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

CURRENT VERSION OF TEXT
As amended by the Senate on October 29, 2020.

(Sponsorship Updated As Of: 12/17/2020)
S2340 [3R] SINGLETON, GREENSTEIN

AN ACT concerning protections for residential property owners and tenants during emergency circumstances and amending P.L.2020, c.1.

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

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

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

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

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

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

(b) During the time of the forbearance, and during the period constituting an extension of the mortgage, all terms and conditions of the original mortgage, except with regard to default and delinquency during forbearance, shall continue without modification, and there shall be no fees assessed for the 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.
3Senate floor amendments adopted October 29, 2020.
(c) A mortgage forbearance executive order may designate a foreclosure action filed by a bank as an unlawful practice, pursuant to the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), if the action is filed only as a result of not receiving mortgage payments from an emergency-impacted homeowner during the time period of the emergency-impacted homeowner’s forbearance.

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

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

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

(5) An emergency-impacted tenant whose landlord has been provided with a forbearance may apply to the landlord for an emergency rent reduction period, unless directed by a mortgage forbearance executive order to apply to an alternative administrative agent. A mortgage forbearance executive order shall establish whether other forms of financial relief obtained by the landlord, in addition to a mortgage forbearance, shall also authorize the landlord’s emergency-impacted tenant to apply for an emergency rent reduction period. An emergency-impacted tenant shall be provided with the level of rent reduction directed by a mortgage forbearance executive order. A mortgage forbearance executive order may authorize the rent reduction provided during an emergency rent reduction period to exceed any limitation on rent increases established by a “Notice of Rent Protection Emergency,” pursuant to P.L.2002, c.133 (C.2A:18-61.62 et seq.). The application deadline for an emergency rent reduction period shall be established by a mortgage forbearance executive order.
(6) A mortgage forbearance executive order may provide the following protections to residential tenants regardless of whether the tenant’s landlord has obtained a forbearance:

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

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

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

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

(a) notify homeowners of the forbearance program;

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

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

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

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

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

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

e. Emergency-impacted homeowners awarded a forbearance under this section shall be responsible for the maintenance of the property during the period of forbearance. After service of notice of any proceedings conducted to terminate forbearance, made on the homeowner at an address determined pursuant to due diligence of the movant bank to be the actual current residence of the homeowner, providing opportunity for the homeowner to respond and contest the proceedings, a forbearance awarded under this section shall cease immediately upon a court's determination that the subject residential property has been abandoned by the homeowner.
Nothing in this section shall be construed as limiting the ability of a bank and residential property owner to participate in a mediation sponsored by the Administrative Office of the Courts in accordance with the requirements of the mediation program. Nothing in this section shall be construed to impact property tax and insurance obligations of a property owner related to any real property in the State.

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

As used in this section:
“Bank” means the mortgage lender or servicer for the primary residence of the emergency-impacted homeowner.
“Commissioner” means the Commissioner of Community Affairs.
“Department” means the Department of Community Affairs.
“Emergency-impacted homeowner” means a homeowner, including, but not limited to, an owner of a residential property serving as the owner’s primary residence, or person or business entity serving as the landlord of a residential property, who is subject to a substantial loss of income, in accordance with the terms of a mortgage forbearance executive order, resulting from a Public Health Emergency, declared pursuant to the “Emergency Health Powers Act,” P.L.2005, c.222 (C.26:13-1 et seq.), or a State of Emergency, declared pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.).

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

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

“Mortgage forbearance” or “forbearance” means a period of time during which obligations for mortgage and interest payments are suspended.
“Mortgage forbearance executive order” means an executive order issued pursuant to subsection a. of this section.

