

[First Reprint]

**SENATE, No. 2340**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED APRIL 9, 2020

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

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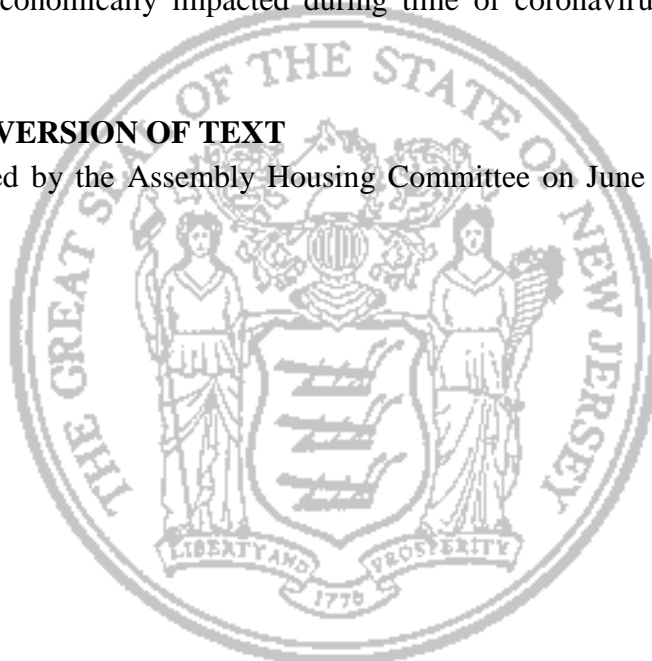
**Senators Turner, Addiego, Cardinale, Pennacchio and Thompson**

**SYNOPSIS**

Provides mortgage payment relief, consumer reporting protection, and eviction protection for residential property owners, tenants, and other consumers, economically impacted during time of coronavirus disease 2019 pandemic.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Housing Committee on June 15, 2020, with amendments.



**(Sponsorship Updated As Of: 4/13/2020)**

1 AN ACT concerning protections for residential property owners and  
2 tenants during emergency circumstances and <sup>1</sup> [supplementing  
3 Title 52 of the Revised Statutes] amending P.L.2020, c.1<sup>1</sup>.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 <sup>1</sup> [1. a. Notwithstanding any other law, ordinance, rule or  
9 regulation to the contrary, whenever a Public Health Emergency,  
10 pursuant to the “Emergency Health Powers Act,” P.L.2005, c.222  
11 (C.26:13-1 et seq.), or a State of Emergency, pursuant to  
12 P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, has been declared  
13 by the Governor and is in effect, the Governor may issue an  
14 executive order to declare that an emergency-impacted homeowner  
15 may apply, pursuant to subsection c. of this section, for a mortgage  
16 forbearance.

17 b. A mortgage forbearance executive order shall indicate the  
18 length of time, not to exceed three months, that each individual  
19 forbearance shall remain in effect, which period shall commence  
20 upon approval by the reviewing entity of the emergency-impacted  
21 homeowner’s application.

22 c. (1) A mortgage forbearance executive order shall indicate  
23 whether emergency-impacted homeowners shall apply to the  
24 commissioner, or to another administrative agent, for mortgage  
25 forbearances.

26 (2) An emergency-impacted homeowner may apply on forms to  
27 be provided by the department for a certification of eligibility for a  
28 mortgage forbearance. The application shall be submitted in  
29 accordance with a deadline to be established by a mortgage  
30 forbearance executive order. The reviewing entity shall approve or  
31 deny an application within 30 days of its delivery. An emergency-  
32 impacted homeowner shall be eligible for a mortgage forbearance  
33 regardless of whether the residential property is already the subject  
34 of a foreclosure proceeding prior to the effective date of a mortgage  
35 forbearance executive order.

36 (3) (a) Notwithstanding the provisions of any law, rule, or  
37 regulation to the contrary, the repayment period of any mortgage  
38 subject to the forbearance established pursuant to this section shall  
39 be extended by the number of months the forbearance is in effect.

40 (b) During the time of the forbearance, and during the period  
41 constituting an extension of the mortgage, all terms and conditions  
42 of the original mortgage, except with regard to default and  
43 delinquency during forbearance, shall continue without  
44 modification, and there shall be no fees assessed for the  
45 forbearance, or penalty for early repayment.

**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:

<sup>1</sup>Assembly AHO committee amendments adopted June 15, 2020.

1 (c) A mortgage forbearance executive order may designate a  
2 foreclosure action filed by a bank as an unlawful practice, pursuant  
3 to the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et  
4 seq.), if the action is filed only as a result of not receiving mortgage  
5 payments from an emergency-impacted homeowner during the time  
6 period of the emergency-impacted homeowner's forbearance.

