

**ASSEMBLY BILL NO. 2294**

(Second Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 2294 (Second Reprint) with my recommendations for reconsideration.

Assembly Bill No. 2294 (Second Reprint) would establish a mortgage payment relief and foreclosure protection program for certain homeowners who were impacted by the remnants of Hurricane Ida, which struck New Jersey in September 2021. This bill would require most mortgage servicers to grant -- without exception -- a one-year forbearance to any "storm-impacted homeowner" who obtained federal disaster assistance for Ida-related damage sustained to their primary residence, so long as the homeowner provides a written request to the mortgage servicer affirming that they have "suffered a negative financial impact" from that damage, obtained federal disaster assistance as a result, and meet the bill's income and cash-holding limits. The bill would not require a requesting homeowner to undergo a verification process or allow mortgage servicers to request that the homeowner provide documentation other than a written request to receive a forbearance.

During the forbearance period, mortgage servicers would be prohibited from applying fees, penalties, or interest that would have been imposed or accrued; providing debt collectors or credit reporting agencies negative mortgage payment information related to the forbearance; or sending a homeowner granted a forbearance a notice of intention to foreclose or initiate the foreclosure process. In addition, under this bill, a court must grant a stay to a storm-impacted homeowner involved in a foreclosure proceeding

if they apply for a stay within a prescribed period and satisfy the conditions for receiving a forbearance.

I commend the sponsors of this legislation for seeking to assist homeowners who remain affected by Hurricane Ida through a relief program that aims to lessen financial impacts that they have endured in recovering from the storm. In this respect, the legislation builds on several other government programs that have provided, and continue to provide, monetary assistance to Ida-impacted New Jerseyans. In partnership with the federal government, this Administration has made disaster aid available to Ida-impacted homeowners through State-administered programs, including the Department of Community Affairs' Homeowner Assistance and Recovery Program, Mitigation Assistance Program, the New Jersey Housing and Mortgage Finance Agency's Emergency Rescue Mortgage Assistance Program, and the Department of Environmental Protection's Blue Acres Community Development Block Grant Disaster Recovery Program. The Federal Emergency Management Agency also provided individual financial assistance to New Jerseyans who were displaced from their homes because of Hurricane Ida. Yet, some of our residents still face economic challenges in paying their mortgages while making necessary Ida-related repairs to, or completing restoration or storm-mitigation work on, their primary homes without further delay.

I share the Legislature's confidence that a temporary pause in mortgage payments and protection from foreclosure would help these Ida-impacted homeowners restore their storm-damaged homes, which in some cases may remain uninhabitable. But I am concerned that the current bill, which requires mortgage servicers to grant a forbearance on nothing more than a homeowner's word that they qualify for the program, is not appropriately tailored to ensure that the relief it provides focuses on those who continue to have

difficulty paying their mortgage due to Ida-related damage to their homes and does not contain adequate oversight measures or safeguards to prevent abuse and to ensure compliance with the law.

To that end, I am recommending amendments to Assembly Bill No. 2294 (Second Reprint) that more closely align the mortgage and foreclosure relief program established in the bill to the mortgage and foreclosure relief program established through legislation enacted in response to Superstorm Sandy in 2017, P.L.2017, c.15, while building on the Homeowner Assistance and Recovery Program and the Mitigation Assistance Program, which have identified Ida-damaged homes that still require repair, reconstruction, elevation, or mitigation work. Under my proposed modifications to the bill, Ida-impacted homeowners who are participating in these State-administered recovery programs because of storm-related damage to their primary residences may apply to the Department of Community Affairs for Certifications of Eligibility for Forbearance. The Department of Community Affairs 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 them 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. With these changes to the program, I am confident that the State can provide targeted and appropriate

relief to residents who are still burdened by damage caused by Hurricane Ida.

Therefore, I herewith return Assembly Bill No. 2294 (Second Reprint) and recommend that it be amended as follows:

Page 2, Section 1, Lines 8-25: Delete in their entirety  
Page 2, Section 2, Lines 26-42: Delete in their entirety  
Page 3, Section 2, Lines 1-6: Delete in their entirety  
Page 3, Section 3, Lines 7-48: Delete in their entirety  
Page 4, Section 3, Lines 1-35: Delete in their entirety  
Page 4, Section 3, Line 36: Delete in its entirety and insert "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 this chapter 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 this chapter to determine whether the applicant meets the eligibility criteria to receive a Certification of Eligibility for Forbearance.

