

17:16F-15 to 17:16F-22

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NJSA: 17:16F-15 to 17:16F-22

(Mortgage escrow
accounts--establish
standards)

LAWS OF: 1990

CHAPTER: 69

Bill No: A2363

Sponsor(s): Schluter

Date Introduced: Pre-filed

Committee: Assembly: Financial Institutions

Senate: Labor, Industry & Professions

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: April 2, 1990

Senate: June 11, 1990

Date of Approval: July 17, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: Yes

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

(over)

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See Bernstein Leonard. "N.J. Escrow Act sets notice-of-sale terms." 126 NJLJ 428 (August 23, 1990)

KBG/SLJ

Handwritten notes, possibly including the name "Bernstein Leonard" and other illegible text.

P.L.1990, CHAPTER 69, *approved July 17, 1990*
1990 Assembly No. 2363 (*First Reprint*)

1 AN ACT concerning mortgage escrow accounts, amending
2 R.S.54:4-64, supplementing Title 17 of the Revised Statutes,
3 and repealing P.L.1977, c.353.
4

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

7 1. (New section) As used in this act:

8 "Commissioner" means the Commissioner of Community
9 Affairs.

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

13 "Mortgagee" means the holder of a mortgage loan.

14 "Mortgage escrow account" or "escrow account" means an
15 account which is part of a mortgage loan agreement, whether
16 incorporated into the agreement or as part of a separately
17 executed document, whereby: the mortgagor is obligated to make
18 periodic payment to the mortgagee or his agent for taxes,
19 insurance premiums, or other charges with respect to the real
20 property which secures the mortgage loan; and the mortgagee or
21 his agent is obligated to make payments for taxes, insurance
22 premiums or other charges with respect to the real property
23 which secures the mortgage loan.

24 "Mortgage loan" means a loan made to a natural person or
25 persons to whom credit is offered or extended primarily for
26 personal, family or household purposes which is secured by a
27 mortgage constituting a lien upon real property located in this
28 State on which there is erected or to be erected a structure
29 containing one, two, three, four, five or six dwelling units, a
30 portion of which structure may be used for nonresidential
31 purposes, in the making of which the mortgagee relies primarily
32 upon the value of the mortgaged property.

33 "Mortgagor" includes any person liable for the payment of a
34 mortgage loan, and the owner of real property which secures the
35 payment of a mortgage loan.

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AFI committee amendments adopted March 19, 1990.

1 "Property tax processing organization" means an organization
2 which, under contract with a mortgagee or a servicing
3 organization, collects and processes property tax information
4 with respect to properties securing mortgage loans.

5 "Purchasing servicing organization" means a person or entity
6 to whom or which a mortgagee or a selling servicing organization
7 sells, assigns or transfers the servicing of a mortgage loan.

8 "Replacement bill" means a property tax bill made or
9 generated by a mortgagee, servicing organization or tax
10 processing organization subject to the restrictions provided
11 pursuant to subsection a. of section 5 of this act and regulations
12 promulgated by the Commissioner of the Department of
13 Community Affairs pursuant to subsection a. of section 5 of this
14 act.

15 "Selling servicing organization" means a person or entity who
16 sells, assigns or transfers the servicing of a mortgage loan.

17 "Servicing organization" means a mortgagee or an agent of the
18 mortgagee, pursuant to a written agreement between the agent
19 and the mortgagee, which is responsible for one or more
20 mortgage escrow accounts.

21 "Tax authorization form" means a form approved by the
22 Commissioner of Community Affairs whereby the mortgagor
23 authorizes the municipal tax collector to send the original
24 municipal tax bill to the mortgagee or the mortgagee's servicing
25 organization pursuant to R.S.54:4-64.

26 2. (New section) If a mortgagee or its servicing organization
27 with respect to a mortgage loan agreement, requires a mortgagor
28 to deposit sums in one or more escrow accounts such sums shall
29 not exceed the following:

30 a. On or before the date of settlement:

31 (1) A sum that will be sufficient to pay that portion of each
32 charge payable from the escrow account which is attributable to
33 a period beginning on the last date on which each such charge
34 would have been paid under the normal lending practice of the
35 mortgagee and local custom and ending on the due date of the
36 first full installment payment under the mortgage loan; and

37 (2) One-sixth of an amount which the mortgagee reasonably
38 estimates will be the total amount of charges payable from the
39 escrow account during the twelve-month period following the
40 date of settlement under the normal lending practice of the
41 mortgagee and local custom.

42 b. In any month, during the ensuing 12-month period, including
43 the month in which the first full installment payment under the
44 mortgage loan is due and each ensuing 12-month period
45 thereafter:

46 (1) One-twelfth of an amount which the mortgagee reasonably
47 estimates will be the total amount of such charges payable from
48 the escrow account under the normal lending practice of the

1 mortgagee and local custom;

2 (2) An amount necessary to maintain an additional balance in
3 the escrow account not to exceed twice the amount calculated
4 under paragraph (1) of this subsection; and

5 (3) Any additional amount which the mortgagee reasonably
6 determines is necessary to avoid or eliminate a deficiency which
7 would preclude full payment from the escrow account on the date
8 a charge would be paid under the normal lending practice of the
9 mortgage and local custom.