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

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

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

1. (New section) The Legislature finds and declares that:

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

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

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

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

e. It is, therefore, necessary and in the public interest for the Legislature to enact temporary measures to protect the State’s homeowners, residential tenants, student loan borrowers and other vulnerable consumers from foreclosure, eviction, and consumer reporting injustices that are in danger of resulting from this unprecedented emergency.
(New section) As used in P.L., c. (C.) (pending before the Legislature as this bill):

“Creditor” means a person or entity that holds or controls, partially, wholly, indirectly, directly or in a nominee capacity, a mortgage loan securing an owner-occupied residential property, including, but not limited to, an originator, holder, investor, assignee, successor, trust, trustee, nominee holder, Mortgage Electronic Registration System, or mortgage servicer as defined in section 2 of P.L.2019, c.65 (C.17:16F-2).

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

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

“Impacted tenant” means a residential tenant of a residential property who has suffered a substantial reduction of income resulting from becoming unemployed, or suffered increased costs due to funeral expenses or expenses incurred in necessary child care resulting from the closure of schools or caring for family members who are ill, due to the COVID-19 pandemic or quarantined due to suspected exposure to COVID-19, or the Public Health Emergency or State of Emergency declared in response thereto, including as attested by the affidavit for tenant eligibility, pursuant to paragraph (1) of subsection a. of section 6 of P.L., c. (pending before the Legislature as this bill). Impacted tenant shall not include any tenant whose household income, after any hardship, exceeds 100 percent of the Area Median Income as published by the United States Department of Housing and Urban Development for the county in which the residential dwelling is located or any tenant who possesses one or more bank accounts that collectively contain reserves equaling six months’ or more of the tenant’s gross income in 2019 but not limited to a financial hardship from a reduction in hours or loss of employment, loss of income, or increased costs incurred in necessary child care resulting from the closure of schools or caring for family members who are ill due to COVID-19 or quarantined due to a suspected exposure to COVID-19, or for funeral costs due to COVID-19.

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

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

“Non-essential eviction” means an eviction other than for the purpose of removing a residential tenant in the interests of justice whose conduct endangers the health and safety of others for nonpayment or habitually late payment of rent.

“Residential property” means a property located in the State rented or owned for residential purposes; provided, however, that residential property shall be limited to the principal residence of a person or a residential health care facility. “Residential property” shall not include an investment property or a residence other than a primary residence of a homeowner or tenant; residential property taken in whole or in part as collateral for a commercial loan; or a property subject to condemnation or receivership.

3. (New section) a. During the emergency period, a creditor shall grant a mortgage forbearance to an impacted homeowner if the impacted homeowner submits a written request to the mortgage servicer affirming the following:

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

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

(3) the gross household income of the homeowner after hardship does not exceed $150,000 after hardship percent of the area median income, as defined for New Jersey in guidelines published annually by the United States Department of Housing and Urban Development, unless this requirement for eligibility is waived by the mortgage lender; and

(4) if the impacted homeowner possesses one or more bank accounts, those bank accounts collectively contain less than six months’ reserves of the impacted homeowner’s gross household income for 2019. The creditor may require the impacted homeowner to provide a cash asset certification to demonstrate compliance with this paragraph.
b. Upon receipt of a written request or verbal authorization for a mortgage forbearance from an impacted homeowner pursuant to subsection a. of this section, a creditor shall provide to the impacted homeowner a mortgage forbearance and confirmation of that forbearance in writing. No additional documentation shall be required from the impacted homeowner by the creditor other than the written request under subsection a. of this section. The minimum initial mortgage forbearance period of an impacted homeowner shall be 90 days. An impacted homeowner may request, and shall be granted, a subsequent forbearance period of at minimum 90 days, for a total of at minimum 180 days. A creditor shall not be prohibited from offering a more extended forbearance period. Fees, penalties, or interest, including attorney’s fees beyond the amounts scheduled and calculated as if the mortgagor made all contractual payments on time and in full under the terms of the mortgage contract, shall not be assessed or accrue during and as a result of a mortgage forbearance granted pursuant to this section. Nothing in this section shall be construed to impact property tax and insurance obligations of an owner related to any real property in the State. A mortgagee that grants a mortgage forbearance pursuant to this section shall encourage owners to seek out United States Department of Housing and Urban Development certified housing counseling and shall provide to the property owner confirmation of the approval of the forbearance, information concerning the process for forbearance, and information on how to request a subsequent forbearance.

