

[Second Reprint]
SENATE, No. 2340

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED APRIL 9, 2020

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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 Appropriations Committee on July 27, 2020, with amendments.

(Sponsorship Updated As Of: 7/30/2020)

1 AN ACT concerning protections for residential property owners and
2 tenants during emergency circumstances and ¹ [supplementing
3 Title 52 of the Revised Statutes] amending P.L.2020, c.1¹.

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

7
8 ¹ [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:

¹Assembly AHO committee amendments adopted June 15, 2020.

²Assembly AAP committee amendments adopted July 27, 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. **】¹**

25

26 ¹1. (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
40 of mortgages, rent, and other bills impossible for many State
41 residents; 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.¹

1 ¹2. (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, ²[Mortgage
8 Electronic Registration System,]² or mortgage servicer ²as defined
9 in section 2 of P.L.2019, c.65 (C.17:16F-28)².

10 “Emergency period” means the period during which a public
11 health emergency exists as declared by the Governor in Executive
12 Order No. 103 of 2020, as extended ², and the 60 days following the
13 conclusion of this period².

14 “Impacted homeowner” means an owner or mortgagor of title to
15 a residential property, which serves as such person’s primary
16 residence ²or as the residence of the owner’s tenant, which the
17 impacted homeowner understands to be the tenant’s primary
18 residence², and who qualifies for a mortgage forbearance pursuant
19 to section 3 of P.L. , c. (C.) (pending before the Legislature
20 as this bill).

21 “Impacted tenant” means a ²residential² tenant ²who² has
22 suffered a ²[negative financial impact] substantial reduction of
23 income² resulting from COVID-19 or the Public Health Emergency
24 or State of Emergency declared in response thereto, including ²[but
25 not limited to a financial hardship]² from a reduction in hours or
26 loss of employment, ²[loss of income] ,² or increased costs
27 incurred in necessary child care resulting from the closure of
28 schools or caring for family members who are ill due to COVID-19
29 or quarantined due to a suspected exposure to COVID-19, or for
30 funeral costs due to COVID-19 ²[;] .²

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

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

38 “Non-essential eviction” means an eviction ²[other than for the
39 purpose of removing a residential tenant in the interests of justice
40 whose conduct endangers the health and safety of others] for
41 nonpayment or habitually late payment of rent².

42 “Residential property” means a property located in the State
43 rented or owned for residential purposes; provided, however, that
44 residential property shall be limited to the principal residence of a
45 person or a residential health care facility. “Residential property”
46 shall not include ²[an investment property or] a² residence other

1 than a primary residence ²of a homeowner or tenant² ; residential
2 property taken in whole or in part as collateral for a commercial
3 loan; or a property subject to condemnation or receivership.¹
4

5 ¹3. (New section) a. During the emergency period, a creditor
6 shall grant a mortgage forbearance to an impacted homeowner if the
7 impacted homeowner submits a written request to the ²[creditor]
8 mortgage servicer² affirming the following:

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

12 (2)]² the impacted homeowner has suffered a negative financial
13 impact resulting from COVID-19 or the Public Health Emergency
14 or State of Emergency declared in response thereto, including but
15 not limited to a financial hardship from a reduction in hours or loss
16 of employment, loss of income or increased costs incurred in
17 necessary child care resulting from the closure of schools or caring
18 for family members who are ill due to COVID-19 or quarantined
19 due to a suspected exposure to COVID-19, or for funeral costs due
20 to COVID-19;

21 ²[(3)] (2)² the gross household income of the homeowner ²,
22 after hardship,² does not exceed ²[\$150,000 after hardship] 150
23 percent of the area median income, as defined for New Jersey in
24 guidelines published annually by the United States Department of
25 Housing and Urban Development² , unless this requirement for
26 eligibility is waived by the mortgage lender; and

27 ²[(4)] (3)² if the impacted homeowner possesses one or more
28 bank accounts, those bank accounts collectively contain less than
29 six months' reserves of the impacted homeowner's gross household
30 income for 2019. The creditor may require the impacted
31 homeowner to provide a cash asset certification to demonstrate
32 compliance with this paragraph.

