

ASSEMBLY, No. 3948

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED APRIL 13, 2020

Sponsored by:

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Co-Sponsored by:

Assemblymen Benson, Caputo, Giblin and Assemblywoman Carter

SYNOPSIS

Concerns mortgage and loan forbearance, rent suspension, and consumer reporting during coronavirus disease 2019 pandemic.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/14/2020)

1 AN ACT concerning mortgage and loan forbearance, rent suspension,
2 and consumer reporting.

3

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

6

7 1. a. Notwithstanding the provisions of any other law, rule or
8 regulation to the contrary, during the covered period a property
9 owner may request, and shall be granted, a mortgage forbearance.
10 The mortgage forbearance period of a property owner shall be 90
11 days. A property owner may request, and shall be granted, a
12 subsequent forbearance period of 90 days, for a total of not more than
13 180 days. No property owner requesting a forbearance pursuant to
14 this section shall be required to provide proof of economic hardship.

15 b. Notwithstanding the provisions of any law, rule, or regulation
16 to the contrary, the repayment period of any mortgage subject to the
17 forbearance established pursuant to this section shall be extended by
18 the number of months the forbearance is in effect. During the time
19 of the forbearance, and during the period constituting an extension of
20 the mortgage, all terms and conditions of the original mortgage,
21 except with regard to default and delinquency during forbearance,
22 shall continue without modification, and there shall be no fees
23 assessed related to the forbearance or late payment, or penalty for
24 early repayment.

25 c. A mortgagee that grants a mortgage forbearance pursuant to
26 this section shall encourage owners to seek out United States
27 Department of Housing and Urban Development certified housing
28 counseling and shall provide to the property owner confirmation of
29 the approval of the forbearance, information concerning the process
30 for forbearance, and information on how to request a subsequent
31 forbearance.

32 d. No foreclosure proceeding or eviction may be initiated for the
33 period of 90 days following the Public Health Emergency and State
34 of Emergency declared by the Governor in Executive Order 103,
35 March 9, 2020.

36 e. Nothing in this section shall be construed to impact property
37 tax and insurance obligations of an owner related to any real property
38 in the State.

39 f. No later than one month following the effective date of this
40 act, the commissioner shall:

41 (1) notify owners of the forbearance program;

42 (2) encourage owners to seek out United States Department of
43 Housing and Urban Development certified housing counseling; and

44 (3) post information on eligibility and the process for the
45 forbearance on the department's Internet website.

46 g. As used in this section:

47 "Commissioner" means the Commissioner of Community Affairs.

1 “Covered period” means the period during which the Public
2 Health Emergency and State of Emergency declared by the Governor
3 in Executive Order 103, March 9, 2020 are in effect and concluding
4 six months following the conclusion of the State of Emergency or
5 Public Health Emergency, whichever is earlier.

6 “Department” means the Department of Community Affairs.

7 “Forbearance” means a period of time during which obligations
8 for loan and interest payments are suspended.

9
10 2. a. Notwithstanding any other law, ordinance, rule, or
11 regulation to the contrary, during the covered period a landlord shall
12 suspend rent, for a period of 90 days, upon request to the landlord
13 from a residential tenant. A residential tenant may request, and shall
14 be granted, a subsequent 90 day suspension of rent, for a total of not
15 more than 180 days. The period of suspension of rent shall begin on
16 the first day of the next month following the request for suspension
17 of rent. The landlord shall notify the tenant in writing of the date on
18 which rent payments are to resume. No residential tenant requesting
19 a suspension of rent pursuant to this section shall be required to
20 provide proof of economic hardship. A residential tenant may
21 request a suspension of rent pursuant to this section in writing or by
22 electronic transmission.

23 A residential tenant with rent suspended pursuant to this section
24 shall not be required to pay a fee related to the suspension or late
25 payment or to pay the balance of the suspended rent upon the
26 conclusion of the suspension of rent. Nothing in this section shall
27 prohibit a landlord and a residential tenant from establishing a
28 payment plan for the balance of suspended rent or from applying the
29 security deposit to that balance. Unless otherwise stipulated by the
30 landlord and the residential tenant, the payment period of any rent
31 subject to suspension shall be extended by the number of months the
32 suspension is in effect.

