

[First Reprint]

SENATE, No. 1566

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED FEBRUARY 9, 2012

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator BARBARA BUONO

District 18 (Middlesex)

Co-Sponsored by:

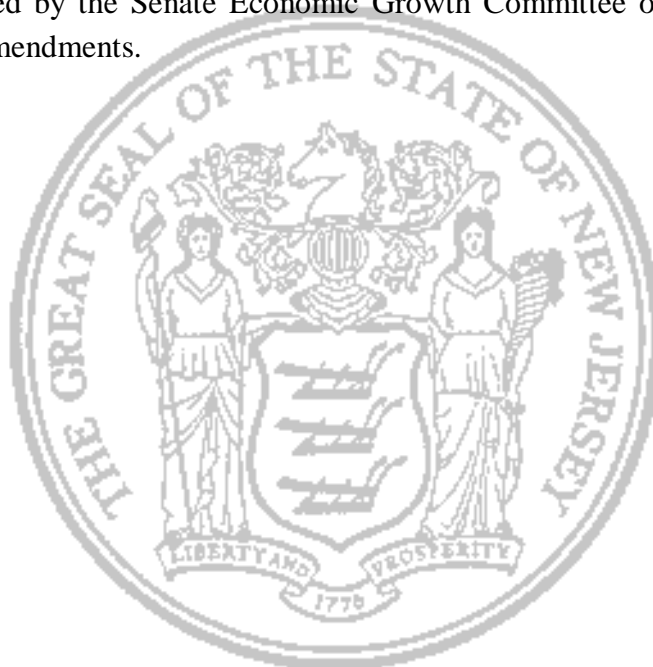
Senators Codey and Stack

SYNOPSIS

Establishes the "New Jersey Residential Foreclosure Transformation Act"; provides expedited process for foreclosing abandoned residential properties.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on February 16, 2012, with amendments.



(Sponsorship Updated As Of: 3/6/2012)

1 AN ACT concerning the foreclosure of residential properties, the
2 transfer and dedication of foreclosed residential properties for
3 affordable housing, and supplementing Title 2A of the New
4 Jersey Statutes and Title 55 of the Revised Statutes.

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

8
9 1. This act shall be known and may be cited as the "New Jersey
10 Residential Foreclosure Transformation Act."

11
12 2. The Legislature finds and declares that:

13 a. In recent years, there has been an enormous expansion in
14 the number of mortgage foreclosure filings in New Jersey and
15 across the nation. The number of mortgage foreclosure actions filed
16 in the New Jersey Courts grew from just over 20,000 in 2005 to
17 more than 51,000 in 2008, 66,000 in 2009, and 58,000 in 2010.

18 b. Preliminary information indicates a decline in the number of
19 residential mortgage foreclosure filings over 2011. However, this
20 decline is largely attributable to actions undertaken by the New
21 Jersey Judiciary which, in December of 2010, suspended the
22 processing of uncontested residential foreclosures by the six biggest
23 lenders in order to address "robo-signing" and other processing
24 irregularities.

25 c. Despite this decline, it has been reported that more than one
26 in 10 New Jersey mortgage loans are already in foreclosure or are
27 90 days or more in arrears. Because of the large number of
28 foreclosures filed during the 2009-2010 period, and the Judiciary's
29 suspension of foreclosure processing, reports indicate that as of
30 August 2011 more than 100,000 residential foreclosure cases were
31 still open. Now that the courts have resumed processing
32 foreclosures for the big six lenders, it is widely believed that
33 foreclosure filings will increase during 2012. This is due in part to
34 the large number of mortgages that are seriously delinquent, more
35 than 90 days past due. Reports have indicated that during the
36 suspension period mortgage lenders were waiting to file more than
37 28,000 additional foreclosures and that another 55,000 mortgage
38 loans were over 90 days delinquent.

39 d. Many of these foreclosed residential properties are vacant,
40 undermining the health, safety, and economic vitality of
41 neighborhoods, depressing their property values, and reducing
42 revenues to municipalities.

43 e. It is the public policy of this State to encourage the
44 production of low-income and moderate-income housing to serve
45 the general welfare of all the State's residents.