7 (4) (a) An emergency-impacted homeowner who applies for a  
8 forbearance on a property as its landlord shall only be eligible for a  
9 forbearance if the homeowner commits to providing any  
10 emergency-impacted tenant residing in the residential property with  
11 an emergency rent reduction period. A mortgage forbearance  
12 executive order may direct that, when applying for a forbearance as  
13 a landlord, the emergency-impacted homeowner shall indicate the  
14 number of residential tenants residing in the residence, the amount  
15 of rent charged to each residential tenant, contact information for  
16 each residential tenant, whether any tenant's rent is subsidized by  
17 the federal Housing Choice Voucher (Section 8) Program or other  
18 subsidy, and provide any additional information deemed necessary.

19 (b) If directed in a mortgage forbearance executive order the  
20 availability of a forbearance to a residential landlord shall be  
21 restricted to a landlord of a building registered as a multiple  
22 dwelling pursuant to the "Hotel and Multiple Dwelling Law,"  
23 P.L.1967, c.76 (C.55:13A-1 et seq.).

24 (c) A mortgage forbearance executive order may designate that  
25 a landlord has engaged in an unlawful practice, pursuant to the New  
26 Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), if,  
27 while in receipt of a forbearance, the landlord willfully refuses to  
28 provide an emergency-impacted tenant with an emergency rent  
29 reduction period.

30 (5) An emergency-impacted tenant whose landlord has been  
31 provided with a forbearance may apply to the landlord for an  
32 emergency rent reduction period, unless directed by a mortgage  
33 forbearance executive order to apply to an alternative administrative  
34 agent. A mortgage forbearance executive order shall establish  
35 whether other forms of financial relief obtained by the landlord, in  
36 addition to a mortgage forbearance, shall also authorize the  
37 landlord's emergency-impacted tenant to apply for an emergency  
38 rent reduction period. An emergency-impacted tenant shall be  
39 provided with the level of rent reduction directed by a mortgage  
40 forbearance executive order. A mortgage forbearance executive  
41 order may authorize the rent reduction provided during an  
42 emergency rent reduction period to exceed any limitation on rent  
43 increases established by a "Notice of Rent Protection Emergency,"  
44 pursuant to P.L.2002, c.133 (C.2A:18-61.62 et seq.). The  
45 application deadline for an emergency rent reduction period shall be  
46 established by a mortgage forbearance executive order.

1 (6) A mortgage forbearance executive order may provide the  
2 following protections to residential tenants regardless of whether  
3 the tenant's landlord has obtained a forbearance:

4 (a) A mortgage forbearance executive order may provide that  
5 eviction proceedings shall not be initiated or continued during the  
6 time provided in the executive order, unless the court determines on  
7 its own motion or motion of the parties that a proceeding is  
8 necessary in the interest of justice; and

9 (b) A mortgage forbearance executive order may prohibit  
10 landlords from imposing late fees on residential tenants.

11 (c) A mortgage forbearance executive order may establish a 90-  
12 day repayment window for each month of rent arrears for a  
13 residential tenant, beginning with the first day of the second month  
14 next following the conclusion of both the state of emergency and  
15 public health emergency established pursuant to subsection a. of  
16 this section.

17 d. (1) No later than one month following the effective date of  
18 this act, the commissioner, to the greatest extent reasonably  
19 possible, shall:

20 (a) notify homeowners of the forbearance program;

21 (b) notify landlords who may obtain a forbearance, or other  
22 qualifying financial relief, of their responsibilities to alert their  
23 tenants of the option, if emergency-impacted, to apply for an  
24 emergency rent reduction period.

25 (c) post information on eligibility and the application process  
26 for the forbearance, and make forbearance applications available,  
27 on the department's Internet website;

28 (d) notify the courts of the individuals and associated residential  
29 properties that are eligible for a forbearance; and

30 (e) notify the State's active banks of the individuals and  
31 associated residential properties that are eligible for a forbearance.

32 (2) Upon knowledge of a homeowner's eligibility for a  
33 forbearance, the bank shall notify the homeowner and the courts.

34 (3) Upon approval of a forbearance application pursuant to  
35 subsection c. of this section, the reviewing entity shall notify the  
36 applicant, the bank, and the courts.

37 e. Emergency-impacted homeowners awarded a forbearance  
38 under this section shall be responsible for the maintenance of the  
39 property during the period of forbearance. After service of notice  
40 of any proceedings conducted to terminate forbearance, made on the  
41 homeowner at an address determined pursuant to due diligence of  
42 the movant bank to be the actual current residence of the  
43 homeowner, providing opportunity for the homeowner to respond  
44 and contest the proceedings, a forbearance awarded under this  
45 section shall cease immediately upon a court's determination that  
46 the subject residential property has been abandoned by the  
47 homeowner.

