

ASSEMBLY, No. 4784

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED MAY 11, 2017

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Assemblywoman ELIZABETH MAHER MUOIO

District 15 (Hunterdon and Mercer)

Assemblyman TIM EUSTACE

District 38 (Bergen and Passaic)

Co-Sponsored by:

Assemblywoman Downey, Assemblymen Houghtaling, Mazzeo, Land, Johnson, Rumpf, Assemblywoman Gove, Assemblymen McGuckin, Coughlin, Assemblywomen Vainieri Huttie, Oliver and Assemblyman C.A.Brown

SYNOPSIS

Establishes process for recovery of Superstorm Sandy aid overpayments.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/2/2017)

1 AN ACT concerning efficiency and transparency in the recovery of
2 Superstorm Sandy aid money, and amending and supplementing
3 P.L.2015, c.102.

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

7
8 1. Section 2 of P.L.2015, c.102 (C.52:15D-4) is amended to
9 read as follows

10 2. As used in P.L.2015, c.102 (C.52:15D-3 et seq.), as amended
11 and supplemented:

12 "Agency" means the New Jersey Housing and Mortgage Finance
13 Agency established pursuant to section 4 of P.L.1983, c.530
14 (C.55:14K-4).

15 "Applicant" means an individual or business that has applied for,
16 is waiting for, or is receiving benefits under a recovery and
17 rebuilding program, and shall include individuals who are awaiting
18 the completion of a construction project using benefits received
19 under a recovery and rebuilding program.

20 "Commissioner" means the Commissioner of Community
21 Affairs.

22 "Department" means the Department of Community Affairs.

23 "Forbearance" means a period of time during which obligations
24 for mortgage and interest payments are suspended.

25 "FRM" means the Fund for Restoration of Multifamily Housing.

26 "Qualified contractor pool" means a listing of contractors
27 approved by the Department of Community Affairs participating in
28 the RREM program.

29 "LMI" means Low-to-Moderate Income and the program for
30 which policies and procedures have been adopted by the
31 Department of Community Affairs.

32 "Mortgage" means a mortgage, trust deed, or other security in the
33 nature of a residential mortgage.

34 "Non-Standard Payment Plan" means the payment plan offered
35 to a Sandy-impacted homeowner pursuant to paragraph (2) of
36 subsection c. of section 3 of P.L. , c. (C.) (pending before
37 the Legislature as this bill).

38 "Notice of Over-Disbursement" means the notice provided to a
39 Sandy-impacted homeowner pursuant to section 2 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill).

41 "Over-disbursement" means any Community Development
42 Block Grant-Disaster Recovery funds previously paid to a Sandy-
43 impacted homeowner which the department has calculated to
44 exceed the initial determination of need, plus any demonstrated
45 additional unmet need, but only to the extent that such assistance is

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 a duplication of benefits received by the homeowner as prohibited
2 pursuant to 42 U.S.C. s.5155.

3 "Recovery and rebuilding program" means the use of funding
4 provided by the federal government for the RREM and LMI
5 programs, which are intended to help individuals rebuild and
6 recover from Superstorm Sandy, the TBRA program, which is
7 intended to assist renters in returning to and residing in areas
8 impacted by Superstorm Sandy, and the FRM program, which is
9 intended to assist developers in repairing or replacing rental
10 housing units damaged or destroyed by Superstorm Sandy.

11 "RREM" means Reconstruction, Rehabilitation, Elevation and
12 Mitigation.

13 "Sandy-impacted homeowner" means a homeowner for whom
14 one or both of the following are true:

15 (1) the homeowner received rental assistance from the Federal
16 Emergency Management Agency as a result of damage to his or her
17 primary residence due to Superstorm Sandy; or

18 (2) the homeowner has been approved for assistance through the
19 RREM or LMI program.

20 "Standard Payment Plan" means the payment plan offered to a
21 Sandy-impacted homeowner pursuant to paragraph (1) of subsection
22 c. of section 3 of P.L. , c. (C.) (pending before the Legislature
23 as this bill.

24 "Superstorm Sandy" means the major storm that made landfall in
25 New Jersey on October 29, 2012.