10 For the purposes of this section, "normal lending practice"
11 does not mean a lending practice which results in escrow
12 accounts in excess of amounts required by ordinarily prudent
13 lending practices in the locality.

14 3. (New section) If the servicing of a mortgage loan for which
15 a mortgage escrow account has been established is sold, assigned
16 or transferred to a purchasing servicing organization:

17 a. The selling servicing organization shall notify the mortgagor
18 of the sale, assignment or transfer not more than 45 days after
19 the actual date of the sale, assignment or transfer or not less
20 than 10 days prior to the date the next payment of property taxes
21 is due, whichever is earlier. The notification shall contain the
22 name, address and telephone number of the purchasing servicing
23 organization and any special instructions for the handling of
24 payments during the conversion period.

25 b. The selling servicing organization shall notify the tax
26 collector of the taxing district in which the mortgaged property
27 is located of the sale, assignment or transfer not more than 45
28 days after the actual date of the sale, assignment or transfer or
29 not less than 10 days before the date the next payment of
30 property taxes is due, whichever is earlier. The notification
31 provided to the tax collector shall be on a form approved by the
32 commissioner. The selling servicing organization shall also
33 forward to the purchasing servicing organization the tax bill and
34 stubs for the property securing the mortgage loan.

35 c. The purchasing servicing organization shall issue corrected
36 coupon or payment books, if such are used, not later than 20 days
37 after the first mortgage escrow payment to the purchasing
38 servicing organization is due and shall provide the mortgagor with
39 the name, address and telephone number of the purchasing
40 servicing organization and information regarding the purchasing
41 servicing organization's procedures for responding to questions
42 from a mortgagor.

43 d. The purchasing servicing organization shall notify the tax
44 collector of the taxing district in which the mortgaged property
45 is located of the sale, assignment or transfer of the servicing of
46 the mortgage loan not later than 45 days after the actual date of
47 the sale, assignment or transfer or not less than 10 days prior to
48 the date the next payment of property taxes is due, whichever is

1 earlier. This notice shall include the purchasing servicing
2 organization's procedure for responding to questions regarding a
3 mortgage escrow account it manages.

4 e. A mortgagee or servicing organization which has been
5 authorized to receive the original tax bill from the tax collector
6 of the taxing district in which the mortgagor's property is
7 located pursuant to R.S.54:4-64, may request the tax collector to
8 send the original tax bill to its property tax processing
9 organization. This request shall be made in writing on a form
10 approved by the commissioner.

11 For the purposes of this section, "the date the next payment of
12 property taxes is due" means either the first day of February,
13 May, August or November, as applicable, and shall not include
14 any grace period.

15 ¹For the purposes of this section, the terms, "purchasing
16 servicing organization" and "selling servicing organization" shall
17 not include the Government National Mortgage Association, the
18 Federal National Mortgage Association, the Federal Home Loan
19 Mortgage Corporation, the Resolution Trust Corporation, or the
20 Federal Deposit Insurance Corporation, if the assignment, sale, or
21 transfer of the servicing of the mortgage loan is preceded by:

22 (1) Termination of the contract for servicing the loan for
23 cause;

24 (2) Commencement of proceedings for bankruptcy of the
25 servicer; or

26 (3) Commencement of proceedings by the Federal Deposit
27 Insurance Corporation or the Resolution Trust Corporation for
28 conservatorship or receivership of the servicer, or an entity by
29 which the servicer is owned or controlled.¹

30 4. (New section) a. Each mortgagee or servicing organization
31 requiring a mortgagor to make payments into an escrow account
32 shall make each disbursement from the escrow account before
33 the amount due becomes delinquent, provided that funds paid into
34 the escrow account by the mortgagor are sufficient for the
35 disbursement. If there is a shortage of funds which will result in
36 a failure to make a payment on behalf of the mortgagor, the
37 mortgagee or servicing organization shall promptly notify the
38 mortgagor of the shortage. The mortgagee or servicing
39 organization is permitted, but not required, to make a payment
40 on behalf of the mortgagor even though there are not sufficient
41 funds in the particular escrow account to cover the payment.
42 Penalties or interest, or both, for late payments for amounts due
43 and payable from an escrow account shall be paid, but shall not
44 be charged to the mortgagor unless it can be shown that the
45 penalty was a direct result of the mortgagor's error or omission.

46 b. A mortgagee or servicing organization shall notify a
47 mortgagor in writing within 30 days after his escrow account is
48 charged a penalty for late payment.