1 f. Nothing in this section shall be construed as limiting the  
2 ability of a bank and residential property owner to participate in a  
3 mediation sponsored by the Administrative Office of the Courts in  
4 accordance with the requirements of the mediation program.  
5 Nothing in this section shall be construed to impact property tax  
6 and insurance obligations of a property owner related to any real  
7 property in the State.

8 g. A mortgage forbearance executive order may limit the  
9 application of this section to avoid affecting any mortgage loans  
10 made, insured, or securitized by any agency or instrumentality of  
11 the United States, any Government Sponsored Enterprise, or a  
12 Federal Home Loan Bank, or the rights and obligations of any  
13 lender, issuer, servicer or trustee of such obligations, including  
14 servicers for the Government National Mortgage Association. A  
15 mortgage forbearance executive order may further limit the  
16 application of this section as determined necessary to comply with  
17 federal law.

18 h. As used in this section:

19 “Bank” means the mortgage lender or servicer for the primary  
20 residence of the emergency-impacted homeowner.

21 “Commissioner” means the Commissioner of Community  
22 Affairs.

23 “Department” means the Department of Community Affairs.

24 “Emergency-impacted homeowner” means a homeowner,  
25 including, but not limited to, an owner of a residential property  
26 serving as the owner’s primary residence, or person or business  
27 entity serving as the landlord of a residential property, who is  
28 subject to a substantial loss of income, in accordance with the terms  
29 of a mortgage forbearance executive order, resulting from a Public  
30 Health Emergency, declared pursuant to the “Emergency Health  
31 Powers Act,” P.L.2005, c.222 (C.26:13-1 et seq.), or a State of  
32 Emergency, declared pursuant to P.L.1942, c.251 (C.App.A.9-33 et  
33 seq.).

34 “Emergency-impacted tenant” means a tenant of a residential  
35 property, who occupies the property as the tenant’s primary  
36 residence, and who is subject to a substantial loss of income, in  
37 accordance with the terms of a mortgage forbearance executive  
38 order, resulting from a Public Health Emergency, declared pursuant  
39 to the “Emergency Health Powers Act,” P.L.2005, c.222 (C.26:13-1  
40 et seq.), or a State of Emergency, declared pursuant to  
41 P.L.1942, c.251 (C.App.A.9-33 et seq.).

42 “Emergency rent reduction period” means a period of time  
43 during which an emergency-impacted tenant is provided with a  
44 reduction in rent payment responsibilities, pursuant to paragraph (5)  
45 of subsection c. of this section.

46 “Mortgage forbearance” or “forbearance” means a period of time  
47 during which obligations for mortgage and interest payments are  
48 suspended.

1 “Mortgage forbearance executive order” means an executive  
2 order issued pursuant to subsection a. of this section.

3 “Residential property” means any property rented or owned for  
4 residential purposes, including, but not limited to, any house,  
5 building, mobile home or land in a mobile home park, or tenement  
6 leased for residential purposes, but shall not include any hotel,  
7 motel, or other guest house, or part thereof, rented to a transient  
8 guest or seasonal tenant, or a residential health care facility.

9 “Reviewing entity” means the entity designated in a mortgage  
10 forbearance executive order, pursuant to paragraph (1) of subsection  
11 c. of this section, with reviewing mortgage forbearance applications  
12 submitted by emergency-impacted homeowners. A mortgage  
13 forbearance executive order may designate the commissioner, the  
14 commissioner’s designee, the bank, or another administrative agent  
15 as the reviewing entity.

16 i. The Commissioner of Community Affairs shall, pursuant to  
17 the provisions of the "Administrative Procedure Act,"  
18 P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and  
19 regulations as shall be necessary to implement the provisions of this  
20 section no later than one month following the effective date of this  
21 act. The rules and regulations adopted by the commissioner may  
22 adjust and supplement the provisions of a mortgage forbearance  
23 executive order, as long as those adjustments and additions do not  
24 conflict with this section. ]<sup>1</sup>

25

26 <sup>1</sup>1. (New section) The Legislature finds and declares that:

27 a. The social distancing measures and associated economic  
28 pause, that have been necessary to combat the COVID-19  
29 pandemic, have also forced many New Jersey residents to endure  
30 job losses and prolonged depletions of income;

31 b. As of May 8, 2020, the unemployment rate of the United  
32 States exceeds 14 percent, and is widely expected to grow higher in  
33 the coming weeks;