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

(2) In response to a complaint to the Attorney General from an impacted homeowner, or on the Attorney General’s independent initiative, the Attorney General may bring an action alleging a creditor has violated the provisions of this subsection. Upon a finding that non-compliance by a creditor with this section has occurred, a court of competent jurisdiction may:

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

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

(c) order the non-compliant creditor to pay a reasonable counsel fee in connection with an impacted homeowner whose debt has been reported to a collection or credit reporting agency, bureau, or data collection facility:
(d) provide a copy of the order immediately at the request of and at no cost to the impacted homeowner;
(e) order the non-compliant creditor to take such steps as are necessary, within 30 days of the order, to rehabilitate the credit record of an impacted homeowner, with an exact copy provided at no cost to the homeowner of the efforts made in that regard; and
(f) order the non-compliant creditor to pay an award of damages to the impacted homeowner not to exceed 25 percent of the debt attempted to be collected or reported by the non-compliant creditor to the collection or credit reporting agency, bureau, or data collection facility, the minimum award being $350.

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

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

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

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

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

g. [The] (1) To the extent required by the Administrative
Director of the Courts, the creditor shall provide the docket
numbers, party names, and property addresses as to any pending
court actions involving any property granted a forbearance to the
Superior Court Clerk’s Office at least monthly.

(2) The creditor shall submit information on all forbearances
that the creditor has provided within the State to the Department
of Banking and Insurance on a monthly basis, or on any alternative
schedule directed by the Department of Banking and Insurance.

(2) The creditor shall submit information on all forbearances
after removing all personally-identifiable information. This
information shall be submitted in accordance with any
specifications required by the Department of Banking and
Insurance, and, to the extent required by the Department of Banking
and Insurance, shall be deemed to be government records and
subject to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.),
commonly known as the open public records act.

h. [To the extent any provision of this section is in conflict
with federal laws and guidelines, such provision shall not apply to
any mortgage loans made, insured, or securitized by any agency or
instrumentality of the United States, any Government Sponsored
Enterprise, or a Federal Home Loan Bank.] Notwithstanding
anything to the contrary in this section, to the extent
that the application of any provision of this section would conflict
with federal laws and guidelines, such provision shall not apply to,
and does not affect, any mortgage loans made, insured, or
securitized by any agency or instrumentality of the United States,
any government sponsored enterprise, or a federal home loan bank,
or the rights and obligations of any lender, issuer, servicer or trustee
of such obligations, including servicers for the Government
National Mortgage Association or other loans governed by the
Coronavirus Aid, Relief, and Economic Security Act, Pub. L.116-
136.

i. It shall be an unlawful discrimination in violation of the
“New Jersey Law Against Discrimination,” P.L.1945, c.169
(C.10:5-1 et seq.) for a creditor to discriminate in application of the
provisions of this section because of an impacted homeowners’
race, creed, color, national origin, ancestry, marital status, civil
union status, domestic partnership status, pregnancy or
breastfeeding, sex, gender identity or expression, affectional or
sexual orientation, familial status, disability, liability for service in
the Armed Forces of the United States, nationality, or source of
lawful income used for mortgage payments on any basis protected
by subsection g. of section 11 of P.L.1945, c.169 (C.10:5-12).
This section shall not be construed to prohibit a creditor from considering an oral or electronic request for a mortgage forbearance instead of a written request submitted pursuant to subsection a. of this section.

