SENATE, No. 3670

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED SEPTEMBER 26, 2024

Sponsored by:
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District 7 (Burlington)
Senator ANGELA V. MCKNIGHT
District 31 (Hudson)

Co-Sponsored by:
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SYNOPSIS

Provides for mortgage payment relief and foreclosure protection for certain homeowners impacted by remnants of Hurricane Ida.

CURRENT VERSION OF TEXT

As introduced.

An Act to provide mortgage payment relief and foreclosure protection in response to the remnants of Hurricane Ida and supplementing Title 52 of the Revised Statutes.

Be It Enacted *by the Senate and General Assembly of the State of New Jersey:*

1. As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Certification of eligibility for forbearance" means a final determination by the department that an applicant has satisfied all eligibility criteria set forth in subsection b. of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) and is thus entitled to mortgage forbearance in accordance with P.L. , c. (C.) (pending before the Legislature as this bill).

"Complete application" means an application properly filed with the department, which contains all information and documentation required by subsection c. of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) to determine whether the applicant meets the eligibility criteria to receive a Certification of Eligibility for Forbearance.

"Department" means the Department of Community Affairs.

"Federal disaster assistance" means federal aid provided in response to the remnants of Hurricane Ida, including but not limited to, mitigation efforts, buy-out grants, assistance from the Federal Emergency Management Agency, payments from the National Flood Insurance Program, or Community Development Block Grant —Disaster Recovery funding administered by the State.

"Hurricane Ida" means the major storm that made landfall in New Jersey on September 1, 2021, for which a Presidential declaration that a major disaster existed in New Jersey was issued on September 5, 2021.

"Mortgage" means a mortgage, trust deed, or other security in the nature of a residential mortgage.

"Mortgage forbearance" or "forbearance" means a period during which the obligations for mortgage principal and interest payments of a storm-impacted homeowner who receives a Certification of Eligibility for Forbearance are suspended. A storm-impacted homeowner who receives a forbearance pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) remains responsible for tax and insurance payments during the period of forbearance, as well as maintenance of the property that is the subject of the forbearance.

"Mortgage servicer" means the same as that term is defined in section 2 of P.L.2019, c.65 (C.17:16F-28).

"Primary residence" means a homestead located in the State of New Jersey that is occupied by a storm-impacted homeowner as their permanent residence, or that would be so occupied but for damage due to Hurricane Ida that has rendered the homestead uninhabitable, as distinguished from a vacation home, property owned and rented or offered for rent by the homeowner, and other secondary real property holdings.

"Storm-impacted homeowner" means a mortgagor who, as of August 31, 2021, occupied the residential property as their primary residence and received federal disaster assistance for needs related to damage sustained from the remnants of Hurricane Ida.

2. a. A person who meets the eligibility criteria set forth in subsection b. of this section may file an application with the Department of Community Affairs, requesting a Certification of Eligibility for Forbearance, online through a system established by the department. The department shall publish instructions for filing an application requesting a Certification of Eligibility for Forbearance on its Internet website by no later than 60 days after the enactment of P.L. , c. (C.) (pending before the Legislature as this bill). The department shall make the online application system publicly available by no later than 90 days after the enactment of P.L. , c. (C.) (pending before the Legislature as this bill). All applications must be submitted to the department by no later than 30 days following the date on which the department makes the online application system publicly available pursuant to this section.

b. To qualify for a Certification of Eligibility for Forbearance, an applicant must satisfy the following eligibility criteria:

(1) meet the definition of "storm-impacted homeowner" pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill);

(2) have a current mortgage obligation on their primary residence; and

(3) submit a complete application to the department that satisfies the requirements set forth in P.L. , c. (C.) (pending

before the Legislature as this bill).

A storm-impacted homeowner shall be eligible for a forbearance regardless of whether the storm-impacted homeowner's primary residence is already the subject of a foreclosure proceeding.

c. To be deemed complete, an application for a Certification of Eligibility for Forbearance must comply with the instructions for filing published by the department and include copies of the following materials:

(1) documentation demonstrating that the applicant meets the definition of storm-impacted homeowner pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill);

(2) proof that the applicant has a current mortgage obligation on their primary residence;

(3) a written attestation by the applicant under penalty of law that:

(a) the information submitted to the department in support of the application for a Certification of Eligibility for Forbearance is true and accurate to the best of the applicant's knowledge; and

