

P.L. 2008, CHAPTER 86, *approved September 15, 2008*  
Assembly, No. 2780 (*Second Reprint*)

1 AN ACT concerning certain residential mortgages, and  
2 supplementing Title 46 of the Revised Statutes.

3

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

6

7 1. This act shall be known and may be cited as the “Save New  
8 Jersey Homes Act of 2008”.

9

10 2. The Legislature finds and declares that:

11 a. Many thousands of New Jersey homeowners are at risk of  
12 losing their homes as a result of mortgage foreclosures in the  
13 immediate future;

14 b. Foreclosure of a family’s home often represents the loss of  
15 the family’s most valuable financial asset, and foreclosures  
16 undermine the health and economic vitality of neighborhoods;

17 c. Foreclosures result in the loss of millions of dollars in assets,  
18 not only those of the homeowners who are the victims of  
19 foreclosure, but also in terms of the property values of homes  
20 located in the vicinity of foreclosed properties, as well as millions  
21 in additional costs to state and local government for the loss of  
22 property tax revenue;

23 d. According to a report issued by the U.S. Government  
24 Accountability Office (GAO) in October 2007, New Jersey  
25 experienced an increase in residential mortgage foreclosure start  
26 rates in excess of 50% over the prior two years and the GAO found  
27 that defaults and foreclosures on mortgages have a significant  
28 economic impact on homeowners, lenders, and neighborhoods;

29 e. According to a report issued in April 2008 by the State  
30 Foreclosure Prevention Working Group, which is composed of  
31 banking regulators and attorneys general of 11 states, the collective  
32 efforts of mortgage lenders and government officials to address  
33 rising foreclosures has not resulted in meaningful improvement in  
34 foreclosure prevention, and new approaches, such as targeted  
35 efforts to slow down the foreclosure process, are needed to prevent  
36 millions of unnecessary foreclosures nationwide.

37 f. Foreclosures are largely the result of subprime lending  
38 practices, which have placed many homeowners in loans that they

**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:

<sup>1</sup>Assembly AFI committee amendments adopted May 22, 2008.

<sup>2</sup>Assembly floor amendments adopted June 16, 2008.

1 cannot realistically afford, by using mortgage loan features such as  
2 low introductory rates which reset to higher, variable rates, thereby  
3 increasing the risk of default for many homeowners in the state  
4 who, at an increasing rate, cannot sell their home or refinance their  
5 mortgage;

6 g. Industry analysts estimate that, nationwide, about 1.5 million  
7 mortgages are due to reset in 2008, and that as many as three  
8 million subprime mortgages could end up in foreclosure over the  
9 next several years; and

10 h. There is a compelling need for the State of New Jersey to  
11 address the ongoing economic crisis in the subprime mortgage  
12 market and to provide the means by which homeowners can obtain  
13 a period of extension to adjust their finances in order to increase  
14 their ability to retain their homes, encourage mortgage lenders to  
15 modify mortgage loan terms and resolve foreclosure disputes, and  
16 protect local governments and neighborhoods from the negative  
17 social, economic, and fiscal consequences of foreclosure and  
18 abandonment.

19

20 3. As used in this act:

21 “Creditor” means a State chartered bank, savings bank, savings  
22 and loan association or credit union, any person required to be  
23 licensed under the provisions of the “New Jersey Licensed Lenders  
24 Act,” P.L.1996, c.157 (C.17:11C-1 et seq.), and any entity acting on  
25 behalf of the creditor named in the debt obligation including, but  
26 not limited to, servicers.

27 “Eligible borrower” means a borrower who is obligated to repay  
28 a loan secured by an introductory rate mortgage.

29 “Eligible foreclosed borrower” means a borrower who is  
30 obligated to repay a loan secured by an introductory rate mortgage  
31 and who receives a notice of intention to foreclose that mortgage  
32 pursuant to the “Fair Foreclosure Act,” P.L.1995, c.244 (C.2A:50-  
33 53 et seq.), except that an “eligible foreclosed borrower” shall not  
34 include an eligible borrower who has previously exercised the right  
35 to obtain a three year period of extension pursuant to section 5 of  
36 this act.