33 b. Upon receipt of a written request ²or verbal authorization²
34 for a mortgage forbearance from an impacted homeowner pursuant
35 to subsection a. of this section, a creditor shall provide to the
36 impacted homeowner a mortgage forbearance and confirmation of
37 that forbearance in writing. No additional documentation shall be
38 required from the impacted homeowner by the creditor other than
39 the written request under subsection a. of this section. The
40 minimum initial mortgage forbearance period of an impacted
41 homeowner shall be 90 days. An impacted homeowner may
42 request, and shall be granted, a subsequent forbearance period of at
43 minimum 90 days, for a total of at minimum 180 days. ²A creditor
44 shall not be prohibited from offering a more extended forbearance
45 period.² Fees, penalties, or interest, including attorney's fees
46 ²beyond the amounts scheduled and calculated as if the mortgagor

1 made all contractual payments on time and in full under the terms
2 of the mortgage contract², shall not be assessed or accrue during
3 and as a result of a mortgage forbearance granted pursuant to this
4 section. Nothing in this section shall be construed to impact
5 property tax and insurance obligations of an owner related to any
6 real property in the State. A mortgagee that grants a mortgage
7 forbearance pursuant to this section shall encourage owners to seek
8 out United States Department of Housing and Urban Development
9 certified housing counseling and shall provide to the property owner
10 confirmation of the approval of the forbearance, information
11 concerning the process for forbearance, and information on how to
12 request a subsequent forbearance.

13 c. (1) Consistent with the provisions of 15 U.S.C. s.1681s-
14 2(a)(1)(F), a creditor shall not furnish negative mortgage payment
15 information to a debt collector or credit reporting agency related to
16 mortgage payments subject to a mortgage forbearance under this
17 section.

18 (2) ²[An impacted homeowner or] In response to a complaint to
19 the Attorney General from an impacted homeowner, or on the
20 Attorney General's independent initiative,² the Attorney General
21 may bring an action alleging a creditor has violated the provisions
22 of this subsection. Upon a finding that non-compliance by a
23 creditor with this section has occurred, a court of competent
24 jurisdiction may:

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

28 (b) impose a fine on the non-compliant creditor, not to exceed
29 \$5,000 ²per violation² ;

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

34 (d) provide a copy of the order immediately ²at the request of²
35 and at no cost to the impacted homeowner;

36 (e) order the non-compliant creditor to take such steps as are
37 necessary, within 30 days of the order, to rehabilitate the credit
38 record of an impacted homeowner, with ²[a showing made to the
39 court and] an² exact copy provided at no cost to the homeowner of
40 the efforts made in that regard; and

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

46 d. During the emergency period and during any period of
47 mortgage forbearance granted pursuant to this section, a creditor

1 shall not, for the purposes of foreclosure of a residential property
2 ²that has received a forbearance² that is not vacant, abandoned or
3 otherwise subject to P.L.2003, c.210 (C.55:19-78 et seq.):

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

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

11 e. Notwithstanding the provisions of any law, rule, or
12 regulation to the contrary, the repayment period of any mortgage
13 subject to the forbearance established pursuant to this section shall
14 be extended by the number of months the forbearance is in effect.
15 The payments not made during the months of the forbearance shall
16 instead be due on a monthly basis during the period constituting an
17 extension of the mortgage, unless the property owner has chosen to
18 make these payments earlier. During the time of the forbearance,
19 and during the period constituting an extension of the mortgage, all
20 terms and conditions of the original mortgage, except with regard to
21 default and delinquency during forbearance, shall continue without
22 modification, and there shall be no fees assessed, including
23 attorney's fees, related to the forbearance or late payment, or
24 penalty for early repayment. An impacted homeowner shall have
25 the option to discontinue the mortgage forbearance at any time at
26 the election of the impacted homeowner upon written consent and a
27 written statement that they would have the rights provided herein
28 and knowingly waive those rights.

