

ASSEMBLY, No. 4236

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

SYNOPSIS

Concerns suspension of residential tenant eviction and residential foreclosure processes, rent increase prohibition, and permits application for mortgage forbearance, during certain emergency circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning foreclosure, mortgage forbearance, and tenant
2 protections during certain emergency circumstances, and
3 supplementing Title 52 of the Revised Statutes.

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

7
8 1. a. Notwithstanding any other law, ordinance, rule or
9 regulation to the contrary, whenever a Public Health Emergency,
10 pursuant to the "Emergency Health Powers Act," P.L.2005, c.222
11 (C.26:13-1 et seq.), or a State of Emergency, pursuant to
12 P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, has been declared
13 by the Governor and is in effect, the Governor may issue one or
14 more executive orders to declare all, or any combination, of the
15 following:

16 (1) that a lessee, tenant, homeowner or any other person shall
17 not be removed from a residential property as the result of an
18 eviction or foreclosure proceeding during the time provided in the
19 executive order;

20 (2) that eviction and foreclosure proceedings shall not be
21 initiated or continued during the time provided in the executive
22 order, unless the court determines on its own motion or motion of
23 the parties that a proceeding is necessary in the interest of justice;

24 (3) that emergency-impacted homeowners may apply, pursuant
25 to subsection e. of this section, for a mortgage forbearance; or

26 (4) that rent shall not be increased on any residential property in
27 the State for a period of time specified in the executive order.

28 b. An executive order issued pursuant to subsection a. of this
29 section shall remain in effect for no longer than six months
30 following the end of the Public Health Emergency or State of
31 Emergency.

32 c. Enforcement of all judgments for possession, warrants of
33 removal, and writs of possession shall be stayed during the time of
34 an executive order issued by the Governor prohibiting certain
35 removals from residential property pursuant to paragraph (1) of
36 subsection a. of this section, unless the court determines on its own
37 motion, or motion of the parties, that enforcement is necessary in
38 the interest of justice.

39 d. Sheriffs, court officers, and their agents shall refrain from
40 acting to remove individuals from residential properties through the
41 eviction or foreclosure processes during the time period of an
42 executive order issued by the Governor prohibiting certain removals
43 from residential property pursuant to paragraph (1) of subsection a.
44 of this section, unless the court determines on its own motion, or
45 motion of the parties, that removal is necessary in the interest of
46 justice.

47 e. (1) An emergency-impacted homeowner may apply to the
48 commissioner, on forms to be provided by the department, for a

1 certification of eligibility for a mortgage forbearance under this
2 section before the first day of the third month next following the
3 date when the commissioner makes the application available. The
4 commissioner shall approve or deny an application within 30 days
5 of its delivery to the commissioner. An emergency-impacted
6 homeowner shall be eligible for a mortgage forbearance regardless
7 of whether the homeowner's primary residence is already the
8 subject of a foreclosure proceeding prior to the effective date of an
9 executive order issued pursuant to paragraph (3) of subsection a. of
10 this section.

11 (2) The forbearance period of an emergency-impacted
12 homeowner shall conclude no later than six months following the
13 commencement of the forbearance period, which period shall
14 commence upon approval by the commissioner of the emergency-
15 impacted homeowner's application.

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

26 f. (1) No later than one month following the effective date of
27 this act, the commissioner shall:

28 (a) notify homeowners of the forbearance program;

29 (b) post information on eligibility and the application process
30 for the forbearance, and make forbearance applications available,
31 on the department's Internet website;

32 (c) notify the courts of the individuals and associated residential
33 properties that are eligible for a forbearance; and

34 (d) to the greatest extent reasonably possible, notify the State's
35 active mortgage lenders of the individuals and associated residential
36 properties that are eligible for a forbearance.

37 (2) Upon knowledge of a homeowner's eligibility for a
38 forbearance, the mortgage lender shall notify the homeowner and
39 the courts.

40 (3) Upon approval of a forbearance application pursuant to
41 subsection e. of this section, the commissioner shall notify the
42 applicant, the mortgage lender, and the courts.