37 <sup>2</sup>“Full repayment” means the full repayment of the amounts due  
38 under the introductory rate mortgage, including, without limitation,  
39 upon the maturity date, a refinancing, or a sale of or other transfer  
40 of title to the property.<sup>2</sup>

41 <sup>1</sup>**“Fully indexed rate”** <sup>1</sup>“Fully indexed rate”<sup>1</sup> means the sum of  
42 the current value of the index used for the adjustable rate mortgage  
43 and the margin disclosed in the loan agreement.

44 “Introductory rate mortgage” means a consumer credit  
45 transaction in which the loan is secured by a mortgage <sup>2</sup>**or deed of**  
46 **trust**<sup>2</sup> on real estate in this State upon which there is located a one  
47 to four family dwelling which is occupied by the borrower as the

1 borrower's principal residence, and which provides for <sup>2</sup>: (1)<sup>2</sup> an  
2 introductory payment<sup>2</sup> rate option<sup>2</sup> that is set at least 3 percent<sup>2</sup>  
3 below the fully indexed rate at the time the loan was originated and  
4 payments<sup>2</sup> may adjust by more than 3 percent<sup>2</sup> at the reset date  
5 regardless of whether the variable rate index has increased <sup>2</sup>; or (2)  
6 an interest rate that may adjust by more than 2 percent at the end of  
7 the initial fixed rate period of the loan and which, notwithstanding  
8 the payment rate in effect, had an interest rate at origination of more  
9 than 200 basis points over the Freddie Mac 30-year conventional  
10 interest rate and which provides for an introductory rate that is set  
11 below the fully indexed rate at the time the loan was originated and  
12 may adjust at the reset date regardless of whether the variable rate  
13 index has increased<sup>2</sup> . <sup>1</sup>"Introductory rate mortgage" shall not  
14 include: (1) a loan that provides for a fixed rate of interest for the  
15 first five years <sup>2</sup>or longer<sup>2</sup> ; or (2) a loan that provides for an  
16 introductory rate that is set below the fully indexed rate at the time  
17 the loan was originated only as a result of the borrower's payment  
18 of bona fide discount points.<sup>1</sup>

19

20 4. a. Prior to the date on which the interest rate in effect during  
21 the introductory period of an introductory rate mortgage resets to a  
22 variable interest rate under the terms of the mortgage, a creditor  
23 shall provide a series of written notices, separate and distinct from  
24 all other correspondence, to an eligible borrower. The creditor shall  
25 provide these notices at 60 day and 30 day intervals prior to the date  
26 that the introductory interest rate resets.

27 b. Each notice required pursuant to subsection a. of this section  
28 shall include, in plain language and in at least 14 point bold type:

29 (1) the current interest rate under the terms of the introductory  
30 rate mortgage;

31 (2) the date on which the interest rate resets from a fixed interest  
32 rate applicable during the introductory period to a variable interest  
33 rate;

34 (3) an explanation of how the reset interest rate and monthly  
35 payment would be determined;

36 (4) the best estimate by the creditor of the amount of the monthly  
37 payment that will apply after the date of the reset, and the  
38 assumptions upon which the estimate is based;

39 (5) a list of alternatives an eligible borrower may pursue before  
40 the date of the reset, including any refinancing of the loan offered  
41 by the creditor or any renegotiation of loan terms offered by the  
42 creditor;

43 (6) an explanation of the borrower's right to obtain a period of  
44 extension prior to the initial interest rate reset of an introductory  
45 rate mortgage pursuant to this act and an explanation of the  
46 procedure that a borrower must follow to obtain a period of  
47 extension; and

1 (7) a certification of extension form that can be completed by a  
2 borrower in order to obtain a period of extension authorized  
3 pursuant to section 5 of this act.

