

ASSEMBLY, No. 4070

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JUNE 4, 2018

Sponsored by:

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District 9 (Atlantic, Burlington and Ocean)
Assemblywoman DIANNE C. GOVE
District 9 (Atlantic, Burlington and Ocean)

Co-Sponsored by:

Assemblymen Wolfe and McGuckin

SYNOPSIS

Establishes process for recovery of Superstorm Sandy aid overpayments and makes General Fund appropriation.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2018)

1 AN ACT concerning efficiency and transparency in the recovery of
2 Superstorm Sandy aid money, amending and supplementing
3 P.L.2015, c.102, and making an appropriation.

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

7
8 1. Section 2 of P.L.2015, c.102 (C.52:15D-4) is amended to read
9 as follows:

10 2. As used in P.L.2015, c.102 (C.52:15D-3 et seq.), as amended
11 and supplemented:

12 "Agency" means the New Jersey Housing and Mortgage Finance
13 Agency established pursuant to section 4 of P.L.1983, c.530
14 (C.55:14K-4).

15 "Applicant" means an individual or business that has applied for, is
16 waiting for, or is receiving benefits under a recovery and rebuilding
17 program, and shall include individuals who are awaiting the
18 completion of a construction project using benefits received under a
19 recovery and rebuilding program.

20 "Commissioner" means the Commissioner of Community Affairs.

21 "Department" means the Department of Community Affairs.

22 "Forbearance" means a period of time during which obligations for
23 mortgage and interest payments are suspended.

24 "FRM" means the Fund for Restoration of Multifamily Housing.

25 "Qualified contractor pool" means a listing of contractors approved
26 by the Department of Community Affairs participating in the RREM
27 program.

28 "LMI" means Low-to-Moderate Income and the program for which
29 policies and procedures have been adopted by the Department of
30 Community Affairs.

31 "Mortgage" means a mortgage, trust deed, or other security in the
32 nature of a residential mortgage.

33 "Notice of Over-Disbursement" means the notice provided to a
34 Sandy-impacted homeowner pursuant to section 2 of
35 P.L. , c. (C.) (pending before the Legislature as this bill).

36 "Over-disbursement" means any Community Development Block
37 Grant-Disaster Recovery funds previously paid to a Sandy-impacted
38 homeowner who is eligible for, and has not withdrawn from, the
39 RREM or LMI program, which the department has calculated to
40 exceed the initial determination of need, plus any demonstrated
41 additional unmet need, but only to the extent that such assistance is a
42 duplication of benefits received by the homeowner as prohibited
43 pursuant to 42 U.S.C. s.5155.

44 "Recovery and rebuilding program" means the use of funding
45 provided by the federal government for the RREM and LMI programs,

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 which are intended to help individuals rebuild and recover from
2 Superstorm Sandy, the TBRA program, which is intended to assist
3 renters in returning to and residing in areas impacted by Superstorm
4 Sandy, and the FRM program, which is intended to assist developers
5 in repairing or replacing rental housing units damaged or destroyed by
6 Superstorm Sandy.

7 "RREM" means Reconstruction, Rehabilitation, Elevation and
8 Mitigation.

9 "Sandy-impacted homeowner" means a homeowner for whom one
10 or both of the following are true:

11 (1) the homeowner received rental assistance from the Federal
12 Emergency Management Agency as a result of damage to his or her
13 primary residence due to Superstorm Sandy; or

14 (2) the homeowner has been approved for assistance through the
15 RREM or LMI program.

16 "Superstorm Sandy" means the major storm that made landfall in
17 New Jersey on October 29, 2012.

18 "TBRA" means Tenant-Based Rental Assistance.