26 "TBRA" means Tenant-Based Rental Assistance.
27 (cf: P.L.2017, c.15, s.1)
28

29 2. (New Section) When the department determines that a
30 Sandy-impacted homeowner has received an over-disbursement of
31 RREM or LMI funds, the department shall provide the Sandy-
32 impacted homeowner with a "Notice of Over-Disbursement." The
33 notice shall detail the source, type, and amount of over-
34 disbursement, including a line-item accounting of all funds
35 disbursed to the Sandy-impacted homeowner, the program through
36 which the funds were disbursed, the purpose of each disbursement,
37 and an explanation of a Sandy-impacted homeowner's rights. The
38 notice shall also contain an explanation of a Sandy-impacted
39 homeowner's rights, including all rights established in P.L. ,
40 c. (C.) (pending before the Legislature as this bill),
41 information on how a Sandy-impacted homeowner may appeal the
42 department's determination, information on options for the
43 repayment of the debt, and information on any interest and penalties
44 that may accrue if the debt is not paid within the period permitted
45 pursuant to section 3 of P.L. , c. (C.) (pending before the
46 Legislature as this bill). Within 60 days of receipt of the notice, a
47 Sandy-impacted homeowner shall notify the department whether
48 they will satisfy the debt in one lump sum or will request a

1 compromise or payment plan. However, if a Sandy-impacted
2 homeowner files an appeal of an over-disbursement determination
3 within the time frame permitted under section 5 of P.L. ,
4 c. (C.) (pending before the Legislature as this bill), that
5 Sandy-impacted homeowner shall notify the department whether
6 they will satisfy the debt in one lump sum or will request a
7 compromise or payment plan within 30 days of the exhaustion of all
8 administrative and judicial processes.

9
10 3. (New Section) a. A Sandy-impacted homeowner may pay
11 the full amount of the over-disbursement debt within 60 days of
12 receipt of the Notice of Over-Disbursement provided by the
13 department. The notice shall include a debt repayment form and
14 instructions regarding the payment of the debt. The department
15 shall provide written notice to a Sandy-impacted homeowner that
16 their payment has been received and has been applied to satisfy the
17 debt.

18 b. If there are insufficient assets to pay the debt in full, a
19 Sandy-impacted homeowner may request a payment plan. The
20 Sandy-impacted homeowner shall provide the department with a
21 copy of their most recent federal income tax return and a summary
22 of their monthly expenses. The department shall evaluate a Sandy-
23 impacted homeowner's assets, income, and reasonable living
24 expenses to determine whether a Sandy-impacted homeowner can
25 pay a portion of the debt with an initial payment and make
26 payments for the remainder of the debt in regular installments.
27 Reasonable living expenses shall include average utility costs for
28 the last twelve months, housing, food, clothing, and other expenses
29 equal to an amount not less than the Collection Financial Standards
30 set forth by the Internal Revenue Service for transportation, food,
31 clothing, and out-of-pocket health care costs. The commissioner, or
32 his designee, shall approve or deny a request for a payment plan
33 within 90 days of its delivery to the department.

34 c. The department shall provide two payment plans:

35 (1) The "Standard Payment Plan" shall be offered to the Sandy-
36 impacted homeowner if there is sufficient net disposable income to
37 pay the over-disbursement debt in 36 months or less and no other
38 condition of paragraph (2) of this subsection is satisfied.

39 (2) The "Non-Standard Payment Plan" shall be offered to a
40 Sandy-impacted homeowner if the calculated net disposable income
41 is insufficient to repay the over-disbursement debt in 36 months; the
42 amount owed is greater than \$5,000; or the amount to be paid on a
43 60-month plan is for the adjusted balance due after a partial
44 compromise. A Sandy-impacted homeowner who is offered the
45 repayment plan shall be provided not less than 36 months, but not
46 more than 60 months, to pay the over-disbursement debt in full.

47 d. After the payment plan is determined, the department shall
48 mail a payment plan agreement offer letter, promissory note, and an

1 amortization schedule to the Sandy-impacted homeowner. The
2 Sandy-impacted homeowner shall return the signed and dated
3 promissory note to the department within 30 days of receipt. If a
4 Sandy-impacted homeowner fails to return the signed and dated
5 promissory note, the department shall mail the Sandy-impacted
6 homeowner a letter of intent notifying the Sandy-impacted
7 homeowner that their case will be transferred to the Division of
8 Revenue and Enterprise Services in the Department of the Treasury
9 and notifying the Sandy-impacted homeowner of the consequences
10 of a failure to pay the over-disbursement debt. No payment plan
11 agreement shall require payments in excess of one-half percent of
12 the Sandy-impacted homeowner's monthly income, or six percent
13 of the Sandy-impacted homeowner's annual income, whichever is
14 less.

15 e. The department shall post information on payment plan
16 eligibility and the application process, and make payment plan
17 applications available, on the Internet website established pursuant
18 to section 5 of P.L.2015, c.102 (C.52:15D-7). Any information
19 posted pursuant to this subsection shall include a link to the
20 department's Language Access Plan for housing programs.