4  
5 5. a. Notwithstanding any law or contract right to the contrary,  
6 prior to the initial interest rate reset of an introductory rate  
7 mortgage, a creditor shall provide an eligible borrower a period of  
8 extension for three years as provided in this section, during which  
9 the interest rate on the introductory rate mortgage shall not increase  
10 above the original introductory rate, provided the eligible borrower  
11 completes and returns a certification of extension to the creditor in  
12 accordance with the provisions of this section.

13 b. In order to obtain the period of extension, the eligible  
14 borrower shall provide to the creditor, prior to the date that the  
15 interest rate resets under the terms of the introductory rate  
16 mortgage, a completed certification of extension form signed by the  
17 eligible borrower, which contains:

18 (1) the name of the eligible borrower;

19 (2) the address of the property; and

20 (3) an affirmative statement that the eligible borrower:

21 (a) does not have sufficient monthly income, after deductions for  
22 necessary living expenses, to pay the monthly payments that will  
23 apply after the date that the interest rate resets;

24 (b) requests the period of extension;

25 (c) agrees to continue, during the period of extension, monthly  
26 payments, which shall include principal and interest calculated at  
27 the introductory rate on the date that the introductory rate mortgage  
28 was originated, as well as amounts for taxes, insurance, and any  
29 other amounts being paid under the terms of the mortgage prior to  
30 the interest rate reset;

31 (d) agrees to pay the creditor, at the time of the <sup>2</sup>[eligible  
32 borrower's transfer of the title to the property] full repayment of  
33 the introductory rate mortgage<sup>2</sup>, any interest deferred on account of  
34 the period of extension;

35 (e) agrees to accept the creditor's placement of a <sup>1</sup>[subordinate  
36 lien] modification of mortgage<sup>1</sup> on the property to secure the  
37 repayment of the interest deferred on account of the period of  
38 extension; and

39 (f) agrees to sign a modification of mortgage <sup>1</sup>[loan document]  
40 form<sup>1</sup> that contains the terms of the period of extension and any  
41 documentation necessary to establish or record the <sup>1</sup>[subordinate  
42 lien] modification of mortgage<sup>1</sup>.

43 c. An eligible borrower who makes a knowing material  
44 misrepresentation in a certification of extension is guilty of a crime  
45 of the fourth degree.

46 d. The creditor, upon receiving the completed certification of  
47 extension, shall grant the eligible borrower the three year period of

1 extension, which shall commence on the date that the introductory  
2 rate is due to reset under the terms of the introductory rate  
3 mortgage.

4 e. Within a reasonable amount of time after the receipt of a  
5 completed certification of extension from an eligible borrower, a  
6 creditor shall provide to the eligible borrower a written  
7 acknowledgment that the certification of extension has been  
8 received. The acknowledgment shall contain the following:

9 (1) the monthly payment amount that is due from the eligible  
10 borrower during the period of extension, which shall include  
11 principal and interest, calculated at the introductory rate on the date  
12 the introductory rate mortgage was originated, as well as amounts  
13 for taxes, insurance, and any other amounts being paid under the  
14 terms of the mortgage prior to the interest rate reset;

15 (2) a schedule of payments, indicating the date that the first  
16 monthly payment is due and the dates that each subsequent monthly  
17 payment is due during the period of extension;

18 (3) the address to which the <sup>2</sup>eligible<sup>2</sup> borrower shall send the  
19 monthly payment; and

20 (4) a statement of proposed <sup>1</sup>[subordinate lien] modification of  
21 mortgage<sup>1</sup>, which shall include:

22 (a) a notice to the <sup>2</sup>eligible<sup>2</sup> borrower that the creditor will place  
23 a <sup>1</sup>[subordinate lien] modification of mortgage<sup>1</sup> on the property  
24 that is the security for the introductory rate mortgage, to secure the  
25 <sup>2</sup>eligible<sup>2</sup> borrower's repayment of the amount of interest deferred  
26 by the period of extension; and

27 (b) an explanation of the method the creditor will use to calculate  
28 the amount of the interest deferred by the period of extension.