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:

¹Senate SEG committee amendments adopted February 16, 2012.

1 f. The availability of tens of thousands of foreclosed
2 residential properties presents a unique opportunity for the State to
3 facilitate the purchase and dedication, or the rental, of housing units
4 for low-income and moderate-income residents.

5 g. Establishment of a temporary State entity dedicated to the
6 purpose of identifying foreclosed residential properties and
7 facilitating their purchase and dedication for occupancy or their
8 rental, including but not limited to low-income and moderate-
9 income families, is in the public interest of the State.

10

11 3. As used in this act:

12 "Affordable" means a sales price or rent within the means of a
13 low or moderate income household.

14 "Agency" means the New Jersey Housing and Mortgage Finance
15 Agency established pursuant to section 4 of P.L.1983, c.530
16 (C.55:14K-4).

17 "Community development corporation" means a nonprofit
18 community development corporation established pursuant to Title
19 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or
20 other law of this State, with a focus on producing and operating
21 affordable housing or housing with on-site social services for
22 individuals with special needs.

23 "Community development financial institution" means an entity
24 designated and certified by the United States Department of the
25 Treasury as a Community Development Financial Institution
26 pursuant to ¹~~["12 CFR 1805"]~~ 12 CFR Part 1805¹.

27 "Contractor" means a qualified community development
28 financial institution that enters into a contract or loan with the
29 corporation pursuant to section 7 of this act.

30 "Corporation" means the "New Jersey Foreclosure Relief
31 Corporation" established pursuant to this act.

32 "Eligible property" means any residential property that is owned
33 by an institutional lender as the result of a mortgage foreclosure.

34 "Institutional lender" or "lender" means any lawfully constituted
35 mortgage lender, mortgage investor, or mortgage loan servicer that
36 owns an eligible property including, but not limited to any agency
37 or instrumentality of the United States, including, but not limited to,
38 the Government National Mortgage Association, the Federal Home
39 Loan Mortgage Corporation, the Federal National Mortgage
40 Association, the Federal Housing Administration, the Small
41 Business Administration, the Resolution ¹~~["Trust"]~~ Funding¹
42 Corporation, and the Federal Deposit Insurance Corporation.

43 "Intercreditor agreement" means an agreement among creditors
44 that sets forth the various lien positions and the rights and liabilities
45 of each creditor and its impacts on the other creditors.

46 "Low-income" means 50 percent or less of the median gross
47 household income for households of the same size within the
48 housing region in which the household is located, based upon the

1 United States Department of Housing and Urban Development's
2 (HUD) Section 8 Income Limits (uncapped) averaged across
3 counties for the housing region.

4 "Low-income housing" means housing affordable according to
5 United States Department of Housing and Urban Development or
6 other recognized standards for home ownership and rental costs,
7 and occupied or reserved for occupancy by households with a gross
8 household income equal to 50 percent or less of the median gross
9 household income for households of the same size within the
10 housing region in which the housing is located.

11 "Market-rate units" means housing not restricted to low- and
12 moderate-income households that may sell or rent at any price.

13 "Moderate-income" means more than 50 percent but less than 80
14 percent of the median gross household income for households of the
15 same size within the housing region in which the household is
16 located, based upon the United States Department of Housing and
17 Urban Development's (HUD's) Section 8 Income Limits (uncapped)
18 averaged across counties for the housing region.

19 "Moderate-income housing" means housing affordable according
20 to United States Department of Housing and Urban Development or
21 other recognized standards for home ownership and rental costs and
22 occupied or reserved for occupancy by households with a gross
23 household income equal to more than 50 percent but less than 80
24 percent of the median gross household income for households of the
25 same size within the housing region in which the housing is located.

26 "Permanent supportive housing" means '[affordable housing
27 dedicated for persons with developmental disabilities or mental
28 illness, designed as permanent housing, and regulated by the New
29 Jersey Department of Human Services] a permanent lease based
30 housing unit that provides access to supportive services for
31 individuals with special needs and households with individuals with
32 special needs who can benefit from housing with services.¹

33 "Qualified community development financial institution" means
34 a community development financial institution that has a minimum
35 of \$50 million in assets under management and a minimum of 2
36 years' experience in the financing and acquisition of real estate for
37 affordable housing.