43 g. Emergency-impacted homeowners awarded a forbearance
44 under this section shall be responsible for the maintenance of the
45 property during the period of forbearance. After service of notice
46 of any proceedings conducted to terminate forbearance, made on the
47 mortgagor at an address determined pursuant to due diligence of the
48 movant mortgagee or creditor to be the actual current residence of

1 the mortgagor, providing opportunity for the mortgagor to respond
2 and contest the proceedings, a stay of foreclosure proceedings or
3 forbearance, or both, awarded under this section shall cease
4 immediately upon a court's determination that the subject residential
5 property has been abandoned by the emergency-impacted
6 homeowner.

7 h. Nothing in this section shall be construed as limiting the
8 ability of a mortgagee and residential property owner to participate
9 in a mediation sponsored by the Administrative Office of the Courts
10 in accordance with the requirements of the mediation program.
11 Nothing in this section shall be construed to impact property tax
12 and insurance obligations of a property owner related to any real
13 property in the State.

14 i. A rent increase prohibition, established pursuant to
15 paragraph (4) of subsection a. of this section, shall constitute an
16 issuance of a "Notice of Rent Protection Emergency" pursuant to
17 P.L.2002, c.133 (C.2A:18-61.62 et seq.), and shall permit the
18 invocation of the penalty provision, the ability of a landlord to
19 apply for an exception, and other authorities activated by issuance
20 of a Notice of Rent Protection Emergency, except:

21 (1) notwithstanding subsection e. of section 2 of P.L.2002, c.133
22 (C.2A:18-61.63), the length of the order shall be constrained
23 pursuant to subsection b. of this section;

24 (2) pursuant to subsection a. of this section, the order may be
25 issued whenever a Public Health Emergency, pursuant to the
26 "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et
27 seq.), or a State of Emergency, pursuant to P.L.1942, c.251
28 (C.App.A.9-33 et seq.), or both, has been declared by the Governor
29 and is in effect; and

30 (3) notwithstanding subsection b. of section 2 of
31 P.L.2002, c.133 (C.2A:18-61.63), in the discretion of the Governor,
32 the order may prohibit any rent increase on a residential property.

33 j. As used in this section:

34 "Commissioner" means the Commissioner of Community
35 Affairs.

36 "Department" means the Department of Community Affairs.

37 "Emergency-impacted homeowner" means a homeowner who is
38 subject to a substantial loss of income, in accordance with rules and
39 regulations adopted by the commissioner, resulting from a Public
40 Health Emergency, declared pursuant to the "Emergency Health
41 Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), or a State of
42 Emergency, declared pursuant to P.L.1942, c.251 (C.App.A.9-33 et
43 seq.).

44 "Mortgage forbearance" or "forbearance" means a period of time
45 during which obligations for mortgage and interest payments are
46 suspended.

47 "Residential property" means any property rented or owned for
48 residential purposes, including, but not limited to, any house,

1 building, mobile home or land in a mobile home park, or tenement
2 leased for residential purposes, but shall not include any hotel,
3 motel, or other guest house, or part thereof, rented to a transient
4 guest or seasonal tenant, or a residential health care facility.

5
6 2. The Commissioner of Community Affairs shall, pursuant to
7 the provisions of the "Administrative Procedure Act,"
8 P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and
9 regulations as shall be necessary to implement the provisions of this
10 act no later than one month following the effective date of this act.

11
12 3. This act shall take effect immediately.

13
14
15 STATEMENT

16
17 This bill allows the Governor, by executive order, to suspend
18 residential tenant eviction and residential foreclosure processes, to
19 freeze rent on residential properties Statewide, and to permit
20 applications for mortgage forbearances, during certain emergency
21 circumstances.

22 This bill would provide that, whenever a public health
23 emergency or a state of emergency is declared by the Governor and
24 is in effect, the Governor may issue an executive order to declare
25 that a lessee, tenant, homeowner or any other person would not be
26 removed from a residential property as the result of an eviction or
27 foreclosure proceeding. This executive order would remain in
28 effect for no longer than six months following the end of the public
29 health emergency or state of emergency.