29 f. <sup>1</sup>(1)<sup>1</sup> A creditor who grants a period of extension to an eligible  
30 borrower shall have the right to record a <sup>1</sup>[subordinate lien]  
31 modification of mortgage<sup>1</sup> on the eligible borrower's property <sup>1</sup>in  
32 the public records in the county in which the property is located<sup>1</sup> to  
33 secure the <sup>2</sup>eligible<sup>2</sup> borrower's repayment of the amount of interest  
34 deferred by the period of extension. The <sup>1</sup>[subordinate lien]  
35 modification of mortgage<sup>1</sup> shall be effective from the date <sup>1</sup>[of  
36 recording in the public records in the county in which the property  
37 is located] that it is executed<sup>1</sup>. Notwithstanding any law to the  
38 contrary, the <sup>1</sup>[subordinate lien] modification of mortgage<sup>1</sup> shall  
39 have the same priority as the lien of the introductory rate mortgage.  
40 Upon payment by the eligible borrower of the total amount of  
41 interest deferred pursuant to the period of extension <sup>2</sup>, which shall  
42 only be due upon full repayment of the introductory rate mortgage<sup>2</sup>  
43 , the creditor shall provide the eligible borrower with a recordable  
44 satisfaction of the <sup>1</sup>[subordinate lien] modification of mortgage<sup>1</sup>,  
45 or otherwise cause the <sup>1</sup>[subordinate lien] modification of  
46 mortgage<sup>1</sup> to be discharged of record.

1        <sup>1</sup>(2) If an eligible borrower fails to return to a creditor, who has a  
2 right to record a modification of mortgage pursuant to paragraph (1)  
3 of this subsection, a properly executed modification of mortgage or  
4 any other documentation necessary to establish or record the  
5 modification of mortgage, within 30 days from the borrower's  
6 receipt from the creditor of a modification of mortgage form, the  
7 creditor may record the eligible borrower's <sup>2</sup>[certificate]  
8 certification<sup>2</sup> of extension in place of the modification of mortgage.  
9 Notwithstanding any other law to the contrary, the <sup>2</sup>[certificate]  
10 certification<sup>2</sup> of extension shall have the same priority as the lien of  
11 the introductory rate mortgage. Upon payment by the eligible  
12 borrower of the total amount of interest deferred pursuant to the  
13 period of extension, the creditor shall provide the eligible borrower  
14 with a recordable satisfaction of the <sup>2</sup>[certificate] certification<sup>2</sup> of  
15 extension, or otherwise cause the <sup>2</sup>[certificate] certification<sup>2</sup> of  
16 extension to be discharged of record.<sup>1</sup>

17        g. <sup>2</sup>A creditor shall not require an eligible borrower to limit or  
18 waive the rights of the borrower to bring any claims, defenses,  
19 demands, proceedings, actions, or causes of action against the  
20 creditor as a condition of accepting an offer of any loss mitigation  
21 activities made available by the "Save New Jersey Homes Act of  
22 2008," P.L. , c. (C. ) (pending before the Legislature as this  
23 bill).

24        h.<sup>2</sup> An eligible borrower who has been granted a period of  
25 extension shall forfeit all rights concerning deferment of interest  
26 payments provided by this act if the eligible borrower fails to make  
27 payments under the schedule of payments set forth in the creditor's  
28 acknowledgment of the period of extension or fails to comply with  
29 the terms of any <sup>1</sup>[mortgage loan]<sup>1</sup> modification <sup>1</sup>[agreement] of  
30 mortgage<sup>1</sup> entered into between the creditor and the eligible  
31 <sup>1</sup>[foreclosed]<sup>1</sup> borrower relating to the period of extension, such  
32 that the modification [agreement] <sup>1</sup>of mortgage<sup>1</sup> becomes 60 days  
33 delinquent.

