

New York Passes New Law Requiring Lenders and Mortgage Servicers to Provide Borrowers with a Single Point of Contact for Loss Mitigation Purposes

By **Kenneth J. Flickinger**

On November 3, 2021, Governor Kathy Hochul signed Senate Bill S671 into law. The law adds new Section 6-o to the Banking Law, which requires lenders and mortgage servicers to provide a single point of contact to borrowers to communicate with the lender/servicer in relation to loan modification, or other loss mitigation alternatives. The new law applies to a “home loan” as that term is defined in Section 6-l of the Banking Law¹, becomes effective January 2, 2022, and will only apply to mortgage loans originated after the effective date.

The new law requires the borrower to make a request to the lender/servicer to provide a single point of contact in writing or by electronic communication. Upon receiving such a request, the lender/servicer is then required to provide the contact information to the borrower within ten (10) business days of receipt. Any change in the single point of contact shall be communicated to the borrower within five (5) business days.

The single point of contact shall be responsible for:

- Communicating loan modification options to the borrower;
- Assisting the borrower with identifying the documents necessary to apply for a loan modification; and
- Providing the borrower with accurate information regarding the status of the borrower’s loan modification application;

Once a borrower has requested a single point of contact from the lender/servicer, and the single point of contact has been assigned, that person shall remain assigned to the borrower’s account until the lender/servicer has determined that all loss mitigation options have been exhausted, or the account becomes current.

The new law is similar to California Civil Code Section 2923.7, which also requires a mortgage servicer to establish a single point of contact for the same purposes of communicating with the borrower regarding loss mitigation options, loss mitigation application requirements, and status of a loss mitigation application. One major difference between the two (2) laws is that the California Civil Code defines “single point of contact,” as:

an individual or team of personnel each of whom has the ability and authority to perform the responsibilities described in subdivisions (b) to (d), inclusive. The mortgage servicer shall ensure that each member of the team is knowledgeable

¹ Section 6-l of the Banking Law defines a “home loan” as a loan, other than a reverse mortgage, in which the borrower is a natural person, the loan is secured by a mortgage on a 1-4 family home, condominium unit, or stock and proprietary lease in a cooperative unit, which is or will be occupied by the borrower as the borrower’s principal residence, and the principal of which does not exceed the Fannie Mae conforming loan size limit at the time of origination.

about the borrower's situation and current status in the alternatives to foreclosure process.

The New York law does not define "single point of contact," though the sponsor's memo accompanying the bill states:

This bill will require a lender to appoint to the borrower *one contact person* who will be responsible for all communications with the borrower and who will be responsible for the entire process. Having *one person* responsible will make it less likely that a borrower who is trying to save his or her home will fall victim to the bureaucracy of the foreclosure mitigation process and of the very large mortgage servicers. (emphasis added).

This is a significant difference. The California Civil Code recognizes that a team of personnel may be better suited to assist a borrower with a loss mitigation application than a single individual. There may be different personnel within a lender's/servicer's loss mitigation department that specialize in one aspect of the loss mitigation process or another, and requiring that only one person communicate with the borrower may deny the borrower access to the personnel that specializes in a particular stage of the loss mitigation process. A single point of contact consisting of a team of individuals is more consistent with existing mortgage servicing practices, and would streamline the implementation of the new requirements.

The law does not become effective until January 2022, and only applies to new loans originated after the effective date, which should give lenders and mortgage servicers some time to adapt their processes accordingly.

The full text of the law can be read at [NY State Senate Bill S671 \(nysenate.gov\)](https://nysenate.gov/legislation/bills/2021/S671)