

# ASSEMBLY, No. 2294

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman CHRIS TULLY**

**District 38 (Bergen)**

**Co-Sponsored by:**

**Assemblywoman Reynolds-Jackson**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 2/22/2024)**

1 AN ACT concerning mortgage payment relief and foreclosure  
2 protection in response to the remnants of Hurricane Ida and  
3 supplementing Title 52 of the Revised Statutes.  
4

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

7  
8 1. The Legislature finds and declares that:

9 a. Hurricane Ida, which initially approached the Gulf Coast as a  
10 category 4 hurricane, caused severe damage to a large area of the  
11 south and northeast regions of the country;

12 b. When the remnants of this hurricane reached New Jersey, this  
13 storm resulted in the deaths of at least 29 people, severe flooding in  
14 most counties of the State, and the approval of thousands of  
15 households for disaster assistance from the Federal Emergency  
16 Management Agency;

17 c. Thousands of New Jersey families have been displaced and  
18 unable to return to their homes as a result of the remnants of  
19 Hurricane Ida; and

20 d. It is imperative for the Legislature to offer certain  
21 homeowners impacted by the remnants of Hurricane Ida temporary  
22 protections against foreclosure, and require mortgage servicers to  
23 provide certain storm-impacted homeowners a temporary pause in  
24 their mortgage payment obligations.  
25

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

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

34 "Mortgage forbearance" or "forbearance" means a period during  
35 which obligations for mortgage principal and interest payments are  
36 suspended.

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

39 "Remnants of Hurricane Ida" means the major storm that caused  
40 flooding in New Jersey on September 1 through 3 of 2021, for  
41 which notice of a Presidential declaration of a major disaster for  
42 New Jersey was issued on September 5, 2021.

43 "Storm-impacted homeowner" means a mortgagor of title of a  
44 residential property who, as of August 31, 2021, occupied the  
45 property as the mortgagor's primary residence, and who obtained  
46 federal disaster assistance for disaster-related needs as a result of  
47 damage sustained to the home due to the remnants of Hurricane Ida.

1       3. a. A mortgage servicer shall grant a mortgage forbearance to  
2 a storm-impacted homeowner if the storm-impacted homeowner  
3 submits a written request to the mortgage servicer, prior to the first  
4 day of the sixth month next following enactment of  
5 P.L. , c. (C. ) (pending before the Legislature as this bill),  
6 affirming the following:

7       (1) the storm-impacted homeowner has suffered a negative  
8 financial impact resulting from damage to the homeowner's primary  
9 residence due to the remnants of Hurricane Ida, and has obtained  
10 federal disaster assistance as a result;

11       (2) the gross household income of the storm-impacted  
12 homeowner, for 2022, does not exceed 150 percent of the most  
13 recent area median income by zip code, as defined for New Jersey  
14 in guidelines published annually by the United States Department of  
15 Housing and Urban Development, unless this requirement for  
16 eligibility is waived by the mortgage lender; and

17       (3) if the storm-impacted homeowner possesses one or more  
18 bank accounts, those bank accounts collectively contain less than  
19 six months' reserves of the storm-impacted homeowner's gross  
20 household income for 2021. The mortgage servicer may require the  
21 storm-impacted homeowner to provide a cash asset certification to  
22 demonstrate compliance with this paragraph.

23       b. Upon receipt of a written request or verbal authorization for  
24 a mortgage forbearance from a storm-impacted homeowner  
25 pursuant to subsection a. of this section, a mortgage servicer shall  
26 provide to the storm-impacted homeowner a mortgage forbearance  
27 and confirmation of that forbearance in writing. No additional  
28 documentation shall be required from the storm-impacted  
29 homeowner by the mortgage servicer other than the written request  
30 under subsection a. of this section. The mortgage forbearance  
31 period of a storm-impacted homeowner shall be one year. Fees,  
32 penalties, or interest, including attorney's fees beyond the amounts  
33 scheduled and calculated as if the storm-impacted homeowner made  
34 all contractual payments on time and in full under the terms of the  
35 mortgage contract, shall not be assessed or accrue during or as a  
36 result of a mortgage forbearance granted pursuant to this section.  
37 Nothing in this section shall be construed to impact property tax  
38 and insurance obligations of an owner related to any real property  
39 in the State. A mortgage servicer that grants a mortgage  
40 forbearance pursuant to this section shall encourage owners to seek  
41 out United States Department of Housing and Urban Development  
42 certified housing counseling and shall provide to the property owner  
43 confirmation of the approval of the forbearance, information  
44 concerning the process for forbearance, and information on how to  
45 request a subsequent forbearance.

46       c. (1) A mortgage servicer shall not furnish negative mortgage  
47 payment information to a debt collector or credit reporting agency

1 related to mortgage payments subject to a mortgage forbearance  
2 under this section.

