

17:16F-23

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(Mortgage--
escrow)

LAWS OF: 1991

CHAPTER: 111

Bill No: S2955

Sponsor(s): Lynch

Date Introduced: October 4, 1990

Committee: Assembly: -----

Senate: Labor, Industry & Professions

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

Date of Passage: Assembly: March 4, 1991

Senate: February 14, 1991

Date of Approval: April 19, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

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[FIRST REPRINT]
SENATE, No. 2955

STATE OF NEW JERSEY

INTRODUCED OCTOBER 4, 1990

By Senator LYNCH

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

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. Section 10 of P.L.1990, c.69 (C.17:16F-23) is amended to
7 read as follows:

8 10. a. The tax collector of a taxing district shall send a
9 written notice of a property tax delinquency to the mortgagor
10 and the applicable servicing organization within 60 days after the
11 tax payment on the property is delinquent. However, the validity
12 of the tax delinquency and the time it is due shall not be affected
13 by the failure of the mortgagor or the servicing organization to
14 receive the notice.

15 b. If the tax payments of the mortgagor are to be made by the
16 mortgagee or its servicing organization from an escrow account;
17 the mortgagee or its servicing organization has been authorized
18 to receive and has been sent the original tax bill in time to make
19 the property tax payment without being delinquent; [and] the
20 mortgagor has made escrow account payments in accordance with
21 the schedule provided by the mortgagee or [the] its servicing
22 organization; [then, upon notification] the mortgagor and the
23 mortgagee or its servicing organization have received notice
24 pursuant to subsection a. of this section; and at least 21 days
25 have elapsed since the mortgagor and the mortgagee or its
26 servicing organization have received that notice, a mortgagor
27 may:

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

30 (2) Notify the mortgagee or [the] its servicing organization in
31 writing that payment for the mortgagor's property taxes has
32 been made and include a copy of the paid tax bill which includes
33 the interest paid; and

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

37 c. If the mortgagor makes a tax payment and notifies the
38 mortgagee or servicing organization pursuant to paragraphs (1)
39 and (2) of subsection b. of this section, the mortgagee or its

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 floor amendments adopted February 28, 1991.

1 servicing organization, upon receipt of the notice and a copy of
2 the paid tax bill, shall credit the mortgagor's mortgage escrow
3 account in an amount equal to the interest paid by the mortgagor
4 and provide the mortgagor a notice to that effect.

5 (cf: P.L.1990, c.69, s.10)

6 2. Section 12 of P.L.1990, c.69 (C.17:16F-25) is amended to
7 read as follows:

8 12. a. Upon failure by the mortgagee or [the] its servicing
9 organization to resolve the tax payment delinquency within 30
10 days of the date of the notice provided pursuant to section 11 of
11 [this act] P.L.1990, c.69 (C.17:16F-24) a mortgagor may:

12 [a. Make payment for the tax delinquency including interest;

13 b. Send a copy of the paid bill to the mortgagee or the
14 servicing organization;

15 c. Notify the mortgagee or the servicing organization that the
16 mortgagor will stop making payments into the escrow account;
17 and

18 d. Make arrangement to make all future payments for taxes,
19 insurance and other charges with respect to the property which
20 secures the mortgage loan, making payments to the mortgagee or
21 the servicing organization for only the principle and interest still
22 due on the mortgage loan.]

23 (1) Pay the delinquent property taxes including interest using
24 the notice sent the mortgagor pursuant to subsection b. of section
25 11 of P.L.1990, c.69 (C.17:16F-24); and

26 (2) Make arrangements to make all future payments for
27 property taxes, insurance and other charges with respect to the
28 real property which secures the mortgage loan, and make
29 payments to the mortgagee or its servicing organization only for
30 the principal, interest and other non-escrow charges required by
31 the mortgage loan documents.

32 b. If a mortgagor takes the actions permitted under subsection
33 a. of this section, the mortgagor shall:

34 (1) Send a copy of the paid tax bill to the mortgagee or its
35 servicing organization along with a notice that, pursuant to
36 subsection a. of this section:

37 (a) The mortgagor is no longer required to make payments into
38 the mortgage escrow account; and

39 (b) The mortgagor will make all future payments for property
40 taxes, insurance and other charges with respect to the real
41 property which secures the mortgage loan, and will make
42 payments to the mortgagee or its servicing organization only for
43 the principal, interest and other non-escrow charges required by
44 the mortgage loan documents.