4. (New section) a. Prior to the 60th day next following the end of the emergency period, a landlord or owner of a residential property shall not, for the purposes of a non-essential eviction for a residential property:
   (1) terminate a tenancy;
   (2) file a summary dispossess action; or
   (3) send any notice, including a notice to quit, requesting or demanding that a tenant of a residential property vacate the premises.

b. Prior to the 60th day next following the end of the emergency period, a court having jurisdiction over an action for summary dispossess shall not, in a non-essential eviction for a residential property:
   (1) accept for filing a summons or complaint;
   (2) enter a judgment or default judgment for a plaintiff for possession of a residential property;
   (3) issue warrant of removal;
   (4) deny, upon the request of a defendant, a stay of execution, or upon the request by a party, a continuance of a summary dispossess case; or
   (5) schedule a court event, including a summary dispossess trial.

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

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

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

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

5. (New section) 

a. Prior to the 60th day next following the end of the emergency period, a landlord shall not impose a late fee for non-payment of rent for a residential property that was due during the emergency period.

b. (1) Consistent with the provisions of 15 U.S.C. s.1681s-2(a)(1)(F), a landlord shall not furnish rental payment data to a debt collection or credit reporting agency related to the non-payment of rent during the emergency period and the 60 days next following the end of the emergency period, or shall report the rental payment as current. This paragraph shall not:

   (a) apply to an impacted tenant’s rent payments that remain due as the result of a payment missed prior to the effective date of Executive Order No. 106 of 2020, including payments held in escrow before that date; or
   (b) limit the ability of a landlord to share information with the landlord’s attorney or property management company, or to notice the tenant in compliance with Anti-Eviction Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.).

   (2) As a result of any record or information reflecting an impacted tenant’s non-payment of rent during the emergency period, a landlord shall not:

   (a) refuse to rent to an impacted tenant; or
   (b) place, or disseminate an impacted tenant’s information for the purpose of placing an impacted tenant on a list for the use of other landlords, as a result of any record or information reflecting the impacted tenant’s non-payment of rent during the emergency period and the 60 days next following the end of the emergency period.

   (A tenant or) In response to a complaint to the Attorney General from an impacted tenant, or on the Attorney General’s independent initiative, the Attorney General may bring an action alleging a landlord has violated the provisions of subsection b. of this section concerning the furnishing of information to a collection or credit reporting agency. Regarding a first violation, the court shall provide the landlord with an opportunity to correct prior to imposing a penalty. Following the provision of this opportunity
to correct any first violation, upon a finding that non-compliance by a landlord with subsection b. of this section has occurred, a court of competent jurisdiction may:

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

(2) impose a fine on the non-compliant landlord, not to exceed $5,000 per impacted tenant for a first violation, $1,000 for a second violation, and $2,500 for each subsequent violation;

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

(4) provide a copy of the order immediately upon the request of the impacted tenant and at no cost to the impacted tenant;

(5) order the non-compliant landlord to take such steps as are necessary, within 30 days of the order, to rehabilitate the credit record of an impacted tenant, with an exact copy provided to the impacted tenant at no cost, of the efforts made in that regard; and

(6) if the impacted tenant is able to show actual damages that have resulted from a violation of this section, order the non-compliant landlord to pay an award of damages to the impacted tenant not to exceed 25 percent of the debt attempted to be collected or reported by the non-compliant landlord to the collection or credit reporting agency, bureau, or data collection facility, the minimum award being $350.

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

6. (New section) a. In order to avoid mass evictions and widespread homelessness following the conclusion of the moratorium on evictions required by section of P.L. c. (pending before the Legislature as this bill), a landlord shall offer each tenant of the properties owned by the landlord who has missed any partial or full rent payments prior to the end of the emergency period, the ability to enter into an agreement pursuant to subsection d. of this section, which shall be an addendum to the lease agreement, for the repayment of any partial or full rent payments not made during the emergency period and
the 60 days next following the end of the emergency period[2]; provided [1][the impacted tenant’s rent payments were current including payments held in escrow as of] that this requirement shall not apply to an impacted tenant with one or more rent payments, including payments held in escrow, that remain due as the result of a payment missed prior to[3] the effective date of Executive Order No. 106 of 2020. [2]The offer shall be provided in writing by hand-

(1) A tenant shall not accept an offer from a landlord pursuant to this subsection if[2]; [2]

(a) [2]the tenant is not an impacted tenant;

(b)(b) (c) [2] the tenant possesses one or more bank accounts that collectively contain reserves equaling six months’ or more of the tenant’s gross household income for 2019[2] unless the landlord makes an exception,[2] or

(d) [2]the tenant has not attested by affidavit to compliance with this paragraph[2].