33 b. A violation of the provisions of this section shall be an
34 unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.).

35 c. As used in this section:

36 “Covered period” means the period during which the Public
37 Health Emergency and State of Emergency declared by the Governor
38 in Executive Order 103, March 9, 2020 are in effect and concluding
39 six months following the conclusion of the State of Emergency or
40 Public Health Emergency, whichever is earlier.

41 “Electronic transmission” means any form of communication, not
42 directly involving the physical transmission of paper, that creates a
43 record that may be retained, retrieved and reviewed by a recipient,
44 and that may be directly reproduced in paper form by that recipient
45 through an automated process.

46 “Residential tenant” means an individual that legally occupies a
47 dwelling.

1 3. a. Notwithstanding any other law, ordinance, rule, or
2 regulation to the contrary, during the covered period a landlord shall
3 suspend rent, for a period of 90 days, upon request to the landlord
4 from a small business commercial tenant. A small business
5 commercial tenant may request, and shall be granted, a subsequent
6 90 day suspension of rent, for a total of not more than 180 days. The
7 period of suspension of rent shall begin on the first day of the next
8 month following the request for suspension of rent. The landlord
9 shall notify the tenant in writing of the date on which rent payments
10 are to resume. No small business commercial tenant requesting a
11 suspension of rent pursuant to this section shall be required to provide
12 proof of economic hardship. A small business commercial tenant
13 may request a suspension of rent pursuant to this section in writing
14 or by electronic transmission.

15 A small business commercial tenant with rent suspended pursuant
16 to this section shall not be required to pay a fee related to the
17 suspension or late payment or to pay the balance of the suspended
18 rent upon the conclusion of the suspension of rent. Nothing in this
19 section shall prohibit a landlord and a small business commercial
20 tenant from establishing a payment plan for the balance of suspended
21 rent or from applying the security deposit to that balance. Unless
22 otherwise stipulated by the landlord and the small business
23 commercial tenant, the payment period of any rent subject to
24 suspension shall be extended by the number of months the suspension
25 is in effect.

26 A small business commercial tenant whose lease expires during
27 this time period shall be subject to an automatic lease renewal at the
28 current rent charged unless the landlord provides written proof, dated
29 prior to the issuance of Executive Order 103 on March 9, 2020, of
30 intent not to renew the lease due to the prospective sale of the
31 property, initiated court proceedings, conflict, or lack of rent
32 payments. A landlord that provides proof of intent not to renew the
33 lease pursuant to this subsection shall place the small business
34 commercial tenant on a lease from month to month and shall not
35 initiate an eviction for the period of 90 days following the Public
36 Health Emergency and State of Emergency declared by the Governor
37 in Executive Order 103, March 9, 2020. No late fees may be assessed
38 for rent accrued during the covered period.

39 b. A violation of the provisions of this section shall be an
40 unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.).

41 c. As used in this section:

42 “Covered period” means the period during which the Public
43 Health Emergency and State of Emergency declared by the Governor
44 in Executive Order 103, March 9, 2020 are in effect and concluding
45 six months following the conclusion of the State of Emergency or
46 Public Health Emergency, whichever is earlier.

47 “Electronic transmission” means any form of communication, not
48 directly involving the physical transmission of paper, that creates a

1 record that may be retained, retrieved and reviewed by a recipient,
2 and that may be directly reproduced in paper form by that recipient
3 through an automated process.

4 "Small business commercial tenant" means a business entity that
5 legally occupies real property, is independently owned and operated,
6 operates primarily within this State, and which satisfies other criteria
7 that may be established by the Commissioner of Community Affairs.

8
9 4. a. Notwithstanding the provisions of any other law, rule or
10 regulation to the contrary, during the covered period a borrower may
11 request, and shall be granted, forbearance on any commercial,
12 student, or other consumer loan, including an extension of credit.
13 The forbearance period of a borrower shall be 180 days. No borrower
14 requesting a forbearance pursuant to this section shall be required to
15 provide proof of economic hardship.

