LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5684

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 21, 2021

SUMMARY

Synopsis: Provides mortgage payment relief for residential property owners and small landlords during time of coronavirus disease 2019 pandemic.

Type of Impact: Potential increase in State expenditures and revenues.

Agencies Affected: Attorney General, Department of Banking and Insurance, and the Judiciary.

Office of Legislative Services Estimate

Fiscal Impact	Unpaid Mortgage Payments from March 9, 2020 to November 3, 2022
Potential State Cost Increase	Indeterminate
Potential State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill may potentially (1) increase State expenditures attributable to increased administrative costs for the Attorney General and Department of Banking and Insurance (DOBI); and (2) increase State revenues due to a court's ability to impose a fine on a non-compliant creditor.

- In response to a complaint to the Attorney General from an impacted homeowner, or on the Attorney General's independent initiative, the Attorney General may bring an action alleging a creditor has violated the provisions of the bill's mortgage forbearance provisions.

- An impacted homeowner denied a forbearance by a creditor licensed by the DOBI, and not a State- or nationally-chartered financial institution, may file a complaint with DOBI. The department would be required to investigate the complaint, notify the court upon initiation and completion of the investigation, and issue a ruling within 30 days and, if appropriate, would order the creditor to grant a forbearance to the impacted homeowner.

- The DOBI would also be required to provide notice of the enactment of the bill to known creditors and develop a form for creditors to use, in the five most common languages spoken in the State, to notify mortgagors of their rights under the bill.

- Upon finding that non-compliance by a creditor has occurred, a court of competent jurisdiction may take a variety of actions, including imposing a fine on the non-compliant creditor, not to exceed $5,000 per violation.

BILL DESCRIPTION

This bill would provide protections to certain homeowners and small landlords during the COVID-19 pandemic emergency period. Under the bill, "emergency period" means the period during which a public health emergency exists as declared by the Governor in Executive Order No. 103 of 2020, as extended, and the 60 days following the conclusion of this period.

The bill provides that, during the emergency period, a creditor is required to grant a mortgage forbearance to an impacted homeowner if the impacted homeowner submits a written request to the mortgage servicer affirming the following:

(1) the impacted homeowner has suffered a substantial reduction of income resulting from COVID-19 or the Public Health Emergency or State of Emergency declared in response thereto, including a financial hardship from a reduction in hours or loss of employment, or increased costs incurred in necessary child care resulting from the closure of schools or caring for family members who are ill due to COVID-19 or quarantined due to a suspected exposure to COVID-19, or for funeral costs due to COVID-19;

(2) the gross household income of the impacted homeowner does not exceed 150 percent of the area median income after hardship, unless this requirement for eligibility is waived by the mortgage lender; and

(3) the impacted homeowner's bank accounts collectively contain less than six months' reserves of the impacted homeowner's gross household income for 2019.

Upon receipt of a request for a mortgage forbearance from an impacted homeowner, the bill requires a creditor to provide to the impacted homeowner a mortgage forbearance and confirmation of that forbearance in writing. A creditor would have 30 days to approve or deny a request for a forbearance. If the impacted homeowner is not notified within that time period, the request is deemed approved. During this period, a creditor would be prohibited from instituting any foreclosure proceedings and any proceedings already underway would be stayed upon notice to the court. If a mortgage forbearance request is denied, the creditor would be required to provide an explanation of the reasons for the denial, and, if applicable, reasonable time to remedy any deficiencies in the request.

The minimum initial mortgage forbearance period of an impacted homeowner would be six months. An impacted homeowner would be able to obtain a subsequent forbearance period of at minimum nine months, for a total minimum of 15 months. Fees, penalties, or interest, including attorney's fees, would not be assessed or accrue during and as a result of a mortgage forbearance.

The bill prohibits a creditor from furnishing negative mortgage payment information to a debt collector or credit reporting agency related to mortgage payments subject to a mortgage forbearance under the bill. In response to a complaint to the Attorney General from an impacted homeowner, the Attorney General may bring an action alleging a creditor has violated this prohibition.

Under the bill, the repayment period of any mortgage subject to the forbearance would be extended by the number of months the forbearance is in effect. The payments not made during the months of the forbearance would instead be due on a monthly basis during the period constituting an extension of the mortgage, unless the property owner chooses to make these payments earlier.

An impacted homeowner denied a forbearance under the bill by a creditor licensed by the DOBI, and not a State- or nationally-chartered financial institution, may file a complaint with DOBI. The department would be required to investigate the complaint, notify the court upon initiation and completion of the investigation, and issue a ruling without 30 days and, if appropriate, would order the creditor to grant a forbearance to the impacted homeowner. During the pendency of any investigation, no notice of foreclosure would be sent to the impacted homeowner, no foreclosure proceeding would be initiated against that homeowner, and any pending foreclosure would be stayed.

To the extent required by the Administrative Director of the Courts, the creditor and the department would be required to provide on at least a monthly basis, the docket numbers, party names, and property addresses as to any pending court actions involving any impacted homeowner requesting or denied a forbearance.

Information about the forbearance program would be posted on the Internet website of the Department of Banking and Insurance. Within 60 days of the enactment of this act, the Department of Banking and Insurance would provide notice of the enactment of this act to known creditors and develop a form for creditors to use, in the five most common languages spoken in the State, to notify mortgagors of their rights under this act. Within 90 days of the enactment of this act, creditors would provide such notice to mortgagors about the right of impacted homeowners to file for a forbearance.

The bill would take effect immediately and would apply retroactively to mortgage payments missed subsequent to March 9, 2020.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

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Upon finding that non-compliance by a creditor has occurred, a court of competent jurisdiction may take a variety of actions, including imposing a fine on the non-compliant creditor, not to exceed $5,000 per violation.

Section:	*Local Government*
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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).