29 f. An impacted homeowner denied a forbearance under this
30 section by a creditor licensed by the Department of Banking and
31 Insurance ², and not a State- or nationally-chartered financial
32 institution,² may file a complaint with the Department of Banking
33 and Insurance. The department shall investigate the complaint and,
34 if appropriate, shall order the creditor to grant a forbearance to the
35 impacted homeowner pursuant to this section.

36 g. ²【The】 (1) To the extent required by the Administrative
37 Director of the Courts, the² creditor shall provide the docket
38 numbers, party names, and property addresses as to any pending
39 court actions involving any property granted a forbearance to the
40 Superior Court Clerk's Office at least monthly.

41 ²(2)² The creditor shall submit information on all forbearances
42 that the creditor has provided ²within the State² to the Department
43 of Banking and Insurance on a monthly basis, ²or on any alternative
44 schedule directed by the Department of Banking and Insurance.²
45 after removing all personally-identifiable information. This
46 information shall be ²submitted in accordance with any
47 specifications required by the Department of Banking and

1 Insurance, and, to the extent required by the Department of Banking
2 and Insurance, shall be² deemed to be government records and
3 subject to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.),
4 commonly known as the open public records act.

5 h. ²【To the extent any provision of this section is in conflict
6 with federal laws and guidelines, such provision shall not apply to
7 any mortgage loans made, insured, or securitized by any agency or
8 instrumentality of the United States, any Government Sponsored
9 Enterprise, or a Federal Home Loan Bank】 Notwithstanding
10 anything to the contrary in this section, this section shall not apply
11 to, and does not affect, any mortgage loans made, insured, or
12 securitized by any agency or instrumentality of the United States,
13 any government sponsored enterprise, or a federal home loan bank,
14 or the rights and obligations of any lender, issuer, servicer or trustee
15 of such obligations, including servicers for the Government
16 National Mortgage Association or other loans governed by the
17 Coronavirus Aid, Relief, and Economic Security Act, Pub. L.116-
18 136² .

19 i. It shall be an unlawful discrimination in violation of the
20 “New Jersey Law Against Discrimination,” P.L.1945, c.169
21 (C.10:5-1 et seq.) for a creditor to discriminate in application of the
22 provisions of this section because of an impacted homeowners’
23 race, creed, color, national origin, ancestry, marital status, civil
24 union status, domestic partnership status, pregnancy or
25 breastfeeding, sex, gender identity or expression, affectional or
26 sexual orientation, familial status, disability, liability for service in
27 the Armed Forces of the United States, nationality, or source of
28 lawful income used for mortgage payments.

29 j. This section shall not be construed to prohibit a creditor
30 from considering an oral ²or electronic² request for a mortgage
31 forbearance instead of a written request submitted pursuant to
32 subsection a. of this section.¹

33
34 ^{14.} (New section) a. ²【Prior to the 60th day next following the
35 end of】 During² the emergency period, a landlord or owner of a
36 residential property shall not, for the purposes of a non-essential
37 eviction for a residential property:

38 (1) terminate a tenancy;

39 (2) file a summary dispossess action; or

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

43 b. ²【Prior to the 60th day next following the end of the
44 emergency period, a court having jurisdiction over an action for
45 summary dispossess shall not, in a non-essential eviction for a
46 residential property:

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

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

3 (3) issue warrant of removal;

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

7 (5) schedule a court event, including a summary dispossession
 8 trial.] (1) Upon the filing of a landlord-tenant complaint, the

9 plaintiff landlord shall certify, on a form promulgated by the
 10 Administrative Director of the Courts, that the complaint is not
 11 seeking to evict an impacted tenant from the impacted tenant's
 12 primary residence due to nonpayment or habitually late payment of
 13 rent due during the emergency period, except where the impacted
 14 tenant has failed to repay rent due during the emergency period in
 15 accordance with a repayment plan entered pursuant to section 6 of
 16 P.L. , c. (C.) (pending before the Legislature as this bill).

