

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3669

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: NOVEMBER 3, 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	<u>Unpaid Mortgage Payments from</u> <u>March 9, 2020 to January 30, 2022</u>	
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 that a creditor has violated the requirements of the bill concerning the provision of a mortgage forbearance.
- 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 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 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 45 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 shall not institute any foreclosure proceedings and any proceedings already underway shall be stayed. If a mortgage forbearance request is denied, the creditor shall 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 is to be 90 days. An impacted homeowner may request, and is to be granted, a subsequent forbearance period of at minimum 90 days, for a total minimum of 180 days. Fees, penalties, or interest, including attorney’s fees, shall 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 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 shall be filed by any creditor against the same impacted homeowner.

Information about the forbearance program would be posted on the Internet website of the DOBI. Within 60 days of the enactment of this act, the DOBI 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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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.).