

[First Reprint]

ASSEMBLY, No. 3821

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED MARCH 9, 2009

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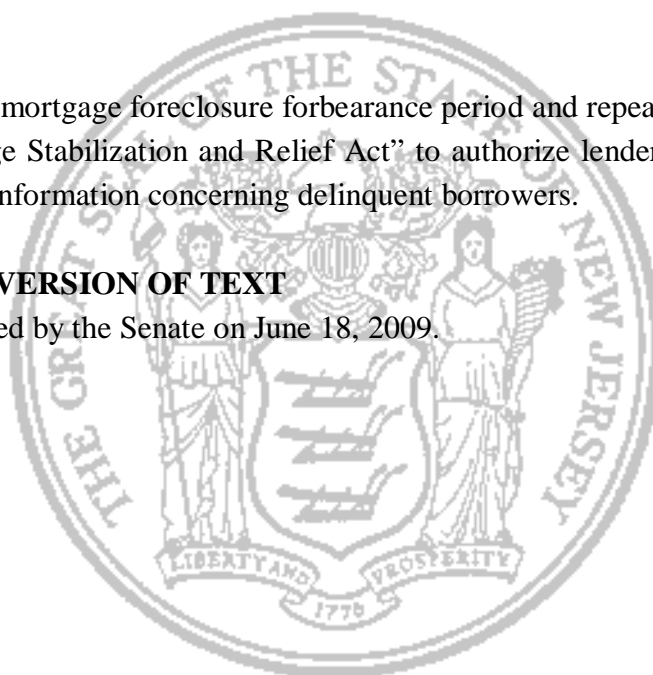
Senator Rice, Assemblywoman Greenstein and Assemblyman Chivukula

SYNOPSIS

Regulates mortgage foreclosure forbearance period and repeals section 18 of the “Mortgage Stabilization and Relief Act” to authorize lenders and creditors to exchange information concerning delinquent borrowers.

CURRENT VERSION OF TEXT

As amended by the Senate on June 18, 2009.



(Sponsorship Updated As Of: 6/26/2009)

1 AN ACT concerning the dissemination of certain mortgage
 2 information and 'the mortgage foreclosure forbearance period,
 3 amending P.L.2008, c.127 and'¹ repealing section 18 of P.L.2008,
 4 c.127.

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

8
 9 '1. Section 16 of P.L.2008, c.127 (C.46:10B-50) is amended to
 10 read as follows: ;

11 16. a. (1) A creditor that files and serves, pursuant to the "Fair
 12 Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et al.), a summons
 13 and complaint of foreclosure on a high risk mortgage loan, shall
 14 grant the borrower a six-month period of forbearance, upon written
 15 request of the borrower, to pursue a loan workout, loan
 16 modification, refinancing, or other alternative through **[mediation**
 17 **sponsored by the Administrative Office of the Courts]** the
 18 Judiciary's Foreclosure Mediation Program, where eligible, or
 19 another form of mediation or settlement discussion. During the six-
 20 month forbearance period, the interest rate on the **[covered]** high
 21 risk mortgage loan shall not increase and the creditor shall take no
 22 further action to pursue foreclosure of the property. Nothing in this
 23 subsection shall constitute a limitation on the ability of the creditor
 24 and borrower to participate in **[mediation sponsored by the**
 25 **Administrative Office of the Courts]** the Judiciary's Foreclosure
 26 Mediation Program or another form of mediation or settlement
 27 discussion, or enter into an agreement as a result of that mediation
 28 **[pursuant to subsection b. of this section].**

29 As used in this section:

30 "Forbearance" means a period of six months during which the
 31 creditor shall suspend all efforts to advance any judicial foreclosure
 32 proceedings filed by the creditor against the borrower **[are**
 33 **suspended; however the borrower is obligated to continue making**
 34 **monthly mortgage payments].**

35 "High Risk Mortgage" means the first mortgage loan that has one
 36 or more of the following characteristics:

37 is an interest only mortgage with a future interest reset rate;
 38 has a reset mortgage interest rate that increases the initial interest
 39 rate by two or more percentage points;
 40 contains a payment option plan or a "pick a payment" plan;
 41 contains a negative amortization schedule;
 42 is a subprime mortgage, which means a consumer credit
 43 transaction, secured by the consumer's principal dwelling, with an

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:

¹Senate floor amendments adopted June 18, 2009.

