

ASSEMBLY, No. 2462

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED FEBRUARY 4, 2016

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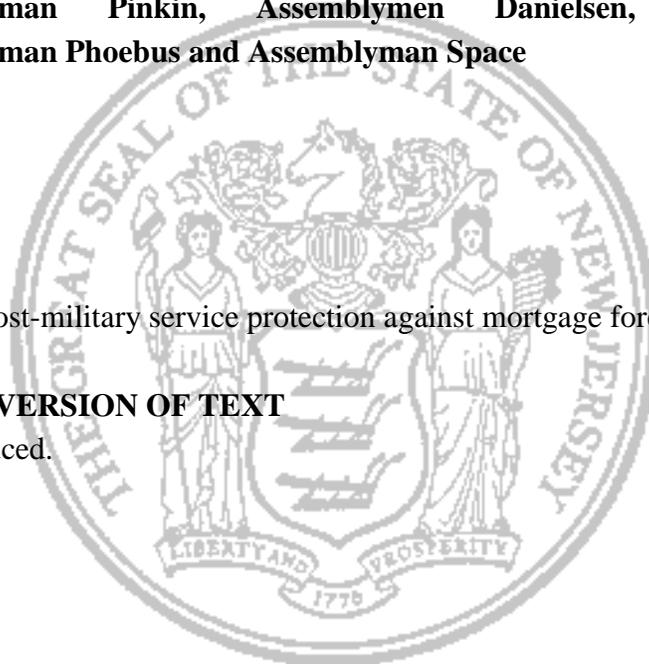
Assemblywoman Phoebus and Assemblyman Space

SYNOPSIS

Extends post-military service protection against mortgage foreclosure.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/19/2016)

1 AN ACT extending protections from mortgage foreclosure afforded
2 to persons in military service and amending P.L.1979, c.317.

3

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

6

7 1. Section 16 of P.L.1979, c.317 (C.38:23C-16) is amended to
8 read as follows:

9 16. a. The provisions of this section shall apply only to
10 obligations secured by mortgage, trust deed, or other security in the
11 nature of a mortgage upon real or personal property owned by a
12 person in military service at the commencement of the period of his
13 military service and still so owned by him which obligations
14 originated prior to such person's period of military service.

15 b. In any proceeding commenced in any court during the period
16 of military service to enforce such obligation arising out of
17 nonpayment of any sum thereunder due or out of any other breach
18 of the terms thereof occurring prior to or during the period of such
19 service the court may, after hearing, in its discretion, on its own
20 motion, and shall, except as hereinafter provided in this act, on
21 application to it by such person in military service or some person
22 on his behalf, unless in the opinion of the court the ability of the
23 defendant to comply with the terms of the obligation is not
24 materially affected by reason of his military service:

25 (1) Stay the proceedings as provided in this act; or

26 (2) Make such other disposition of the case as may be equitable
27 to conserve the interest of all parties.

28 c. No sale, foreclosure, or seizure of property for nonpayment
29 of any sum due under any such obligation, or for any other breach
30 of the terms thereof, whether under a power of sale, under a
31 judgment entered upon warrant of attorney to confess judgment
32 contained therein, or otherwise, shall be valid if made during the
33 period of military service, or within **[3 months thereafter]** one year
34 after release or discharge from military service, unless upon an
35 order of sale previously granted by the court and a return thereto
36 made and approved by the court.

37 d. Any person who shall knowingly cause to be made any sale,
38 foreclosure or seizure of property defined as invalid by paragraph c.
39 hereof, or attempts so to do, shall be adjudged a disorderly person
40 and shall be punished by imprisonment not to exceed 6 months, or
41 by fine not to exceed \$1,000.00, or both.

42 (cf: P.L.1979, c.317, s.16)

43

44 2. This act shall take effect immediately.

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.

1 STATEMENT

2

3 This bill would extend the period of protection against the sale,
4 foreclosure, or seizure of property currently provided in State law
5 for persons who are serving in the United States military.

6 Currently, State law protects a person in military service from a
7 sale, foreclosure, or seizure of a person's property during the
8 person's period of military service and for three months thereafter,
9 unless an order of sale was granted and approved by the court. As
10 amended, this bill would extend the post-service period of
11 protection from mortgage foreclosure from three months to one year
12 after release or discharge from military service.