34  
35        6. a. A creditor that issues to an eligible foreclosed borrower a  
36 notice of intention to foreclose an introductory rate mortgage  
37 pursuant to the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-  
38 53 et seq.), shall send to the eligible foreclosed borrower a series of  
39 written notices, by regular and registered mail, separate and distinct  
40 from all other correspondence. The notices shall include in plain  
41 language and in at least 14 point bold type:

42        (1) A statement that the information in the notice is being  
43 provided as required by the "Save New Jersey Homes Act of 2008,"  
44 P.L. , c. (C. ) (pending before the Legislature as this bill),  
45 which was enacted by the New Jersey Legislature and which  
46 provides certain rights to borrowers whose homes are the subject of  
47 a mortgage foreclosure action;

1 (2) A list of alternatives to foreclosure that an eligible foreclosed  
2 borrower may pursue, including any refinancing of the loan offered  
3 by the creditor and any renegotiation of loan terms offered by the  
4 creditor;

5 (3) An explanation of the eligible foreclosed borrower's right to  
6 obtain a period of extension for three years pursuant to the "Save  
7 New Jersey Homes Act of 2008," P.L. , c. (C. ) (pending  
8 before the Legislature as this bill), and an explanation of the  
9 procedure that an eligible foreclosed borrower must follow to obtain  
10 a period of extension;

11 (4) A statement that the notice should be read carefully and that  
12 the eligible foreclosed borrower may wish to consult with an  
13 attorney to understand the rights that may be available under the  
14 "Save New Jersey Homes Act of 2008," P.L. , c. (C. )  
15 (pending before the Legislature as this bill); and

16 (5) A certification of extension form that can be completed by  
17 an eligible foreclosed borrower in order to obtain the period of  
18 extension authorized pursuant to section 7 of this act.

19 b. The notices required pursuant to subsection a. of this section  
20 shall be sent at the following intervals:

21 (1) within 10 days of issuing the notice of intention; and

22 (2) at the time that the creditor applies for entry of final  
23 judgment of foreclosure pursuant to section 6 of P.L.1995, c.244  
24 (C.2A:50-58).

25 c. The notices shall be sent in envelopes that state the following  
26 information on the outside front portion of the envelope: "The New  
27 Jersey Legislature has enacted the Save New Jersey Homes Act of  
28 2008, which may help you save your home from foreclosure.  
29 Details as to the rights you may have to obtain a period of extension  
30 of foreclosure under this new law are contained within. Please read  
31 the contents carefully. You may wish to consult with an attorney to  
32 understand your rights under this new law."  
33

34 7. a. Notwithstanding any law or contract right to the contrary, a  
35 creditor shall provide an eligible foreclosed borrower a period of  
36 extension for three years as provided in this section, during which  
37 foreclosure proceedings pursuant to the "Fair Foreclosure Act,"  
38 P.L.1995, c.244 (C.2A:50-53 et seq.) shall be suspended and the  
39 <sup>2</sup>eligible <sup>2</sup>foreclosed<sup>2</sup> borrower shall continue to pay  
40 monthly payments, which shall include principal and interest,  
41 calculated at the introductory rate on the date that the introductory  
42 rate mortgage was originated, as well as amounts for taxes,  
43 insurance, and any other amounts being paid under the terms of the  
44 mortgage prior to the interest rate reset, provided the eligible  
45 foreclosed borrower completes and returns a certification of  
46 extension to the creditor in accordance with the provisions of this  
47 section.

1 b. In order to obtain the period of extension, the eligible  
2 foreclosed borrower shall provide to the creditor, no later than 90  
3 days from the date that the creditor sends the notice required  
4 pursuant to paragraph (2) of subsection b. of section 6 of this act, a  
5 completed certification of extension form signed by the eligible  
6 foreclosed borrower, which contains:

7 (1) the name of the eligible foreclosed borrower;  
8 (2) the address of the property; and  
9 (3) an affirmative statement that the eligible foreclosed  
10 borrower:

11 (a) requests the period of extension;

12 (b) agrees to continue, during the period of extension, monthly  
13 payments which shall include principal and interest, calculated at  
14 the introductory rate on the date that the introductory rate mortgage  
15 was originated, as well as amounts for taxes, insurance, and any  
16 other amounts being paid under the terms of the mortgage prior to  
17 the interest rate reset;

18 (c) agrees to pay the creditor, at the time of <sup>2</sup>[transfer of title to  
19 the property] full repayment of the introductory rate mortgage<sup>2</sup> :

