

CHAPTER TEXT:

LAWS OF NEW YORK, 2010

CHAPTER 550

AN ACT to amend the real property law, in relation to enacting the "access to justice in lending act"

Became a law October 20, 2010, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "access to justice in lending act".

§ 2. The real property law is amended by adding a new section 282 to read as follows:

§ 282. Mortgagor's right to recover attorneys' fees in actions or proceedings arising out of foreclosures of residential property. 1. Whenever a covenant contained in a mortgage on residential real property shall provide that in any action or proceeding to foreclose the mortgage that the mortgagee may recover attorneys' fees and/or expenses incurred as the result of the failure of the mortgagor to perform any covenant or agreement contained in such mortgage, or that amounts paid by the mortgagee therefor shall be paid by the mortgagor as additional payment, there shall be implied in such mortgage a covenant by the mortgagee to pay to the mortgagor the reasonable attorneys' fees and/or expenses incurred by the mortgagor as the result of the failure of the mortgagee to perform any covenant or agreement on its part to be performed under the mortgage or in the successful defense of any action or proceeding commenced by the mortgagee against the mortgagor arising out of the contract, and an agreement that such fees and expenses may be recovered as provided by law in an action commenced against the mortgagee or by way of counterclaim in any action or proceeding commenced by the mortgagee against the mortgagor. Any waiver of this section shall be void as against public policy.

2. For the purposes of this section, "residential real property" means real property improved by a one- to four-family residence, a condominium that is occupied by the mortgagor or a cooperative unit that is occupied by the mortgagor.

§ 3. This act shall take effect on the sixtieth day after it shall have become a law, shall apply to residential real property mortgages in existence on or after such date and shall apply to actions and proceedings commenced on or after such date.

The Legislature of the STATE OF NEW YORK **ss:**

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

MALCOLM A. SMITH
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly

EXPLANATION--Matter in italics is new; matter in brackets [-] is old law to be omitted.