

SENATE, No. 636

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Senator LaROSSA

1 AN ACT concerning mortgage payments and supplementing P.L.1990,
2 c.69 (C.17:16F-15 et seq.).

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

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7 1. a. No mortgagee or its servicing organization shall assess a late
8 payment charge with respect to a regularly scheduled mortgage or
9 mortgage escrow account payment unless the payment is received
10 more than 15 days after the scheduled due date.

11 b. No mortgagee or its servicing organization shall assess a late
12 payment charge with respect to a regularly scheduled mortgage or
13 mortgage escrow account payment without also including with the
14 statement informing the mortgagor of the late charge, a copy of the
15 postmarked envelope in which the mortgage or mortgage escrow
16 account payment was received by the mortgagee or its servicing
17 organization, clearly showing the postmark, if any.

18 c. No mortgagee or its servicing organization shall assess a late
19 payment charge in excess of five percent of the regularly scheduled
20 payment for principal and interest.

21 d. No mortgagee or its servicing organization shall collect a late
22 payment charge by:

23 (1) charging the mortgagor's escrow account;

24 (2) deducting from a regular monthly installment;

25 (3) deducting from a payment made to partially or fully cure a
26 delinquency; or

27 (4) adding to the outstanding principal balance of the mortgage.

28 e. No mortgagee or its servicing organization shall cause a
29 mortgage to become delinquent or be placed in foreclosure because of
30 an unpaid late payment charge.

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32 2. If a mortgagor is aggrieved by a violation of this act, which
33 violation is not remedied in a reasonable, timely, and good faith
34 manner by the mortgagee or its servicing organization, after a good
35 faith effort to resolve the dispute is made by the mortgagor, the
36 mortgagor may bring an action in a court of competent jurisdiction,
37 and, if the court finds that actual damages have occurred, the court

1 shall award, in addition to actual damages, the amount of \$500,
2 together with court costs and reasonable attorneys' fees.

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4 3. This act shall take effect immediately.

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7 STATEMENT

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9 This bill would prohibit a mortgagee or its servicing organization
10 from assessing a late payment charge unless the payment is received
11 more than 15 days after its scheduled due date. If the mortgagee or its
12 servicing organization is assessing the mortgagor a late charge for a
13 payment received after the 15 day grace period, the bill would require
14 a mortgagee or its servicing organization to provide a copy of the
15 postmarked envelope in which a scheduled mortgage payment was
16 received, clearly showing the postmark, if any.

17 The bill also prohibits a mortgagee or its servicing organization
18 from: assessing a late payment charge in an amount which is greater
19 than five percent of the regularly scheduled payment amount;
20 collecting a late payment charge by charging the mortgagor's escrow
21 account; deducting from a regularly monthly installment; adding to the
22 outstanding principal balance or deducting from a payment made to
23 partially or fully cure a delinquency. In addition, the bill prohibits a
24 mortgagee or its servicing organization from causing a mortgage to
25 become delinquent or be placed in foreclosure because of an unpaid
26 late payment charge.

27 The bill provides for a remedy to a violation of the act first through
28 the efforts of the mortgagor, and failing to achieve a remedy
29 satisfactory to the mortgagor, by an action in a court of competent
30 jurisdiction. If the court finds that actual damages have occurred to
31 the mortgagor, the court is to award, in addition to actual damages,
32 the amount of \$500, together with court costs and reasonable attorney
33 fees.

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38 Establishes certain practices with respect to late payment charges on
39 mortgage payments.