34 c. The residents of New Jersey have not been able to avoid  
35 suffering as a result of the COVID-19 pandemic, as the State is  
36 widely reported to have the second highest COVID-19-related death  
37 rate in the nation, and the economic impact on many State residents  
38 appears to be similarly catastrophic;

39 d. This unprecedented situation has made the timely payment of  
40 mortgages, rent, and other bills impossible for many State residents;  
41 and

42 e. It is, therefore, necessary and in the public interest for the  
43 Legislature to enact temporary measures to protect the State’s  
44 homeowners, residential tenants, student loan borrowers and other  
45 vulnerable consumers from foreclosure, eviction, and consumer  
46 reporting injustices that are in danger of resulting from this  
47 unprecedented emergency.<sup>1</sup>

1 <sup>1</sup>2. (New section) As used in P.L. , c. (C. ) (pending before  
2 the Legislature as this bill):

3 “Creditor” means a person or entity that holds or controls,  
4 partially, wholly, indirectly, directly or in a nominee capacity, a  
5 mortgage loan securing an owner-occupied residential property,  
6 including, but not limited to, an originator, holder, investor,  
7 assignee, successor, trust, trustee, nominee holder, Mortgage  
8 Electronic Registration System, or mortgage servicer.

9 “Emergency period” means the period during which a public  
10 health emergency exists as declared by the Governor in Executive  
11 Order No. 103 of 2020, as extended.

12 “Impacted homeowner” means an owner or mortgagor of title to  
13 a residential property, which serves as such person’s primary  
14 residence, and who qualifies for a mortgage forbearance pursuant to  
15 section 3 of P.L. , c. (C. ) (pending before the Legislature as  
16 this bill).

17 “Impacted tenant” means a tenant has suffered a negative  
18 financial impact resulting from COVID-19 or the Public Health  
19 Emergency or State of Emergency declared in response thereto,  
20 including but not limited to a financial hardship from a reduction in  
21 hours or loss of employment, loss of income or increased costs  
22 incurred in necessary child care resulting from the closure of  
23 schools or caring for family members who are ill due to COVID-19  
24 or quarantined due to a suspected exposure to COVID-19, or for  
25 funeral costs due to COVID-19;

26 “Landlord” means any person, or agent or assignee thereof, who  
27 rents or leases or offers to rent or lease, for a term of at least one-  
28 month, dwelling units, except dwelling units in hotels, motels or  
29 other guest houses serving transient or seasonal guests.

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

33 “Non-essential eviction” means an eviction other than for the  
34 purpose of removing a residential tenant in the interests of justice  
35 whose conduct endangers the health and safety of others.

36 “Residential property” means a property located in the State  
37 rented or owned for residential purposes; provided, however, that  
38 residential property shall be limited to the principal residence of a  
39 person or a residential health care facility. “Residential property”  
40 shall not include an investment property or residence other than a  
41 primary residence; residential property taken in whole or in part as  
42 collateral for a commercial loan; or a property subject to  
43 condemnation or receivership.<sup>1</sup>

44  
45 <sup>1</sup>3. (New section) a. During the emergency period, a creditor  
46 shall grant a mortgage forbearance to an impacted homeowner if the  
47 impacted homeowner submits a written request to the creditor  
48 affirming the following:

1       (1) the mortgage loan on residential property for which a  
2 mortgage forbearance is being requested pursuant to this section  
3 was current with respect to payments as of February 1, 2020;

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

13       (3) the gross household income of the homeowner does not  
14 exceed \$150,000 after hardship, unless this requirement for  
15 eligibility is waived by the mortgage lender; and

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

22       b. Upon receipt of a written request for a mortgage forbearance  
23 from an impacted homeowner pursuant to subsection a. of this  
24 section, a creditor shall provide to the impacted homeowner a  
25 mortgage forbearance and confirmation of that forbearance in  
26 writing. No additional documentation shall be required from the  
27 impacted homeowner by the creditor other than the written request  
28 under subsection a. of this section. The minimum initial mortgage  
29 forbearance period of an impacted homeowner shall be 90 days. An  
30 impacted homeowner may request, and shall be granted, a  
31 subsequent forbearance period of at minimum 90 days, for a total of  
32 at minimum 180 days. Fees, penalties, or interest, including  
33 attorney's fees, shall not be assessed or accrue during and as a  
34 result of a mortgage forbearance granted pursuant to this section.  
35 Nothing in this section shall be construed to impact property tax  
36 and insurance obligations of an owner related to any real property  
37 in the State. A mortgagee that grants a mortgage forbearance  
38 pursuant to this section shall encourage owners to seek out United  
39 States Department of Housing and Urban Development certified  
40 housing counseling and shall provide to the property owner  
41 confirmation of the approval of the forbearance, information  
42 concerning the process for forbearance, and information on how to  
43 request a subsequent forbearance.