20 (i) any interest deferred on account of the period of extension;

21 (ii) any fees and costs incurred by the creditor in connection with  
22 the foreclosure proceeding; and

23 (iii) any arrearages owed to the creditor for monthly principal  
24 and interest payments, homeowners insurance payments, property  
25 tax payments, and any other payments that the eligible <sup>2</sup>foreclosed<sup>2</sup>  
26 borrower was required to pay, but failed to pay, under the terms of  
27 the introductory rate mortgage;

28 (d) agrees to accept the creditor's placement of a <sup>1</sup>[subordinate  
29 lien] modification of mortgage<sup>1</sup> on the property to secure the  
30 repayment of amounts owed pursuant to subparagraph (c) of this  
31 paragraph; and

32 (e) agrees to sign a modification of mortgage <sup>1</sup>[loan document]  
33 form<sup>1</sup> that contains the terms of the period of extension and any  
34 documentation necessary to establish or record the <sup>1</sup>[subordinate  
35 lien] modification of mortgage<sup>1</sup>.

36 c. The creditor, upon receiving the completed certification of  
37 extension within the time period specified in subsection b. of this  
38 section, shall:

39 (1) grant the eligible foreclosed borrower the three year period of  
40 extension, which shall commence no later than 30 days from the  
41 date that the creditor receives the eligible foreclosed borrower's  
42 completed certification of extension; and

43 (2) suspend the foreclosure proceeding that the creditor initiated  
44 pursuant to the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-  
45 53 et seq.).

46 A creditor may grant relief pursuant to paragraphs (1) and (2) of  
47 this subsection, upon receipt of a completed <sup>1</sup>[certificate]

1 certification<sup>1</sup> of extension from an eligible foreclosed borrower  
2 after the time period specified in subsection b. of this section, in the  
3 sole discretion of the creditor.

4 d. Within a reasonable period of time after the receipt of a  
5 completed certification of extension from an eligible foreclosed  
6 borrower within the time period specified in subsection b. of this  
7 section, a creditor shall provide to the eligible foreclosed borrower  
8 a written acknowledgment that the certification of extension has  
9 been received. The acknowledgment shall contain the following:

10 (1) a statement that the foreclosure <sup>2</sup>~~proceedings~~ proceeding<sup>2</sup>  
11 initiated pursuant to the “Fair Foreclosure Act,” P.L.1995, c.244  
12 (C.2A:50-53 et seq.) will be suspended during the period of  
13 extension;

14 (2) the monthly payment amount that is due from the eligible  
15 foreclosed borrower during the period of extension, which shall  
16 include principal and interest, calculated at the introductory rate, on  
17 the date the introductory mortgage rate was originated, as well as  
18 amounts for taxes, insurance, and any other amounts being paid  
19 under the terms of the mortgage prior to the interest rate reset;

20 (3) a schedule of payments, indicating the date that the first  
21 monthly payment is due and the dates that each subsequent monthly  
22 payment is due during the period of extension;

23 (4) the address to which the <sup>2</sup>eligible foreclosed<sup>2</sup> borrower  
24 <sup>2</sup>~~must~~ shall<sup>2</sup> send the monthly payment; and

25 (5) a statement of proposed <sup>1</sup>~~subordinate lien~~ modification of  
26 mortgage<sup>1</sup>, which shall include:

27 (a) a notice to the eligible foreclosed borrower that the creditor  
28 will place a <sup>1</sup>~~subordinate lien~~ modification of mortgage<sup>1</sup> on the  
29 property that is the security for the introductory rate mortgage, to  
30 secure the eligible foreclosed borrower’s repayment of the amounts  
31 provided for in paragraph (1) of subsection e. of this section; and

32 (b) an explanation of the method the creditor will use to calculate  
33 the amount of the interest deferred by the period of extension, and  
34 the amounts provided for in paragraph (1) of subsection e. of this  
35 section, for which repayment is secured by the <sup>1</sup>~~subordinate lien~~  
36 modification of mortgage<sup>1</sup>.