16 b. Notwithstanding the provisions of any law, rule, or regulation
17 to the contrary, the repayment period of any loan subject to the
18 forbearance established pursuant to this section shall be extended by
19 the number of months the forbearance is in effect. During the time
20 of the forbearance, and during the period constituting an extension of
21 the loan, all terms and conditions of the original loan, except with
22 regard to default and delinquency during forbearance, shall continue
23 without modification, and there shall be no fees assessed for the
24 forbearance, or penalty for early repayment. No interest shall accrue
25 on student loans granted forbearance pursuant to the provisions of
26 this section.

27 c. The Commissioner of Banking and Insurance shall develop
28 separate, specific guidelines for the forbearance of student loans,
29 extensions of credit, and other consumer loans.

30 d. As used in this section:

31 "Borrower" means a person who is named as a borrower or debtor
32 in a commercial, consumer, student, or other consumer loan or
33 extension of credit.

34 "Covered period" means the period during which the Public
35 Health Emergency and State of Emergency declared by the Governor
36 in Executive Order 103, March 9, 2020 are in effect and concluding
37 six months following the conclusion of the State of Emergency or
38 Public Health Emergency, whichever is earlier.

39 "Forbearance" means a period of time during which obligations
40 for loan and interest payments are suspended.

41
42 5. a. (1) No consumer reporting agency shall include any
43 adverse information that is a result of the coronavirus disease 2019
44 pandemic in a consumer report pertaining to an affected person who
45 provides the agency with notice pursuant to subsection b. of this
46 section.

47 (2) No user of a consumer report shall consider any adverse
48 information that is a result of the coronavirus disease 2019 pandemic

1 in a consumer report pertaining to an affected person who provides
2 the user with notice pursuant to subsection b. of this section.

3 b. (1) An affected person may contact any consumer reporting
4 agency and request that the agency disregard any adverse information
5 related to the person obtained by the agency with respect to the period
6 beginning with the Public Health Emergency and State of Emergency
7 declared by the Governor in Executive Order 103 of 2020 and
8 extending 90 days following the end of that public health emergency
9 and state of emergency.

10 (2) Any consumer reporting agency that receives a request
11 pursuant to paragraph (1) of this subsection shall respond to the
12 affected person and the Director of the Division of Consumer Affairs
13 in the Department of Law and Public Safety within five days of
14 receiving the request.

15 (3) An affected person may contact any user of a consumer report
16 and request that the user disregard any adverse information related to
17 the person in a consumer report with respect to the period beginning
18 with the Public Health Emergency and State of Emergency declared
19 by the Governor in Executive Order 103 of 2020 and extending 90
20 days following the end of that public health emergency and state of
21 emergency.

22 (4) Any user of a consumer report that receives a request pursuant
23 to paragraph (3) of this subsection shall respond to the affected
24 person and the Director of the Division of Consumer Affairs in the
25 Department of Law and Public Safety within five days of receiving
26 the request.

27 c. No charge shall be imposed by a consumer reporting agency
28 pursuant to section 10 of P.L.1997, c.172 (C.56:11-37) with respect
29 to a request made by a consumer pursuant to this section.

30 d. As used in this section:

31 "Affected person" means a borrower who is a resident of this State
32 and has suffered financial hardship as a result of the coronavirus
33 disease 2019 pandemic.

34 "Borrower" means a person who is named as a borrower or debtor
35 in a consumer, student, or other consumer loan or extension of credit.

36 "User of a consumer report" means any person or entity that is
37 furnished a consumer report for a purpose that is permissible pursuant
38 to section 4 of P.L.1997, c.172 (C.56:11-31).

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40 6. The Commissioner of Community Affairs and the
41 Commissioner of Banking and Insurance, as appropriate, shall,
42 pursuant to the provisions of the "Administrative Procedure Act,"
43 P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and
44 regulations as shall be necessary to implement the provisions of this
45 act no later than one month following the effective date of this act.

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47 7. This act shall take effect immediately and be retroactive to
48 March 9, 2020.