"Department" means the Department of Community Affairs.

"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 this chapter 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.

"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.

"Storm-impacted homeowner" means a person who is participating in the Homeowner Assistance and Recovery Program, or has applied to and is pending an award from the Mitigation Assistance Program, administered by the State of New Jersey, as a result of damage to their primary residence due to Hurricane Ida and who holds a mortgage to their primary residence.

2. a. A person who meets the eligibility criteria set forth in subsection b. of this section may file an application with the Department, 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 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" under section 1 of this chapter;

(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 under section 1 of this chapter;

(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) without mortgage forbearance at this time, the applicant is unable to complete repair, reconstruction, elevation, or storm-mitigation work on their primary residence that remains as a result of damage sustained by Hurricane Ida;

(b) mortgage forbearance for some or all of the time period allowed by subsection e. of section 2 of this chapter would enable the applicant to commence or continue repair, reconstruction, elevation, or storm-mitigation work on their primary residence that remains as the result of damage sustained by Hurricane Ida;

(c) the applicant will use the mortgage-forbearance period and the suspended mortgage and interest payments to fund repair, reconstruction, elevation, or storm-mitigation work on their primary residence that remains as the result of damage sustained by Hurricane Ida until the earlier of the completion of such remaining work or the end of the mortgage forbearance period;

(d) 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;

(e) 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;

(f) the applicant understands and accepts that failure to use the mortgage-forbearance period and the suspended mortgage and interest payments to fund repair, reconstruction, elevation, or storm-mitigation work on their primary residence that remains as the result of damage sustained by Hurricane Ida may result in termination of the Certification for Eligibility for Forbearance and the forbearance period; and

(4) any additional documentation requested by the Department.

d. (1) Within 30 days from the conclusion of the application submission period set forth in subsection a. of this section, the Department shall determine if the application is complete and, if not, the Department shall provide 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 30-day review period to determine whether the application is complete shall begin again.

(2) Within 60 days from the date on which the Department determines that the applicant has submitted a complete application, the Department shall determine whether the application 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.



(3) 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.

(4) 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 under paragraph (2) of subsection d. of this section, 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:

(1) the storm-impacted homeowner discontinues the mortgage forbearance pursuant to paragraph (3) of subsection f. of this section; or

(2) the Certification of Eligibility for Forbearance is terminated before the end of the forbearance period in accordance with subsection g. 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 under 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."

Page 4, Section 3, Line 37:

Delete "d." and insert "(4)"

Page 4, Section 3, Line 39:

Delete "has received a forbearance" and insert "is the subject of a Certification of Eligibility for Forbearance issued under this section"

Page 4, Section 3, Line 42:

Delete "(1)" and insert "(a)"

Page 4, Section 3, Line 44:

Delete "(2)" and insert "(b)"

Page 4, Section 3, Line 46:

After "property" insert "that is subject to a Certification of Eligibility for Forbearance issued under this section"

Page 5, Section 3, Line 3:

Delete in its entirety and insert "g. A storm-impacted homeowner who has received a Certification of Eligibility for Forbearance shall use the mortgage-forbearance period and the money from the suspended mortgage and interest payments to fund repair,

reconstruction, elevation, or storm-mitigation work on their primary residence that remains as the result of damage sustained by Hurricane Ida. The Department may terminate a Certification of Eligibility for Forbearance and the mortgage-forbearance period if it determines that the storm-impacted homeowner has not complied with the requirements of this subsection.

h. 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.

i. (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.

j. 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 under this section prior to being serviced by these entities.

k. 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)."

- Page 5, Section 3, Lines 4-48: Delete in their entirety
- Page 6, Section 3, Lines 1-15: Delete in their entirety
- Page 6, Section 4, Line 16: Delete "4." and insert "3."
- Page 6, Section 4, Line 18: After "owner" insert "and for good cause shown"
- Page 6, Section 4, Line 19: Delete "if the conditions necessary to obtain a mortgage"
- Page 6, Section 4, Lines 20-21: Delete in their entirety
- Page 6, Section 4, Line 22: Delete "as this bill)"
- Page 6, Section 4, Line 27: After "The" insert "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 under this subsection. The"
- Page 6, Section 5, Line 33: Delete "5." and insert "4."
- Page 6, Section 5, Line 33: Delete ", and shall apply"
- Page 6, Section 5, Line 34: Delete in its entirety

Page 6, Section 5, Line 35:

[seal]

Delete "September 1, 2021"

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor