

SENATE, No. 2526

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 4, 2020

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

Co-Sponsored by:

Senators Gopal and Ruiz

SYNOPSIS

Permits local units and authorities to waive interest and lien enforcement for certain delinquent water and sewer utility payments during emergency circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/15/2020)

1 **AN ACT** concerning interest and lien enforcement of certain utility
 2 payments during emergencies, amending various parts of the
 3 statutory law, and supplementing chapter 62 of Title 40 of the
 4 Revised Statutes.

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

8
 9 1. Section 21 of P.L.1946, c.138 (C.40:14A-21) is amended to
 10 read as follows:

11 21. (a) In the event that a service charge of any sewerage
 12 authority with regard to any parcel of real property shall not be
 13 paid as and when due, interest shall accrue and be due to the
 14 sewerage authority on the unpaid balance at the rate of 1 1/2 %
 15 per month until such service charge, and the interest thereon, shall
 16 be fully paid to the sewerage authority.

17 (b) In the event that a service charge of any sewerage authority
 18 with regard to any parcel of real property owned by any person
 19 other than the State or an agency or subdivision thereof shall not be
 20 paid as and when due, the unpaid balance thereof and all interest
 21 accruing thereon shall be a lien on such parcel. Such lien shall be
 22 superior and paramount to the interest in such parcel of any owner,
 23 lessee, tenant, mortgagee or other person except the lien of
 24 municipal taxes and shall be on a parity with and deemed equal to
 25 the lien on such parcel of the municipality where such parcel is
 26 situate for taxes thereon due in the same year and not paid when
 27 due. Such lien shall not bind or affect a subsequent bona fide
 28 purchaser of such parcel for a valuable consideration without actual
 29 notice of such lien, unless the sewerage authority shall have filed in
 30 the office of the collector or other officer of said municipality
 31 charged with the duty of enforcing municipal liens on real property
 32 a statement showing the amount and due date of such unpaid
 33 balance and identifying such parcel, which identification may be
 34 sufficiently made by reference to the assessment map of said
 35 municipality. The information shown in such statement shall be
 36 included in any certificate with respect to said parcel thereafter
 37 made by the official of said municipality vested with the power to
 38 make official certificates of searches for municipal liens. Whenever
 39 such service charge and any subsequent service charge with regard
 40 to such parcel and all interest accrued thereon shall have been fully
 41 paid to the sewerage authority, such statement shall be promptly
 42 withdrawn or cancelled by the sewerage authority.

43 (c) In the event that a service charge of any sewerage authority
 44 with regard to any parcel of real property shall not be paid as and
 45 when due, the sewerage authority may, in its discretion, enter upon

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 such parcel and cause the connection thereof leading directly or
2 indirectly to the sewerage system to be cut and shut off until such
3 service charge and any subsequent service charge with regard to
4 such parcel and all interest accrued thereon shall be fully paid to
5 the sewerage authority.

6 (d) In the event that a service charge of any sewerage authority
7 with regard to any parcel of real property shall not be paid as and
8 when due, the sewerage authority may, in accordance with section
9 twenty-six of this act, cause the supply of water to such parcel to
10 be stopped or restricted until such service charge and any
11 subsequent service charge with regard to such parcel and all
12 interest accrued thereon shall be fully paid to the sewerage
13 authority. If for any any reason such supply of water shall not be
14 promptly stopped or restricted as required by section twenty-six of
15 this act, the sewerage authority may itself shut off or restrict such
16 supply and, for that purpose, may enter on any lands, waters or
17 premises of any county, municipality or other person. The supply
18 of water to such parcel shall, notwithstanding the provisions of this
19 subsection, be restored or increased if the State Department of
20 Health, upon application of the local board of health or health
21 officer of the municipality where such parcel is situate, shall after
22 public hearing find and shall certify to the sewerage authority that
23 the continuance of such stopping or restriction of the supply of
24 water endangers the health of the public in such municipality.

25 (e) The collector or other officer of every municipality charged
26 by law with the duty of enforcing municipal liens on real property
27 shall enforce, with and as any other municipal lien on real property
28 in such municipality, all service charges and the lien thereof shown
29 in any statement filed with him by any sewerage authority pursuant
30 to subsection (b) of this section, and shall pay over to the sewerage
31 authority the sums or a pro rata share of the sums realized upon
32 such enforcement or upon liquidation of any property acquired by
33 the municipality by virtue of such enforcement.

34 (f) In the event that any service charge of a sewerage authority
35 shall not be paid as and when due, the unpaid balance thereof and
36 all interest accrued thereon, together with attorney's fees and costs,
37 may be recovered by the sewerage authority in a civil action, and
38 any lien on real property for such service charge and interest
39 accrued thereon may be foreclosed or otherwise enforced by the
40 sewerage authority by action or suit in equity as for the foreclosure
41 of a mortgage on such real property.

42 (g) All rights and remedies granted by this act for the collection
43 and enforcement of service charges shall be cumulative and
44 concurrent.

45 (h) Notwithstanding the provisions of this section, if the
46 Governor has declared a public health emergency pursuant to the
47 "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et
48 seq.), or a state of emergency, pursuant to P.L.1942, c.251

1 (C.App.A.9-33 et seq.), or both, in response to a flood, hurricane,
2 superstorm, tornado, natural or other disaster, or public health
3 emergency, then, for the duration of the public health emergency,
4 state of emergency, or both and for a period up to 90 days after the
5 public health emergency, state of emergency, or both, are no longer
6 in effect, the sewerage authority may, in its discretion, engage in
7 any combination of the following: (1) not charge interest on the
8 delinquent payment; (2) not place a lien on such parcel of real
9 property for the unpaid balance for any service charge and all
10 interest accruing thereon; or (3) not discontinue service of any
11 property for the failure to pay any amount owing. A sewerage
12 authority shall exercise the discretionary authority it is provided
13 under this subsection consistently to all properties, or to all
14 properties of the same use type or other appropriate category.
15 (cf: P.L.1981, c.530, s.1)

16
17 2. Section 41 of P.L.1957, c.183 (C.40:14B-41) is amended to
18 read as follows:

19 41. a. In the event that a service charge of any municipal
20 authority with regard to any parcel of real property shall not be paid
21 as and when due, interest shall accrue and be due to the municipal
22 authority on the unpaid balance at the rate of 1 1/2 **【%】** percent
23 per month until such service charge, and the interest thereon, shall
24 be fully paid to the municipal authority.

25 b. Notwithstanding the provisions of subsection a. of this
26 section regarding delinquent payments, if the Governor has declared
27 a public health emergency pursuant to the “Emergency Health
28 Powers Act,” P.L.2005, c.222 (C.26:13-1 et seq.), or a state of
29 emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or
30 both, in response to a flood, hurricane, superstorm, tornado, natural
31 or other disaster, or public health emergency that the municipal
32 authority has experienced, then, for the duration of the public health
33 emergency, state of emergency, or both and for a period up to 90
34 days after the public health emergency, state of emergency, or both,
35 are no longer in effect, the municipal authority may, in its
36 discretion, refrain from charging interest on the delinquent
37 payment. A municipal authority shall exercise the discretionary
38 authority it is provided under this subsection consistently to all
39 properties, or to all properties of the same use type or other
40 appropriate category.

41 (cf: P.L.1981, c.530, s.2)

42
43 3. Section 42 of P.L.1957, c.183, (C.40:14B-42) is amended to
44 read as follows:

45 42. a. In the event that a service charge of any municipal
46 authority with regard to any parcel of real property owned by any
47 person other than the State or an agency or subdivision thereof shall
48 not be paid as and when due, the unpaid balance thereof and all

1 interest accruing thereon shall be a lien on such parcel. Such lien
2 shall be superior and paramount to the interest in such parcel of any
3 owner, lessee, tenant, mortgagee or other person except the lien of
4 municipal taxes and shall be on a parity with and deemed equal to
5 the lien on such parcel of the municipality where such parcel is
6 situate for taxes thereon due in the same year and not paid when
7 due. Such lien shall not bind or affect a subsequent bona fide
8 purchaser of such parcel for a valuable consideration without actual
9 notice of such lien, unless the municipal authority shall have filed
10 in the office of the collector or other officer of said municipality
11 charged with the duty of enforcing municipal liens on real property
12 a statement showing the amount and due date of such unpaid
13 balance and identifying such parcel, which identification may be
14 sufficiently made by reference to the assessment map of said
15 municipality. The information shown in such statement shall be
16 included in any certificate with respect to said parcel thereafter
17 made by the official of said municipality vested with the power to
18 make official certificates of searches for municipal liens. Whenever
19 such service charge and any subsequent service charge with regard
20 to such parcel and all interest accrued thereon shall have been fully
21 paid to the municipal authority, such statement shall be promptly
22 withdrawn or canceled by the municipal authority.