38 "Qualifying household" means a very-low, low-, or moderate-
39 income household, the head of which certifies in writing that the
40 household intends to occupy the property as a principal residence
41 for at least 12 months.

42 "Supportive shared living housing" means permanent lease-based
43 supportive housing that provides access to supportive services to
44 individuals with special needs who maintain separate leases for
45 bedrooms and share common living space.

46 "Very-low-income" means 30 percent or less of the median gross
47 household income for households of the same size within the
48 housing region in which the household is located, based upon the

1 United States Department of Housing and Urban Development's
2 (HUD) Section 8 Income Limits (uncapped) averaged across
3 counties for the housing region.

4 "Very-low-income housing" means housing affordable to,
5 according to United States Department of Housing and Urban
6 Development or other recognized standards for home ownership
7 and rental costs, and occupied by, or reserved for occupancy by,
8 households with a gross household income equal to 30 percent or
9 less of the median gross household income for households of the
10 same size within the housing region in which the housing is located.

11

12 4. a. There is established in the New Jersey Housing and
13 Mortgage Finance Agency the "New Jersey Foreclosure Relief
14 Corporation."

15 b. The corporation shall constitute a body corporate and politic
16 and an instrumentality exercising public and essential governmental
17 functions, and the exercise by the corporation of the powers
18 conferred by this act shall be deemed and held to be an essential
19 governmental function of the State.

20 c. The corporation shall be governed by a seven-member
21 board, consisting of the Commissioner of Community Affairs, the
22 Executive Director of the New Jersey Housing and Mortgage
23 Finance Agency, the Commissioner of Banking and Insurance, and
24 the State Treasurer, who shall be members ex officio, and three
25 members appointed by the Governor. Each ex officio member of
26 the board may designate an officer or employee of his department to
27 represent him at meetings of the board, and each such designee may
28 lawfully vote and otherwise act on behalf of the member for whom
29 he constitutes the designee. Any such designation shall be in
30 writing delivered to the secretary of the board and shall continue in
31 effect until revoked or amended by writing delivered to the
32 secretary of the board.

33 d. The three members appointed by the Governor shall be
34 residents of the State and shall have knowledge in the areas of 'real
35 estate,' housing design, construction, or operation; mortgage
36 banking, finance and foreclosure; or community development. Of
37 the three members appointed by the Governor, one shall be a
38 nominee of the Senate President and one shall be a nominee of the
39 Speaker of the General Assembly. 'At least one of the members
40 appointed by the Governor shall hold a license as a real estate
41 broker, broker-salesperson, salesperson, or referral agent under the
42 provisions of R.S.45:15-1 et seq.' No more than two of the
43 members appointed by the Governor shall be members of the same
44 political party. The members shall serve for two-year terms. Each
45 member shall hold office for the term of his appointment and until
46 the appointment of his successor. A member of the board shall be
47 eligible for reappointment. A member of the board may be removed
48 from office by the Governor, for cause, after a public hearing and

1 may be suspended by the Governor pending the completion of such
2 a hearing.

3 e. (1) The Executive Director of the New Jersey Housing and
4 Mortgage Finance Agency shall be the chairperson of the board.
5 The chairperson shall appoint the secretary to the board. The
6 chairperson shall convene an organizational meeting of the board as
7 soon as possible after the appointment of its members.

8 (2) The board shall have the exclusive authority to approve all
9 financial transactions of the corporation, to approve minutes of
10 board meetings, and to make determinations concerning the
11 corporation's governing structure.

12 (3) The secretary to the board shall deliver a true copy of the
13 minutes of every board meeting to the Governor. No action taken at
14 a board meeting shall have force or effect until the Governor
15 approves the action or fails to veto the action within 10 business
16 days after a true copy of the minutes were delivered. During that
17 10-day period, the Governor may render any action taken by the
18 board or any member thereof null and void by returning a copy of
19 the minutes with a veto of the action to the board.