19 (cf: P.L.2017, c.15, s.1)
20

21 2. (New Section) When the department determines that a
22 Sandy-impacted homeowner has received an over-disbursement of
23 RREM or LMI funds during the closeout process, the department shall
24 provide the Sandy-impacted homeowner with a "Notice of Over-
25 Disbursement." The notice shall be included in the Final Grant
26 Reconciliation Document provided during closeout and detail the
27 source, type, and amount of over-disbursement, including a line-item
28 accounting of all Community Development Block Grant-Disaster
29 Recovery funds disbursed to the Sandy-impacted homeowner, the
30 program through which the funds were disbursed, and the purpose of
31 each disbursement. The notice shall also contain an explanation of a
32 Sandy-impacted homeowner's rights, including all rights established in
33 P.L. , c. (C.) (pending before the Legislature as this bill),
34 information on how a Sandy-impacted homeowner may appeal the
35 department's determination, information on options for the repayment
36 of the debt, and information on any interest and penalties that may
37 accrue if the debt is not paid within the period permitted pursuant to
38 section 4 of P.L. , c. (C.) (pending before the Legislature as this
39 bill). Within 60 days of receipt of the notice, a Sandy-impacted
40 homeowner shall notify the department whether they will satisfy the
41 debt in one lump sum or will request a compromise or payment plan.
42 However, if a Sandy-impacted homeowner files an appeal of an over-
43 disbursement determination within the time frame permitted under
44 section 5 of P.L. , c. (C.) (pending before the Legislature as this
45 bill), that Sandy-impacted homeowner shall notify the department
46 whether they will satisfy the debt in one lump sum, will request a
47 payment plan or appeal the over-disbursement determination. The
48 notice also shall include a debt repayment form and instructions

1 regarding the payment of the debt. The department shall provide
2 written notice to a Sandy-impacted homeowner that their payment has
3 been received and has been applied to satisfy the debt.

4
5 3. (New Section) a. The department shall provide a payment
6 plan allowing all Sandy-impacted homeowners to repay any over-
7 disbursement debt either in lump-sum or in 60 months paying as much
8 or as little as they choose per month over the course of the repayment
9 period until the debt is satisfied. At the end of 60 months, any
10 remaining debt will be transferred to the Division of Revenue and
11 Enterprise Services in the Department of Treasury.

12 b. After the payment plan is determined, the department shall
13 mail a payment plan agreement offer letter and promissory note to the
14 Sandy-impacted homeowner. The Sandy-impacted homeowner shall
15 return the signed and dated promissory note to the department within
16 30 days of receipt. If a Sandy-impacted homeowner fails to return the
17 signed and dated promissory note, the department shall mail the
18 Sandy-impacted homeowner a letter of intent notifying the Sandy-
19 impacted homeowner that their case will be transferred to the Division
20 of Revenue and Enterprise Services in the Department of the Treasury
21 and notifying the Sandy-impacted homeowner of the consequences of
22 a failure to pay the over-disbursement debt. The payment plan shall be
23 offered to all Sandy-impacted homeowners who owe a debt of over-
24 disbursement. No payment plan agreement shall require specified
25 minimum payments.

26 c. The department shall post information on the payment plan on
27 the Internet website established pursuant to section 5 of P.L.2015,
28 c.102 (C.52:15D-7). Any information posted pursuant to this
29 subsection shall include a link to the department's Language Access
30 Plan for housing programs.

31
32 4. (New Section) a. If an over-disbursement is made to a
33 Sandy-impacted low income or moderate income homeowner, as the
34 equivalent terms are defined by the United States Department of
35 Housing and Urban Development, and the homeowner does not have
36 sufficient income, assets, or resources to make payments, the
37 homeowner may request to have some or all of the over-disbursement
38 debt compromised. When the department determines that a low-to-
39 moderate income Sandy-impacted homeowner does not have sufficient
40 income, assets, or resources to make payments, the over-disbursement
41 debt, except for any portion of the debt the debtor can pay through
42 disposable assets, shall be compromised in whole or in part. In making
43 this determination, the department shall evaluate a low-to-moderate
44 income Sandy-impacted homeowner's assets, income, and reasonable
45 living expenses to determine whether the homeowner can pay the debt.
46 Reasonable living expenses shall include, but not be limited to,
47 average utility costs for the last twelve months, housing, food,
48 clothing, and other expenses set forth by the Internal Revenue Service

1 for transportation, food, clothing, and out-of-pocket care costs. The
2 low-to-moderate income Sandy-impacted homeowner shall provide the
3 department with a copy of his most recent federal income tax return
4 and a summary of his monthly expenses. When determining the
5 ability of a low-to-moderate income Sandy-impacted homeowner to
6 repay the debt, the department may consider the homeowner's age,
7 health, financial hardship, and other extraordinary circumstances as
8 determined by the commissioner. All proposed compromises involving
9 special factors other than age or disability shall be approved by the
10 commissioner.