21
22 4. (New Section) a. When the department determines that a
23 Sandy-impacted homeowner does not have sufficient income,
24 assets, or resources to make payments, the over-disbursement debt,
25 except for any portion of the debt the debtor can pay through
26 disposable assets, shall be compromised in full. When determining
27 the ability of a Sandy-impacted homeowner to repay the debt, the
28 department may consider the Sandy-impacted homeowner's age,
29 health, financial hardship, and other extraordinary circumstances as
30 determined by the commissioner. All proposed compromises
31 involving special factors other than age or disability shall be
32 approved by the commissioner.

33 b. The department shall notify a Sandy-impacted homeowner,
34 by mail, when the commissioner has approved a partial compromise
35 of the over-disbursement debt. The letter shall explain to the
36 Sandy-impacted homeowner that a partial compromise has been
37 approved because the Sandy-impacted homeowner has provided
38 evidence of an inability to pay the debt in full. The department
39 shall offer the Sandy-impacted homeowner a 60-month "Non-
40 Standard Payment Plan" to repay the amount due. The Sandy-
41 impacted homeowner shall have 30 days to execute documents
42 accepting the terms of the payment plan or satisfy their debt
43 through an alternate process. No payment plan agreement shall
44 require payments in excess of one-half percent of the Sandy-
45 impacted homeowner's monthly income, or six percent of the
46 Sandy-impacted homeowner's annual income, whichever is less. If
47 the Sandy-impacted homeowner fails to comply with the terms of
48 the payment plan, the department shall mail a Sandy-impacted

1 homeowner a letter of intent notifying the Sandy-impacted
2 homeowner that their case will be transferred to the Division of
3 Revenue and Enterprise Services in the Department of the Treasury
4 and notifying the Sandy-impacted homeowner of the consequences
5 of a failure to pay the debt. The department shall notify a Sandy-
6 impacted homeowner, by mail, when the commissioner has
7 determined that the debt will be compromised in full.

8 c. The department shall post information on eligibility for a
9 compromise of the debt, and make debt compromise applications
10 available, on the Internet website established pursuant to section 5
11 of P.L.2015, c.102 (C.52:15D-7). Any information posted pursuant
12 to this subsection shall include a link to the department's Language
13 Access Plan for housing programs.

14
15 5. (New Section) a. The department shall establish an appeals
16 process to be used in the case of the denial of a payment plan
17 request. The department shall provide a Sandy-impacted
18 homeowner notice of the commissioner's determination of an
19 appeal by certified mail and by any other means available to the
20 department.

21 b. Any Sandy-impacted homeowner may appeal, in writing, to
22 the commissioner the department's determination that a Sandy-
23 impacted homeowner received an over-disbursement of RREM or
24 LMI funds. A Sandy-impacted homeowner may also appeal, in
25 writing to the commissioner, the department's determination that a
26 Sandy-impacted homeowner is ineligible for either a payment plan
27 or a compromise of the over-disbursement debt. Any Sandy-
28 impacted homeowner for whom a Final Grant Reconciliation
29 Document has been signed by the department or who has repaid an
30 over-disbursement debt either in whole or in part, may appeal the
31 department's determination. Appeals shall be filed with the
32 commissioner within 30 days of the receipt of notice of an over-
33 disbursement or the denial of a payment plan or compromise. All
34 appeals shall be decided within 30 days from the date an appeal is
35 submitted to the commissioner's office. If the appeal has been
36 decided in favor of the Sandy-impacted homeowner, the Sandy-
37 impacted homeowner shall be entitled to a reimbursement of any
38 over-disbursement payments in excess of the amount otherwise due
39 pursuant to a payment plan agreement entered into pursuant to
40 section 3 of P.L. , c. (C.) (pending before the Legislature as
41 this bill).

42 c. Within 15 days of the filing of any appeal by a Sandy-
43 impacted homeowner, the department, shall provide that
44 homeowner with information about his or her appeal, including:

45 (1) the date on which a Sandy-impacted homeowner filed the
46 appeal;

47 (2) all pending reviews of the appeal and the date of any
48 upcoming hearings related to the appeal;

1 (3) the department's final determination, if one is made as of the
2 date the request for information is fulfilled, or otherwise the date on
3 which a Sandy-impacted homeowner can expect that the department
4 will make a final determination concerning the appeal;

5 (4) a list of all documents related to the appeal and the date on
6 which each document was filed; and

7 (5) an explanation of any decision to deny the appeal, an
8 explanation of how to remedy the request for a payment plan, and
9 when possible, continue the appeal process. When an appeal is
10 denied, the department shall notify the homeowner, in plain
11 language printed in at least 8-point bold face type, that a copy of
12 their case file shall be made available upon request.

