

The Department has posted on its website “Rules for Mortgage Forbearance for Sandy-Impacted Homeowners.” The intention of these rules is to govern the implementation by the Department of L. 2017, c. 15, an act which permits Sandy-Impacted Homeowners to apply to the Department for issuance of a Certification of Eligibility for Mortgage Forbearance. These rules will in the future be published in the New Jersey Register, and the public be given an opportunity to comment.

L. 2017, c. 15 also mandates, however, that the Department provide on its website, by no later than March 31, 2017, information on eligibility and the application process, as well as make available by that date application forms. The Department is proceeding to comply with this statutory requirement.

In order to comply with the statutory time frame, and be in position to accept the filing of mortgage forbearance applications by March 31, 2017, and review and act on those applications in a timely manner, the Department will be applying the rules, as posted on its website, to that process.

SUBCHAPTER 1. RULES FOR MORTGAGE-FORBEARANCE FOR SANDY-IMPACTED HOMEOWNERS

5:65-1.1 Title

These rules may be cited as the “Rules for Mortgage Forbearance for Sandy-Impacted Homeowners.”

5:65-1.2 Purpose

These rules are established to implement the provisions of L. 2017, c. 15. It is the intent and purpose of these rules to set forth the process by which Sandy-Impacted Homeowners, as that term is defined in these rules, may apply to the Department for issuance of a Certification of Eligibility for Forbearance. If that application is approved by the Department, the applicant may receive Mortgage Forbearance for the time period set forth in the act. A Sandy-Impacted Homeowner may also apply to the courts for a stay of existing foreclosure proceedings.

5:65-1.3 Definitions

“Active Mortgage Lender” means those mortgage lenders that the Department is aware of that have issued residential mortgages in the State of New Jersey.

“Certificate of Occupancy” means a Certificate issued by the appropriate official pursuant to the State Uniform Construction Code and applicable regulations, allowing a homeowner to reoccupy his or her residence.

“Certification of Eligibility for Forbearance” means a final determination by the Department that an applicant has satisfied all statutory and regulatory criteria and is thus entitled to receive Mortgage Forbearance from the appropriate Mortgage Lender.

“Complete Application” means an application properly filed with the Department, which contains all information and documentation required for the Department to determine whether the applicant meets the eligibility criteria to receive a Certification of Eligibility for Forbearance.

“Department” means the State of New Jersey, Department of Community Affairs.

“Eligibility Criteria” means those basic standards that must be met by every applicant for a Certification of Eligibility for Forbearance. Failure to meet any of these criteria will result in the application being rejected. These criteria include:

1. A current mortgage obligation;
2. Qualification as a Sandy-Impacted Homeowner as defined in these rules;
3. Significant damage to the applicant’s primary residence as a result of Superstorm Sandy, causing a period of displacement as evidenced by the need for either a Certificate of Occupancy or a Temporary Certificate of Occupancy in order for the homeowner to reoccupy the residence;
4. Submission of a completed application pursuant to these rules, including all documents required by section 5 and all attestations required by section 8 of these rules; and
5. Construction or elevation work that remains to be done on the applicant’s primary residence, which is the result of damages sustained in Superstorm Sandy and requires either a Certificate of Occupancy or a Temporary Certificate of Occupancy in order for the homeowner to reoccupy the residence.

“Forbearance” or “Mortgage Forbearance” means a period of time during which obligations for mortgage and interest payments are suspended. The homeowner 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.

“LMI Program” means the State’s Low-to-Moderate Income Homeowners Rebuilding Program to assist eligible owners whose primary homes were damaged by Superstorm Sandy.

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

“Mortgage Lender” means the entity to which a homeowner is currently making mortgage payments; which processes loan payments; keeps track of principal and interest paid; and manages the escrow account.

“Recovery and rebuilding program” means the State administered RREM and LMI programs that each provide up to \$150,000 to cover the costs of restoring eligible homes damaged by Superstorm Sandy.

“RREM Program” means the State’s Reconstruction, Rehabilitation, Elevation and Mitigation Program to assist eligible owners whose primary homes were damaged by Superstorm Sandy.

“Sandy-Impacted Homeowner” means a person who has either: 1) received rental assistance from the Federal Emergency Management Agency as a result of damage to his or her primary residence due to Superstorm Sandy, or 2) been approved for assistance through the RREM or LMI programs. A Sandy-Impacted Homeowner may be eligible for Forbearance regardless of whether his or her primary residence is already the subject of a foreclosure proceeding.

“Superstorm Sandy” means the major storm that made landfall in New Jersey on October 29, 2012.

“Temporary Certificate of Occupancy” means a certificate issued by the appropriate official pursuant to the State Uniform Construction Code and applicable regulations, allowing a homeowner to reoccupy his or her residence, subject to the conditions set forth in the Certificate.

5:65-1.4 Initial Department Notifications

(a) On or before March 31, 2017, the Department shall:

1. Notify as many Sandy-Impacted Homeowners as is reasonably possible of their potential eligibility for Forbearance or a stay of foreclosure proceedings;
2. Post program information and requirements regarding eligibility and the application process on the Department’s website;
3. Make an on-line application available from the Department’s website;
4. Notify the courts of those persons and associated properties that are potentially eligible for Forbearance or a stay of foreclosure proceedings; and

5. To the greatest extent reasonably possible, notify the State's Active Mortgage Lenders of those persons and associated properties that are potentially eligible for Mortgage Forbearance or a stay of foreclosure proceedings.