20 f. The corporation shall use employees (selected by the board)
21 of the agency and the agency shall provide such personnel to the
22 corporation for its use. In addition to persons otherwise employed
23 by the agency, the agency shall employ, and shall provide to the
24 corporation, such persons as the corporation may request from time
25 to time. Agency employees provided to the corporation shall be
26 subject to the direction and control of the corporation and any of
27 them may be returned to the agency at any time by the corporation
28 in the discretion of the corporation. The corporation may use
29 administrative services of the agency and, if it does so, shall
30 reimburse the agency for the actual costs of providing such
31 services.

32 g. With the agreement of an executive department or other
33 executive agency, the corporation may utilize the personnel of that
34 department or agency on a reimbursable basis to cover actual and
35 reasonable expenses.

36 h. (1) On or before the last day of March in each year, the
37 corporation shall make an annual report of its activities for the
38 preceding calendar year, and its planned activities for the current
39 and following calendar year, to the Governor and to the Legislature.

40 (2) Each annual report shall set forth the current nature and
41 extent of foreclosure activity in New Jersey and shall depict
42 changes in foreclosure activity from the prior calendar year. The
43 report shall set forth a complete operating and financial statement
44 covering the corporation's operations, transactions and holdings
45 during the preceding year, including but not limited to:

46 (a) the total number of re-capitalized market rate units.

47 (b) the total numbers of very-low-income, low-income, and
48 moderate-income units that were produced for sale and for rental in

1 the preceding year pursuant to this act, their locations by
2 municipality, and the sources of financing used.

3 (3) The corporation shall cause an audit of its books and
4 accounts to be made at least once in each year by certified public
5 accountants. The cost of the audit shall be considered an expense of
6 the corporation and a copy thereof shall be filed with the State
7 Treasurer.

8 (4) The corporation shall provide copies of its annual reports
9 and audits to the agency and the agency shall display the
10 corporation's annual reports and audits on the agency's website.

11 i. The corporation shall cease its operations on December 31,
12 2017. On that date, any assets, liabilities, properties, or funds held
13 by the corporation shall transfer to the agency. The corporation
14 shall expire upon transmittal of the 2017 annual report.

15

16 5. The corporation shall have the following powers:

17 a. To adopt, alter, and use a corporate seal.

18 b. To enter into contracts and modify, or consent to the
19 modification of, any contract or agreement to which the corporation
20 is a party or in which the corporation has an interest under this act,
21 with or without public bidding, notwithstanding the provisions of
22 any other law.

23 c. To make advance, progress, or other payments.

24 d. To acquire, hold, lease, mortgage, maintain, or dispose of, at
25 public or private sale, real and personal property, using any legally
26 available private sector methods including without limitation,
27 securitization of debt or equity, limited partnerships, mortgage
28 investment conduits, and real estate investment trusts, and
29 otherwise exercise all the usual incidents of ownership of property
30 necessary and convenient to the operations of the corporation.

31 e. To sue and be sued in its corporate capacity in any court of
32 competent jurisdiction.

33 f. To exercise any other power established under this section
34 and such incidental powers as are necessary to carry out its duties
35 and functions under this section. The corporation may indemnify
36 the directors, officers, and employees of the corporation on such
37 terms as the corporation deems proper against any liability under
38 any civil suit pursuant to any statute or pursuant to common law
39 with respect to any claim arising out of or resulting from any act or
40 omission by such person within the scope of such person's
41 employment in connection with any transaction entered into
42 involving the disposition of assets (or any interests in any assets or
43 any obligations backed by any assets) by the corporation. For
44 purposes of this subsection, the terms "officers" and "employees"
45 include officers and employees of the agency. The indemnification
46 authorized by this subsection shall be in addition to and not in lieu
47 of any immunities or other protections that may be available to such

1 person under applicable law, and this provision does not affect any
2 such immunities or other protections.

3

4 6. In addition to the powers of the corporation described in
5 section 5 of P.L. , c. (C.) (pending before the Legislature as
6 this bill), the corporation shall have the following powers:

7 a. The corporation may enter into contracts with any person,
8 corporation, or entity which the corporation determines to be
9 necessary or appropriate to carry out its responsibilities under this
10 act. Such contracts shall be subject to the procedures adopted
11 pursuant to section 7 of this act.