1 annual percentage rate that exceeds the average prime offer rate for
2 a comparable transaction, as of the date the interest rate is set, by
3 1.5 or more percentage points for loans secured by a first lien on a
4 dwelling, or by 3.5 or more percentage points for loans secured by a
5 subordinate lien on a dwelling;

6 contains an enforceable prepayment penalty; or

7 is a high cost home loan as defined in section 3 of the "New
8 Jersey Home Ownership Security Act of 2002," P.L.2003, c.64
9 (C.46:10B-24).

10 (2) Upon serving the summons and complaint in a foreclosure
11 action, the creditor shall notify the borrower of the borrower's right
12 to forbearance as provided for in this section, and, upon receipt of
13 written request by the borrower, within 30 days of the receipt of the
14 summons and complaint, the creditor shall grant the borrower a six-
15 month period of forbearance, beginning on the date the creditor
16 receives the borrower's request.

17 (3) The notice of the borrower's right to forbearance shall
18 include the following information:

19 (a) whether the loan being foreclosed upon is eligible to receive
20 forbearance;

21 (b) that the borrower has the right to request the period of
22 forbearance in writing no later than 30 days after receipt of the
23 summons and complaint;

24 (c) the full address and other contact information to which the
25 request for forbearance may be sent.

26 (4) Upon receipt of a request for forbearance, the creditor shall:

27 (a) suspend all efforts, during the forbearance period, to advance
28 any judicial proceeding in furtherance of the foreclosure action; and

29 (b) notify the court that a forbearance has been granted with the
30 dates that the forbearance period will begin and end.

31 Nothing herein shall preclude the creditor and borrower from
32 participating in mediation or settlement discussions, including the
33 Judiciary's Foreclosure Mediation Program.

34 b. 【Upon filing of a complaint for foreclosure, and the
35 beginning of the six-month forbearance period,】 When a
36 forbearance period is granted by the creditor pursuant to subsection
37 a. of this section, the borrower and creditor shall participate in
38 【mediation sponsored by the Administrative Office of the Courts】
39 the Judiciary's Foreclosure Mediation Program, where eligible, or
40 another form of mediation or settlement discussion; provided,
41 however, that the inability of the borrower to participate in
42 mediation as a result of circumstances beyond the borrower's
43 control shall not affect the borrower's continued eligibility for
44 forbearance.

45 c. If the borrower ceases to occupy the property at any time
46 【subsequent to】 during the period of forbearance under this section,
47 or if the borrower affirmatively advises the creditor, in writing, that
48 the borrower will not participate in the Judiciary's Foreclosure

1 Mediation Program or another form of mediation or settlement
2 discussion, the creditor **【may】** shall notify the court, and upon
3 notification, and approval of the court, the period of forbearance
4 shall be deemed to have ended.

5 d. The provisions of this section shall expire two years
6 following the effective date of **【P.L.2008, c.127】** P.L. _____,
7 c. (C. _____) (pending before the Legislature as this bill); provided,
8 however, that a forbearance period shall continue for its entire six-
9 month period notwithstanding the expiration of this section¹.

10 (cf: P.L.2008, c.127, s.16)

11

12 ¹**【1.】** 2. Section 18 of P.L.2008, c.127 (C.46:10B-52) is
13 repealed.

14

15 ¹**【2.】** 3. This act shall take effect immediately and ¹section 2
16 shall be retroactive to January 9, 2009.