44       c. (1) Consistent with the provisions of 15 U.S.C. s.1681s-  
45 2(a)(1)(F), a creditor shall not furnish negative mortgage payment  
46 information to a debt collector or credit reporting agency related to  
47 mortgage payments subject to a mortgage forbearance under this  
48 section.



1       (2) An impacted homeowner or the Attorney General may bring  
2 an action alleging a creditor has violated the provisions of this  
3 subsection. Upon a finding that non-compliance by a creditor with  
4 this section has occurred, a court of competent jurisdiction may:

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

8       (b) impose a fine on the non-compliant creditor, not to exceed  
9 \$5,000;

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

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

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

21       (f) order the non-compliant creditor to pay an award of damages  
22 to the impacted homeowner not to exceed 25 percent of the debt  
23 attempted to be collected or reported by the non-compliant creditor  
24 to the collection or credit reporting agency, bureau, or data  
25 collection facility, the minimum award being \$350.

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

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

33       (2) otherwise initiate the foreclosure process.

34       A deadline or time period for action by a party to the foreclosure  
35 process for a residential property filed prior to the effective date of  
36 P.L. , c. (C. ) (pending before the Legislature as this bill) shall  
37 be tolled until the end of the emergency period.

38       e. Notwithstanding the provisions of any law, rule, or  
39 regulation to the contrary, the repayment period of any mortgage  
40 subject to the forbearance established pursuant to this section shall  
41 be extended by the number of months the forbearance is in effect.  
42 The payments not made during the months of the forbearance shall  
43 instead be due on a monthly basis during the period constituting an  
44 extension of the mortgage, unless the property owner has chosen to  
45 make these payments earlier. During the time of the forbearance,  
46 and during the period constituting an extension of the mortgage, all  
47 terms and conditions of the original mortgage, except with regard to  
48 default and delinquency during forbearance, shall continue without

1 modification, and there shall be no fees assessed, including  
2 attorney's fees, related to the forbearance or late payment, or  
3 penalty for early repayment. An impacted homeowner shall have  
4 the option to discontinue the mortgage forbearance at any time at  
5 the election of the impacted homeowner upon written consent and a  
6 written statement that they would have the rights provided herein  
7 and knowingly waive those rights.

8 f. An impacted homeowner denied a forbearance under this  
9 section by a creditor licensed by the Department of Banking and  
10 Insurance may file a complaint with the Department of Banking and  
11 Insurance. The department shall investigate the complaint and, if  
12 appropriate, shall order the creditor to grant a forbearance to the  
13 impacted homeowner pursuant to this section.

14 g. The creditor shall provide the docket numbers, party names,  
15 and property addresses as to any pending court actions involving  
16 any property granted a forbearance to the Superior Court Clerk's  
17 Office at least monthly. The creditor shall submit information on  
18 all forbearances that the creditor has provided to the Department of  
19 Banking and Insurance on a monthly basis, after removing all  
20 personally-identifiable information. This information shall be  
21 deemed to be government records and subject to the provisions of  
22 P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open  
23 public records act.

24 h. To the extent any provision of this section is in conflict with  
25 federal laws and guidelines, such provision shall not apply to any  
26 mortgage loans made, insured, or securitized by any agency or  
27 instrumentality of the United States, any Government Sponsored  
28 Enterprise, or a Federal Home Loan Bank.

29 i. It shall be an unlawful discrimination in violation of the "New  
30 Jersey Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et  
31 seq.) for a creditor to discriminate in application of the provisions  
32 of this section because of an impacted homeowners' race, creed,  
33 color, national origin, ancestry, marital status, civil union status,  
34 domestic partnership status, pregnancy or breastfeeding, sex, gender  
35 identity or expression, affectional or sexual orientation, familial  
36 status, disability, liability for service in the Armed Forces of the  
37 United States, nationality, or source of lawful income used for  
38 mortgage payments.

39 j. This section shall not be construed to prohibit a creditor from  
40 considering an oral request for a mortgage forbearance instead of a  
41 written request submitted pursuant to subsection a. of this section.<sup>1</sup>  
42

43 <sup>1</sup>4. (New section) a. Prior to the 60th day next following the  
44 end of the emergency period, a landlord or owner of a residential  
45 property shall not, for the purposes of a non-essential eviction for a  
46 residential property:

47 (1) terminate a tenancy;

48 (2) file a summary dispossess action; or

1       (3) send any notice, including a notice to quit, requesting or  
2 demanding that a tenant of a residential property vacate the  
3 premises.