13 d. After filing an appeal of the department's determination, a
14 Sandy-impacted homeowner shall be permitted to enter into a
15 payment plan pursuant to section 4 of P.L. , c. (C.) (pending
16 before the Legislature as the bill).

17 e. The department shall post information on the appeals
18 process on the Internet website established pursuant to section 5 of
19 P.L.2015, c.102 (C.52:15D-7).

20
21 6. (New Section) Unless there is evidence of civil or criminal
22 fraud, the department shall not initiate any new action to recover
23 any over-disbursement more than three years after the last date on
24 which the payment of funds of funds from a recovery or rebuilding
25 program were made to an individual or household.

26
27 7. There are appropriated from the General Fund to the
28 Department of Community Affairs such sums as are necessary to
29 refund excess over-disbursement payments pursuant to subsection
30 b. of section 5 of P.L. , c. (C.) (pending before the
31 Legislature as this bill).

32
33 8. This act shall take effect immediately.
34
35

36 STATEMENT

37
38 This bill is intended to address concerns raised by homeowners
39 impacted by Superstorm Sandy related to the "clawback" of
40 Community Disaster Block Grant-Disaster Recovery (CDBG-DR)
41 funds awarded through the Reconstruction, Rehabilitation,
42 Elevation and Mitigation Program (RREM) and the Low-to-
43 Moderate Income Homeowner Rebuilding Program (LMI). The bill
44 establishes specific procedures to be used by the Department of
45 Community Affairs (DCA) as it attempts to recover overpayments
46 of CDBG-DR monies.

47 The bill requires the DCA to notify a Sandy-impacted
48 homeowner when the DCA determines that the Sandy-impacted

1 homeowner has received an overpayment of RREM or LMI funds
2 that must be repaid to the State. The notice must provide
3 information about the type of debt owed, an accounting of all funds
4 disbursed to the Sandy-impacted homeowner, an explanation of a
5 Sandy-impacted homeowner's rights; information on how a Sandy-
6 impacted homeowner may appeal the department's determination;
7 information on options for the repayment of debt; and information
8 on any interest and penalties that may accrue if the debt is not paid
9 within the period permitted by the bill.

10 A Sandy-impacted homeowner may pay the debt in full in one
11 lump sum. If there are insufficient assets to immediately repay the
12 debt in full a Sandy-impacted homeowner may apply for a
13 repayment plan. Eligibility for a repayment plan is based on a DCA
14 review of a Sandy-impacted homeowner's assets, income and
15 reasonable living expenses to determine whether a Sandy-impacted
16 homeowner can pay a portion of the debt with an initial payment
17 and make payments for the remainder of the debt in regular
18 installments. The bill requires the DCA to establish two payment
19 plans that allow for payment of the debt over a period of 36 months
20 to 60 months, depending on whether a Sandy-impacted
21 homeowner's net disposable income is sufficient to pay the debt on
22 time. The maximum payment under a payment plan cannot be
23 greater than one-half of one percent of a Sandy-impacted
24 homeowner's monthly income, or six percent of a Sandy-impacted
25 homeowner's monthly income, whichever is lesser.

26 If a Sandy-impacted homeowner does not have sufficient
27 income, assets, or resources to make payments, the debt, except for
28 any portion that a Sandy-impacted homeowner can pay through
29 disposable assets, will be compromised and considered paid in full.
30 When determining the ability of a Sandy-impacted homeowner to
31 repay the debt, the department may consider the Sandy-impacted
32 homeowner's age, health, financial hardship, and other
33 extraordinary circumstances as determined by the commissioner.

34 The bill permits a Sandy-impacted homeowner to appeal, in
35 writing, to the commissioner the department's determination that a
36 Sandy-impacted homeowner received an over-disbursement of
37 RREM or LMI funds. A Sandy-impacted homeowner may also
38 appeal, in writing, to the commissioner the department's
39 determination that the homeowner is ineligible for either a payment
40 plan or a compromise of the debt. Appeals shall be filed with the
41 commissioner within 30 days of the receipt of notice of an over-
42 disbursement or the denial of a payment plan or compromise. All
43 appeals are required to be decided within 30 days from the date an
44 appeal is submitted to the commissioner's office. The bill requires
45 the State to refund any over-disbursement payments made by a
46 Sandy-impacted homeowner that are in excess of the amount due
47 under a payment plan agreement and appropriates General Fund
48 monies to the DCA for that purpose.