3 (2) In response to a complaint to the Attorney General from a  
4 storm-impacted homeowner, or on the Attorney General's  
5 independent initiative, the Attorney General may bring an action  
6 alleging a mortgage servicer has violated the provisions of this  
7 subsection. Upon a finding that non-compliance by a mortgage  
8 servicer with this section has occurred, a court of competent  
9 jurisdiction may:

10 (a) order the non-compliant mortgage servicer to retract the debt  
11 reported to the collection or credit reporting agency, bureau, or data  
12 collection facility;

13 (b) impose a fine on the non-compliant mortgage servicer, not to  
14 exceed \$5,000 per violation;

15 (c) order the non-compliant mortgage servicer to pay a  
16 reasonable counsel fee in connection with a storm-impacted  
17 homeowner whose debt has been reported to a collection or credit  
18 reporting agency, bureau, or data collection facility;

19 (d) provide a copy of the order immediately at the request of and  
20 at no cost to the impacted homeowner;

21 (e) order the non-compliant mortgage servicer to take such steps  
22 as are necessary, within 30 days of the order, to rehabilitate the  
23 credit record of a storm-impacted homeowner, with an exact copy  
24 provided at no cost to the homeowner of the efforts made in that  
25 regard; and

26 (f) order the non-compliant mortgage servicer to pay an award  
27 of damages to the impacted homeowner not to exceed 25 percent of  
28 the debt attempted to be collected or reported by the non-compliant  
29 mortgage servicer to the collection or credit reporting agency,  
30 bureau, or data collection facility, the minimum award being \$350.

31 d. During any period of mortgage forbearance granted pursuant  
32 to this section, a mortgage servicer shall not, for the purposes of  
33 foreclosure of a residential property that has received a forbearance  
34 that is not vacant, abandoned or otherwise subject to P.L.2003,  
35 c.210 (C.55:19-78 et al.):

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

38 (2) otherwise initiate the foreclosure process.

39 A deadline or time period for action by a party to the foreclosure  
40 process for a residential property filed prior to the effective date of  
41 P.L. , c. (C. ) (pending before the Legislature as this bill)  
42 shall be tolled until the end of the period of the mortgage  
43 forbearance.

44 e. Notwithstanding the provisions of any law, rule, or  
45 regulation to the contrary, the repayment period of any mortgage  
46 subject to the forbearance established pursuant to this section shall  
47 be extended by the number of months the forbearance is in effect.  
48 The payments not made during the months of the forbearance shall

1 instead be due on a monthly basis during the period constituting an  
2 extension of the mortgage, unless the property owner has chosen to  
3 make these payments earlier. During the time of the forbearance,  
4 and during the period constituting an extension of the mortgage, all  
5 terms and conditions of the original mortgage, except with regard to  
6 default and delinquency during forbearance, shall continue without  
7 modification, and there shall be no fees assessed, including  
8 attorney's fees, related to the forbearance or late payment, or  
9 penalty for early repayment. A storm-impacted homeowner shall  
10 have the option to discontinue the mortgage forbearance at any time  
11 at the election of the impacted homeowner upon written consent and  
12 a written statement that they would have the rights provided herein  
13 and knowingly waive those rights.

14 f. A storm-impacted homeowner denied a forbearance under  
15 this section by a mortgage servicer licensed by the Department of  
16 Banking and Insurance may file a complaint with the Department of  
17 Banking and Insurance. The department shall investigate the  
18 complaint and, if appropriate, shall order the mortgage servicer to  
19 grant a forbearance to the impacted homeowner pursuant to this  
20 section.

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

26 (2) The mortgage servicer shall submit information on all  
27 forbearances that the mortgage servicer has provided within the  
28 State to the Department of Banking and Insurance on a monthly  
29 basis, or on any alternative schedule directed by the Department of  
30 Banking and Insurance, after removing all personally-identifiable  
31 information. This information shall be submitted in accordance  
32 with any specifications required by the Department of Banking and  
33 Insurance, and, to the extent required by the Department of Banking  
34 and Insurance, shall be deemed to be government records and  
35 subject to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.),  
36 commonly known as the open public records act.

37 h. This section shall not apply to any mortgage loans made,  
38 insured, or securitized by the Federal National Mortgage  
39 Association, the Federal Home Loan Mortgage Corporation, the  
40 Federal Housing Administration of the United States Department of  
41 Housing and Urban Development, the Department of Veterans  
42 Affairs, or the Rural Housing Service, nor shall this section apply to  
43 any mortgage loans serviced pursuant to the policies of these  
44 entities but not made, or insured, or securitized by the entities.

45 i. It shall be an unlawful discrimination in violation of the  
46 "New Jersey Law Against Discrimination," P.L.1945, c.169  
47 (C.10:5-1 et seq.) for a mortgage servicer to discriminate in

1 application of the provisions of this section on any basis protected  
2 by subsection g. of section 11 of P.L.1945, c.169 (C.10:5-12).

3 j. This section shall not be construed to prohibit a mortgage  
4 servicer from considering an oral or electronic request for a  
5 mortgage forbearance instead of a written request submitted  
6 pursuant to subsection a. of this section.