1 c. If a mortgagor is aggrieved by a violation of this section,
2 which violation is not remedied in a reasonable, timely, and good
3 faith manner by the mortgagee or the servicing organization,
4 after a good faith effort to resolve the dispute is made by the
5 mortgagor, the mortgagor may bring an action in a court of
6 competent jurisdiction, and, if the court finds that actual
7 damages have occurred, the court shall award, in addition to
8 actual damages, the amount of \$500, together with court costs
9 and reasonable attorneys' fees. No selling servicing organization
10 shall be liable under this section for any act or omission of the
11 purchasing servicing organization.

12 5. (New section) a. Payments for a mortgagor's property tax
13 shall be made using the original tax bill, a duplicate copy thereof,
14 or a replacement bill containing at least the lot and block
15 number, street address, name of the property owner and amount
16 of tax due and which replacement bill is subject to regulations
17 promulgated by the commissioner establishing procedures for its
18 use.

19 b. A mortgagee, servicing organization or property tax
20 processing organization which requests a duplicate copy of a tax
21 bill from the tax collector of the taxing district and which is
22 charged for the duplicate pursuant to subsection d. of
23 R.S.54:4-64, shall not assess a mortgagor for the cost of
24 obtaining a duplicate copy of the tax bill except under the
25 conditions set forth in subsection d. of this section.

26 c. The cost of each duplicate tax bill shall be set by municipal
27 ordinance in accordance with subsection d. of R.S.54:4-64 and
28 shall be borne by the party requesting the duplicate.

29 d. Notwithstanding the provisions of subsection b. of this
30 section, the mortgagor's escrow account may be charged for a
31 duplicate bill if:

32 (1) The bill as originally prepared contained the mortgagor's
33 name and was mailed to the mortgagor at his last known address;
34 and

35 (2) The mortgagor did not forward the original tax bill to the
36 mortgagee or the servicing organization in time for the
37 mortgagee or the servicing organization to prepare the property
38 tax payment for disbursement to meet the requirements of
39 section 4 of this act.

40 6. (New section) Not later than the end of the second loan
41 year, the mortgagee or servicing organization shall establish a
42 system for the periodic analysis of the mortgage escrow account,
43 which analysis shall be accomplished at least once a year
44 thereafter. After such analysis, and subject to the limitations set
45 forth in subsection b. of section 2 of this act, the scheduled
46 escrow account payments shall be adjusted to provide a sufficient
47 accumulation of funds in the escrow account to make anticipated
48 disbursements on the appropriate dates during the ensuing year.

1 The mortgagor shall be given 10-days' advance notice of any
2 adjustment in scheduled payments to the escrow account and
3 shall be provided a full explanation of the reasons for any
4 change. When the escrow account is analyzed in accordance with
5 this subsection, any surplus or shortage shall be refunded to or
6 collected from the mortgagor as provided by the contract. If
7 there is a surplus in the escrow account, application of the
8 surplus to delinquent payments shall be considered a cash refund
9 to the mortgagor.

10 7. (New section) a. A mortgagee or servicing organization
11 which requires a mortgagor to pay into a mortgage escrow
12 account shall furnish to the mortgagor, within 45 days after the
13 end of each calendar year, a written statement providing: the
14 balance of the account at the beginning of the calendar year;
15 total payments credited to the account during the calendar year,
16 including interest credited to the account, if any; an itemized
17 statement of all expenditures from the account during the
18 calendar year; and the balance in the account at the end of the
19 calendar year. The mortgagor shall be entitled to receive one
20 written statement for each calendar year without charge.

21 b. The annual statement provided for in subsection a. of this
22 section is not required if the mortgagor is provided with at least
23 a monthly statement or mortgagor passbook which provides the
24 balance in the escrow account and an itemized record of
25 disbursements from the account.

26 8. (New section) A mortgagee or its servicing organization
27 shall provide each mortgagor whose escrow account it manages
28 with written instructions concerning the procedures used by the
29 mortgagee or servicing organization to respond to requests for
30 information from a mortgagor.

31 9. R.S.54:4-64 is amended to read as follows:

32 54:4-64. a. As soon as the tax duplicate is delivered to the
33 collector of the taxing district, as provided in [section]
34 R.S.54:4-55 [of this Title], he shall at once begin the work of
35 preparing, completing, mailing or otherwise delivering tax bills to
36 the individuals assessed, and shall complete that work at least 47
37 days before the third installment of taxes falls due. He shall
38 also, at least [2] two months before the first installment of taxes
39 for the year falls due, prepare and mail, or otherwise deliver to
40 the individuals assessed, a tax bill for such following first and
41 second installments, computed as hereinafter provided at
42 one-half of the complete tax last previously levied. When any
43 individual assessed has authorized the collector to mail or
44 otherwise deliver his tax bill to a mortgagee or any other agent,
45 the collector shall, at the same time, mail or otherwise deliver a
46 duplicate tax bill to the individual assessed and shall print across
47 the face of such duplicate tax bill the following inscription:
48 "This is not a bill -- for advice only." The validity of any tax or

1 assessment, or the time at which it shall be payable, shall not be
2 affected by the failure of a taxpayer to receive a tax bill, but
3 every taxpayer is put [upon] on notice to ascertain from the
4 proper official of the taxing district the amount which may be
5 due for taxes or assessments against him or his property.

6 b. As provided in subsection a. of this section, a mortgagor as
7 the individual assessed for property taxes or other municipal
8 charges with respect to the property securing a mortgage loan,
9 may authorize the tax collector to mail or otherwise deliver his
10 tax bill to a mortgagee or servicing organization. This tax
11 authorization form shall be assignable in the event the mortgagee
12 or servicing organization sells, assigns or transfers the servicing
13 of the mortgage loan to another mortgagee or servicing
14 organization.

15 c. The tax collector of the taxing district shall, upon receipt
16 of a written request from a mortgagee or servicing organization
17 on a form approved by the commissioner, mail or otherwise
18 deliver a mortgagor's tax bill to a property tax processing
19 organization. The commissioner shall provide by regulation for a
20 procedure by which the tax collector of a taxing district may
21 request the Director of the Division of Local Government
22 Services in the Department of Community Affairs to review the
23 appropriateness of the request to mail or otherwise deliver a
24 mortgagor's tax bill to a property tax processing organization.

25 d. If a mortgagee, servicing organization, or property tax
26 processing organization requests a duplicate copy of a tax bill,
27 the tax collector of a taxing district shall issue a duplicate copy
28 and may charge a maximum of \$5 for the first duplicate copy and
29 a maximum of \$25 for each subsequent duplicate copy of the
30 same tax bill in the same tax year, the actual charge being set by
31 municipal ordinance. The commissioner shall promulgate
32 regulations to effectuate the provisions of this subsection d.
33 which regulations shall include a procedure by which a
34 mortgagee, servicing organization, or property tax processing
35 organization may appeal and be reimbursed for the amount it has
36 paid for a duplicate copy of a tax bill, or any part thereof.

37 e. As used in subsections b., c., and d. of this section,
38 "mortgagee," "mortgagor," "mortgage loan," "servicing
39 organization" and "property tax processing organization" shall
40 have the same meaning as the terms have pursuant to section 1 of
41 P.L. , c. (C.) (now pending before the Legislature as this
42 bill).

43 (cf: P.L.1978, c.136, s.22)

44 10. (New section) a. The tax collector of a taxing district
45 shall send a written notice of a property tax delinquency to the
46 mortgagor and the applicable servicing organization within 60
47 days after the tax payment on the property is delinquent.
48 However, the validity of the tax delinquency and the time it is

1 due shall not be affected by the failure of the mortgagor or the
2 servicing organization to receive the notice.

3 b. If the tax payments of the mortgagor are to be made by the
4 mortgagee or its servicing organization from an escrow account;
5 the mortgagee or its servicing organization has been authorized
6 to receive and has been sent the original tax bill in time to make
7 the property tax payment without being delinquent; and the
8 mortgagor has made escrow account payments in accordance with
9 the schedule provided by the mortgagee or the servicing
10 organization; then, upon notification pursuant to subsection a. of
11 this section, a mortgagor may:

12 (1) Pay the delinquent property taxes including interest using
13 the copy of the tax bill sent him pursuant to R.S.54:4-64;

14 (2) Notify the mortgagee or the servicing organization that
15 payment for the mortgagor's property taxes has been made and
16 include a copy of the paid tax bill; and

17 (3) Stop making scheduled payments into the escrow account
18 until the total amount paid by the mortgagor pursuant to
19 paragraph (1) of this subsection is equaled.

20 11. (New section) a. If a mortgagor's property taxes remain
21 unpaid so as to subject the mortgagor's property to a tax sale
22 pursuant to Article 4 of the "tax sale law," (R.S.54:5-19 et seq.),
23 and if the property tax payments are to be made or are made by
24 the mortgagee or a servicing organization which receives the
25 original tax bill, the tax collector of the taxing district shall send
26 a written notice by mail to the mortgagee or the servicing
27 organization, of the tax delinquency status. This notice shall
28 include the mortgagor's name, an identification of the property,
29 the total amount of property taxes and interest due and an
30 attachment which contains the provisions of section 12 of this act
31 and an interpretive statement of that section provided by the
32 commissioner.

33 b. A copy of the notice required by subsection a. of this
34 section shall be mailed to the mortgagor at the same time it is
35 mailed to the mortgagee or the servicing organization.

