

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2340

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: AUGUST 5, 2020

SUMMARY

- Synopsis:** Provides mortgage payment relief, consumer reporting protection, and eviction protection for resident property owners, tenants, and other consumers, economically impacted during time of coronavirus disease 2019 pandemic.
- Type of Impact:** Temporary increase in State expenditures.
- Agencies Affected:** Department of Community Affairs, New Jersey Housing and Mortgage Finance Agency, Department of Banking and Insurance, Attorney General, and the Administrative Office of the Courts.

Office of Legislative Services Estimate

Fiscal Impact	
Temporary State Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill would result in an indeterminate, temporary increase in State expenditures, primarily through administrative expenses borne by the Department of Community Affairs, the Department of Banking and Insurance, the Attorney General, and the Administrative Office of the Courts.
- Each entity is required to promulgate forms or investigate complaints to enable the bill's protections for homeowners, tenants, and landlords during the COVID-19 pandemic emergency period.
- The Attorney General is permitted to impose fines, not to exceed \$5,000 per violation on non-compliant creditors or per impacted tenant on non-compliant landlords, which could reduce some of the added financial burden involved in investigating complaints.
- To the extent the bill's provisions limit foreclosures and evictions, court fees in landlord-tenant actions that serve as a source of revenue for the courts from related cases may not increase to the degree they might otherwise due to the pandemic. However, the reduced court actions could also lessen the administrative burden on the courts resulting in lower court expenditures.

- Additionally, the New Jersey Housing and Mortgage Finance Agency (HMFA) would establish the COVID-19 Impact Fund, which may be funded by transfers from of the New Jersey Affordable Housing Trust Fund, to (1) maintain mortgage payments for the HMFA properties impacted by the bill's mortgage forbearance, or the effects of the COVID-19 pandemic; and (2) in cases where the value of the Low-Income Housing Tax Credit has been reduced due to the impact of the public health crisis caused by the COVID-19 pandemic, to close the financing gap caused by the pricing drop and ensure that the production of affordable housing can continue.

BILL DESCRIPTION

The bill would provide protections to certain homeowners, tenants, and landlords during the COVID-19 pandemic emergency period. Under the bill, "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.

The bill provides that, during the emergency period, a creditor is required to grant a mortgage forbearance to an impacted homeowner if the homeowner submits a written request affirming a reduction of income or other financial hardship resulting from COVID-19 pandemic, income lower than 150% of the area median income after hardship, and bank accounts collectively containing less than six months' reserves of the impacted homeowner's gross household income for 2019. The minimum initial mortgage forbearance period of an impacted homeowner would be 90 days. An impacted homeowner may request, and would be granted, a subsequent forbearance period of at minimum 90 days, for a total of at minimum 180 days. In response to a complaint to the Attorney General from an impacted homeowner, the Attorney General may bring an action alleging a creditor has violated this prohibition and impose fines, not to exceed \$5,000 per violation, on non-compliant creditors.

An impacted homeowner denied a forbearance under the bill by a creditor licensed by the Department of Banking and Insurance, and not a State- or nationally-chartered financial institution, may file a complaint with the department. The department would be required to investigate the complaint and, if appropriate, would order the creditor to grant a forbearance to the impacted homeowner

The bill would further require that, upon the filing of a landlord-tenant complaint, the plaintiff landlord would be required to certify that the complaint is not seeking to evict an impacted tenant of the tenant's primary residence due to nonpayment or habitually late payment of rent due during the emergency period, except where the impacted tenant has failed to repay rent due during the emergency period in accordance with a repayment plan entered in compliance with the bill. No later than 60 days following enactment of the bill, the plaintiff landlord would also be required to certify that the same.

The bill further prohibits landlords from refusing to rent to a tenant or submit the tenant's information for placement on a list for the use of other landlords because of any record or information reflecting the tenant's non-payment of rent during the emergency. The Attorney General may bring an action alleging a landlord has violated prohibition on the furnishing of information to a collection or credit reporting agency and impose fines, not to exceed \$5,000 per impacted tenant, on non-compliant landlords.

Additionally, the bill provides that, in order to avoid mass evictions and widespread homelessness following the conclusion of the moratorium on evictions required under the bill, a landlord shall offer each tenant who has missed any partial or full rent payments prior to the end of the emergency period the ability to enter into an agreement, which would be an addendum to

the lease agreement, for the repayment of any partial or full rent payments not made during the emergency period, provided the tenant's rent payments were current including payments held in escrow as of the effective date of Executive Order No. 106 of 2020.

The bill would additionally require that, upon written request from a tenant, including electronic communication, money or other forms of security deposited would be applied to or credited towards rent payments due or to become due from the tenant during the emergency period.

Finally, the bill would establish within the HMFA the COVID-19 Impact Fund, which may be funded by transfers from the New Jersey Affordable Housing Trust Fund, and used to (1) maintain mortgage payments for the HMFA properties impacted by the bill's mortgage forbearance, or the effects of the COVID-19 pandemic; and (2) in cases where the value of the Low-Income Housing Tax Credit has been reduced due to the impact of the public health crisis caused by the pandemic, to close the financing gap caused by the pricing drop and ensure that the production of affordable housing can continue. The Executive Director of the HMFA would be permitted to petition the Commissioner of Community Affairs to transfer funds from the New Jersey Affordable Housing Trust Fund to the COVID-19 Impact Fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill would result in an indeterminate increase in general State expenditures, primarily through administrative expenses borne by three Executive departments and the Administrative Office of the Courts.

Under the bill, the Department of Community Affairs would be required to prepare statements, instructions, and forms on its website detailing the rights and responsibilities of impacted tenants and landlords for the repayment of missed rent payments under the bill. The Department of Banking and Insurance would be required to investigate complaints of creditors denying eligible homeowners a mortgage forbearance allowed under the bill. The Attorney General would be responsible for investigating certain complaints filed by impacted homeowners and impacted tenants. However, the Attorney General is permitted to impose fines, not to exceed \$5,000 per violation on non-compliant creditors or per impacted tenant on non-compliant landlords, which could reduce some of the added financial burden involved in investigating complaints. Additionally, the Administrative Director of the Courts would be required to promulgate forms for the use by plaintiff landlords in landlord-tenant actions pending before the New Jersey Courts.

Landlord-tenant actions typically require court fees paid to the New Jersey Courts. To the extent the bill's provisions limit foreclosures and evictions, court fees in landlord-tenant actions that serve as a source of revenue for the courts from related cases may not increase to the degree they might otherwise due to the pandemic. However, the reduced court actions could also lessen the administrative burden on the courts.

Additionally, the HMFA would establish the COVID-19 Impact Fund to (1) maintain mortgage payments for the HMFA properties impacted by the bill's mortgage forbearance, or the effects of the COVID-19 pandemic; and (2) in cases where the value of the Low-Income Housing Tax Credit has been reduced due to the impact of the public health crisis caused by

the COVID-19 pandemic, to close the financing gap caused by the pricing drop and ensure that the production of affordable housing can continue. The bill appropriates no monies and solely permits the HMFA's Executive Director to petition the Commissioner of Community Affairs to transfer funds from the New Jersey Affordable Housing Trust Fund to the COVID-19 Impact Fund.

Section: Local Government

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).