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SYNOPSIS
Provides mortgage payment relief for residential property owners and small landlords during time of coronavirus disease 2019 pandemic.

CURRENT VERSION OF TEXT
As reported by the Senate Community and Urban Affairs Committee on January 27, 2022, with amendments.
AN ACT concerning emergency mortgage relief for residential
property owners and small landlords.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. The Legislature finds and declares that:
   a. The social distancing measures and associated economic
      pause, that have been necessary to combat the COVID-19
      pandemic, have also forced many New Jersey residents to endure
      job losses and prolonged depletions of income;
   b. As of May 2020, the unemployment rate of the United States
      exceeded 14 percent, and unemployment rates have remained
      persistently high in New Jersey and other states;
   c. The residents of New Jersey have not been able to avoid
      suffering as a result of the COVID-19 pandemic\textsuperscript{1}, as the State is
      widely reported to have the highest COVID-19-related death rate in
      the nation\textsuperscript{1}, and the economic impact on many State residents
      appears to be \textsuperscript{1}similarly\textsuperscript{1} catastrophic;
   d. This unprecedented situation has made the timely payment of
      mortgages impossible for many State residents; and
   e. It is, therefore, necessary and in the public interest for the
      Legislature to enact temporary measures to protect the State’s
      homeowners and small landlords from foreclosure that are in danger
      of resulting from this unprecedented emergency.

2. As used in this act:
   "COVID-19" means the coronavirus disease 2019, as announced
   by the World Health Organization on February 11, 2020, and first
   identified in Wuhan, China.
   “Creditor” means a person or entity that holds or controls,
   partially, wholly, indirectly, directly or in a nominee capacity, a
   mortgage loan securing an owner-occupied residential property,
   including, but not limited to, \textsuperscript{1}[an originator,] a\textsuperscript{1} holder, investor,
   assignee, successor, trust, trustee, nominee holder, or mortgage
   servicer as defined in section 2 of P.L.2019, c.65 (C.17:16F-28).
   “Creditor” shall not, however, include any creditor for a mortgage
   loan that is backed by a shareholder-owned company that operates
   under a charter of the United States Congress.
   “Emergency period” means the period during which a public
   health emergency exists as declared by the Governor in Executive
   Order No. 103 of 2020, as extended, and the 60 days following the
   conclusion of this period.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
\textsuperscript{1}Senate SCU committee amendments adopted January 27, 2022.
“Impacted homeowner” means an owner or mortgagor of title to a residential property, which serves as such person’s primary residence,
and who qualifies for a mortgage forbearance pursuant to section 3 of this act. “Impacted homeowner” shall also include a person who is a resident of New Jersey and owns a residential building in which there is rented or offered for rent other dwelling units under either a written or oral lease which building contains no more than four dwelling units.

“Mortgage forbearance” or “forbearance” means a period during which obligations for mortgage principal and interest payments are suspended.

“Residential property” means a property located in the State rented or owned for residential purposes; provided, however, that residential property shall be limited to the principal residence of a person or a residential health care facility. “Residential property” shall not include: a residence other than a primary residence of a homeowner; residential property taken in whole or in part as collateral for a commercial loan; or a property subject to condemnation or receivership. Residential property shall include a residential building in which the owner resides, and in which there is rented, or offered for rent other dwelling units under either a written, or oral lease, which building contains no more than four dwelling units.

3. a. During the emergency period, regardless of whether or not the residential property of an impacted homeowner is already the subject of a foreclosure proceeding, a creditor shall grant a mortgage forbearance to an impacted homeowner if the impacted homeowner submits a written request through postal mail, electronic mail, or an online form provided by the mortgage servicer of the loan to the mortgage servicer certifying the following:

(1) the impacted homeowner has suffered a negative financial impact resulting from COVID-19 or the Public Health Emergency or State of Emergency declared in response thereto, including but not limited to a financial hardship from a reduction in hours or loss of employment, loss of income or increased costs incurred in necessary child care resulting from the closure of schools or caring for family members who are ill due to COVID-19 or quarantined due to a suspected exposure to COVID-19, or for funeral costs due to COVID-19;