36 12. (New section) Upon failure by the mortgagee or the
37 servicing organization to resolve the tax payment delinquency
38 within 30 days of the date of the notice provided pursuant to
39 section 11 of this act a mortgagor may:

40 a. Make payment for the tax delinquency including interest;

41 b. Send a copy of the paid bill to the mortgagee or the
42 servicing organization;

43 c. Notify the mortgagee or the servicing organization that the
44 mortgagor will stop making payments into the escrow account;
45 and

46 d. Make arrangement to make all future payments for taxes,
47 insurance and other charges with respect to the property which
48 secures the mortgage loan, making payments to the mortgagee or

1 the servicing organization for only the principle and interest still
2 due on the mortgage loan.

3 13. (New section) If a mortgagor's property taxes remain
4 unpaid so as to subject the mortgagor's property to a tax sale
5 pursuant to Article 4 of the "tax sale law," (R.S.54:5-19 et seq.),
6 and if the mortgagor's property tax payments are made by a
7 mortgagee or a servicing organization which receives the original
8 tax bill, and a mortgagor's name appears in the notice which the
9 collector of taxes is required to print pursuant to R.S.54:5-25 due
10 to the failure of the mortgagee or the servicing organization to
11 resolve the delinquency, the mortgagor may sue the mortgagee or
12 the servicing organization in a court of competent jurisdiction for
13 damages, including court costs and attorneys' fees and the cost
14 of printing a correction in the same newspaper or newspapers in
15 which the notice of tax delinquency appeared.

16 14. P.L.1977, c.353 (C.17:9A-65.2) is repealed.

17 15. This act shall take effect immediately and shall apply to
18 mortgage escrow accounts maintained on or after the effective
19 date, but sections 5 and subsections b., c., and d. of section 9
20 shall remain inoperative until the 90th day after enactment
21 during which time the commissioner shall promulgate regulations
22 to implement the provisions of this act.

23

24

25 BANKING AND FINANCE

26

27 Sets standards for mortgage escrow accounts and establishes
28 procedures and notification requirements for the sale, assignment
29 or transfer of the servicing of mortgage escrow accounts.

1 14. P.L.1977, c.353 (C.17:9A-65.2) is repealed.

2 15. This act shall take effect immediately and shall apply to
3 mortgage escrow accounts maintained on or after the effective
4 date, but sections 5 and subsections b., c., and d. of section 9
5 shall remain inoperative until the 90th day after enactment
6 during which time the commissioner shall promulgate regulations
7 to implement the provisions of this act.

8
9
10 *SPONSOR'S* STATEMENT

11
12 This bill sets certain standards and requires certain disclosures
13 in relation to mortgage escrow accounts established in relation to
14 certain mortgage loans.

15 The bill sets limits on the amount a mortgagor is required to
16 pay into a mortgage escrow account prior to and at the time of
17 closing and on a monthly basis thereafter. The limits are those
18 established by the federal "Real Estate Settlement Procedures
19 Act."

20 The bill requires notification of the mortgagor and the tax
21 collector of the taxing district in which the property is located if
22 the servicing of the mortgagor's escrow account is sold, assigned
23 or transferred. The notification is to be provided within 45 days
24 of the date of the sale, assignment or transfer or 10 days prior to
25 the date the next payment of property taxes is due, whichever is
26 earlier.

27 The bill provides for the assignability of a tax authorization
28 form. This form, to be developed by the Department of
29 Community Affairs, is required, pursuant to R.S.54:4-64, to be
30 signed by the mortgagor at closing to permit the tax collector of
31 a taxing district to send the original tax bill to a mortgage
32 servicing organization. The bill permits the tax authorization
33 form to be assigned to the purchasing servicing organization
34 along with the sale of the servicing of the mortgagor's escrow
35 account to the same purchasing servicing organization.

36 The bill requires a mortgage servicing organization to make
37 payments from a mortgagor's escrow account before the amount
38 due becomes delinquent, provided that funds paid into the
39 account by the mortgagor are sufficient for the disbursement. It
40 also stipulates that penalties or interest, or both for delinquent
41 payments from the escrow account are to be paid but are not to
42 be charged to the escrow account unless it can be shown that the
43 penalty was a direct result of the mortgagor's error or omission.
44 Additionally, it requires a mortgagee or its servicing organization
45 to notify the mortgagor within 30 days of any penalty or interest
46 charged to the mortgage escrow account.

47 The bill provides that if a mortgagor considers himself
48 aggrieved by a violation of the section of the act requiring timely

1 payment, and after making good faith attempts to resolve the
2 violation, the mortgagor may bring an action in a court of
3 competent jurisdiction for the violation and if the court finds
4 that actual damages have occurred, the court is to award, in
5 addition to actual damages, an amount of \$500 plus costs and
6 reasonable attorney fees.