17 (2) No later than 60 days following enactment of P.L. ,
 18 c. (C.) (pending before the Legislature as this bill), the
 19 plaintiff landlord in any landlord-tenant action pending before the
 20 court on the effective date of P.L. , c. (C.) (pending
 21 before the Legislature as this bill) shall certify, on a form
 22 promulgated by the Administrative Director of the Courts, that the
 23 landlord-tenant complaint is not brought to evict an impacted tenant
 24 of the impacted tenant's primary residence due to nonpayment or
 25 habitually late payment of rent due during the emergency period,
 26 except where the impacted tenant has failed to repay rent due during
 27 the emergency period in accordance with a repayment plan entered
 28 pursuant to section 6 of P.L. , c. (C.) (pending before the
 29 Legislature as this bill)]².

30 c. A deadline or time period for action by a party to a non-
 31 essential eviction for a residential property shall be tolled until the
 32 ²[60th day next following the]² end of the emergency period.

33 d. Nothing in this section shall relieve a tenant from the
 34 obligation to pay rent or restrict a landlord's ability to recover rent
 35 consistent with the provisions of section 6 of P.L. , c. (C.)
 36 (pending before the Legislature as this bill).¹

37
 38 ¹5. (New section) a. ²[Prior to the 60th day next following the
 39 end of] During² the emergency period, a landlord shall not impose
 40 a late fee for non-payment of rent for a residential property that was
 41 due during the emergency period.

42 b. (1) Consistent with the provisions of 15 U.S.C. s.1681s-
 43 2(a)(1)(F), a landlord shall not furnish rental payment data to a
 44 collection or credit reporting agency related to the non-payment of
 45 rent during the emergency period ²[and the 60 days next following
 46 the end of the emergency period]² .

1 (2) A landlord shall not refuse to rent to ²[a] an impacted²
2 tenant or place, or disseminate ²[a] an impacted² tenant's
3 information for the purpose of placing, ²[a] an impacted² tenant on
4 a list for the use of other landlords, as a result of any record or
5 information reflecting the ²impacted² tenant's non-payment of rent
6 during the emergency period ²[and the 60 days next following the
7 end of the emergency period]².

8 c. ²[A tenant or] In response to a complaint to the Attorney
9 General from an impacted tenant, or on the Attorney General's
10 independent initiative,² the Attorney General may bring an action
11 alleging a landlord has violated the provisions of subsection b. of
12 this section concerning the furnishing of information to a collection
13 or credit reporting agency. Upon a finding that non-compliance by
14 a landlord with subsection b. of this section has occurred, a court of
15 competent jurisdiction may:

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

19 (2) impose a fine on the non-compliant landlord, not to exceed
20 \$5,000 per ²impacted² tenant;

21 (3) order the non-compliant landlord to pay a reasonable counsel
22 fee in connection with ²[a] an impacted² tenant whose debt has
23 been reported to a collection or credit reporting agency, bureau, or
24 data collection facility;

25 (4) provide a copy of the order immediately ²upon the request of
26 the tenant² and at no cost to the impacted homeowner;

27 (5) order the non-compliant landlord to take such steps as are
28 necessary, within 30 days of the order, to rehabilitate the credit
29 record of ²[a] an impacted² tenant, with ²[a showing made to the
30 court, and] an² exact copy provided to the ²impacted² tenant at no
31 cost, of the efforts made in that regard; and

32 (6) order the non-compliant landlord to pay an award of
33 damages to the impacted tenant not to exceed 25 percent of the debt
34 attempted to be collected or reported by the non-compliant landlord
35 to the collection or credit reporting agency, bureau, or data
36 collection facility, the minimum award being \$350.¹

37 ²d. If a landlord furnishes rental payment data to a collection or
38 credit reporting agency related to the non-payment of rent during
39 the emergency period, but before the enactment of P.L. _____,
40 c. (C. _____) (pending before the Legislature as this bill), the
41 landlord shall not be subject to the penalty provisions of this
42 section, except for an order to retract the report pursuant to
43 paragraph (1) of subsection c. of this section.²