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STATEMENT

This bill requires the forbearance of mortgage loans for commercial and residential property owners during the period during which the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103, March 9, 2020 are in effect and concluding six months following the conclusion of the State of Emergency or Public Health Emergency, whichever is earlier. The mortgage forbearance period of a property owner is to be 90 days. A property owner may request, and is to be granted, a subsequent forbearance period of 90 days, for a total of not more than 180 days.

Under the bill, the Commissioner of Community Affairs is to notify owners of the forbearance program, encourage owners to seek United States Department of Housing and Urban Development housing counseling, and post information on eligibility and the process for the forbearance on the department's Internet website no later than one month following the effective date of this act.

The bill requires a mortgagee that grants a mortgage forbearance pursuant to the bill to encourage owners to seek out United States Department of Housing and Urban Development certified housing counseling and provide to the property owner confirmation of the approval of the forbearance, information concerning the process for forbearance, and information on how to request a subsequent forbearance.

The bill also requires landlords to suspend rent, for a period of 90 days, upon written or electronic request to the landlord from a residential tenant or small business commercial tenant, for the period during which the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103, March 9, 2020 are in effect and concluding six months following the conclusion of the State of Emergency or Public Health Emergency, whichever is earlier. A landlord is required to notify the tenant in writing of the date on which rent payments are to resume. A tenant may request, and shall be granted, a subsequent forbearance period of 90 days, for a total of not more than 180 days.

A tenant with rent suspended pursuant to the bill shall not be required to pay a fee related to the suspension or late payment or to pay the sum of the suspended rent upon the conclusion of the suspension of rent. Nothing in the bill prohibit a landlord and a tenant from establishing a payment plan for the balance of suspended rent or from applying the security deposit toward that balance. Unless otherwise stipulated by the landlord and the tenant, the payment period of any rent subject to the suspension shall be extended by the number of months the suspension is in effect.

A violation of the provisions of the bill concerning rent suspension for tenants is an unlawful practice under the Consumer Fraud Act. An unlawful practice under the Consumer Fraud Act is punishable by a monetary penalty of not more than \$10,000 for a first offense and

1 not more than \$20,000 for any subsequent offense. Violations can
2 also result in cease and desist orders issued by the Attorney General,
3 the assessment of punitive damages, and the awarding of treble
4 damages and costs to the injured party.

5 In addition, this bill requires the forbearance of any commercial,
6 student, or other consumer loan, including an extension of credit for
7 borrowers during the period in which the Public Health Emergency
8 and State of Emergency declared by the Governor in Executive Order
9 103, March 9, 2020 are in effect and concluding six months following
10 the conclusion of the State of Emergency or Public Health
11 Emergency, whichever is earlier. The forbearance period of a
12 borrower is to be 180 days. No borrower requesting a forbearance is
13 to be required to provide proof of economic hardship.

14 In addition, the repayment period of any loan subject to
15 forbearance is to be extended by the number of months the
16 forbearance is in effect. During the time of the forbearance, and
17 during the period constituting an extension of the loan, all terms and
18 conditions of the original loan, except with regard to default and
19 delinquency during forbearance, are to continue without
20 modification, and there no fees may be assessed for the forbearance,
21 or penalty for early repayment.

22 The Commissioner of Banking and Insurance is to develop
23 separate, specific guidelines for the forbearance of student loans,
24 extensions of credit, and other consumer loans.

25 This bill also provides that no consumer reporting agency shall
26 include, and no user of a consumer report shall consider, any adverse
27 information in a consumer report that is a result of the coronavirus
28 disease 2019 pandemic, with respect to an affected person who
29 provides the agency or user notice pursuant to the bill.

30 Under the bill, an affected person may contact any consumer
31 reporting agency or user of a consumer report and request that the
32 agency or user disregard any adverse information related to the
33 person obtained by the agency or user with respect to the period
34 beginning with the Public Health Emergency and State of Emergency
35 declared by the Governor in Executive Order 103 of 2020 and
36 extending 90 days following the end of that public health emergency
37 and state of emergency.

38 The bill requires any consumer reporting agency or user of a
39 consumer report that receives a request to respond to the affected
40 person and the Director of the Division of Consumer Affairs in the
41 Department of Law and Public Safety within five days of receiving
42 the request.