(b) the applicant understands and accepts that the department may, as part of its review process, take necessary steps to verify the information submitted by the applicant, and agrees to cooperate with the department in any such verification process; and

(4) any additional documentation requested by the department.

d. (1) Within 60 days from the date of an application submission, the department shall determine whether the application:

(a) is complete, and, if not, the department shall provide immediate, written notice to the applicant explaining why the application is incomplete. An applicant who receives notice from the department that their application is incomplete shall have 15 days after they receive such notice to resubmit their application. Upon the applicant's resubmission, the 60-day review period shall begin from the original date of submission; and

(b) meets the eligibility criteria set forth in subsection b. of this section, and if so, issue a Certification of Eligibility for Forbearance to the storm-impacted homeowner. Upon their receipt of a Certification of Eligibility for Forbearance, the storm-impacted homeowner shall notify and provide a copy of the Certification of Eligibility for Forbearance to the mortgage servicer identified in their application.

(2) If the department determines that an application does not meet the eligibility criteria, the department shall provide written notice to the applicant explaining why the application does not meet the eligibility criteria and providing information on the applicant's ability to appeal the department's decision.

(3) If the department fails to act on an application that it has deemed to be complete before the expiration of the 60-day review period pursuant to paragraph (2) of this subsection, the applicant shall be deemed to have satisfied the eligibility criteria, and the department shall issue a Certification of Eligibility for Forbearance to the storm-impacted homeowner.

e. The forbearance period shall conclude one year after the date on which the department issues a Certification of Eligibility for Forbearance to a storm-impacted homeowner unless the storm-impacted homeowner discontinues the mortgage forbearance pursuant to paragraph (3) of subsection f. of this section.

f. (1) Notwithstanding the provisions of any law, rule, or regulation to the contrary, the repayment period of any mortgage subject to the forbearance pursuant to the issuance of a Certification of Eligibility for Forbearance shall be extended by the number of months the forbearance is in effect. The payments not made during the forbearance shall be due on a monthly basis during the period constituting an extension of the mortgage, unless the storm-impacted homeowner granted a Certification of Eligibility for Forbearance has chosen to make these payments earlier.

(2) During the time of the forbearance, and during the period constituting an extension of the mortgage, all terms and conditions of the original mortgage, except with regard to default and delinquency during forbearance, shall continue without modification, and there shall be no fees assessed, including attorney's fees, related to the forbearance or late payment, or penalty for early repayment. A mortgage forbearance pursuant to this section shall not be construed to impact a homeowner's property tax or insurance obligations related to the property that is the subject of the forbearance. A homeowner who receives a Certification of Eligibility for Forbearance shall be responsible for maintenance of the property that is the subject of the forbearance during the period of forbearance.

(3) A storm-impacted homeowner who receives a Certification of Eligibility for Forbearance shall have the option to discontinue the mortgage forbearance at any time at the election of the storm-impacted homeowner upon written notice to the mortgage servicer

and to the department stating that they knowingly waive any rights they would otherwise be afforded hereunder.

(4) During any period of mortgage forbearance granted pursuant to this section, a mortgage servicer shall not, for the purposes of foreclosure of a residential property that is the subject of a Certification of Eligibility for Forbearance issued pursuant to this section that is not vacant, abandoned or otherwise subject to P.L.2003, c.210 (C.55:19-78 et al.):

(a) send a storm-impacted homeowner a notice of intention to foreclose pursuant to section 4 of P.L.1995, c.244 (C.2A:50-56); or

(b) otherwise initiate the foreclosure process.

A deadline or time period for action by a party to the foreclosure process for a residential property that is subject to a Certification of Eligibility for Forbearance issued pursuant to this section, and filed prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall be tolled until the end of the period of the mortgage forbearance.

g. A storm-impacted homeowner who has received a Certification of Eligibility for Forbearance and is denied a forbearance by a mortgage servicer licensed by the Department of Banking and Insurance may file a complaint with the Department of Banking and Insurance. The Department of Banking and Insurance shall investigate the complaint and, if appropriate, shall order the mortgage servicer to grant a forbearance to the storm-impacted homeowner pursuant to this section.

h. (1) To the extent required by the Administrative Director of the Courts, the mortgage servicer shall provide the docket numbers, party names, and property addresses as to any pending court actions involving any property granted a forbearance to the Superior Court Clerk's Office.