12 b. In carrying out the corporation's duties under this act, the
13 corporation may utilize the services of private persons, including
14 real estate and loan portfolio asset management, property
15 management, auction marketing, and brokerage services, if such
16 services are available in the private sector and the corporation
17 determines utilization of such services are practicable and efficient.

18 c. Within 120 days after the adoption of this act, the
19 corporation shall enter into ¹['an intercreditor] a mutually binding
20 funding¹ agreement with the New Jersey Housing and Mortgage
21 Finance Agency for the ¹['sole purpose] purposes¹ of

22 ¹(1) determining the target amount of bond proceeds to be raised
23 by the agency for the activities of the corporation, as well as the
24 sources of repayment of, and security for, the agency's bonds; and

25 ¹(2) identifying underwriting standards, securitization of debt,
26 and credit standards for the acquisition of foreclosed residential
27 properties or mortgage assets.

28

29 7. a. (1) The corporation shall enter into contracts or loans, or
30 both, with no more than two qualified community development
31 financial institutions to negotiate, bid for, and purchase eligible
32 properties and mortgage assets from institutional lenders for the
33 purpose of producing affordable housing. In selecting contractors
34 from among qualified community development financial
35 institutions, the corporation shall accord a strong preference to
36 qualified community development financial institutions that have
37 substantial experience in lending in New Jersey and substantial
38 knowledge of New Jersey real estate markets. The corporation may
39 enter into contracts or loans, or both, with a partnership or consortia
40 of organizations, as long as a qualified community development
41 financial institution is the lead entity, or a partnership or consortia
42 of multiple qualified community development financial institutions.

43 (2) The contracts shall specify the amounts, schedules, and
44 types of funding to be provided by the corporation to the qualified
45 community development financial institutions, the repayment
46 schedule for the portion of that funding to be repaid, and targeted
47 goals of affordable housing to be produced. The corporation may

1 condition funding and goals upon the availability of funds to the
2 corporation. The contracts shall specify reasonable administrative
3 costs sufficient to enable the qualified community development
4 financial institutions to exercise their obligations pursuant to this
5 act. The contracts shall set forth criteria for instances when the
6 purchase, sale, lease, and conveyance of properties as market-rate
7 units furthers the purposes of this act.

8 b. (1) Upon purchase of an eligible property or mortgage asset
9 for use as affordable housing by the corporation or its contractors,
10 the municipality in which the property is located shall be afforded a
11 45-day period of time within which the municipal governing body
12 may opt to purchase the property in lieu of the corporation in
13 accordance with the provisions set forth in this act. The
14 municipality may waive this right through written notice to the
15 corporation or, if so designated by the corporation, its contractors,
16 prior to the expiration of the 45-day period.

17 (2) Those eligible properties purchased by the qualified
18 community development financial institutions and designated
19 pursuant to this act for use as affordable housing shall be restricted
20 for occupancy as affordable housing for a period of 30 years. The
21 restriction shall be set forth in the deed and recorded in the office of
22 the county recording officer of the county wherein the real estate is
23 situated. Affordability controls shall be imposed upon purchase and
24 maintained upon transfer in accordance with the provisions of the
25 Uniform Housing Affordability Controls promulgated by the
26 agency.

27 c. (1) As soon as possible after entering into a contract to
28 purchase an eligible property, but not less than five days after the
29 date the corporation or its contractors enters into the contract, the
30 corporation or its contractors shall provide written notice by
31 personal service or certified mail to the governing body of the
32 municipality within which the eligible property is located. The
33 notice shall inform the governing body of the municipality's
34 opportunity to purchase the eligible property, the municipality's
35 right of first refusal to purchase the property, and the municipality's
36 right to use monies deposited in its affordable housing trust fund.

37 (2) As soon as possible after entering into a contract to purchase
38 an eligible property, but not less than five days after the date the
39 corporation or its contractors enters into the contract, the
40 corporation or its contractors shall list the property on the
41 Department of the Treasury's website. The listing shall contain
42 basic information about the property, including but not limited to
43 location, condition, and information relating to the estimated fair
44 market value of the property. The corporation or its contractors
45 shall make information about the listing available to the agency
46 and, upon request, to municipalities, other public agencies,
47 community development corporations, developers, and qualifying
48 households.