44
45 ¹6. (New section) a. In order to avoid mass evictions and
46 widespread homelessness following the conclusion of the

1 moratorium on evictions required by section ²[3] ⁴ of P.L. _____,
2 c. (C.) (pending before the Legislature as this bill), a landlord
3 shall offer each tenant of the properties owned by the landlord ²,
4 who has missed any partial or full rent payments prior to the end of
5 the emergency period,² the ability to enter into an agreement
6 pursuant to subsection d. of this section, which shall be an
7 addendum to the lease agreement, for the repayment of any partial
8 or full rent payments not made during the emergency period ²[and
9 the 60 days next following the end of the emergency period]² ,
10 provided the impacted tenant's rent payments were current
11 including payments held in escrow as of the effective date of
12 Executive Order No. 106 of 2020. ²The offer shall be provided in
13 writing by hand-delivery, regular mail or email.²

14 (1) A tenant shall not accept an offer from a landlord pursuant to
15 this subsection if ²:

16 (a) ²the tenant is not an impacted tenant;

17 (b)² the tenant's gross household income ²after hardship²
18 exceeds ²[\$150,000 after hardship] 100 percent of the area median
19 income, as defined for New Jersey in guidelines published annually
20 by the United States Department of Housing and Urban
21 Development,² unless the landlord makes an exception; or

22 ²[(b)] (c)² the tenant possesses one or more bank accounts that
23 collectively contain reserves equaling six months' or more of the
24 tenant's gross household income for 2019 ²unless the landlord
25 makes an exception² .

26 ²(2) The landlord may bring a cause of action against a tenant in
27 a court of competent jurisdiction to enforce a violation of paragraph
28 (1) of this subsection.² The landlord may require the impacted
29 tenant to provide a cash asset certification ², if available,² to
30 demonstrate compliance with ²[this]² subparagraph ²(c) of
31 paragraph (1) of this subsection, and any other financial information
32 reasonably necessary to ensure the impacted tenant's compliance
33 with paragraph (1) of this subsection if available² .

34 ²[(2)] (3) To prevent a landlord from losing their primary home
35 in a foreclosure due to COVID-19 economic hardship, owners of
36 owner-occupied properties with four or less units are exempt from
37 having to enter into a rent repayment plan with their impacted
38 tenant only if after the owner completed an application for a
39 mortgage forbearance, but was denied forbearance as defined in this
40 bill from their creditor. Creditors covered in this bill shall not deny
41 a landlord of an owner occupied property a mortgage forbearance if
42 their tenants cannot pay rent. Having impacted tenants means the
43 landlord is also then negatively impacted.

44 (4)² During the repayment period, a landlord shall not impose
45 any late fees or any other fees, including attorney's fees, for rent

1 payments not made during the emergency period ²[and the 60 days
2 next following the end of the emergency period]².

3 b. The Department of Community Affairs shall, as soon as
4 practicable following the effective date of P.L. _____, c. (pending
5 before the Legislature as this bill), prepare and make available on
6 its Internet website a statement of the rights and responsibilities of
7 impacted tenants and landlords for the repayment of missed rent
8 payments pursuant to this section and an explanation of, and model
9 template for, the default repayment plans available pursuant to
10 subsection d. of this section. This statement and templates shall be
11 printed in the English, Spanish, Arabic, French, Russian, Korean,
12 Chinese, and Vietnamese languages. Every landlord shall distribute
13 one copy of the statement and templates prepared and made
14 available pursuant to this subsection to each of their tenants within
15 10 business days after it has been made available by the department,
16 and landlords may not demand payment of unpaid rent until after
17 the statement and templates have been distributed ²[to each tenant]
18 in accordance with this subsection² . If a landlord fails to comply
19 with this subsection, this failure may be used by ²[the] an
20 impacted² tenant as an affirmative defense to ²[liability for
21 payment of the applicable interest due in any monetary judgment
22 action] an action seeking the recovery of rent, or to a landlord-
23 tenant complaint seeking a judgment for possession² against the
24 ²impacted² tenant, if brought by the landlord to recover rent due
25 during the emergency period.

