

[First Reprint]  
**SENATE, No. 3669**

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

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INTRODUCED APRIL 26, 2021

**Sponsored by:**  
**Senator TROY SINGLETON**  
**District 7 (Burlington)**

**SYNOPSIS**

Provides mortgage payment relief for residential property owners and small landlords during time of coronavirus disease 2019 pandemic.

**CURRENT VERSION OF TEXT**

As reported by the Senate Community and Urban Affairs Committee on May 6, 2021, with amendments.



1 AN ACT concerning emergency mortgage relief for residential  
2 property owners <sup>1</sup>and small landlords<sup>1</sup>.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

- 6  
7 1. The Legislature finds and declares that:
- 8 a. The social distancing measures and associated economic pause,  
9 that have been necessary to combat the COVID-19 pandemic, have  
10 also forced many New Jersey residents to endure job losses and  
11 prolonged depletions of income;
  - 12 b. As of May 2020, the unemployment rate of the United States  
13 exceeded 14 percent, and unemployment rates have remained  
14 persistently high in New Jersey and other states;
  - 15 c. The residents of New Jersey have not been able to avoid  
16 suffering as a result of the COVID-19 pandemic, as the State is widely  
17 reported to have the highest COVID-19-related death rate in the  
18 nation, and the economic impact on many State residents appears to be  
19 similarly catastrophic;
  - 20 d. This unprecedented situation has made the timely payment of  
21 mortgages impossible for many State residents; and
  - 22 e. It is, therefore, necessary and in the public interest for the  
23 Legislature to enact temporary measures to protect the State's  
24 homeowners <sup>1</sup>and small landlords<sup>1</sup> from foreclosure that are in danger  
25 of resulting from this unprecedented emergency.

26  
27 2. As used in this act:  
28 "COVID-19" means the coronavirus disease 2019, as announced  
29 by the World Health Organization on February 11, 2020, and first  
30 identified in Wuhan, China.

31 "Creditor" means a person or entity that holds or controls,  
32 partially, wholly, indirectly, directly or in a nominee capacity, a  
33 mortgage loan securing an owner-occupied residential property,  
34 including, but not limited to, an originator, holder, investor, assignee,  
35 successor, trust, trustee, nominee holder, or mortgage servicer as  
36 defined in section 2 of P.L.2019, c.65 (C.17:16F-28). <sup>1</sup>"Creditor"  
37 shall not, however, include any creditor for a mortgage loan that is  
38 backed by a shareholder-owned company that operates under a charter  
39 of the United States Congress.<sup>1</sup>

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

44 "Impacted homeowner" means an owner or mortgagor of title to a  
45 residential property, which serves as such person's primary residence,

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCU committee amendments adopted May 6, 2021.

1 and who qualifies for a mortgage forbearance pursuant to section 3 of  
2 this act. <sup>1</sup>“Impacted homeowner” shall also include a person who  
3 owns and resides in a residential building in which there is rented or  
4 offered for rent other dwelling units under either a written or oral lease  
5 which building contains no more than four dwelling units.<sup>1</sup>

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

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

16

17 3. a. During the emergency period, regardless of whether or not  
18 the residential property of an impacted homeowner is already the  
19 subject of a foreclosure proceeding, a creditor shall grant a mortgage  
20 forbearance to an impacted homeowner if the impacted homeowner  
21 submits a written request to the mortgage servicer certifying the  
22 following:

23 (1) the impacted homeowner has suffered a negative financial  
24 impact resulting from COVID-19 or the Public Health Emergency or  
25 State of Emergency declared in response thereto, including but not  
26 limited to a financial hardship from a reduction in hours or loss of  
27 employment, loss of income or increased costs incurred in necessary  
28 child care resulting from the closure of schools or caring for family  
29 members who are ill due to COVID-19 or quarantined due to a  
30 suspected exposure to COVID-19, or for funeral costs due to COVID-  
31 19;

32 (2) the gross household income of the <sup>1</sup>impacted<sup>1</sup> homeowner,  
33 after hardship, does not exceed 150 percent of the area median income,  
34 as defined for New Jersey in guidelines published annually by the  
35 United States Department of Housing and Urban Development, unless  
36 this requirement for eligibility is waived by the mortgage lender; and

37 (3) if the impacted homeowner possesses one or more bank  
38 accounts, those bank accounts collectively contain less than six  
39 months’ reserves of the impacted homeowner’s gross household  
40 income for 2019. The creditor may require the impacted homeowner  
41 to provide a cash asset certification to demonstrate compliance with  
42 this paragraph.

43 b. Upon receipt of a written request or verbal authorization for a  
44 mortgage forbearance from an impacted homeowner pursuant to  
45 subsection a. of this section, a creditor shall provide to the impacted  
46 homeowner a mortgage forbearance and confirmation of that  
47 forbearance in writing. No additional documentation shall be required  
48 from the impacted homeowner by the creditor other than the written

