



## *A Message from NY Operations*

*February 21, 2020*



### **Amendment to Foreclosure Law Affects Insurability of Title for Foreclosed Properties**

On December 23, 2019, RPAPL § 1302 was amended to allow a defendant in a foreclosure action to raise a defense of lack of standing at any time prior to the foreclosure sale. Prior law required defendants to raise a defense of lack of standing in their answer to a complaint. If the defense was not raised at that time, then it would be waived.

This new amendment (RPAPL § 1302-a) now allows a defendant to raise a defense of lack of standing at any time during the pendency of the action. ***More importantly, if a Judgment of Foreclosure and Sale is issued on default, then a defendant may raise the defense of lack of standing even after the foreclosure action has been completed and the property has been sold.*** The provisions of this amendment apply to a one-to-four family dwelling or a condominium unit used as the borrower's principal dwelling.

As a result of this change, CATIC Title may not be able to insure residential property after a foreclosure sale when a default judgment has been entered. ***If you represent a client purchasing foreclosed residential property, you should speak with a CATIC Title underwriter to determine whether a policy can be issued.***

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(844) 422-8426