26 c. (1) Within 10 business days following the conclusion of the
27 ²[60 days next following the end of the]² emergency period, a
28 landlord shall calculate all partial or full rent payments legally
29 owed and not made during the emergency period ²[and the 60 days
30 next following the end of the emergency period]² by each impacted
31 tenant liable for rent repayment pursuant to subsection a. of this
32 section. After determining the amount of the missed payments and
33 applying all credits, if any, due to the impacted tenant, the landlord
34 shall provide each impacted tenant with a written notice ²by hand-
35 delivery, regular mail or e-mail² , using the template to be prepared
36 and made available on its website by the department, of the amount
37 owed by the impacted tenant in a form that specifies, in detail, the
38 amount claimed to be due and an itemization of all credits to which
39 the impacted tenant is entitled. All amounts shall be legal and in
40 compliance with all applicable laws, including local rent control
41 ordinances.

42 (2) If the impacted tenant does not agree with the amount
43 claimed due, the notice shall provide that the impacted tenant shall
44 notify the landlord within 25 days after the date on which the rent
45 and arrearage repayments are to commence; provided, however, that
46 the impacted tenant shall still begin repayment of missed rent
47 pursuant to the repayment agreement. The impacted tenant may

1 assert any and all additional objections to the amount claimed due,
2 including ²【diminished habitability,】² payment by the impacted
3 tenant or by others on behalf of the impacted tenant ²【, or other
4 legal and equitable setoffs or defenses】² .

5 ²(3) If a landlord-tenant complaint seeking judgment for
6 possession is filed, the court shall offer the parties the opportunity
7 to settle the case. Both parties must voluntarily agree to participate
8 in the settlement conference or mediation and must voluntarily
9 agree to any resulting settlement.

10 ²(4) If the ²plaintiff² landlord fails to demonstrate ²in the
11 landlord-tenant case pending with the court² the correctness of the
12 amount assessed of rent due and owing by the impacted tenant, then
13 the ²court shall order that the² landlord shall refund any incorrectly
14 assessed amount paid by the impacted tenant ²【plus】 . Upon a
15 finding of a violation of this subsection by the landlord, the court
16 may also order the landlord to pay to the tenant² a penalty of 20
17 percent of such amount ²to be used as a credit towards future rent².

18 d. ²【Any unpaid rent during the emergency period shall be paid
19 in accordance with whichever repayment plan set forth in
20 paragraphs (1) and (2) of this subsection results in the lowest
21 average monthly payments for the impacted tenant, or a plan agreed
22 to between the landlord and impacted tenant so long as that plan has
23 lower monthly payments than either option in paragraphs (1) or (2)
24 of this subsection.

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

32 (2) Repayment Plan B】 An impacted tenant and landlord shall
33 enter into a written agreement for any unpaid rent during the
34 emergency period. If a landlord and impacted tenant are unable to
35 reach an agreement, or if the agreement is deemed to be
36 unaffordable by the tenant, any unpaid rent during the emergency
37 period shall be paid in accordance with the default repayment plan
38 that² shall provide ²【a】 an impacted² tenant with six months to
39 repay ²【each months'】 every one month owed in² rent that was
40 unpaid, whether in full or in part, during the emergency period ²;
41 with all back rent owed and paid in full by the last day of the 30th
42 month² . The surrender of property by the ²impacted² tenant shall
43 not relieve the ²impacted² tenant from the obligation to pay any rent
44 missed during the emergency period or restrict a landlord's ability
45 to recover such rent.

1 e. An agreement entered into pursuant to subsection d. of this
2 section shall be null and void upon full payment of the monies
3 stipulated in the agreement. Nothing in this section shall prohibit a
4 landlord from filing an action for eviction for the failure to pay rent
5 in accordance with a repayment plan in effect pursuant to
6 subsection ²[a. or b.] d.² of this section after the eviction
7 moratorium period required by section 4 of P.L. _____,
8 c. _____ (C. _____) (pending before the Legislature as this bill) has
9 ended.