37 e. (1) A creditor that grants a period of extension to an eligible  
38 foreclosed borrower shall have the right to record a <sup>1</sup>~~subordinate~~  
39 lien modification of mortgage<sup>1</sup> on the eligible foreclosed  
40 borrower’s property to secure the eligible foreclosed borrower’s  
41 repayment of:

42 (a) the amount of interest deferred by the period of extension;

43 (b) any fees and costs already incurred in connection with the  
44 foreclosure proceeding; and

45 (c) any arrearages owed to the creditor for monthly payments of  
46 principal and interest, homeowner insurance payments, property tax  
47 payments, or any other payments that the eligible foreclosed

1 borrower was required to pay, but failed to pay, under the terms of  
2 the introductory rate mortgage.

3 (2) The <sup>1</sup>['subordinate lien] modification of mortgage' shall be  
4 effective from the date <sup>1</sup>['of recording in the public records in the  
5 county in which the property is located] that it is executed'.  
6 Notwithstanding any other law to the contrary, the <sup>1</sup>['subordinate  
7 lien] modification of mortgage' shall have the same priority as the  
8 lien of the introductory rate mortgage. Upon payment by the  
9 <sup>2</sup>eligible foreclosed<sup>2</sup> borrower of the total amount of interest  
10 deferred pursuant to the period of extension, and any other amounts  
11 representing the arrearages for which the <sup>1</sup>['subordinate lien]  
12 modification of mortgage' secures repayment pursuant to this act,  
13 which shall only be due upon <sup>2</sup>['the borrower's transfer of title to  
14 the property] full repayment of the introductory rate mortgage<sup>2</sup> ,  
15 the creditor shall provide the eligible foreclosed borrower with a  
16 recordable satisfaction of the <sup>1</sup>['subordinate lien] modification of  
17 mortgage' , or otherwise cause the <sup>1</sup>['subordinate lien] modification  
18 of mortgage' to be discharged of record.

19 <sup>1</sup>(3) If an eligible foreclosed borrower fails to return to a  
20 creditor, who has a right to record a modification of mortgage  
21 pursuant to paragraph (1) of this subsection, a properly executed  
22 modification of mortgage or any other documentation necessary to  
23 establish or record the modification of mortgage within 30 days  
24 from the borrower's receipt from the creditor of a modification of  
25 mortgage form, the creditor may record the eligible foreclosed  
26 borrower's <sup>2</sup>['certificate] certification<sup>2</sup> of extension in place of the  
27 modification of mortgage. Notwithstanding any other law to the  
28 contrary, the <sup>2</sup>['certificate] certification<sup>2</sup> of extension shall have the  
29 same priority as the lien of the introductory rate mortgage. Upon  
30 payment by the eligible foreclosed borrower of the total amount of  
31 interest deferred pursuant to the period of extension, <sup>2</sup>and any other  
32 amounts representing the arrearages for which the certification of  
33 extension secures repayment pursuant to this act, <sup>2</sup> the creditor shall  
34 provide the eligible foreclosed borrower with a recordable  
35 satisfaction of the <sup>2</sup>['certificate] certification<sup>2</sup> of extension, or  
36 otherwise cause the <sup>2</sup>['certificate] certification<sup>2</sup> of extension to be  
37 discharged of record.<sup>1</sup>

38 f. <sup>2</sup>A creditor shall not require an eligible foreclosed borrower to  
39 limit or waive the rights of the borrower to bring any claims,  
40 defenses, demands, proceedings, actions, or causes of action against  
41 the creditor as a condition of accepting an offer of any loss  
42 mitigation activities made available by the "Save New Jersey  
43 Homes Act of 2008," P.L. , c. (C. ) (pending before the  
44 Legislature as this bill).