11 b. The department shall notify a low-to-moderate income Sandy-
12 impacted homeowner, by mail, when the commissioner has approved a
13 partial or full compromise of the over-disbursement debt. If a partial
14 compromise is granted, the letter shall explain to the Sandy-impacted
15 homeowner that a partial compromise has been approved because the
16 Sandy-impacted homeowner has provided evidence of an inability to
17 pay the debt in full. The department shall offer the low-to-moderate
18 income Sandy-impacted homeowner a 60-month payment plan to
19 repay the amount due.

20 c. The department shall post information on a low-to-moderate
21 income Sandy-impacted homeowner's eligibility for a compromise of
22 the debt, and make debt compromise applications available, on the
23 Internet website established pursuant to section 5 of P.L.2015, c.102
24 (C.52:15D-7). Any information posted pursuant to this subsection
25 shall include a link to the department's Language Access Plan for
26 housing programs.

27
28 5. (New Section) a. The department is authorized to waive
29 the debt if: (1) the RREM or LMI funds were distributed based on
30 an error made by the department; (2) there was no fault on the part
31 of the debtor; and (3) the collection of the debt would be against
32 equity and good conscience.

33 b. The department shall not waive a debt under subsection a. of
34 this section if the debt involves fraud, the presentation of a false
35 claim, or misrepresentation by the debtor or any party having an
36 interest in the claim.

37 c. For the purposes of this section, "against equity and good
38 conscience" means: (1) collection of the debt would cause serious
39 financial hardship; (2) the debtor has spent the over-disbursement
40 for the reason it was provided or other disaster related needs and
41 has no present ability to reclaim the funds; (3) more than 36 months
42 elapsed between the time assistance was awarded and the date
43 "Notice of Over-Disbursement" was provided by the department in
44 accordance with section 2 of P.L. , c. (C.) (pending before the
45 Legislature as this bill); and (4) any other personal circumstances
46 exist that would make collection unconscionable.

1 6. (New Section) a. Any Sandy-impacted homeowner may
2 appeal, in writing to the commissioner, the department's determination
3 that a Sandy-impacted homeowner received an over-disbursement of
4 RREM or LMI funds. A Sandy-impacted homeowner may also
5 appeal, in writing to the commissioner, the department's determination
6 that a Sandy-impacted homeowner is ineligible for a compromise or a
7 waiver of the over-disbursement debt. Any Sandy-impacted
8 homeowner who received an over-disbursement of RREM or LMI
9 funds and for whom a Final Grant Reconciliation Document has been
10 signed by the department or who has repaid an over-disbursement debt
11 either in whole or in part, may appeal the department's determination.
12 Appeals shall be filed with the commissioner in writing within 30 days
13 of the receipt of notice of an over-disbursement. If the appeal has been
14 decided in favor of the Sandy-impacted homeowner, the Sandy-
15 impacted homeowner shall be entitled to a reimbursement of any over-
16 disbursement payments in excess of the amount otherwise due
17 pursuant to a payment plan agreement, compromise, or waiver of the
18 debt pursuant to section 3 of P.L. , c. (C.) (pending before the
19 Legislature as this bill). Within 15 days of the filing of any appeal by
20 a Sandy-impacted homeowner, the department, shall provide that
21 homeowner with information about his or her appeal, including:

22 (1) the date on which a Sandy-impacted homeowner filed the
23 appeal;

24 (2) a full explanation of the appeal process.

25 b. After filing an appeal of the department's determination, a
26 Sandy-impacted homeowner shall be permitted to enter into a payment
27 plan pursuant to section 4 of P.L. , c. (C.) (pending before the
28 Legislature as the bill).