4       b. Prior to the 60th day next following the end of the  
5 emergency period, a court having jurisdiction over an action for  
6 summary dispossession shall not, in a non-essential eviction for a  
7 residential property:

8           (1) accept for filing a summons or complaint;

9           (2) enter a judgment or default judgment for a plaintiff for  
10 possession of a residential property;

11           (3) issue warrant of removal;

12           (4) deny, upon the request of a defendant, a stay of execution, or  
13 upon the request by a party, a continuance of a summary dispossession  
14 case; or

15           (5) schedule a court event, including a summary dispossession trial.

16       c. A deadline or time period for action by a party to a non-  
17 essential eviction for a residential property shall be tolled until the  
18 60th day next following the end of the emergency period.

19       d. Nothing in this section shall relieve a tenant from the  
20 obligation to pay rent or restrict a landlord's ability to recover rent  
21 consistent with the provisions of section 6 of P.L. , c. (C. )  
22 (pending before the Legislature as this bill).<sup>1</sup>

23

24       <sup>1</sup>5. (New section) a. Prior to the 60th day next following the  
25 end of the emergency period, a landlord shall not impose a late fee  
26 for non-payment of rent for a residential property that was due  
27 during the emergency period.

28       b. (1) Consistent with the provisions of 15 U.S.C. s.1681s-  
29 2(a)(1)(F), a landlord shall not furnish rental payment data to a  
30 collection or credit reporting agency related to the non-payment of  
31 rent during the emergency period and the 60 days next following  
32 the end of the emergency period.

33       (2) A landlord shall not refuse to rent to a tenant or place, or  
34 disseminate a tenant's information for the purpose of placing, a  
35 tenant on a list for the use of other landlords, as a result of any  
36 record or information reflecting the tenant's non-payment of rent  
37 during the emergency period and the 60 days next following the end  
38 of the emergency period.

39       c. A tenant or the Attorney General may bring an action  
40 alleging a landlord has violated the provisions of subsection b. of  
41 this section concerning the furnishing of information to a collection  
42 or credit reporting agency. Upon a finding that non-compliance by  
43 a landlord with subsection b. of this section has occurred, a court of  
44 competent jurisdiction may:

45           (1) order the non-compliant landlord to retract the report of debt  
46 provided to the collection or credit reporting agency, bureau, or data  
47 collection facility;

1       (2) impose a fine on the non-compliant landlord, not to exceed  
2 \$5,000 per tenant;

3       (3) order the non-compliant landlord to pay a reasonable counsel  
4 fee in connection with a tenant whose debt has been reported to a  
5 collection or credit reporting agency, bureau, or data collection  
6 facility;

7       (4) provide a copy of the order immediately and at no cost to the  
8 impacted homeowner;

9       (5) order the non-compliant landlord to take such steps as are  
10 necessary, within 30 days of the order, to rehabilitate the credit  
11 record of a tenant, with a showing made to the court, and exact copy  
12 provided to the tenant at no cost, of the efforts made in that regard;  
13 and

14       (6) order the non-compliant landlord to pay an award of  
15 damages to the impacted tenant not to exceed 25 percent of the debt  
16 attempted to be collected or reported by the non-compliant landlord  
17 to the collection or credit reporting agency, bureau, or data  
18 collection facility, the minimum award being \$350.<sup>1</sup>

19  
20       <sup>1</sup>6. (New section) a. In order to avoid mass evictions and  
21 widespread homelessness following the conclusion of the  
22 moratorium on evictions required by section 3 of P.L. , c.  
23 (C. ) (pending before the Legislature as this bill), a landlord shall  
24 offer each tenant of the properties owned by the landlord the ability  
25 to enter into an agreement pursuant to subsection d. of this section,  
26 which shall be an addendum to the lease agreement, for the  
27 repayment of any partial or full rent payments not made during the  
28 emergency period and the 60 days next following the end of the  
29 emergency period, provided the impacted tenant's rent payments  
30 were current including payments held in escrow as of the effective  
31 date of Executive Order No. 106 of 2020.

32       (1) A tenant shall not accept an offer from a landlord pursuant to  
33 this subsection if (a) the tenant's gross household income exceeds  
34 \$150,000 after hardship unless the landlord makes an exception; or  
35 (b) the tenant possesses one or more bank accounts that collectively  
36 contain reserves equaling six months' or more of the tenant's gross  
37 household income for 2019. The landlord may require the impacted  
38 tenant to provide a cash asset certification to demonstrate  
39 compliance with this subparagraph.