30 During the time of this executive order, enforcement of all
31 judgments for possession, warrants of removal, and writs of
32 possession would be stayed, unless the court determines on its own
33 motion or motion of the parties that enforcement is necessary in the
34 interest of justice. The bill would require sheriffs, court officers,
35 and their agents to refrain from acting to remove individuals from
36 residential properties through the eviction or foreclosure processes
37 during the time of the executive order, unless the court determines
38 on its own motion or motion of the parties that removal is necessary
39 in the interest of justice.

40 Additionally, this bill provides that the executive order issued
41 during the public health emergency or a state of emergency may
42 provide that rent shall not be increased on any residential property
43 in the State for a period of time specified in the executive order.

44 The bill also provides that the executive order issued during the
45 public health emergency or a state of emergency may provide either
46 or both of the following:

- 1 • that eviction and foreclosure proceedings would not be
2 initiated or continued during the time provided in the
3 executive order, unless the court determines on its own
4 motion or motion of the parties that a proceeding is
5 necessary in the interest of justice; or
- 6 • that emergency-impacted homeowners, who have sustained a
7 substantial loss of income in accordance with rules adopted
8 by the Department of Community Affairs (“DCA”), may
9 apply for a mortgage forbearance, meaning a period of time
10 during which obligations for mortgage and interest payments
11 are suspended.

12 Under this bill, an emergency-impacted homeowner would be
13 eligible for a forbearance regardless of whether the homeowner's
14 primary residence is already the subject of a foreclosure proceeding.
15 The homeowner would apply to the Commissioner of Community
16 Affairs for a certification of eligibility for the forbearance before
17 the first day of the third month next following the date when the
18 commissioner makes the application available. The commissioner
19 would approve or deny an application within 30 days.

20 The forbearance period of an emergency-impacted homeowner
21 would conclude no later than six months following the
22 commencement of the forbearance period, which period would
23 commence upon application approval.

24 The repayment period of any mortgage subject to a forbearance
25 would be extended by the number of months the forbearance is in
26 effect. During the time of the forbearance and during the period
27 constituting an extension of the mortgage, all terms and conditions
28 of the original mortgage, except with regard to default and
29 delinquency during forbearance, would continue without
30 modification, and there would be no fees assessed for the
31 forbearance, or penalty for early repayment.

32 Prior to one month following the effective date of this bill, the
33 bill directs the commissioner to:

- 34 • notify homeowners of the forbearance program;
- 35 • post information on eligibility and the application process
36 for the forbearance, and make forbearance applications
37 available, on DCA's website;
- 38 • notify the courts of the individuals and associated
39 residential properties that are eligible for a forbearance;
40 and
- 41 • to the greatest extent reasonably possible, notify the
42 State's active mortgage lenders of the individuals and
43 associated residential properties that are eligible for a
44 forbearance.

45 Under the bill, upon knowledge of a homeowner's eligibility for
46 a forbearance, the mortgage lender would notify the homeowner
47 and the courts. Upon approval of a forbearance application, the

1 commissioner would notify the applicant, the mortgage lender, and
2 the courts.

3 Emergency-impacted homeowners awarded a forbearance under
4 this bill would be responsible for the maintenance of the property
5 during the period of forbearance. After service of notice of any
6 proceedings conducted to terminate forbearance, made on the
7 homeowner at an address determined pursuant to due diligence of
8 the creditor to be the actual current residence of the homeowner,
9 providing opportunity for the homeowner to respond and contest the
10 proceedings, a stay of foreclosure proceedings or forbearance, or
11 both, awarded under the bill would cease immediately upon a
12 court's determination that the subject residential property has been
13 abandoned by the emergency-impacted homeowner.

14 Nothing in this bill would limit the ability of the parties to
15 participate in a mediation sponsored by the Administrative Office of
16 the Courts in accordance with the requirements of the mediation
17 program. Nothing in this bill would be construed to impact
18 property tax and insurance obligations of a property owner related
19 to any real property in the State.