(2) The landlord may bring a cause of action against a tenant in a court of competent jurisdiction to enforce a violation of paragraph (1) of this subsection.[2] [3][The landlord may require the impacted tenant to provide a cash asset certification[2], if available,[2] to demonstrate compliance with[1] this[2][subparagraph (c) of paragraph (1) of this subsection, and any other financial information reasonably necessary to ensure the impacted tenant’s compliance with paragraph (1) of this subsection if available[2].]

(2)(2)(3) To prevent a landlord from losing their primary home in a foreclosure due to COVID-19 economic hardship, owners of owner-occupied properties with four or less units are exempt from having to enter into a rent repayment plan with their impacted tenant only if after the owner completed an application for a mortgage forbearance, but was denied forbearance as defined in this bill from their creditor. Creditors covered in this bill shall not deny a landlord of an owner occupied property a mortgage forbearance if their tenants cannot pay rent[1][ Having]; having[1] impacted tenants means the landlord is also then negatively impacted.

(4) During the repayment period, a landlord shall not impose any[1][late fees or any other fees, including attorney’s fees, for rent payments] fees for rent payments, as defined in the lease agreement, either written or oral[1] not made during the emergency
period and the 60 days next following the end of the emergency period.

b. The Department of Community Affairs shall, as soon as practicable following the effective date of P.L. , c. (pending before the Legislature as this bill), prepare and make available on its Internet website a statement of the rights and responsibilities of impacted tenants and landlords for the repayment of missed rent payments pursuant to this section and an explanation of, and model template for, the default repayment plans available pursuant to subsection d. of this section and (2) an affidavit that an impacted tenant shall use to demonstrate compliance with the definition of an impacted tenant, provided pursuant to section 2 of P.L. , c. (pending before the Legislature as this bill), and with paragraph (1) of subsection a. of this section. This statement and templates shall be printed in the English, Spanish, Arabic, French, Russian, Korean, Chinese, and Vietnamese languages. Every landlord shall distribute one copy of the statement and templates prepared and made available pursuant to this subsection to each of their tenants within business days after it has been made available by the department, and landlords may provide notice of an unpaid balance, but may not demand payment of unpaid rent until after the statement and templates have been distributed to each tenant in accordance with this subsection. If a landlord fails to comply with this subsection, this failure may be used by the an impacted tenant as an affirmative defense to liability for payment of the applicable interest due in any monetary judgment action an action seeking the recovery of rent, or to a landlord-tenant complaint seeking a judgment for possession against the impacted tenant, if brought by the landlord to recover rent due during the emergency period.

c. (1) Within business days following the conclusion of the emergency period, a landlord shall calculate all partial or full rent payments legally owed and not made during the emergency period \(2\) and the 60 days next following the end of the emergency period \(2\) by each impacted tenant liable for rent repayment pursuant to subsection a. of this section. After determining the amount of the missed payments and applying all credits, if any, due to the impacted tenant, the landlord shall provide each impacted tenant with a written notice by hand-delivery, \(1\) by certified mail, \(3\) text message, or e-mail, using the template to be prepared and made available on its website by the department, of the amount owed by the impacted tenant in a form that specifies, in detail, the amount claimed to be due and an itemization of all credits to which the impacted tenant is entitled. All amounts shall be legal and in
compliance with all applicable laws, including local rent control ordinances.