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

14 g. It shall be an unlawful discrimination in violation of the
15 “New Jersey Law Against Discrimination,” P.L.1945, c.169
16 (C.10:5-1 et seq.) for a landlord to discriminate in application of the
17 provisions of this section because of a tenant’s race, creed, color,
18 national origin, ancestry, marital status, civil union status, domestic
19 partnership status, pregnancy or breastfeeding, sex, gender identity
20 or expression, affectional or sexual orientation, familial status,
21 disability, liability for service in the Armed Forces of the United
22 States, nationality, or source of lawful income used for rental
23 payments.¹

24
25 ²7. (New section) a. Notwithstanding the provisions of
26 P.L.1967, c.265 (C.46:8-19 et seq.) or any other law or regulation to
27 the contrary, upon written request from a tenant, including
28 electronic communication, money or other forms of security
29 deposited or advanced in accordance with P.L.1967, c.265 (C.46:8-
30 19 et seq.), including the tenant’s portion of the interest, earnings,
31 or both, accumulated thereon, shall be applied to or credited
32 towards rent payments due or to become due from the tenant during
33 the Public Health Emergency established in Executive Order No.
34 103 of 2020, and any extension thereof, and during the 60 days after
35 the Public Health Emergency, as extended, terminates.

36 b. When a tenant applies money or other forms of security
37 deposited or advanced, or interest or earnings accumulated thereon,
38 to pay rent pursuant to subsection a. of this section, the following
39 additional provisions shall apply for the duration of the tenant’s
40 current contract, lease, or license agreement:

41 (1) The landlord may recoup from the tenant any monies the
42 landlord expended that would have been reimbursable by the money
43 or other forms of security deposited or advanced by the tenant, or
44 interest or earnings thereon, at the time that reimbursement from
45 such money, security, interest, or earnings would have taken place;
46 and

47 (2) The tenant shall otherwise be without obligation to deposit
48 or advance further money or forms of security relating to the

1 current contract, lease, or license agreement; provided, however, if
 2 the tenant and landlord extend or renew their contract, lease, or
 3 license agreement following the effective date of P.L. _____,
 4 c. (pending before the Legislature as this bill), then the tenant shall
 5 be obligated to replenish the money or forms of security required
 6 under the contract, lease, or license agreement in full on or before
 7 the last day of the sixth month next following the end of the Public
 8 Health Emergency established by Executive Order No. 103 of 2020,
 9 and any extension thereof, or on the date on which the current
 10 contract, lease, or license agreement is extended or renewed,
 11 whichever is later.

12 c. Use of money or other forms of security deposited or
 13 advanced in accordance with P.L.1967, c.265 (C.46:8-19 et seq.),
 14 including the tenant's portion of the interest, earnings, or both,
 15 accumulated thereon, for the purposes set forth in subsection a. of
 16 this section shall not be considered a violation of P.L.1967, c.265
 17 (C.46:8-19 et seq.).

18 d. A landlord or tenant who fails to comply with the provisions
 19 of subsections a. or b. of this section shall be subject to the
 20 penalties set forth in section 7 of P.L.1967, c.265 (C.46:8-25).²

21
 22 ²**[¹⁷.]** §. ² Section 1 of P.L.2020, c.1 (C.2A:18-59.3) is amended
 23 to read as follows:

24 1. a. Notwithstanding any other law to the contrary, whenever
 25 a Public Health Emergency, pursuant to the "Emergency Health
 26 Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.) ²**[**, or a State of
 27 Emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or
 28 both,² has been declared by the Governor and is in effect, the
 29 Governor may issue an executive order to declare that a lessee,
 30 tenant, homeowner or any other person shall not be removed from a
 31 residential property as the result of an eviction or foreclosure
 32 proceeding. This executive order shall remain in effect for no
 33 longer than two months following the end of the Public Health
 34 Emergency ²**[**or State of Emergency²]. An executive order issued
 35 pursuant to this subsection may be adjusted by a subsequent
 36 executive order.