23 b. Notwithstanding the provisions of subsection a. of this
24 section regarding delinquent payments, if the Governor has declared
25 a public health emergency pursuant to the "Emergency Health
26 Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), or a state of
27 emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or
28 both, in response to a flood, hurricane, superstorm, tornado, natural
29 or other disaster, or public health emergency that the municipal
30 authority has experienced, then, for the duration of the public health
31 emergency, state of emergency, or both and for a period up to 90
32 days after the public health emergency, state of emergency, or both,
33 are no longer in effect, the municipal authority may, in its
34 discretion, refrain from placing a lien on such parcel of real
35 property for the unpaid balance for any service charge and all
36 interest accruing thereon. A municipal authority shall exercise the
37 discretionary authority it is provided under this subsection
38 consistently to all properties, or to all properties of the same use
39 type or other appropriate category.

40 (cf: P.L.1957, c.183, s.42)

41
42 4. N.J.S.40A:26A-12 is amended to read as follows:

43 40A:26A-12. a. Rates, rentals, connection fees or other charges
44 levied in accordance with N.J.S.40A:26A-10 and 40A:26A-11, shall
45 be a first lien or charge against the property benefited therefrom. If
46 any part of the amount due and payable in rates, rentals, connection
47 fees or other charges remain unpaid for 30 days following the date
48 for the payment thereof, interest upon the amount unpaid shall

1 accrue at a rate of interest to be determined in accordance with
2 N.J.S.40A:26A-17. The governing body or bodies of the local unit
3 or units may authorize payment of delinquent assessments on an
4 installment basis in accordance with R.S.54:5-19. Liens levied in
5 accordance with this section shall be enforceable in the manner
6 provided for real property tax liens in chapter 5 of Title 54 of the
7 Revised Statutes.

8 b. Nothing in this section shall be construed to limit the right of
9 a local unit or local units to discontinue service of any property for
10 the failure to pay any amount owing within 30 days after the date
11 the amount is due and payable, if written notice of the proposed
12 discontinuance of service and of the reasons therefor has been
13 given, within at least 10 days prior to the date of discontinuance, to
14 the owner of record of the property. In the event that notice is
15 provided by mail, the notice requirements shall be satisfied if the
16 mailing is made to the last known address of the owner of record
17 and is postmarked at least 10 days prior to the date of
18 discontinuance.

19 c. Notwithstanding the provisions of subsections a. and b. of
20 this section, if the Governor has declared a public health emergency
21 pursuant to the "Emergency Health Powers Act," P.L.2005, c.222
22 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942,
23 c.251 (C.App.A.9-33 et seq.), or both, in response to a flood,
24 hurricane, superstorm, tornado, natural or other disaster, or public
25 health emergency, then, for the duration of the public health
26 emergency, state of emergency, or both and for a period up to 90
27 days after the public health emergency, state of emergency, or both,
28 are no longer in effect, the governing body or bodies of the local
29 unit or units may, in its discretion, engage in any combination of the
30 following: (1) not charge interest on the delinquent payment; (2) not
31 place a lien on such parcel of real property for the unpaid balance
32 for any service charge and all interest accruing thereon; or (3) not
33 discontinue service of any property for the failure to pay any
34 amount owing. The governing body shall exercise the discretionary
35 authority it is provided under this subsection consistently to all
36 properties, or to all properties of the same use type or other
37 appropriate category.

38 (cf: N.J.S.40A:26A-12)

39
40 5. N.J.S.40A:31-12 is amended to read as follows:

41 40A:31-12. a. Rates, rentals, connection fees or other charges
42 levied in accordance with N.J.S.40A:31-10 and 40A:31-11, shall be
43 a first lien or charge against the property benefited therefrom. If
44 any part of the amount due and payable in rates, rentals, connection
45 fees or other charges remains unpaid for 30 days following the date
46 for the payment thereof, interest upon the amount unpaid shall
47 accrue at a rate of interest to be determined in accordance with
48 N.J.S.40A:31-17. The governing body or bodies of the local unit or

1 units may authorize payment of delinquent assessments on an
2 installment basis in accordance with R.S.54:5-19. Liens levied in
3 accordance with this section shall be enforceable in the manner
4 provided for real property tax liens in chapter 5 of Title 54 of the
5 Revised Statutes.