1 request under subsection a. of this section. <sup>1</sup>A creditor shall have 45  
2 days to approve or deny a request for a forbearance. If the impacted  
3 homeowner is not notified within that time period, the request is  
4 deemed approved. During this period, a creditor shall not institute any  
5 foreclosure proceedings and any proceedings already underway shall  
6 be stayed. If a mortgage forbearance request is denied, the creditor  
7 shall provide an explanation of the reasons for the denial, and, if  
8 applicable, reasonable time to remedy any deficiencies in the request.<sup>1</sup>  
9 The minimum initial mortgage forbearance period of an impacted  
10 homeowner shall be 90 days. An impacted homeowner may request,  
11 and shall be granted, a subsequent forbearance period of at minimum  
12 90 days, for a total minimum of 180. A creditor shall not be prohibited  
13 from offering a more extended forbearance period. Fees, penalties, or  
14 interest, including attorney's fees beyond the amounts scheduled and  
15 calculated as if the mortgagor made all contractual payments on time  
16 and in full under the terms of the mortgage contract, shall not be  
17 assessed or accrue during and as a result of a mortgage forbearance  
18 granted pursuant to this section. Nothing in this section shall be  
19 construed to impact property tax and insurance obligations of an  
20 <sup>1</sup>**[owner]** impacted homeowner<sup>1</sup> related to any real property in the  
21 State. A <sup>1</sup>**[mortgagee]** creditor<sup>1</sup> that grants a mortgage forbearance  
22 pursuant to this section shall encourage <sup>1</sup>**[owners]** impacted  
23 homeowners<sup>1</sup> to seek out United States Department of Housing and  
24 Urban Development certified housing counseling and shall provide to  
25 the property owner confirmation of the approval of the forbearance,  
26 information concerning the process for forbearance, and information  
27 on how to request a subsequent forbearance.

28 c. (1) Consistent with the provisions of 15 U.S.C. s.1681s-  
29 2(a)(1)(F), a creditor shall not furnish negative mortgage payment  
30 information to a debt collector or credit reporting agency related to  
31 mortgage payments subject to a mortgage forbearance under this  
32 section.

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

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

42 (b) impose a fine on the non-compliant creditor, not to exceed  
43 \$5,000 per violation;

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

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

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

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

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

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

19 (2) otherwise initiate the foreclosure process.

20 A deadline or time period for action by a party to the foreclosure  
21 process for a residential property filed prior to the effective date of this  
22 act shall be tolled until the end of the emergency period.

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

41 f. An impacted homeowner denied a forbearance under this  
42 section by a creditor licensed by the Department of Banking and  
43 Insurance may file a complaint with the Department of Banking and  
44 Insurance. The department shall investigate the complaint and <sup>1</sup>issue a  
45 ruling within 30 days and<sup>1</sup>, if appropriate, <sup>1</sup>the department<sup>1</sup> shall order  
46 the creditor to grant a forbearance to the impacted homeowner  
47 pursuant to this section. <sup>1</sup>During the pendency of any investigation, no

1 notice of foreclosure shall be filed by any creditor against the same  
2 impacted homeowner.<sup>1</sup>

3 g. <sup>1</sup>[(1)]<sup>1</sup> To the extent required by the Administrative Director  
4 of the Courts, the creditor shall provide the docket numbers, party  
5 names, and property addresses as to any pending court actions  
6 involving any property granted a forbearance to the Superior Court  
7 Clerk's Office at least monthly.

8 <sup>1</sup>[(2)]<sup>1</sup> The creditor shall submit information on all forbearances  
9 that the creditor has provided within the State to the Department of  
10 Banking and Insurance on a monthly basis, or on any alternative  
11 schedule directed by the Department of Banking and Insurance, after  
12 removing all personally-identifiable information. This information  
13 shall be submitted in accordance with any specifications required by  
14 the Department of Banking and Insurance, and, to the extent required  
15 by the Department of Banking and Insurance, shall be deemed to be  
16 government records and subject to the provisions of P.L.1963, c.73  
17 (C.47:1A-1 et seq.), commonly known as the open public records  
18 act.]<sup>1</sup>

19 h. Notwithstanding anything to the contrary in this section, to the  
20 extent that the application of any provision of this section would  
21 conflict with federal laws and guidelines, such provision shall not  
22 apply to, and does not affect, any mortgage loans made, insured, or  
23 securitized by any agency or instrumentality of the United States, any  
24 government sponsored enterprise, or a federal home loan bank, or the  
25 rights and obligations of any lender, issuer, servicer or trustee of such  
26 obligations, including servicers for the Government National Mortgage  
27 Association or other loans governed by the federal "Coronavirus Aid,  
28 Relief, and Economic Security Act," Pub.L.116-136.

29 i. It shall be an unlawful discrimination in violation of the "New  
30 Jersey Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et  
31 seq.) for a creditor to discriminate in application of the provisions of  
32 this section on any basis protected by subsection g. of section 11 of  
33 P.L.1945, c.169 (C.10:5-12).

34 j. This section shall not be construed to prohibit a creditor from  
35 considering an oral or electronic request for a mortgage forbearance  
36 instead of a written request submitted pursuant to subsection a. of this  
37 section.

38 <sup>1</sup>k. The Department of Banking and Insurance shall post  
39 information about the forbearance program on the department's  
40 Internet website. Within 60 days of the enactment of this act, the  
41 Department of Banking and Insurance shall provide notice of the  
42 enactment of this act to known creditors and develop a form for  
43 creditors to use, in the five most common languages spoken in the  
44 State, to notify mortgagors of their rights under this act. Within 90  
45 days of the enactment of this act, creditors shall provide such notice to  
46 mortgagors about the right of impacted homeowners to file for a  
47 forbearance.

**S3669 [1R] SINGLETON**

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1       1. Nothing in this act shall be construed as limiting the ability of a  
2 creditor and impacted homeowner to participate in a mediation process  
3 sponsored by the Administrative Office of the Courts in accordance  
4 with the requirements of any such mediation program.<sup>1</sup>

5

6       4. This act shall take effect immediately and shall apply  
7 retroactively to mortgage payments missed subsequent to March 9,  
8 2020.