7 The bill provides that payment for a mortgagor's taxes must be
8 accompanied by the original tax bill or a copy thereof, or a
9 facsimile bill containing at least the lot and block number, street
10 address, name of the property owner and amount of tax due and
11 which facsimile is subject to regulations promulgated by the
12 Department of Community Affairs establishing the procedures
13 for their use. The bill also provides that the municipality may
14 charge for a duplicate tax bill, with a maximum of \$5 for the
15 first duplicate and a maximum of \$25 thereafter for each
16 duplicate for the same property in the same year. The actual fee
17 is subject to municipal ordinance. The charge for a duplicate is
18 not to be borne by the mortgagor's escrow account but by the
19 party requesting the duplicate. However, the bill does provide
20 that the escrow account can be charged if the mortgagor is
21 responsible for the delay due to a failure on his part to forward
22 an original tax bill in a timely manner to the servicing
23 organization.

24 The bill requires that a mortgage escrow analysis of the
25 mortgagor's escrow account be done by the end of the second
26 year of setting up the escrow account and thereafter requires
27 that a mortgage escrow analysis be performed on an annual
28 basis. This analysis is to be the basis for any adjustments made
29 to the account. The bill requires that a mortgagor be given
30 10-days' advance notice of any adjustment in the escrow account
31 and a full explanation of any adjustment.

32 The bill requires an annual accounting report be given the
33 mortgagor on the mortgage escrow account and specifies the
34 content of this report.

35 The bill requires a tax collector to notify a mortgagor, a
36 mortgagee or its servicing organization within 60 days after a tax
37 payment is delinquent. The bill provides that if the mortgagor is
38 not responsible for this delinquency, a mortgagor may: proceed
39 to make a payment for the amount due, including any interest;
40 may notify the mortgagee or servicing organization that payment
41 has been made and send a copy of the paid bill to the mortgagee
42 or servicing organization; and stop making scheduled payments
43 into the escrow account until the amount not paid into the escrow
44 account equals the amount paid the collector of taxes.

45 The bill requires that if tax payments are delinquent enough to
46 cause a mortgagor's property to be subject to a tax sale, a notice
47 be sent to the mortgagee or its servicing organization, with a
48 copy sent to the mortgagor, which notice is to state that failure

1 to resolve the delinquency within 30 days will permit the
2 mortgagor to:

- 3 a. Make payment for the tax delinquency including interest;
- 4 b. Send a copy of the paid bill to the mortgagee or the
5 servicing organization;
- 6 c. Notify the mortgagee or the servicing organization that the
7 mortgagor will stop making payments into the escrow account;
8 and
- 9 d. Make arrangement to make all future payments for taxes,
10 insurance and other charges with respect to the property which
11 secures to the property which secures the mortgage loan, making
12 payments to the mortgagee or the servicing organization for only
13 the principle and interest still due on the mortgage loan.

14 Finally, the bill permits a mortgagor whose name has appeared
15 in a newspaper listing his property as subject to a tax sale for
16 delinquent payments, to sue the mortgagee or his servicing
17 organization for damages including the cost of printing a
18 correction in the same newspaper or newspapers in which the
19 notice of tax sale appeared.

20

21

22 BANKING AND FINANCE

23

24 Sets standards for mortgage escrow accounts and establishes
25 procedures and notification requirements for the sale, assignment
26 or transfer of the servicing of mortgage escrow accounts.

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2363

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 19, 1990

The Assembly Financial Institutions Committee reports favorably, with amendments, Assembly, No. 2363.

This bill, as amended, sets certain standards and requires certain disclosures in relation to mortgage escrow accounts established in relation to certain mortgage loans.

The bill sets limits on the amount a mortgagor is required to pay into a mortgage escrow account prior to and at the time of closing and on a monthly basis thereafter. The limits are those established by the federal "Real Estate Settlement Procedures Act."

The bill requires notification of the mortgagor and the tax collector of the taxing district in which the property is located if the servicing of the mortgagor's escrow account is sold, assigned or transferred. The notification is to be provided within 45 days of the date of the sale, assignment or transfer or 10 days prior to the date the next payment of property taxes is due, whichever is earlier. The bill excludes the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Deposit Insurance Corporation and the Resolution Trust Corporation from these notice requirements under certain conditions.

The bill provides for the assignability of a tax authorization form. This form, to be developed by the Department of Community Affairs, is required, pursuant to R.S.54:4-64, to be signed by the mortgagor at closing to permit the tax collector of a taxing district to send the original tax bill to a mortgage servicing organization. The bill permits the tax authorization form to be assigned to the purchasing servicing organization along with the sale of the servicing of the mortgagor's escrow account to the same purchasing servicing organization.

The bill requires a mortgage servicing organization to make payments from a mortgagor's escrow account before the amount due becomes delinquent, provided that funds paid into the account by the mortgagor are sufficient for the disbursement. It also stipulates that penalties or interest, or both for delinquent payments from the escrow account are to be paid but are not to be charged to the escrow account unless it can be shown that the penalty was a result of the mortgagor's error or omission. Additionally, it requires a mortgagee or its servicing organization to notify the mortgagor within 30 days of any penalty or interest charged to the mortgage escrow account.

