

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### **SENATE, No. 3669**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 6, 2021

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 3669.

As amended, this bill would provide protections to certain homeowners during the COVID-19 pandemic emergency period. Under the bill, “emergency period” means the period during which a public health emergency exists as declared by the Governor in Executive Order No. 103 of 2020, as extended, and the 60 days following the conclusion of this period.

The bill provides that, during the emergency period, a creditor is required to grant a mortgage forbearance to an impacted homeowner if the impacted homeowner submits a written request to the mortgage servicer affirming the following:

(1) the impacted homeowner has suffered a substantial reduction of income resulting from COVID-19 or the Public Health Emergency or State of Emergency declared in response thereto, including a financial hardship from a reduction in hours or loss of employment, 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;

(2) the gross household income of the impacted homeowner does not exceed 150 percent of the area median income after hardship, unless this requirement for eligibility is waived by the mortgage lender; and

(3) the impacted homeowner’s bank accounts collectively contain less than six months’ reserves of the impacted homeowner’s gross household income for 2019.

Upon receipt of a request for a mortgage forbearance from an impacted homeowner, the bill requires a creditor to provide to the impacted homeowner a mortgage forbearance and confirmation of that forbearance in writing. A creditor shall have 30 days to approve or deny a request for a forbearance. If the impacted homeowner is not notified within that time period, the request is deemed approved. During this period, a creditor shall not institute any foreclosure proceedings and any proceedings already underway shall be stayed. If a mortgage forbearance request is denied, the creditor shall provide an

explanation of the reasons for the denial, and, if applicable, reasonable time to remedy any deficiencies in the request

The minimum initial mortgage forbearance period of an impacted homeowner is to be 90 days. An impacted homeowner may request, and is to be granted, a subsequent forbearance period of at minimum 90 days, for a total minimum of 180 days. Fees, penalties, or interest, including attorney's fees, shall not be assessed or accrue during and as a result of a mortgage forbearance.

The bill prohibits a creditor from furnishing negative mortgage payment information to a debt collector or credit reporting agency related to mortgage payments subject to a mortgage forbearance under the bill. In response to a complaint to the Attorney General from an impacted homeowner, the Attorney General may bring an action alleging a creditor has violated this prohibition.

Under the bill, the repayment period of any mortgage subject to the forbearance would be extended by the number of months the forbearance is in effect. The payments not made during the months of the forbearance would instead be due on a monthly basis during the period constituting an extension of the mortgage, unless the property owner chooses to make these payments earlier.

An impacted homeowner denied a forbearance under the bill by a creditor licensed by the Department of Banking and Insurance ("DOBI"), and not a State- or nationally-chartered financial institution, may file a complaint with DOBI. The department would be required to investigate the complaint and issue a ruling within 30 days and, if appropriate, would order the creditor to grant a forbearance to the impacted homeowner. During the pendency of any investigation, no notice of foreclosure shall be filed by any creditor against the same impacted homeowner.

Information about the forbearance program would be posted on the Internet website of the Department of Banking and Insurance. Within 60 days of the enactment of this act, the Department of Banking and Insurance would provide notice of the enactment of this act to known creditors and develop a form for creditors to use, in the five most common languages spoken in the State, to notify mortgagors of their rights under this act. Within 90 days of the enactment of this act, creditors would provide such notice to mortgagors about the right of impacted homeowners to file for a forbearance.

This bill would take effect immediately and would apply retroactively to mortgage payments missed subsequent to March 9, 2020.

#### COMMITTEE AMENDMENTS:

The committee amendments:

- Adds to the definition of "creditor" that a creditor would not include any creditor for a mortgage loan that is backed by a

shareholder owned company that operates under a charter of the United States Congress.

- Expands the definition of “impacted homeowner” to include a person who owns and occupies a residential building in which dwelling units are rented or offered for rent, which building contains no more than four dwelling units.
- Provides that a creditor would have 45 days to approve or deny a request for a forbearance. If the impacted homeowner is not notified within that time period, the request is deemed approved. During this period, a creditor would not institute any foreclosure proceedings and any proceedings already underway shall be stayed. If a mortgage forbearance request is denied, the creditor would provide an explanation of the reasons for the denial, and, if applicable, reasonable time to remedy any deficiencies in the request.
- Provides that the department would investigate a complaint and issue a ruling within 30 days and the department would order the creditor to grant a forbearance to the impacted homeowner.
- Provides that during this pendency of any investigation, no notice of foreclosure would be filed by any creditor against the same impacted homeowner.
- Removes the provision that the creditor would be required to submit information on all forbearances that the creditor has provided within the State to the Department of Banking and Insurance.
- Provides information about the forbearance program would be posted on the Internet website of the Department of Banking and Insurance and within 60 days of the enactment of this act, the Department of Banking and Insurance would provide notice of the enactment of this act to known creditors and develop a form for creditors to use, in the five most common languages spoken in the State, to notify mortgagors of their rights under this act. Within 90 days of the enactment of this act, creditors shall provide such notice to mortgagors about the right of impacted homeowners to file for a forbearance.
- Make technical corrections to the bill.