40       (2) During the repayment period, a landlord shall not impose  
41 any late fees or any other fees, including attorney's fees, for rent  
42 payments not made during the emergency period and the 60 days  
43 next following the end of the emergency period.

44       b. The Department of Community Affairs shall, as soon as  
45 practicable following the effective date of P.L. , c. (pending  
46 before the Legislature as this bill), prepare and make available on  
47 its Internet website a statement of the rights and responsibilities of  
48 impacted tenants and landlords for the repayment of missed rent

1 payments pursuant to this section and an explanation of, and model  
2 template for, the default repayment plans available pursuant to  
3 subsection d. of this section. This statement and templates shall be  
4 printed in the English, Spanish, Arabic, French, Russian, Korean,  
5 Chinese, and Vietnamese languages. Every landlord shall distribute  
6 one copy of the statement and templates prepared and made  
7 available pursuant to this subsection to each of their tenants within  
8 10 business days after it has been made available by the department,  
9 and landlords may not demand payment of unpaid rent until after  
10 the statement and templates have been distributed to each tenant. If  
11 a landlord fails to comply with this subsection, this failure may be  
12 used by the tenant as an affirmative defense to liability for payment  
13 of the applicable interest due in any monetary judgment action  
14 against the tenant, if brought by the landlord to recover rent due  
15 during the emergency period.

16 c. (1) Within 10 business days following the conclusion of the  
17 60 days next following the end of the emergency period, a landlord  
18 shall calculate all partial or full rent payments legally owed and not  
19 made during the emergency period and the 60 days next following  
20 the end of the emergency period by each impacted tenant liable for  
21 rent repayment pursuant to subsection a. of this section. After  
22 determining the amount of the missed payments and applying all  
23 credits, if any, due to the impacted tenant, the landlord shall provide  
24 each impacted tenant with a written notice, using the template to be  
25 prepared and made available on its website by the department, of  
26 the amount owed by the impacted tenant in a form that specifies, in  
27 detail, the amount claimed to be due and an itemization of all  
28 credits to which the impacted tenant is entitled. All amounts shall  
29 be legal and in compliance with all applicable laws, including local  
30 rent control ordinances.

31 (2) If the impacted tenant does not agree with the amount  
32 claimed due, the notice shall provide that the impacted tenant shall  
33 notify the landlord within 25 days after the date on which the rent  
34 and arrearage repayments are to commence; provided, however, that  
35 the impacted tenant shall still begin repayment of missed rent  
36 pursuant to the repayment agreement. The impacted tenant may  
37 assert any and all additional objections to the amount claimed due,  
38 including diminished habitability, payment by the impacted tenant  
39 or by others on behalf of the impacted tenant, or other legal and  
40 equitable setoffs or defenses. If the landlord fails to demonstrate  
41 the correctness of the amount assessed of rent due and owing by the  
42 impacted tenant, then the landlord shall refund any incorrectly  
43 assessed amount paid by the impacted tenant plus a penalty of 20  
44 percent of such amount.

45 d. Any unpaid rent during the emergency period shall be paid  
46 in accordance with whichever repayment plan set forth in  
47 paragraphs (1) and (2) of this subsection results in the lowest  
48 average monthly payments for the impacted tenant, or a plan agreed

1 to between the landlord and impacted tenant so long as that plan has  
2 lower monthly payments than either option in paragraphs (1) or (2)  
3 of this subsection.

4 (1) Repayment Plan A shall provide that any unpaid rent during  
5 the emergency period shall be repaid in equal installments over the  
6 remainder of the lease and shall constitute no more than 10 percent  
7 of the impacted tenant's net household income after taxes. The  
8 surrender of property by the tenant shall not relieve the tenant from  
9 the obligation to pay any rent missed during the emergency period  
10 or restrict a landlord's ability to recover such rent.

11 (2) Repayment Plan B shall provide a tenant with six months to  
12 repay each months' rent that was unpaid, whether in full or in part,  
13 during the emergency period. The surrender of property by the  
14 tenant shall not relieve the tenant from the obligation to pay any  
15 rent missed during the emergency period or restrict a landlord's  
16 ability to recover such rent.

17 e. An agreement entered into pursuant to subsection d. of this  
18 section shall be null and void upon full payment of the monies  
19 stipulated in the agreement. Nothing in this section shall prohibit a  
20 landlord from filing an action for eviction for the failure to pay rent  
21 in accordance with a repayment plan in effect pursuant to  
22 subsection a. or b. of this section after the eviction moratorium  
23 period required by section 4 of P.L. , c. (C. ) (pending  
24 before the Legislature as this bill) has ended.

