration of the debt. Banks are now the only plaintiffs in New

York State that are essentially exempt from the statute of limitations.

As a direct result of this decision, a flurry of motions have been filed by mortgage lenders and servicing institutions to reopen time-barred cases that were dismissed years ago on the grounds there is a new change in the law that essentially exempts foreclosing plaintiffs from having the statute of limitations applied to them in foreclosure actions. Without this bill becoming law, many homeowners will unjustly lose their homes. This bill levels the field for all homeowners, and ensures the statute of limitations applies to all parties equally without exemption.

Senator Sanders bill (S.5473-C) would stop banks from resetting the statute of limitations period with a voluntary discontinuance, unless it is done under the General Obligations Law 17-105. Second, it would prevent banks from suing a homeowner for a money judgment on a Note when the mortgage has been determined to be time barred (unenforceable because statute of limitation to collect on note has expired. Finally, the bill would limit a bank from using this statute to recommence a new action within 6 months of the statute of limitations expiring only once.

Senator Sanders said, "Given the state of the economy during the COVID-19 pandemic, and even before that, Southeast Queens has been hit with a barrage of home foreclosures. The New York State Court of Appeals ruling earlier this year has even made matters worse by giving mortgage lenders an undue advantage over homeowners in court proceedings. My legislation would ensure a fair process during foreclosure cases and prevent many foreclosures."

"It is imperative that we work together in order to keep New Yorkers in their homes," said **State Senator Joseph P. Addabbo Jr.** "The COVID-19 pandemic has left many homeowners

unsure of how they would be able to pay their mortgages. I am proud to be a co-sponsor on this piece of legislation that, if made into law, will help ensure that the laws are applied equally to everyone.”

"I'm proud to co-sponsor this legislation to protect New York homeowners from the destructive whim of the lending industry," said **Senator Robert Jackson**. "Banks can't play fast and loose with New Yorkers' homes, and this bill will ensure that homeowners can count on some basic protections like not getting dragged back into foreclosure actions the banks themselves had voluntarily tabled before"

"Unjust home foreclosures threaten to force thousands of families on the street," said **Assemblymember Rodneyse Bichotte Hermelyn**. "The risk of displacement, particularly to seniors and in communities of color must not be pushed aside. As the Delta variant spreads, we need to keep New Yorkers safe. I am proud to co-sponsor Sen. James Sander's and Assemblymember Latrice Walker's bill to stop unjust foreclosures. Keeping people in their homes is a priority that needs to be at the front of our agenda this legislative session."

"With the looming expiration of the eviction moratorium, homeowners and renters are facing a daunting future without immediate intervention from government." said **Senator Leroy Comrie**. "Unfortunately, there is a disconnect within the judicial foreclosure process creating a loophole that gives mortgage lenders and loan servicers the ability to pick and choose arbitrary statutes of limitation putting homeowners at a disadvantage. I commend Sen. Sanders' and support his legislation as a common sense solution to provide an additional tool to protect homeowners from foreclosure by clarifying the statutory regulations and timelines for all parties, ensuring a more fair playing field in court proceedings."

“The New York State Court of Appeals ruling in Freedom Mtge. Corp. v Engel (2021) has been detrimental to the homeowners across New York State,” said **Assemblymember Khaleel Anderson**. “This bill is a step in the right direction advocating for the livelihood of our families and neighbors. I stand with my colleagues in supporting this bill to stop unjust home foreclosures”