The bill provides that if a mortgagor considers himself aggrieved by a violation of the section of the act requiring timely payment, and after making good faith attempts to resolve the violation, the mortgagor may bring an action in a court of competent jurisdiction for the violation and if the court finds that actual damages have occurred, the court is to award, in addition to actual damages, an amount of \$500 plus costs and reasonable attorney fees.

The bill provides that payment for a mortgagor's taxes must be accompanied by the original tax bill or a duplicate copy thereof, or a replacement bill containing at least the lot and block number, street address, name of the property owner and amount of tax due and which replacement bill is subject to regulations promulgated by the Department of Community Affairs establishing the procedures for their use. The bill also provides that the municipality may charge for a duplicate tax bill, with a maximum of \$5 for the first duplicate and a maximum of \$25 thereafter for each duplicate for the same property in the same tax year. The actual fee is subject to municipal ordinance. The charge for a duplicate is not to be borne by the mortgagor's escrow account but by the party requesting the duplicate. However, the bill does provide that the escrow account can be charged if the mortgagor is responsible for the delay due to a failure on his part to forward an original tax bill in a timely manner to the servicing organization.

The bill requires that a mortgage escrow analysis of the mortgagor's escrow account be done by the end of the second year of setting up the escrow account and thereafter requires that a mortgage escrow analysis be performed on an annual basis. This analysis is to be the basis for any adjustments made to the account. The bill requires that a mortgagor be given 10-days' advance notice of any adjustment in the escrow account and a full explanation of any adjustment.

The bill requires an annual accounting report be given the mortgagor on the mortgage escrow account and specifies the content of this report.

The bill requires a tax collector to notify a mortgagor, a mortgagee or its servicing organization within 60 days after a tax payment is delinquent. The bill provides that if the mortgagor is not responsible for this delinquency, a mortgagor may: proceed to make a payment for the amount due, including any interest; may notify the mortgagee or servicing organization that payment has been made and send a copy of the paid bill to the mortgagee or servicing organization; and stop making scheduled payments into the escrow account until the amount not paid into the escrow account equals the amount paid the collector of taxes.

The bill requires that if tax payments are delinquent enough to cause a mortgagor's property to be subject to a tax sale, a notice be sent to the mortgagee or its servicing organization, with a copy sent to the mortgagor, which notice is to state that failure to resolve the delinquency within 30 days will permit the mortgagor to:

- a. Make payment for the tax delinquency including interest;
- b. Send a copy of the paid bill to the mortgagee or the servicing organization;
- c. Notify the mortgagee or the servicing organization that the mortgagor will stop making payments into the escrow account; and
- d. Make arrangement to make all future payments for taxes, insurance and other charges with respect to the property which secures the mortgage loan, making payments to the mortgagee or the servicing organization for only the principle and interest still due on the mortgage loan.

Finally, the bill permits a mortgagor whose name has appeared in a newspaper listing his property as subject to a tax sale for delinquent payments, to sue the mortgagee or his servicing organization for damages including the cost of printing a correction in the same newspaper or newspapers in which the notice of tax sale appeared.

The amendment to the bill excludes the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Deposit Insurance Corporation and the Resolution Trust Corporation from the notice requirements of section 3 of the act under certain conditions.

This bill was pre-filed for introduction in the 1990 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 2363

STATE OF NEW JERSEY

DATED: MAY 21, 1990

The Senate Labor, Industry and Professions Committee reports favorably Assembly, No. 2363 (1R).

This bill sets certain standards and requires certain disclosures in relation to mortgage escrow accounts established in relation to certain mortgage loans.

Restrictions are placed on the amount that a mortgagor may be required to pay into a mortgage escrow account prior to and at the time of closing and on a monthly basis thereafter. A mortgagor may be required to pay into an escrow account on or before the date of closing an amount needed to pay the taxes, insurance and other charges attributable to the period between the last day on which each such charge would have been paid and the due date of the first full mortgage installment payment and to cover one-sixth of the estimated amount to be paid from the escrow account during the following twelve-month period. In any month during each ensuing twelve-month period, a mortgagor may not be required to pay into the escrow account any more than: one-twelfth of the estimated charges payable from the account during that twelve-month period; an amount necessary to maintain an additional balance in the escrow account of not more than one-sixth of the estimated charges payable from the account; and any amount which the mortgagee reasonably determines is necessary to avoid or eliminate a deficiency in the escrow account. These limits correspond to the current limits established by the federal "Real Estate Settlement Procedures Act."