29 c. The department shall post information on the appeals process
30 on the Internet website established pursuant to section 5 of P.L.2015,
31 c.102 (C.52:15D-7).

32
33 7. (New Section) Unless there is evidence of civil or criminal
34 fraud, the department shall not initiate any new action to recover
35 any over-disbursement more than three years after the completion
36 of a Sandy-impacted homeowner's RREM or LMI program project.

37
38 8. There are appropriated from the General Fund to the
39 Department of Community Affairs such amounts as the
40 commissioner determines are necessary to pay for the
41 reimbursement of excess over-disbursement payments pursuant to
42 subsection a. of section 6 of P.L. , c. (C.) (pending before
43 the Legislature as this bill), subject to the approval of the Director
44 of the Division of Budget and Accounting in the Department of the
45 Treasury.

46
47 9. The commissioner shall have 180 days following enactment to
48 promulgate rules and regulations pursuant to the "Administrative

1 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the
2 purposes of P.L. , c. (C.) (pending before the Legislature as
3 this bill).

4
5 10. This act shall take effect immediately, but shall remain
6 inoperative until the adoption of the rules and regulations promulgated
7 pursuant to section 9 of P.L. , c. (C.) (pending before the
8 Legislature as this bill).

9
10
11 STATEMENT

12
13 This bill establishes specific procedures to be used by the
14 Department of Community Affairs (DCA) to recover overpayments
15 of Community Disaster Block Grant-Disaster Recovery (CDBG-
16 DR) funds awarded through the Reconstruction, Rehabilitation,
17 Elevation and Mitigation Program (RREM) and the Low-to-
18 Moderate Income Homeowner Rebuilding Program (LMI).

19 The bill requires DCA to notify a Sandy-impacted homeowner
20 when it determines that the homeowner has received an
21 overpayment of RREM or LMI funds, which must be repaid to the
22 State. The notice must provide information about the type of debt
23 owed; an accounting of all funds disbursed to the homeowner; an
24 explanation of the homeowner’s rights; information on how the
25 homeowner may appeal DCA’s determination; information on
26 options for the repayment of debt; and information on any interest
27 and penalties that may accrue if the debt is not paid within the
28 period permitted by the bill.

29 Under the bill, DCA would provide a payment plan to all Sandy-
30 impacted homeowners to repay any over-disbursement debt either
31 in lump-sum or in 60 months, paying as much or as little as they
32 choose per month, over the course of the repayment period until the
33 debt is satisfied. At the end of 60 months, any remaining debt
34 would be transferred to the Division of Revenue and Enterprise
35 Services in the Department of Treasury.

36 In cases when over-disbursement was made to a Sandy-impacted,
37 low income or moderate income homeowner, as the equivalent
38 terms are defined by the United States Department of Housing and
39 Urban Development, and the homeowner does not have sufficient
40 income, assets, or resources to make payments, the homeowner may
41 request to have some or all of the over-disbursement debt
42 compromised. In such a case, DCA would determine whether a
43 low-to-moderate income Sandy-impacted homeowner does not have
44 sufficient income, assets, or resources to make payments. If that
45 determination is made, the over-disbursement debt, except for any
46 portion of the debt the debtor can pay through disposable assets,
47 would be compromised in whole or in part.

1 The bill provides that in making the determination, DCA would
2 evaluate the homeowner's assets, income, and reasonable living
3 expenses to determine whether the homeowner can pay the debt.
4 Additionally, when determining the ability of a low-to-moderate
5 income Sandy-impacted homeowner to repay the debt, DCA may
6 consider the homeowner's age, health, financial hardship, and other
7 extraordinary circumstances as determined by the Commissioner of
8 Community Affairs.

9 The bill also specifies that any Sandy-impacted homeowner who
10 received an over-disbursement of RREM or LMI funds, and for
11 whom a Final Grant Reconciliation Document has been signed by
12 DCA or who has repaid an over-disbursement debt either in whole
13 or in part, may appeal the DCA's determination in writing. Finally,
14 the bill requires that information about the appeals process be
15 placed on DCA's Internet website.