(2) the gross household income of the impacted homeowner, after hardship, does not exceed 150 percent of the area median income, as defined for New Jersey in guidelines published annually by the United States Department of Housing and Urban
Development, unless this requirement for eligibility is waived by
the mortgage lender; and

(3) if the impacted homeowner possesses one or more bank
accounts, those bank accounts collectively contain less than six
months’ reserves of the impacted homeowner’s gross household
income for 2019. The creditor may require the impacted
homeowner to provide a cash asset certification to demonstrate
compliance with this paragraph.

b. Upon receipt of a written request or verbal authorization for a
mortgage forbearance from an impacted homeowner pursuant to
subsection a. of this section, a creditor shall provide to the impacted
homeowner a mortgage forbearance and confirmation of that
forbearance in writing. No additional documentation shall be
required from the impacted homeowner by the creditor other than
the written request under subsection a. of this section. A creditor
shall have 1[45] 301 days to approve or deny a request for a
forbearance. If the impacted homeowner is not notified within that
time period, the request is deemed approved. During this period, a
creditor shall not institute any foreclosure proceedings and any
proceedings already underway shall be stayed. If a mortgage
forbearance request is denied, the creditor shall provide an
explanation of the reasons for the denial, and, if applicable,
reasonable time to remedy any deficiencies in the request. The
minimum initial mortgage forbearance period of an impacted
homeowner shall be 1[90] 1801 days. An impacted homeowner
may request, and shall be granted, a subsequent forbearance period
of at minimum 1[90] 1801 days, for a total minimum of 1[180] 360
days1. A creditor shall not be prohibited from offering a more
extended forbearance period. Fees, penalties, or interest, including
attorney’s fees beyond the amounts scheduled and calculated as if
the mortgagor made all contractual payments on time and in full
under the terms of the mortgage contract, shall not be assessed or
accrue during and as a result of a mortgage forbearance granted
pursuant to this section. Nothing in this section shall be construed
to impact property tax and insurance obligations of an impacted
homeowner related to any real property in the State. A creditor that
grants a mortgage forbearance pursuant to this section shall
encourage impacted homeowners to seek out United States
Department of Housing and Urban Development certified housing
counseling and shall provide to the property owner confirmation of
the approval of the forbearance, information concerning the process
for forbearance, and information on how to request a subsequent
forbearance.

c. (1) Consistent with the provisions of 15 U.S.C. s.1681s-
2(a)(1)(F), a creditor shall not furnish negative mortgage payment
information to a debt collector or credit reporting agency related to
mortgage payments subject to a mortgage forbearance under this
section.
In response to a complaint to the Attorney General or the Commissioner of Banking and Insurance from an impacted homeowner, or on the Attorney General’s independent initiative, the Attorney General or commissioner may bring an action alleging a creditor has violated the provisions of this subsection. Upon a finding that non-compliance by a creditor with this section has occurred, a court of competent jurisdiction may:

(a) order the non-compliant creditor to retract the debt reported to the collection or credit reporting agency, bureau, or data collection facility;

(b) impose a fine on the non-compliant creditor, not to exceed $5,000 per violation;

(c) order the non-compliant creditor to pay a reasonable counsel fee in connection with an impacted homeowner whose debt has been reported to a collection or credit reporting agency, bureau, or data collection facility;

(d) provide a copy of the order immediately at the request of and at no cost to the impacted homeowner;

(e) order the non-compliant creditor to take such steps as are necessary, within 30 days of the order, to rehabilitate the credit record of an impacted homeowner, with an exact copy provided at no cost to the homeowner of the efforts made in that regard; and

(f) order the non-compliant creditor to pay an award of damages to the impacted homeowner not to exceed 25 percent of the debt attempted to be collected or reported by the non-compliant creditor to the collection or credit reporting agency, bureau, or data collection facility with respect to any payments that were missing during the emergency period, the minimum award being $350.

d. During the emergency period and during any period of mortgage forbearance granted pursuant to this section, a creditor shall not, for the purposes of foreclosure of a residential property that has received a forbearance that is not vacant, abandoned or otherwise subject to P.L.2003, c.210 (C.55:19-78 et seq.):

(1) send an impacted homeowner a notice of intention to foreclose pursuant to section 4 of P.L.1995, c.244 (C.2A:50-56); or

(2) otherwise initiate the foreclosure process.