25 f. Any payments made for or on behalf of an impacted tenant  
26 by other entities, including government agencies, non-profit  
27 organizations, or in any other manner, shall be credited against the  
28 amount due from that impacted tenant.

29 g. It shall be an unlawful discrimination in violation of the  
30 "New Jersey Law Against Discrimination," P.L.1945, c.169  
31 (C.10:5-1 et seq.) for a landlord to discriminate in application of the  
32 provisions of this section because of a tenant's race, creed, color,  
33 national origin, ancestry, marital status, civil union status, domestic  
34 partnership status, pregnancy or breastfeeding, sex, gender identity  
35 or expression, affectional or sexual orientation, familial status,  
36 disability, liability for service in the Armed Forces of the United  
37 States, nationality, or source of lawful income used for rental  
38 payments.<sup>1</sup>

39

40 <sup>17.</sup> Section 1 of P.L.2020, c.1 (C.2A:18-59.3) is amended to  
41 read as follows:

42 1. a. Notwithstanding any other law to the contrary, whenever a  
43 Public Health Emergency, pursuant to the "Emergency Health  
44 Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), or a State of  
45 Emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or  
46 both, has been declared by the Governor and is in effect, the  
47 Governor may issue an executive order to declare that a lessee,  
48 tenant, homeowner or any other person shall not be removed from a

1 residential property as the result of an eviction or foreclosure  
2 proceeding. This executive order shall remain in effect for no  
3 longer than two months following the end of the Public Health  
4 Emergency or State of Emergency. An executive order issued  
5 pursuant to this subsection may be adjusted by a subsequent  
6 executive order.

7 b. Eviction and foreclosure proceedings may be initiated or  
8 continued during the time of an executive order issued pursuant to  
9 this section **【, but enforcement】** , unless provided pursuant to a  
10 subsequently-enacted statute, or in an executive order issued  
11 pursuant to subsection a. of this section, that eviction actions may  
12 not be initiated or continued for nonpayment or habitually late  
13 payment of rent, or for another reason, during a period of time  
14 overlapping that of the initial executive order. Enforcement of all  
15 judgments for possession, warrants of removal, and writs of  
16 possession shall be stayed during this period if the Governor has  
17 issued an executive order prohibiting certain removals from  
18 residential property pursuant to subsection a. of this section, unless  
19 the court determines on its own motion or motion of the parties that  
20 enforcement is necessary in the interest of justice.

21 c. Sheriffs, court officers, and their agents shall refrain from  
22 acting to remove individuals from residential properties through the  
23 eviction or foreclosure processes during the time of an executive  
24 order issued by the Governor prohibiting certain removals from  
25 residential property pursuant to subsection a. of this section, unless  
26 the court determines on its own motion or motion of the parties that  
27 removal is necessary in the interest of justice.

28 d. As used in this section, "residential property" means any  
29 property rented or owned for residential purposes, including, but  
30 not limited to, any house, building, mobile home or land in a mobile  
31 home park, or tenement leased for residential purposes, but shall not  
32 include any hotel, motel, or other guest house, or part thereof,  
33 rented to a transient guest or seasonal tenant, or a residential health  
34 care facility.<sup>1</sup>

35 (cf: P.L.2020, c.1, s.1)

36

37 <sup>1</sup>8. (New section) a. The powers granted and duties imposed by  
38 this act shall be construed to be independent and severable. If any  
39 provision of this act or the application thereof to any person or  
40 circumstance is held invalid, the invalidity shall not affect other  
41 provisions or applications of the sections which can be given effect  
42 without the invalid provision or application, and to this end the  
43 provisions of this act are severable. All laws and parts of law in  
44 conflict with any of the provisions of this act are hereby construed  
45 to be inferior to this act, to the extent so in conflict.

46 b. It shall be an unlawful discrimination in violation of the  
47 “New Jersey Law Against Discrimination,” P.L.1945, c.169  
48 (C.10:5-1 et seq.) for a creditor or landlord to discriminate in

1 application of the provisions of this act because of an impacted  
2 homeowners' or tenant's race, creed, color, national origin,  
3 ancestry, marital status, civil union status, domestic partnership  
4 status, pregnancy or breastfeeding, sex, gender identity or  
5 expression, affectional or sexual orientation, familial status,  
6 disability, liability for service in the Armed Forces of the United  
7 States, nationality, or source of lawful income used for rental or  
8 mortgage payments.<sup>1</sup>

9  
10 <sup>1</sup>**[2.]** 9.<sup>1</sup> This act shall take effect immediately <sup>1</sup>and shall apply  
11 retroactively to rent and mortgage payments missed subsequent to  
12 March 9, 2020<sup>1</sup>.