45 g. <sup>2</sup> An eligible foreclosed borrower who has been granted a  
46 period of extension shall forfeit all rights concerning deferment of

1 interest payments, suspension of foreclosure, and deferment of  
2 payment of amounts secured by a <sup>1</sup>~~["subordinate lien"]~~ modification  
3 of mortgage<sup>1</sup>, provided by the provisions of this act if the eligible  
4 foreclosed borrower fails to make payments under the schedule of  
5 payments as set forth in the creditor's acknowledgment of the  
6 period of extension or fails to comply with the terms of <sup>1</sup>~~["any"]~~ the  
7 modification of<sup>1</sup> mortgage <sup>1</sup>~~["loan modification agreement"]~~<sup>1</sup> entered  
8 into between the creditor and the eligible foreclosed borrower  
9 relating to the period of extension, such that the modification  
10 <sup>1</sup>~~["agreement"]~~ of mortgage<sup>1</sup> becomes 60 days delinquent.

11 <sup>2</sup>~~["g."]~~ h.<sup>2</sup> A court shall not approve an entry of final judgment in  
12 a foreclosure proceeding commenced pursuant to the "Fair  
13 Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et seq.) as to an  
14 introductory rate mortgage unless the court is satisfied from the  
15 pleadings and certifications on file with the court that notice of the  
16 availability of the period of extension was provided to the eligible  
17 foreclosed borrower in accordance with the provisions of this act.

18  
19 8. <sup>1</sup>a.<sup>1</sup> Any person who <sup>2</sup>willfully<sup>2</sup> violates any provision of this  
20 act shall be liable to a penalty of not more than \$10,000 for the first  
21 offense, and not more than \$20,000 for the second and subsequent  
22 offense, which penalty may be collected in a summary proceeding  
23 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,  
24 c.274 (C.2A:58-10 et seq.) <sup>2</sup>, except that immaterial errors in a  
25 notice required to be provided by a creditor pursuant to this act,  
26 shall not constitute a violation of this act<sup>2</sup>.

27 <sup>1</sup>b. If a creditor violates any provision of this act, an eligible  
28 borrower, an eligible foreclosed borrower, or the Attorney General  
29 may bring an action to enforce compliance by a summary  
30 proceeding pursuant to the "Penalty Enforcement Law of 1999,"  
31 P.L.1999, c.274 (C.2A:58-10 et seq.).<sup>1</sup>

32  
33 <sup>1</sup>9. Failure of a creditor to fulfill any obligation under this act  
34 shall not be considered to be the exercise of a power, right, benefit,  
35 or privilege under the parity provisions of P.L.1981, c.163  
36 (C.17:9A-24b.1), section 48 of P.L.1963, c.144 (C.17:12B-48), or  
37 section 12 of P.L.1984, c.171 (C.17:13-90), and it shall not be a  
38 defense to a violation of this act that the failure to fulfill any  
39 provision of the act is an exercise of such a power, right, benefit, or  
40 privilege.<sup>1</sup>

41  
42 <sup>1</sup>~~["9."]~~ 10.<sup>1</sup> This act shall be liberally construed to effectuate the  
43 purposes of the act.

44  
45 <sup>1</sup>~~["10."]~~ 11.<sup>1</sup> If any section, subsection, paragraph, sentence or  
46 other part of this act is adjudged unconstitutional or invalid, the

1 judgment shall not affect, impair or invalidate the remainder of this  
2 act, but shall be confined in its effect to the section, subsection,  
3 paragraph, sentence or other part of this act directly involved in the  
4 controversy in which the judgment shall have been rendered.

5  
6 <sup>1</sup>~~11.~~ 12. <sup>1</sup> The <sup>1</sup>Attorney General, in consultation with the<sup>1</sup>  
7 Department of Banking and Insurance shall <sup>1</sup>~~enforce the~~  
8 provisions of this act, and the department, in consultation with the  
9 Attorney General, shall<sup>1</sup> adopt regulations, pursuant to the  
10 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
11 seq.) to effectuate the purposes of this act.

12  
13 <sup>1</sup>~~12.~~ 13. <sup>1</sup> This act shall take effect immediately, and remain in  
14 effect until January 1, 2011.

15

16

17

18

19 Provides period of extension for repayment of introductory rate  
20 mortgages on residential property under certain circumstances.