A deadline or time period for action by a party to the foreclosure process for a residential property filed prior to the effective date of this act shall be tolled until the end of the emergency period.

e. Notwithstanding the provisions of any law, rule, or regulation to the contrary, the repayment period of any mortgage subject to the forbearance established pursuant to this section shall be extended by the number of months the forbearance is in effect. The payments not made during the months of the forbearance shall instead be due

on a monthly basis during the period constituting an extension of the mortgage, unless the property owner has chosen to make these payments earlier. During the time of the forbearance, and during
the period constituting an extension of the mortgage, all terms and
conditions of the original mortgage, except with regard to default
and delinquency during forbearance, shall continue without
modification, and there shall be no fees assessed, including
attorney’s fees, related to the forbearance or late payment, or
penalty for early repayment. An impacted homeowner shall have
the option to discontinue the mortgage forbearance at any time at
the election of the impacted homeowner upon written consent and a
written statement that they would have the rights provided herein
and knowingly waive those rights.

f. An impacted homeowner denied a forbearance under this
section by a creditor licensed by the Department of Banking and
Insurance may file a complaint with the Department of Banking and
Insurance. The department shall investigate the complaint and issue
a ruling within 30 days and, if appropriate, the department
shall order the creditor to grant a forbearance to the impacted
homeowner pursuant to this section. During the pendency of any
investigation, no notice of foreclosure shall be filed by any creditor
against the same impacted homeowner.

g. To the extent required by the Administrative Director of the
Courts, the creditor shall provide the docket numbers, party names,
and property addresses as to any pending court actions involving
any property granted a forbearance to the Superior Court Clerk’s
Office at least monthly.

h. Notwithstanding anything to the contrary in this section, to
the extent that the application of any provision of this section would
conflict with federal laws and guidelines, such provision shall not
apply to, and does not affect, any mortgage loans made, insured, or
securitized by any agency or instrumentality of the United States,
any government sponsored enterprise, or a federal home loan bank,
or the rights and obligations of any lender, issuer, servicer or trustee
of such obligations, including servicers for the Government
National Mortgage Association or other loans governed by the
federal “Coronavirus Aid, Relief, and Economic Security Act,”

i. It shall be an unlawful discrimination in violation of the “New
Jersey Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et
seq.) for a creditor to discriminate in application of the provisions
of this section on any basis protected by subsection g. of section 11
of P.L.1945, c.169 (C.10:5-12).

j. This section shall not be construed to prohibit a creditor from
considering an oral or electronic request for a mortgage forbearance
instead of a written request submitted pursuant to subsection a. of
this section.

k. The Department of Banking and Insurance shall post
information about the forbearance program on the department’s
Internet website. Within 60 days of the enactment of
this act, the Department of Banking and Insurance shall provide
notice of the enactment of this act to known creditors and develop a form for creditors to use, in the five most common languages spoken in the State, to notify mortgagors of their rights under this act. Within 90 days of the enactment of this act, creditors shall provide notice to mortgagors about the right of impacted homeowners to file for a forbearance.

1. Nothing in this act shall be construed as limiting the ability of a creditor and impacted homeowner to participate in a mediation process sponsored by the Administrative Office of the Courts in accordance with the requirements of any such mediation program.

1m. If a creditor has already initiated a mortgage forbearance with an impacted homeowner prior to the enactment of this act, then, as long as the terms of the previously-initiated forbearance comply with the mortgage payment forbearance option under the federal “Coronavirus Aid, Relief, and Economic Security Act,” Pub.L.116-136, nothing in this act shall be construed to require the creditor to change the terms of the impacted homeowner’s forbearance, or require the creditor to provide the impacted homeowner with an additional forbearance. 1

4. This act shall take effect immediately and shall apply retroactively to mortgage payments missed subsequent to March 9, 2020.