(2) The mortgage servicer shall submit information on all forbearances that the mortgage servicer has provided within the State to the Department of Banking and Insurance on a monthly basis, or on any alternative schedule directed by the Department of Banking and Insurance, after removing all personally identifiable information. This information shall be submitted in accordance with any specifications required by the Department of Banking and Insurance, and, to the extent required by the Department of Banking and Insurance, shall be deemed to be government records and subject to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the Open Public Records Act.

i. This section shall not apply to any mortgage loans made, insured, or securitized by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the

Federal Housing Administration of the United States Department of Housing and Urban Development, the Department of Veterans Affairs, or the Rural Housing Service, nor shall this section apply to any mortgage loans serviced pursuant to the policies of these entities but not made, or insured, or securitized by the entities unless the mortgage loan has been granted a forbearance pursuant to this section prior to being serviced by these entities.

j. It shall be an unlawful discrimination in violation of the "New Jersey Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) for a mortgage servicer to discriminate in application of the provisions of this section on any basis protected by subsection g. of section 11 of P.L.1945, c.169 (C.10:5-12).

3. A storm-impacted homeowner who is the subject of a foreclosure proceeding shall be awarded, by the court and upon application by the property owner for good cause shown, a stay in the foreclosure proceedings. An application to the court by a storm-impacted homeowner pursuant to this section shall be made prior to the first day of the sixth month next following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), unless the courts in their discretion permit application submission for a longer period. The receipt of a Certification of Eligibility for Forbearance, issued to the storm-impacted homeowner pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), shall constitute good cause for the award of a stay pursuant to this subsection. The award of a stay pursuant to this section shall conclude upon the earlier of:

a. the conclusion of one year following the initial award of a stay of foreclosure proceedings; or

b. January 1, 2026.

4. This act shall take effect immediately.

STATEMENT

This bill would provide mortgage payment relief and foreclosure protection for certain homeowners impacted by the remnants of Hurricane Ida.

Hurricane Ida initially approached the Gulf Coast as a category 4 hurricane, and caused severe damage to a large area of the south and northeast regions of the country. In New Jersey, thousands of families have been displaced and unable to return to their homes as a result of this storm. This bill would offer certain homeowners impacted by the remnants of Hurricane Ida temporary protections against foreclosure, and would require mortgage servicers to provide a temporary pause in the mortgage payment obligations of the storm-impacted homeowners.

The bill defines a "storm-impacted homeowner" as a mortgagor who, as of August 31, 2021, occupied the residential property as their primary residence and received federal disaster assistance for needs related to damage sustained from the remnants of Hurricane Ida.

The bill permits eligible homeowners, meeting the requirements set forth in the bill, to apply to the Department of Community Affairs (department) for Certifications of Eligibility for Forbearance online through a system established by the department no later than 30 days after the date the department makes the application publicly available. The department would be required to review each application to determine whether the applicant meets eligibility criteria demonstrating their need for assistance, and if they do, issue a Certification of Eligibility for Forbearance to the applicant, which would entitle the applicant to receive a one-year mortgage forbearance from their mortgage servicer. Any homeowner who is denied a Certification of Eligibility for Forbearance may appeal that decision, and any homeowner who obtains a Certification of Eligibility for Forbearance but is denied a forbearance from a mortgage servicer licensed by the Department of Banking and Insurance may file a complaint with that agency, which must investigate, and if appropriate, order the mortgage servicer to grant a forbearance.

The bill requires that, during forbearance, and during the subsequent time period constituting an extension of the mortgage, all terms and conditions of the original mortgage, except with regard to default and delinquency during forbearance, are to continue without modification, fees assessed, late penalties, or penalties for early repayment. The bill also requires a mortgage servicer to: submit certain information, as specified in the bill, related to any pending actions involving property granted a forbearance to the Superior Court Clerk’s Office; and, on a monthly basis, submit certain information on all forbearances that the mortgage servicer has provided within the State to the Department of Banking and Insurance, except as provided in the bill.

Further, a storm-impacted homeowner who is the subject of a foreclosure proceeding would be awarded, by the court and upon application by the property owner for good cause shown, a stay in the foreclosure proceedings. An application to the court by a storm-impacted homeowner would be required to be made prior to the first day of the sixth month following the effective date of the bill, unless the courts in their discretion permit application submission for a longer period. The award of a stay pursuant to the bill would conclude upon the earlier of:

- the conclusion of one year following the initial award of a stay of foreclosure proceedings; or
- January 1, 2026.