45 (2) Forward to the mortgagee or its servicing organization, on
46 at least an annual basis, copies of paid tax, insurance and other
47 charges with respect to the real property which secures the
48 mortgage loan.

49 c. Within 10 days of receipt of the copy of the paid tax bill and

1 the notice required pursuant to subsection b. of this section, the
2 mortgagee or its servicing organization shall remit the existing
3 escrow account balance to the mortgagor;

4 d. If, subsequent to taking the actions permitted under
5 subsection a. and required under subsection b. of this section, the
6 mortgagor fails to pay property taxes, insurance or other charges
7 with respect to the real property which secures the mortgage
8 loan, the mortgagee or its servicing organization may, at its sole
9 discretion, pay any delinquent property taxes, insurance or other
10 charges with respect to the real property which secures the
11 mortgage loan and recover from the mortgagor any amount so
12 paid with interest. Such payment by the mortgagee or its
13 servicing organization shall be without prejudice to the rights the
14 mortgagee may have, by contract or law, with regard to the
15 enforcement of its mortgage agreement concerning nonpayment
16 of property taxes, insurance or other charges with respect to the
17 real property which secures the mortgage loan.

18 (cf: P.L.1990, c.69, s.12)

19 13. Section 6 of P.L.1990, c.69 (C.17:16F-20) is amended to
20 read as follows:

21 6. a. Not later than the end of the second loan year, the
22 mortgagee or servicing organization shall establish a system for
23 the periodic analysis of the mortgage escrow account, which
24 analysis shall be accomplished at least once a year thereafter.
25 After such analysis, and subject to the limitations set forth in
26 subsection b. of section 2 of this [act] P.L.1990, c.69
27 (C.17:16F-16), the scheduled escrow account payments shall be
28 adjusted to provide a sufficient accumulation of funds in the
29 escrow account to make anticipated disbursements on the
30 appropriate dates during the ensuing year. The mortgagor shall
31 be given 10-days' advance notice of any adjustment in scheduled
32 payments to the escrow account and shall be provided a full
33 explanation of the reasons for any change. When the escrow
34 account is analyzed in accordance with this subsection, any
35 surplus or shortage shall be refunded to or collected from the
36 mortgagor as provided by the contract. If there is a surplus in
37 the escrow account, application of the surplus to delinquent
38 payments shall be considered a cash refund to the mortgagor.

39 b. Notwithstanding the provisions of subsection a. of this
40 section or any other law to the contrary, a mortgagee or its
41 servicing organization shall make any adjustments required by
42 law in the amount of a mortgagor's scheduled escrow account
43 payments within 60 days of receipt of the tax bill sent out by the
44 collector of the taxing district pursuant to subsection a. of R.S.
45 54:4-64.¹

46 (cf: P.L.1990, c.69, s.6)

47 ¹[3.] 4.¹ This act shall take effect immediately.

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BANKING AND FINANCE

Clarifies certain rights and responsibilities of mortgagor and mortgagee with respect to mortgage loan escrow agreements.

1 mortgagee or its servicing organization shall remit the existing
2 escrow account balance to the mortgagor;

3 d. If, subsequent to taking the actions permitted under
4 subsection a. and required under subsection b. of this section, the
5 mortgagor fails to pay property taxes, insurance or other charges
6 with respect to the real property which secures the mortgage
7 loan, the mortgagee or its servicing organization may, at its sole
8 discretion, pay any delinquent property taxes, insurance or other
9 charges with respect to the real property which secures the
10 mortgage loan and recover from the mortgagor any amount so
11 paid with interest. Such payment by the mortgagee or its
12 servicing organization shall be without prejudice to the rights the
13 mortgagee may have, by contract or law, with regard to the
14 enforcement of its mortgage agreement concerning nonpayment
15 of property taxes, insurance or other charges with respect to the
16 real property which secures the mortgage loan.

17 (cf: P.L.1990, c.69, s.12)

18 3. This act shall take effect immediately.

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STATEMENT

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23 This bill provides 21 days for a mortgagee or its servicing
24 organization to clear up any delinquency regarding disbursements
25 from a mortgagor's mortgage escrow account to a municipal tax
26 collector before the mortgagor may pay the taxes, including
27 interest, and withhold that amount from escrow account
28 payments.