6 **b.** Nothing in this section shall be construed to limit the right of
7 a local unit or local units to discontinue service to any property for
8 the failure to pay any amount owing within 30 days after the date
9 the amount is due and payable, if written notice of the proposed
10 discontinuance of service and of the reasons therefor has been
11 given, within at least 10 days prior to the date of discontinuance, to
12 the owner of record of the property. In the event that notice is
13 provided by mail, the notice requirements shall be satisfied if the
14 mailing is made to the last known address of the owner of record
15 and is postmarked at least 10 days prior to the date of
16 discontinuance.

17 **c.** Notwithstanding the provisions of subsections a. and b. of
18 this section, if the Governor has declared a public health emergency
19 pursuant to the "Emergency Health Powers Act," P.L.2005, c.222
20 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942,
21 c.251 (C.App.A.9-33 et seq.), or both, in response to a flood,
22 hurricane, superstorm, tornado, natural or other disaster, or public
23 health emergency, then, for the duration of the public health
24 emergency, state of emergency, or both and for a period up to 90
25 days after the public health emergency, state of emergency, or both,
26 are no longer in effect, the governing body or bodies of the local
27 unit or units may, in its discretion, engage in any combination of the
28 following: (1) not charge interest on the delinquent payment; (2) not
29 place a lien on such parcel of real property for the unpaid balance
30 for any service charge and all interest accruing thereon; or (3) not
31 discontinue service of any property for the failure to pay any
32 amount owing. The governing body shall exercise the discretionary
33 authority it is provided under this subsection consistently to all
34 properties, or to all properties of the same use type or other
35 appropriate category.

36 (cf: N.J.S.40A:31-12)

37

38 6. (New section) Notwithstanding the provisions of any law to
39 the contrary, if the Governor has declared a public health
40 emergency pursuant to the "Emergency Health Powers Act,"
41 P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency,
42 pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, in
43 response to a flood, hurricane, superstorm, tornado, natural or other
44 disaster, or public health emergency, then, for the duration of the
45 public health emergency, state of emergency, or both, and for a
46 period up to 90 days after the public health emergency, state of
47 emergency, or both, are no longer in effect, any municipality that
48 owns and operates its water and sewer systems as one utility or that

1 furnishes a supply of water or sewerage service, or both, to the
2 inhabitants of another municipality, may, in its discretion, engage in
3 any combination of the following: (1) not charge interest on the
4 delinquent payment; (2) not place a lien on such parcel of real
5 property for the unpaid balance for any service charge and all
6 interest accruing thereon; or (3) not discontinue service of any
7 property for the failure to pay any amount owing. A sewerage
8 authority shall exercise the discretionary authority it is provided
9 under this subsection consistently to all properties, or to all
10 properties of the same use type or other appropriate category.

11

12 7. This act shall take effect immediately and shall apply
13 retroactively to March 9, 2020.

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15

16

STATEMENT

17

18 This bill would permit local units and authorities to waive
19 interest and lien enforcement for certain delinquent water and sewer
20 utility payments during emergency circumstances.

21 Whenever the Governor declares a public health emergency or a
22 state of emergency, or both, this bill would authorize that, for the
23 duration of one or both of the emergency declarations and for a
24 period up to 90 days thereafter, a sewerage authority, a county or
25 municipal utilities authority, or a county or municipality responsible
26 for the administration of a sewerage or water utility may, in its
27 discretion, refrain from any combination of the following actions:

28 (1) charging interest on a delinquent payment;

29 (2) placing a lien on a parcel of real property for the unpaid
30 balance for any service charge and all interest accruing thereon; or

31 (3) as applicable, discontinuing the service of any property for
32 the failure to pay any amount owing.

33 The bill requires that the discretionary authority provided to
34 local units and authorities would be applied consistently to all
35 properties, or to all properties of the same use type or other
36 appropriate category. In order for the discretionary authority
37 provided by the bill to be available, the emergency would have to
38 emerge in response to a flood, hurricane, superstorm, tornado,
39 natural or other disaster, or public health emergency.

40 The bill would take effect immediately and would be retroactive
41 to March 9, 2020.