5:65-1.5 Application and Review Process

(a) All Sandy-Impacted Homeowners may file an application with the Department requesting a Certification of Eligibility for Forbearance. Any such application must be filed with the Department by no later than May 31, 2017.

(b) Applications shall be filed utilizing the Department's on-line system. Instructions for filing will be provided by the Department on its website as of March 31, 2017. Applicants shall be required to file with the Department proof of current mortgage obligation and may be asked to supply additional documentation. Applicants will also be required to complete the certifications required by N.J.A.C. 5:65-1.8.

(c) If the Department's review indicates that the application or supporting documentation is not complete or is deficient, the Department shall provide notice that explains why the application is incomplete and/or deficient. The homeowner shall be permitted to resubmit the application.

(d) The Department shall have a period of 30 days from the date the application is submitted to conduct its review of the application. If an application is incomplete and/or deficient pursuant to (c) above, the applicant will have the opportunity to resubmit. Upon re-submission, the 30-day review period will begin again.

(e) If the Department fails to act on an application within the 30 days, the applicant shall be deemed to have satisfied the eligibility criteria. The applicant may request that the Department issue a Certification of Eligibility for Forbearance in such cases.

(f) If the applicant meets all eligibility criteria, the Department shall issue a Certification of Eligibility for Forbearance.

(g) If the Department issues a Certification of Eligibility for Forbearance pursuant to (e) or (f) above, the Department shall also notify the Administrative Office of the Courts and the appropriate Mortgage Lender as that entity is identified by the applicant in his or her application

(h) If the Department determines, within the 30 day review period, that an applicant does not meet the eligibility criteria, it shall advise the applicant accordingly, along with an explanation and information on the applicant's ability to appeal.

5: 65-1.6 Conditions of Forbearance

(a) Notwithstanding the provisions of any law, rule or regulation to the contrary, the repayment period of any mortgage that is subject to 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. During the period of Forbearance, all terms and conditions of the original mortgage, except about default and delinquency during Forbearance, shall continue without modification, and there shall be no fees assessed for the Forbearance, or penalty for early repayment.

(b) Forbearance shall not be construed to impact a homeowner's property tax and insurance obligations related to the property that is the subject of the Forbearance.

(c) A homeowner who has received 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.

(d) A homeowner who has received Forbearance shall use the Mortgage Forbearance period and the money from the suspended mortgage and interest payments to fund the construction or elevation work on his or her primary home that remains as a result of damage sustained in Superstorm Sandy until the earlier of the completion of the construction or elevation work or the end of the Mortgage Forbearance period as determined pursuant to N.J.A.C. 5:65-1.7.

5: 65-1.7 Period of Forbearance

(a) The Forbearance period shall conclude upon the occurrence of the earlier of the following:

1. The conclusion of one year following issuance of a Certificate of Occupancy for all construction or elevation work, including recovery and rebuilding program work, which is the result of damage sustained in Superstorm Sandy and requires either a Certificate of Occupancy or a Temporary Certificate of Occupancy in order for the homeowner to reoccupy the residence;

2. July 1, 2019; or

3. Regarding a property in foreclosure proceedings, upon the expiration of 10 days following a sheriff's sale.

(b) For purposes of this section, a Certificate of Occupancy includes a Temporary Certificate of Occupancy, with the exception of a Temporary Certificate of Occupancy where the sole remaining condition is elevation of the home.

(c) The one year period of Forbearance that commences with the issuance of a Certificate of Occupancy, or a Temporary Certificate of Occupancy as qualified in (b) above, is applicable to all Sandy-Impacted Homeowners who are eligible for Forbearance pursuant to these rules.

(d) If a Certificate of Occupancy, or a Temporary Certificate of Occupancy as qualified in (b) above, is issued after the date of a Certification of Eligibility for Forbearance, it is the responsibility of a homeowner to notify the appropriate Mortgage Lender.

5:65-1.8 Required Attestations by Applicants

(a) Each applicant for Mortgage Forbearance shall be required to attest under penalty of law and to the best of his or her knowledge the following:

1. without Mortgage Forbearance at this time the applicant is unable to complete the construction or elevation work on his or her primary residence that remains as a result of damage sustained in Superstorm Sandy;

2. Mortgage Forbearance for the length of time allowed by N.J.A.C. 5:65-1.7 will enable the applicant to commence or continue the construction or elevation work on his or her primary residence resulting from damage sustained in Superstorm Sandy; and

3. the applicant will use the Mortgage Forbearance period and the suspended mortgage and interest payments to fund the construction or elevation work on his or her primary residence that remains as a result of damage sustained in Superstorm Sandy until the earlier of the completion of the construction or elevation work or the end of the Mortgage Forbearance period as determined pursuant to N.J.A.C. 5:65-1.7.

(b) Each applicant shall attest to the accuracy of all information submitted to the Department in support of an application for Mortgage Forbearance.

(c) Each applicant shall attest that he or she understands and accepts that the Department may, as part of its review process, take necessary steps to verify the accuracy of the information submitted by the applicant and agrees to cooperate with the Department in any such verification process.

(d) Each applicant shall attest that he or she understands and accepts that the Department may require verification of compliance with (a)iii above, and agrees to cooperate with the Department in any such verification process.

5:65-1.9 Severability Clause

If any part of this chapter shall be held invalid, the holding shall not affect the validity of remaining parts of these rules. If a part of these rules is held invalid in one or more of their applications, the rules shall remain in effect in all valid applications that are severable from the invalid application.

5:65-1.10 Waiver

The Department may waive any part of these rules upon its determination that strict application of the rules would be inconsistent with the underlying purposes of the statute.