29 The bill also clarifies the rights of a mortgagor and mortgagee
30 or its servicing organization in the situation where tax payments
31 from a mortgagor's mortgage escrow account have been
32 delinquent in a manner which results in the mortgagor's property
33 being subject to a tax sale pursuant to Article 4 of the "tax sale
34 law" (R.S.54:5-19 et seq.). In such a situation, if the mortgagor
35 takes action to pay any delinquent taxes and interest and
36 arranges to make all future payments for taxes, insurance and
37 other charges with respect to the real property which secures the
38 mortgage loan, the mortgagor is required to send a copy of the
39 paid tax bill to the mortgagee or its servicing organization and a
40 notice concerning the actions taken by the mortgagor. The
41 mortgagee or its servicing organization, within 10 days of receipt
42 of the paid tax bill and notice from a mortgagor, must remit to
43 the mortgagor the balance remaining in the mortgagor's escrow
44 account. In addition, the mortgagor is required to send a copy of
45 paid property tax bills, insurance bills, and other bills for charges
46 with respect to the real property which secures the mortgage
47 loan. Finally, if the mortgagor subsequently fails to pay property
48 taxes, insurance or other charges with respect to the real
49 property which secures the mortgage loan, the mortgagee or its

1 servicing organization is permitted to pay any delinquent taxes,
2 insurance or other charges with respect to the real property
3 which secures the mortgage loan and recover from the mortgagor
4 any amount so paid with interest without prejudicing its rights to
5 the enforcement of its mortgage agreement concerning
6 nonpayment of property taxes, insurance or other charges with
7 respect to the real property which secures the mortgage loan.

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10 BANKING AND FINANCE

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12 Clarifies certain rights and responsibilities of mortgagor and
13 mortgagee with respect to mortgage loan escrow agreements.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 2955

STATE OF NEW JERSEY

DATED: DECEMBER 3, 1990

The Senate Labor, Industry and Professions Committee reports favorably Senate, No. 2955.

This bill provides 21 days after notice of a property tax delinquency for a mortgagee or its servicing organization to clear up any delinquency regarding disbursements from a mortgagor's mortgage escrow account to a municipal tax collector before the mortgagor may pay the taxes, including interest, and withhold that amount from escrow account payments. Current law provides for no such time period after notice of a property tax delinquency for a mortgagee or its servicing organization to clear up a delinquency. In addition, if under these circumstances, a mortgagor pays the delinquent taxes and interest and notifies the mortgagee or its servicing organization thereof, the mortgagee or its servicing organization must credit the mortgagor's mortgage escrow account with the interest on the delinquency paid by the mortgagor.

The bill also clarifies the rights of a mortgagor and mortgagee or its servicing organization in the situation where tax payments from a mortgagor's mortgage escrow account have been delinquent in a manner which results in the mortgagor's property being subject to a tax sale pursuant to Article 4 of the "tax sale law" (R.S.54:5-19 et seq.). In such a situation, if the mortgagor takes action to pay any delinquent property taxes and interest and arranges to make all future payments for property taxes, insurance and other charges with respect to the real property which secures the mortgage loan, the mortgagor is required to send a copy of the paid tax bill to the mortgagee or its servicing organization with a notice concerning the actions taken by the mortgagor. The mortgagee or its servicing organization must remit to the mortgagor the balance remaining in the mortgagor's escrow account within 10 days of receipt of the paid tax bill and notice from a mortgagor. The mortgagor would no longer be required to make payments into a mortgage escrow account and would then pay the mortgagee or its servicing organization only for the principal, interest and other non-escrow charges required by the mortgage documents. In addition, the mortgagor is required to send, on at least an annual basis, a copy of paid property tax bills, insurance bills, and other bills for charges with respect to the real property which secures the mortgage loan. Finally, if the mortgagor subsequently fails to pay property taxes, insurance or other charges with respect to the real property which secures the mortgage loan, the mortgagee or its servicing

organization is permitted to pay any delinquent taxes, insurance or other charges with respect to the real property which secures the mortgage loan and recover from the mortgagor any amount so paid with interest without prejudicing its rights to the enforcement of its mortgage agreement concerning nonpayment of property taxes, insurance or other charges with respect to the real property which secures the mortgage loan.