

ASSEMBLY, No. 214

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman WEINBERG and Assemblyman ZISA

1 AN ACT concerning mortgage escrow accounts and amending and  
2 supplementing P.L.1990, c.69.

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

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7 1. Section 1 of P.L.1990, c.69 (C. 17:16F-15) is amended to read  
8 as follows:

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1. As used in this act:

10 "Commissioner" means the Commissioner of Community Affairs.

11 "Duplicate copy" means a duplicate of the original property tax bill  
12 which duplicate is generated by the collector of a taxing district.

13 "Effective date of transfer" means the date on which the mortgage  
14 payment of a mortgagor is first due to the purchasing servicing  
15 organization pursuant to the sale, assignment or transfer of the  
16 servicing of a mortgage loan.

17 "Mortgagee" means the maker or holder, or both, of a mortgage  
18 loan, as applicable.

19 "Mortgage escrow account" or "escrow account" means an account  
20 which is part of a mortgage loan agreement, whether incorporated into  
21 the agreement or as part of a separately executed document, whereby:  
22 the mortgagor is obligated to make periodic payment to the mortgagee  
23 or his agent for taxes, insurance premiums, or other charges with  
24 respect to the real property which secures the mortgage loan; and the  
25 mortgagee or his agent is obligated to make payments for taxes,  
26 insurance premiums or other charges with respect to the real property  
27 which secures the mortgage loan. For the purposes of P.L.1990, c.69  
28 (C.17:16F-15 et seq.), there shall be only one escrow account per  
29 mortgage loan and an account shall refer to the sum of all payments  
30 made by a mortgagor into an escrow account regardless of how a  
31 mortgagee or its agent may subdivide the account for accounting  
32 purposes.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Mortgage loan" means a loan made to a natural person or persons  
2 to whom credit is offered or extended primarily for personal, family or  
3 household purposes which is secured [by a mortgage constituting] in  
4 whole or in part by a lien upon any interest in residential real property  
5 located in this State [on which there is erected or to be erected a  
6 structure containing one, two, three, four, five or six dwelling units,  
7 a portion of which structure may be used for nonresidential purposes]  
8 , including shares of stock in a cooperative corporation created  
9 pursuant to "The Cooperative Recording Act of New Jersey,"  
10 P.L.1987, c.381 (C.46:8D-1 et seq.), which lien is created by a  
11 security agreement, including a mortgage, indenture, or any other  
12 similar instrument or document, in the making of which lien the  
13 mortgagee relies primarily upon the value of the mortgaged property  
14 or the shares of stock in the cooperative corporation.

15 "Mortgagor" includes any person liable for the payment of a  
16 mortgage loan, and the owner of real property which secures the  
17 payment of a mortgage loan.

18 "Original tax bill" means the property tax bill as originally prepared  
19 and mailed by the collector of a taxing district pursuant to subsection  
20 a. of R.S.54:4-64.

21 "Property tax processing organization" means an organization  
22 which, under contract with a mortgagee or a servicing organization,  
23 collects and processes property tax information with respect to  
24 properties securing mortgage loans.

25 "Purchasing servicing organization" means a person or entity to  
26 whom or which a mortgagee or a selling servicing organization sells,  
27 assigns or transfers the servicing of a mortgage loan.

28 "Replacement bill" means a property tax bill made or generated by  
29 a mortgagee, servicing organization or tax processing organization  
30 subject to the restrictions provided pursuant to subsection a. of section  
31 5 of [this act] P.L.1990, c.69 (C.17:16F-19) and regulations  
32 promulgated by the Commissioner of the Department of Community  
33 Affairs pursuant to that subsection a. [of section 5 of this act.]

34 "Selling servicing organization" means a person or entity [who] that  
35 sells, assigns or transfers the servicing of a mortgage loan.

36 "Servicing organization" means a mortgagee or an agent of the  
37 mortgagee, pursuant to a written agreement between the agent and the  
38 mortgagee, which is responsible for one or more mortgage escrow  
39 accounts.

40 "Tax authorization form" means a form approved by the  
41 Commissioner of Community Affairs whereby the mortgagor  
42 authorizes the municipal tax collector to send the original municipal  
43 tax bill to the mortgagee or the mortgagee's servicing organization  
44 pursuant to R.S.54:4-64.

45 (cf: P.L.1990, c.69, s.1)

1       2. Section 7 of P.L.1990, c.69 (C.17:16F-21) is amended to read  
2 as follows:

3       7. a. A mortgagee or servicing organization which requires a  
4 mortgagor to pay into a mortgage escrow account shall furnish to the  
5 mortgagor, within 45 days after the end of each calendar year, a  
6 written statement providing: the balance of the account at the  
7 beginning of the calendar year; total payments credited to the account  
8 during the calendar year, including interest credited to the account, if  
9 any; an itemized statement of all expenditures from the account during  
10 the calendar year; the average daily balance in the account for each  
11 calendar quarter of a calendar year; and the balance in the account at  
12 the end of the calendar year. The mortgagor shall be entitled to  
13 receive one written statement for each calendar year without charge.

14       b. [~~The~~] Except for providing the average daily balance in the  
15 account for each calendar quarter of the calendar year, the annual  
16 statement provided for in subsection a. of this section is not required  
17 if the mortgagor is provided with at least a monthly statement or  
18 mortgagor passbook which provides the balance in the escrow account  
19 and an itemized record of disbursements from the account.

20 (cf: P.L.1990, c.69, s.7)

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22       3. (New section) Each mortgagee or its servicing organization  
23 which requires a mortgagor to make payments into a mortgage escrow  
24 account shall pay interest to the mortgagor on the amount in the  
25 mortgagor's escrow account. Interest shall be calculated quarterly on  
26 the average daily balance in the mortgage escrow account for the  
27 calendar quarter and shall be credited to the escrow account within 30  
28 days of the end of a calendar quarter. The rate of interest to be paid  
29 on mortgage escrow account balances shall be determined annually by  
30 the Commissioner of Banking and shall reflect the average rate of  
31 interest paid during the preceding year by financial institutions in this  
32 State on passbook savings or statement savings account, whichever is  
33 higher.

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35       4. (New section) The Commissioner of Banking shall promulgate  
36 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
37 c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of  
38 this 1995 amendatory and supplementary act and may promulgate  
39 regulations as deemed appropriate by the Commissioner of Banking,  
40 after consultation with the Commissioner of Community Affairs,  
41 necessary to effectuate the provisions of P.L.1990, c.69 (C.17:16F-15  
42 et seq.).

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44       5. This act shall take effect on the 90th day after enactment.

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STATEMENT

This bill prohibits a mortgagee or its servicing agent from establishing more than one escrow account with respect to a mortgagor's payments for taxes, insurance and other costs associated with a particular property which is the subject of a mortgage.

In addition, a mortgagee or its servicing agent is required to pay interest on the average daily balance in a mortgage escrow account on a quarterly basis at a rate set on an annual basis by the Commissioner of Banking and provide the mortgagor with information regarding the average daily balance in the mortgagor's escrow account for each quarter in a calendar year at the same time the mortgagee or its servicing agent provides an annual statement of the account to the mortgagor.

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Requires payment of interest on mortgage escrow accounts.