1 (3) The corporation or its contractors shall allow public
2 agencies, community development corporations, developers, and
3 qualifying households reasonable access to an eligible property for
4 purposes of inspection.

5 d. (1) In order to exercise its right to purchase an eligible
6 property, the governing body of the municipality shall provide
7 written notice to the chairperson of the corporation or, if so
8 designated by the corporation, its contractors, within 45 days of the
9 municipality's receipt of the notice required pursuant to subsection
10 c. of this section.

11 (2) The governing body of a municipality may adopt a
12 resolution authorizing the mayor or other designated municipal
13 official to respond to notices received pursuant to subsection c. of
14 this section. The resolution may establish parameters for that
15 exercise of authority, including but not limited to the total amount
16 of funds that may be expended and the amount that may be
17 expended for each unit of housing.

18 (3) A municipality may use any available funding sources to
19 purchase eligible properties or mortgage assets through the
20 corporation pursuant to this act, except for funds that are dedicated
21 to another purpose by law, covenant, or other obligation.

22 (4) Whenever a municipality does not exercise an option to
23 purchase an eligible property under this section, the corporation or
24 its contractors may lease the property for occupancy as affordable
25 housing subject to a 30-year deed restriction or convey the property
26 for occupancy as affordable housing subject to a 30-year deed
27 restriction to another public agency, a community development
28 corporation, a developer, or a qualifying household. ¹~~['The]~~ A
29 municipality that does not exercise an option to purchase an eligible
30 property under this section may adopt a resolution authorizing the¹
31 corporation or its contractors ¹~~['may]~~ to¹ use monies deposited in
32 that municipality's affordable housing trust fund, up to and
33 including the negotiated purchase price of the eligible property, and
34 apply those funds to the purchase of the eligible property.

35 e. Notwithstanding any other provision of this section to the
36 contrary, the corporation and, if authorized by contract, its
37 contractors, may purchase, sell, lease, and convey market rate-units
38 without offering those units to the municipality and without
39 imposing affordability controls upon the property if the purchase,
40 sale, lease, and conveyance of those properties as market-rate units
41 satisfy criteria established pursuant to contract in accordance with
42 subsection a. of this section and does not violate the terms of any
43 other provision of law or requirement, including those governing
44 the use of funds used to make the purchase.

45 f. All purchases, sales, leases, and conveyances of property by
46 qualified community development financial institutions exercised
47 pursuant to this section shall be deemed to lessen the burdens of
48 government in furthering the purposes of this act.

1 8. a. A municipality that purchases an eligible property
2 pursuant to this act shall sell and convey or lease the housing unit or
3 units acquired within 60 days of the date of purchase, unless it is
4 not possible to do so due to practical or market conditions. In the
5 event that an eligible property is not conveyed or leased within 180
6 days of the date of purchase, or remains vacant for a 180-day period
7 during the pendency of affordability controls, the corporation, or
8 the agency as successor to the corporation, may commence
9 proceedings to take control of the property and to sell and convey or
10 lease the property in furtherance of the purposes of this act and deed
11 restrictions of record.

12 b. The governing body of a municipality that purchases an
13 eligible property pursuant to this act may, by resolution, authorize
14 the private sale and conveyance or the lease of a housing unit or
15 units acquired pursuant to this act. Every deed and rental
16 agreement shall contain a provision specifying the requirement that
17 the housing unit or units shall remain available to low- and
18 moderate-income households for a period of at least 30 years.

19 c. '[A] Except as provided in subsection d. of this section,
20 whenever the corporation, its contractors, or a' municipality
21 '[that]' purchases an eligible property pursuant to this act from
22 monies deposited in '[its municipal] the municipality's' affordable
23 housing trust fund and dedicates the property for affordable
24 housing, as required by this act, 'that municipality' shall receive:

25 (1) two units of credit towards its affordable housing obligation
26 for:

27 (a) each eligible property sold or conveyed as a for-sale unit or
28 leased as rental housing, and

29 (b) each '[new bedroom] unit of affordable housing' dedicated
30 for permanent supportive housing other than supportive shared
31 living housing.

32 (2) one and one-quarter units of credit towards its affordable
33 housing obligation for each new bedroom dedicated in supportive
34 shared living housing.