(2) If the impacted tenant does not agree with the amount claimed due, the notice shall provide that the impacted tenant shall notify the landlord within 25 days after the date on which the rent and arrearage repayments are to commence; provided, however, that the impacted tenant shall still begin repayment of missed rent pursuant to the repayment agreement. The impacted tenant may assert any and all additional objections to the amount claimed due, including diminished habitability payment by the impacted tenant or by others on behalf of the impacted tenant, or other legal and equitable setoffs or defenses.

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

(4) If the landlord fails to demonstrate in the landlord-tenant case pending with the court the correctness of the amount assessed of rent due and owing by the impacted tenant, then the court shall order that the landlord shall refund any incorrectly assessed amount paid by the impacted tenant. Upon a finding of a violation of this subsection by the landlord, the court may also order the landlord to pay to the tenant a penalty of 20 percent of the difference between the amount requested by the landlord and the amount actually owed, to be used as a credit towards future rent.

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

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

(2) Repayment Plan B] An impacted tenant and landlord shall enter into a written agreement for any unpaid rent during the emergency period. If a landlord and impacted tenant are unable to reach an agreement, or if the agreement is deemed to be unaffordable by the tenant within 30 days following the tenant’s
receipt of the notification of rights pursuant to subsection b. of this section, any unpaid rent during the emergency period shall be paid in accordance with the default repayment plan that shall provide an impacted tenant with six months to repay each month's rent that was unpaid, whether in full or in part, during the emergency period with all back rent owed and paid in full by the last day of the 30th month of the repayment period. Payments shall be due in equal monthly installments during the repayment period. If any rent that went unpaid during the emergency period continues to be unpaid despite an impacted tenant's compliance with this repayment schedule, then that remaining unpaid rent shall be due in full on the last day of the 30th month of the repayment period. The surrender of property by the impacted tenant shall not relieve the impacted tenant from the obligation to pay any rent missed during the emergency period or restrict a landlord’s ability to recover such rent. An agreement entered into pursuant to subsection d. of this section shall be null and void upon full payment of the monies stipulated in the agreement. Nothing in this section shall prohibit a landlord from filing an action for eviction for the failure to pay rent in accordance with a repayment plan in effect pursuant to subsection a. or b. of this section after the eviction moratorium period required by section 4 of P.L. , (C. ) (pending before the Legislature as this bill) has ended. Any rent or rent escrow payments made to the landlord for or on behalf of an impacted tenant by other entities, including government agencies, non-profit organizations, or in any other manner, shall be credited against the amount due from that impacted tenant. It shall be an unlawful discrimination in violation of the “New Jersey Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.) for a landlord to discriminate in application of the provisions of this section because of a tenant’s race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, liability for service in the Armed Forces of the United States, nationality, or source of lawful income used for rental payments on any basis protected by subsection g. of section 11 of P.L.1945, c.169 (C.10:5-12).
19 et seq.), including the tenant’s portion of the interest, earnings, or both, accumulated thereon, shall be applied to or credited towards rent payments due or to become due from the tenant during the Public Health Emergency established in Executive Order No. 103 of 2020, and any extension thereof, and during the 60 days after the Public Health Emergency, as extended, terminates.

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

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

(2) The tenant shall otherwise be without obligation to deposit or advance further money or forms of security relating to the current contract, lease, or license agreement; provided, however, if the tenant and landlord extend or renew their contract, lease, or license agreement following the effective date of P.L. ,

c. (pending before the Legislature as this bill), then the tenant shall be obligated to replenish the money or forms of security required under the contract, lease, or license agreement in full on or before the last day of the sixth month next following the end of the Public Health Emergency established by Executive Order No. 103 of 2020, and any extension thereof, or on the date on which the current contract, lease, or license agreement is extended or renewed, whichever is later.