7  
8 4. A storm-impacted homeowner who is the subject of a  
9 foreclosure proceeding shall be awarded, by the court and upon  
10 application by the property owner, a stay in the foreclosure  
11 proceedings if the conditions necessary to obtain a mortgage  
12 forbearance are satisfied, as established pursuant to subsection a. of  
13 section 3 of P.L. , c. (C. ) (pending before the Legislature  
14 as this bill). An application to the court by a storm-impacted  
15 homeowner pursuant to this section shall be made prior to the first  
16 day of the sixth month next following the effective date  
17 of P.L. , c. (C. ) (pending before the Legislature as this  
18 bill), unless the courts in their discretion permit application  
19 submission for a longer period. The award of a stay pursuant to this  
20 section shall conclude upon the earlier of:

- 21 a. the conclusion of one year following the initial award of a  
22 stay of foreclosure proceedings; or  
23 b. July 1, 2024.

24  
25 5. This act shall take effect immediately, and shall apply  
26 retroactively to mortgage payments missed subsequent to  
27 September 1, 2021.

28  
29  
30 STATEMENT

31  
32 This bill would establish mortgage payment relief and  
33 foreclosure protection for certain homeowners impacted by the  
34 remnants of Hurricane Ida.

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

44 The bill defines a "storm-impacted homeowner" as a homeowner  
45 who, as of August 31, 2021, occupied a residential property as the  
46 homeowner's primary residence, and who obtained federal disaster  
47 assistance for disaster-related needs as a result of damage sustained  
48 to the home due to the remnants of Hurricane Ida.

1 The bill directs a mortgage servicer to grant a mortgage  
2 forbearance to a storm-impacted homeowner if the homeowner  
3 submits a written request prior to the first day of the sixth month  
4 following the enactment of the bill, affirming that the homeowner:

- 5 • suffered a negative financial impact resulting from damage to  
6 the homeowner's primary residence due to the remnants of  
7 Hurricane Ida, and obtained federal disaster assistance as a  
8 result;
- 9 • has a gross household income for 2022, that does not exceed  
10 150 percent of the most recent area median income by zip  
11 code; and
- 12 • does not possess bank accounts that collectively contain more  
13 than six months' reserves of the homeowner's gross  
14 household income for 2021, although the mortgage servicer  
15 may require the homeowner to provide a cash asset  
16 certification to demonstrate compliance with this provision.

17 Upon receipt of a written request or verbal authorization for a  
18 mortgage forbearance from a storm-impacted homeowner, the bill  
19 would require a mortgage servicer to provide to the homeowner  
20 with a mortgage forbearance and confirmation of this action in  
21 writing. The mortgage forbearance period of a storm-impacted  
22 homeowner would be one year. Fees, penalties, or interest,  
23 including attorney's fees beyond the amounts scheduled and  
24 calculated as if the storm-impacted homeowner made all contractual  
25 payments on time and in full under the terms of the mortgage  
26 contract, would not be assessed or accrue during or as a result of a  
27 mortgage forbearance. A forbearance would not impact property  
28 tax and insurance obligations. A mortgage servicer that grants a  
29 forbearance pursuant to the bill would be required to encourage  
30 owners to seek out certified housing counseling and provide  
31 confirmation of the approval of the forbearance, information  
32 concerning the process for forbearance, and information on how to  
33 request a subsequent forbearance.

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

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

47 The restrictions on mortgage servicers in the bill would not apply  
48 to any mortgage loans made, insured, securitized by, or serviced

1 through the policies of, the Federal National Mortgage Association,  
2 the Federal Home Loan Mortgage Corporation, the Federal Housing  
3 Administration of the United States Department of Housing and  
4 Urban Development, the Department of Veterans Affairs, or the  
5 Rural Housing Service. A storm-impacted homeowner denied a  
6 forbearance under the bill by a mortgage servicer licensed by the  
7 Department of Banking and Insurance (“DOBI”), and not a State- or  
8 nationally-chartered financial institution, may file a complaint with  
9 DOBI. DOBI would be required to investigate the complaint and, if  
10 appropriate, would order the mortgage servicer to grant a  
11 forbearance to the impacted homeowner.

12 To the extent required by the Administrative Director of the  
13 Courts and DOBI, the bill would require a mortgage servicer to  
14 provide information on the provision of forbearances to those  
15 entities.

16 Under the bill, a storm-impacted homeowner who is the subject  
17 of a foreclosure proceeding would be awarded, by the court and  
18 upon application by the property owner, a stay in the foreclosure  
19 proceedings if the conditions necessary to obtain a mortgage  
20 forbearance are satisfied. An application to the court by a storm-  
21 impacted homeowner would be required to be made prior to the first  
22 day of the sixth month following the effective date of the bill,  
23 unless the courts in their discretion permit application submission  
24 for a longer period. The award of a stay pursuant to the bill would  
25 conclude upon the earlier of:

- 26 • the conclusion of one year following the initial award of a  
27 stay of foreclosure proceedings; or
- 28 • July 1, 2024.

29 The bill would take effect immediately, and apply retroactively  
30 to mortgage payments missed subsequent to September 1, 2021.