37 b. Eviction and foreclosure proceedings may be initiated or
 38 continued during the time of an executive order issued pursuant to
 39 this section **[**, but enforcement²], unless provided pursuant to a
 40 subsequently-enacted statute, or in an executive order issued
 41 pursuant to subsection a. of this section, that eviction actions may
 42 not be initiated or continued for nonpayment or habitually late
 43 payment of rent, or for another reason, during a period of time
 44 overlapping that of the initial executive order. Enforcement of all
 45 judgments for possession, warrants of removal, and writs of
 46 possession shall be stayed during this period if the Governor has
 47 issued an executive order prohibiting certain removals from

1 residential property pursuant to subsection a. of this section, unless
2 the court determines on its own motion or motion of the parties that
3 enforcement is necessary in the interest of justice.

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

11 d. As used in this section, "residential property" means any
12 property rented or owned for residential purposes, including, but
13 not limited to, any house, building, mobile home or land in a mobile
14 home park, or tenement leased for residential purposes, but shall not
15 include any hotel, motel, or other guest house, or part thereof,
16 rented to a transient guest or seasonal tenant, or a residential health
17 care facility.¹

18

19 ²9. a. Recognizing that housing developments for low- and
20 moderate-income individuals are likely to be financially impacted
21 by the COVID-19 pandemic, there is hereby established within the
22 New Jersey Housing and Mortgage Finance Agency a "COVID-19
23 Impact Fund."

24 b. Proceeds of the fund may be used:

25 (1) to maintain mortgage payments and related fees and escrows
26 owed to the New Jersey Housing and Mortgage Finance Agency for
27 properties which are approved for mortgage forbearance or
28 otherwise materially impacted by the impact of COVID-19; and

29 (2) in cases where the value of the Low-Income Housing Tax
30 Credit has been reduced due to the impact of the public health crisis
31 caused by the COVID-19 pandemic, to close the financing gap
32 caused by the pricing drop and ensure that the production of
33 affordable housing can continue.

34 c. The Executive Director of the New Jersey Housing and
35 Mortgage Finance Agency shall be permitted to petition the
36 Commissioner of Community Affairs to transfer funds from the
37 "New Jersey Affordable Housing Trust Fund," established pursuant
38 to section 20 of P.L.1985, c.222 (C.52:27D-320), to the "COVID-19
39 Impact Fund." Any petition shall demonstrate the agency's need
40 for the funding. If the petition is approved, the executive director
41 and the commissioner shall enter into a memorandum of
42 understanding governing the amount of the transfer, the date of the
43 transfer, and any additional conditions of the funds being
44 transferred to the "COVID-19 Impact Fund."²

45

46 ²[18.] 10.² (New section) a. The powers granted and duties
47 imposed by this act shall be construed to be independent and
48 severable. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, the invalidity shall not
2 affect other provisions or applications of the sections which can be
3 given effect without the invalid provision or application, and to this
4 end the provisions of this act are severable. All laws and parts of
5 law in conflict with any of the provisions of this act are hereby
6 construed to be inferior to this act, to the extent so in conflict.

7 b. It shall be an unlawful discrimination in violation of the
8 “New Jersey Law Against Discrimination,” P.L.1945, c.169
9 (C.10:5-1 et seq.) for a creditor or landlord to discriminate in
10 application of the provisions of this act because of an impacted
11 homeowners’ or tenant’s race, creed, color, national origin,
12 ancestry, marital status, civil union status, domestic partnership
13 status, pregnancy or breastfeeding, sex, gender identity or
14 expression, affectional or sexual orientation, familial status,
15 disability, liability for service in the Armed Forces of the United
16 States, nationality, or source of lawful income used for rental or
17 mortgage payments.¹

18
19 ¹[2.] ²[9.] 11.² This act shall take effect immediately ¹and
20 shall apply retroactively to rent and mortgage payments missed
21 subsequent to March 9, 2020¹.