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

\[7.\] \[8.\] Section 1 of P.L.2020, c.1 (C.2A:18-59.3) is amended to read as follows:

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

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

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

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

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

b. Proceeds of the fund may be used:

(1) to maintain mortgage payments and related fees and escrows owed to the New Jersey Housing and Mortgage Finance Agency for properties which are approved for mortgage forbearance or otherwise materially impacted by the impact of COVID-19; and
(2) in cases where the value of the Low-Income Housing Tax Credit has been reduced due to the impact of the public health crisis caused by the COVID-19 pandemic, to close the financing gap caused by the pricing drop and ensure that the production of affordable housing can continue.

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

10. (New section) a. A taxpayer who is a landlord for residential property, with the exception of a landlord of a multiple dwelling of more than 10 dwelling units, shall be allowed a credit against the tax otherwise due for the taxable year under the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., in an amount equal to 50 percent of the amount of rent that one or more impacted tenants do not pay in a taxable year during the emergency period, for which the landlord permanently forgives that impacted tenant or tenants from paying. A permanent forgiveness of unpaid rent may be asserted to obtain a tax credit pursuant to this section only if notice of the forgiveness has been provided in writing to the tenant, along with a written certification that the unpaid rent shall not be asserted as grounds for any legal action, including but not limited to an action to: (1) evict or otherwise dispossess the tenant of the property; or (2) obtain the unpaid rent through a monetary judgment action.

b. The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed pursuant to the “New Jersey Gross Income Tax Act” N.J.S.54A:1-1 et seq, for a taxable year shall be as prescribed by the director. The amount of the credit applied under this section against the tax imposed for a taxable year, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than zero. The amount of unused credit allowable under this section may be carried forward, if necessary, to the three taxable years following the taxable year for which the tax credit is allowed.

c. A business entity that is classified as a partnership for federal income tax purposes shall not be allowed the credit directly, but the amount of credit of a taxpayer in respect of a distributive share of partnership income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership
that is equal to the taxpayer’s share, whether or not distributed, of
the total distributive income or gain of the partnership for its
taxable year ending within or with the taxpayer’s taxable year. A
taxpayer that is a New Jersey S corporation shall not be allowed the
credit directly, but the amount of credit of a taxpayer in respect of a
pro rata share of S corporation income shall be determined by
allocating to the taxpayer that proportion of the credit acquired by
the New Jersey S corporation that is equal to the taxpayer’s share,
whether or not distributed, of the total pro-rata share of S
corporation income of the New Jersey S corporation for its privilege
period ending within or with the taxpayer’s taxable year.

d. The Director of the Division of Taxation in the Department of
the Treasury is authorized to adopt rules and regulations in
accordance with the "Administrative Procedure Act." P.L.1968,
c.410 (C.52:14B-1 et seq.) and prescribe forms as necessary to
implement this section. 3

2[8.] 3[10.] 11. 3 (New section) 3[a. The powers granted and
duties imposed by this act shall be construed to be independent and
severable. If any provision of this act or the application thereof to
any person or circumstance is held invalid, the invalidity shall not
affect other provisions or applications of the sections which can be
given effect without the invalid provision or application, and to this
end the provisions of this act are severable. All laws and parts of
law in conflict with any of the provisions of this act are hereby
construed to be inferior to this act, to the extent so in conflict.

b. 3 It shall be an unlawful discrimination in violation of the
“New Jersey Law Against Discrimination,” P.L.1945, c.169
(C.10:5-1 et seq.) for a creditor or landlord to discriminate in
application of the provisions of this act 3because of an impacted
homeowners’ or tenant’s race, creed, color, national origin,
ancestry, marital status, civil union status, domestic partnership
status, pregnancy or breastfeeding, sex, gender identity or
expression, affectional or sexual orientation, familial status,
disability, liability for service in the Armed Forces of the United
States, nationality, or source of lawful income used for rental or
mortgage payments 3on any basis protected by subsection g. of
section 11 of P.L.1945, c.169 (C.10:5-12) 3. 3

1[2.] 2[9.] 3[11.] 12. 3 This act shall take effect immediately
and shall apply retroactively to rent and mortgage payments
missed subsequent to March 9, 2020 3.