

SENATE, No. 803

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 22, 1996

By Senator EWING

1 AN ACT concerning mortgage escrow accounts and amending and
2 supplementing P.L.1990, c.69.

3

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

6

7 1. Section 1 of P.L.1990, c.69 (C. 17:16F-15) is amended to read
8 as follows:

9 1. As used in this act:

10 "Commissioner" means the Commissioner of Community Affairs.

11 "Duplicate copy" means a duplicate of the original property tax bill
12 which duplicate is generated by the collector of a taxing district.

13 "Effective date of transfer" means the date on which the mortgage
14 payment of a mortgagor is first due to the purchasing servicing
15 organization pursuant to the sale, assignment or transfer of the
16 servicing of a mortgage loan.

17 "Mortgagee" means the maker or holder, or both, of a mortgage
18 loan, as applicable.

19 "Mortgage escrow account" or "escrow account" means an account
20 which is part of a mortgage loan agreement, whether incorporated into
21 the agreement or as part of a separately executed document, whereby:
22 the mortgagor is obligated to make periodic payment to the mortgagee
23 or his agent for taxes, insurance premiums, or other charges with
24 respect to the real property which secures the mortgage loan; and the
25 mortgagee or his agent is obligated to make payments for taxes,
26 insurance premiums or other charges with respect to the real property
27 which secures the mortgage loan. For the purposes of P.L.1990, c.69
28 (C.17:16F-15 et seq.), there shall be only one escrow account per
29 mortgage loan and an account shall refer to the sum of all payments
30 made by a mortgagor into an escrow account regardless of how a
31 mortgagee or its agent may subdivide the account for accounting
32 purposes.

33 "Mortgage loan" means a loan made to a natural person or persons
34 to whom credit is offered or extended primarily for personal, family or

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.

1 household purposes which is secured [by a mortgage constituting] in
2 whole or in part by a lien upon any interest in residential real property
3 located in this State [on which there is erected or to be erected a
4 structure containing one, two, three, four, five or six dwelling units,
5 a portion of which structure may be used for nonresidential purposes],
6 including shares of stock in a cooperative corporation created pursuant
7 to "The Cooperative Recording Act of New Jersey," P.L.1987, c.381
8 (C.46:8D-1 et seq.), which lien is created by a security agreement,
9 including a mortgage, indenture, or any other similar instrument or
10 document, in the making of which lien the mortgagee relies primarily
11 upon the value of the mortgaged property or the shares of stock in the
12 cooperative corporation.

13 "Mortgagor" includes any person liable for the payment of a
14 mortgage loan, and the owner of real property which secures the
15 payment of a mortgage loan.

16 "Original tax bill" means the property tax bill as originally prepared
17 and mailed by the collector of a taxing district pursuant to subsection
18 a. of R.S.54:4-64.

19 "Property tax processing organization" means an organization
20 which, under contract with a mortgagee or a servicing organization,
21 collects and processes property tax information with respect to
22 properties securing mortgage loans.

23 "Purchasing servicing organization" means a person or entity to
24 whom or which a mortgagee or a selling servicing organization sells,
25 assigns or transfers the servicing of a mortgage loan.

26 "Replacement bill" means a property tax bill made or generated by
27 a mortgagee, servicing organization or tax processing organization
28 subject to the restrictions provided pursuant to subsection a. of section
29 5 of [this act] P.L.1990, c.69 (C.17:16F-19) and regulations
30 promulgated by the Commissioner of the Department of Community
31 Affairs pursuant to that subsection a. [of section 5 of this act.]

32 "Selling servicing organization" means a person or entity [who] that
33 sells, assigns or transfers the servicing of a mortgage loan.

34 "Servicing organization" means a mortgagee or an agent of the
35 mortgagee, pursuant to a written agreement between the agent and the
36 mortgagee, which is responsible for one or more mortgage escrow
37 accounts.

38 "Tax authorization form" means a form approved by the
39 Commissioner of Community Affairs whereby the mortgagor
40 authorizes the municipal tax collector to send the original municipal
41 tax bill to the mortgagee or the mortgagee's servicing organization
42 pursuant to R.S.54:4-64.

43 (cf: P.L.1990, c.69, s.1)

44

45 2. Section 7 of P.L.1990, c.69 (C.17:16F-21) is amended to read
46 as follows:

1 7. a. A mortgagee or servicing organization which requires a
2 mortgagor to pay into a mortgage escrow account shall furnish to the
3 mortgagor, within 45 days after the end of each calendar year, a
4 written statement providing: the balance of the account at the
5 beginning of the calendar year; total payments credited to the account
6 during the calendar year, including interest credited to the account, if
7 any; an itemized statement of all expenditures from the account during
8 the calendar year; the average daily balance in the account for each
9 calendar quarter of a calendar year; and the balance in the account at
10 the end of the calendar year. The mortgagor shall be entitled to
11 receive one written statement for each calendar year without charge.

12 b. [~~The~~] Except for providing the average daily balance in the
13 account for each calendar quarter of the calendar year, the annual
14 statement provided for in subsection a. of this section is not required
15 if the mortgagor is provided with at least a monthly statement or
16 mortgagor passbook which provides the balance in the escrow account
17 and an itemized record of disbursements from the account.

18 (cf: P.L.1990, c.69, s.7)

19

20 3. (New section) Each mortgagee or its servicing organization
21 which requires a mortgagor to make payments into a mortgage escrow
22 account shall pay interest to the mortgagor on the amount in the
23 mortgagor's escrow account. Interest shall be calculated quarterly on
24 the average daily balance in the mortgage escrow account for the
25 calendar quarter and shall be credited to the escrow account within 30
26 days of the end of a calendar quarter. The rate of interest to be paid
27 on mortgage escrow account balances shall be determined annually by
28 the Commissioner of Banking and shall reflect the average rate of
29 interest paid during the preceding year by financial institutions in this
30 State on passbook savings or statement savings account, whichever is
31 higher.

32

33 4. (New section) The Commissioner of Banking shall promulgate
34 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
35 c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of
36 this 1995 amendatory and supplementary act and may promulgate
37 regulations as deemed appropriate by the Commissioner of Banking,
38 after consultation with the Commissioner of Community Affairs,
39 necessary to effectuate the provisions of P.L.1990, c.69 (C.17:16F-15
40 et seq.).

41

42 5. This act shall take effect on the 90th day after enactment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

STATEMENT

This bill prohibits a mortgagee or its servicing agent from establishing more than one escrow account with respect to a mortgagor's payments for taxes, insurance and other costs associated with a particular property which is the subject of a mortgage.

In addition, a mortgagee or its servicing agent is required to pay interest on the average daily balance in a mortgage escrow account on a quarterly basis at a rate set on an annual basis by the Commissioner of Banking and provide the mortgagor with information regarding the average daily balance in the mortgagor's escrow account for each quarter in a calendar year at the same time the mortgagee or its servicing agent provides an annual statement of the account to the mortgagor.

Requires payment of interest on mortgage escrow accounts.