A mortgagor and tax collector of the taxing district in which the property is located must be notified if the servicing of a mortgagor's loan with an escrow account is sold, assigned or transferred. The notification is to be provided within 45 days of the date of the sale, assignment or transfer or 10 days prior to the date the next payment of property taxes is due, whichever is earlier. The purchasing servicing organization must issue corrected coupon or payment books, if used, not later than 20 days after the first mortgage escrow payment to the purchasing servicing organization is due and provide the mortgagor with its name, address and telephone number and procedures for customer inquiries. The bill excludes the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Deposit Insurance Corporation and the Resolution Trust Corporation from these notice requirements under certain conditions.

A mortgagee or mortgage servicing organization is required to make payments from a mortgagor's escrow account before the amount due becomes delinquent, provided that funds paid into the account by the mortgagor are sufficient for the disbursement. If there is a shortage of funds to make the required payments, the mortgagee or servicing organization must promptly notify the mortgagor. Penalties or interest, or both, for delinquent payments from the escrow account are not to be charged to the escrow account unless it can be shown that the penalty or interest was a result of the mortgagor's error or omission. A mortgagee or its servicing organization must notify the mortgagor within 30 days if any penalty or interest for late payment is charged to the mortgage escrow account. If a mortgagee or servicing organization violates these provisions requiring timely payment, and the mortgagor makes a good faith attempt to resolve the violation, the mortgagor may bring an action in court for damages and, if the court finds that actual damages have occurred, the court is to award, in addition to actual damages, an amount of \$500 plus court costs and reasonable attorneys' fees.

The payment of a mortgagor's taxes must be accompanied by the original tax bill or a duplicate copy thereof, or a replacement bill containing at least the lot and block number, street address, name of the property owner and amount of tax due. If a duplicate copy of a tax bill is requested from a municipality, the municipality may charge a maximum of \$5 for the first duplicate tax bill and a maximum of \$25 thereafter for each duplicate for the same property in the same tax year. The actual fee is subject to municipal ordinance. The charge for a duplicate is not to be borne by the mortgagor's escrow account but by the party requesting the duplicate. However, an escrow account can be charged if the mortgagor is responsible for the delay due to a failure on his part to forward an original tax bill in a timely manner to the mortgagee or servicing organization.

An analysis of the mortgagor's escrow account must be done by the mortgagee or servicing organization by the end of the second year of setting up the escrow account and thereafter on at least an annual basis. This analysis is to be the basis for any adjustments made to the account. A mortgagor must be given 10-days' advance notice of any adjustment in the escrow account and a full explanation of any adjustment. Within 45 days after the end of each calendar year, mortgagees or servicing organizations must provide an annual itemized accounting report to mortgagors on their mortgage escrow accounts, unless a monthly statement or mortgagor passbook providing the balance and itemized disbursements in the escrow account is used.

When a property tax payment is delinquent, the tax collector must notify in writing the mortgagor and the mortgagee or its servicing organization of the delinquency within 60 days. If the mortgagor is not responsible for the delinquency, a mortgagor may:

pay the amount due, including any interest; notify the mortgagee or servicing organization of the payment and send a copy of the paid bill to the mortgagee or servicing organization; and stop making scheduled payments into the escrow account until the amount not paid into the escrow account equals the amount paid the tax collector.

If a mortgagor's property taxes remain unpaid so as to subject the mortgagor's property to a tax sale, a notice must be sent by the tax collector to the mortgagee or its servicing organization, with a copy sent to the mortgagor, stating that failure to resolve the delinquency within 30 days will permit the mortgagor to pay the tax delinquency including interest; notify the mortgagee or servicing organization of the payment and that payments to his escrow account will stop; and arrange to make all future payments for taxes, insurance and other charges with respect to the secured property and make only principle and interest payments due on the mortgage loan to the mortgagee or servicing organization.

A mortgagor whose name has appeared in a newspaper listing his property as subject to a tax sale for delinquent payments, which delinquency is not the fault of the mortgagor, may sue the mortgagee or his servicing organization for damages including court costs and attorneys' fees and the cost of printing a correction in the same newspaper or newspapers in which the notice of tax sale appeared.

Finally, the bill provides for the assignability of a tax authorization form. This form, to be developed by the Department of Community Affairs, is required, pursuant to R.S.54:4-64, to be signed by the mortgagor at closing to permit the tax collector of a taxing district to send the original tax bill to a mortgagee or mortgage servicing organization. A tax authorization form may be assigned to the purchasing servicing organization by the mortgagee or selling servicing organization servicing the mortgagor's escrow account.

The provisions of the bill only apply to mortgage loans to natural persons on structures containing one to six dwelling units, a portion of which structure may be used for nonresidential purposes.

The bill repeals a provision in the banking law, section 1 of P.L.1977, c.353 (C.17:9A-65.2), which is no longer necessary because of the provisions of the bill. The repealed provision provides that a financial institution or mortgage company must not require a mortgagor to increase payments to a mortgage escrow tax account until that institution or company has received official notification of an increase in taxes and that the amount of any increase in escrow payments shall not exceed the actual increase in taxes.