35 'd. The total number of additional units of credit beyond the
36 actual units of housing provided pursuant to this act shall not
37 exceed 25 percent of whatever the municipality's affordable
38 housing obligation may be.'

39

40 9. The corporation and the State Treasurer shall prioritize the
41 allocation of tax-exempt private activity bonds in the amount
42 necessary to effectuate the purposes of this act in each year until the
43 corporation ceases operation, provided that the proceeds of tax-
44 exempt private activity bonds to support the purposes of this act
45 shall be limited to contracts with and loans to qualified community
46 development financial institutions pursuant to section 7 of this act.

1 10. a. For the purposes of this section:

2 "Foreclosure-impacted municipality" means a municipality that
3 documents a minimum of 10 units of housing that have been
4 foreclosed upon and have remained unsold on a Multiple Listing
5 Service for at least 60 days; and

6 "Units of housing" means units of housing that are not age-
7 restricted and are habitable year-round, including but not limited to,
8 single family homes, condominium units, cooperative units, and
9 mobile homes with at least two bedrooms.

10 b. (1) Prior to the date that a foreclosure-impacted
11 municipality's development fees or payments-in-lieu fees are
12 scheduled to transfer to the "New Jersey Affordable Housing Trust
13 Fund" pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) or
14 section 9 of P.L.2008, c.46 (C.52:27D-329.3), the municipality may
15 adopt a resolution committing the expenditure of municipal
16 affordable housing trust fund monies for the purposes of this act.
17 The resolution shall authorize the transfer of a minimum of
18 \$150,000 from the municipality's municipal affordable housing trust
19 fund to the "Foreclosure to Affordable Housing Transformation
20 Fund" for use by the corporation or its contractors for the provision
21 of affordable housing pursuant to this section and the procedures
22 specified in section 7 of this act.

23 (2) The resolution may authorize the mayor or other designated
24 municipal official to exercise the municipal powers described in
25 section 7 of this act. The resolution may establish parameters for
26 that exercise of authority, including but not limited to purchase
27 price levels for the exercise of that power.

28 c. (1) The corporation or its contractors may use funds
29 transferred pursuant to subsection a. of this section in any manner
30 designed to further the purposes of this act, provided that the
31 corporation or its contractors shall use its best efforts to produce
32 very-low, low-, and moderate-income housing within the
33 municipality transferring funds pursuant to this section, with a deed
34 restriction specifying that the housing unit or units shall remain
35 available to low- and moderate-income households for a period of at
36 least 30 years, and may target the acquisition of eligible property
37 towards such municipalities to further that end.

38 (2) If the corporation or its contractors are unable to utilize
39 some or all of the funds provided to produce affordable housing
40 within the municipality within two years of the transfer of such
41 funds to the "Foreclosure to Affordable Housing Transformation
42 Fund," the funds shall be returned to the municipality as soon as
43 practicable after the two-year anniversary of such transfer. From
44 the date any such funds are returned to the municipality, the
45 municipality shall be required to commit the funds in accordance
46 with section 8 of P.L.2008, c.46 (C.52:27D-329.2) or section 9 of
47 P.L.2008, c.46 (C.52:27D-329.3), as applicable, within the time
48 constraints set forth in those sections or within six months after the

1 date of transfer of funds back to the municipality, whichever is
2 later.

3 d. Affordable housing created through the "Foreclosure to
4 Affordable Housing Transformation Fund" pursuant to this section
5 shall receive bonus affordable housing credit as set forth in
6 subsection c. of section 8 of this act, even if the municipality does
7 not exercise its right to purchase the property.

8 e. No agency of the State of New Jersey shall take any action
9 to transfer funds from a municipal affordable housing trust fund to
10 the "New Jersey Affordable Housing Trust Fund" established
11 pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) when
12 such funds are designated to effectuate the purposes of this act
13 during the timeframes established in this section.

14

15 11. a. There is established within the agency a "Foreclosure to
16 Affordable Housing Transformation Fund," which shall be a non-
17 lapsing, revolving fund and which shall be the repository for funds
18 appropriated or otherwise made available for the purposes of this
19 act, and any interest earned thereon. The fund shall be administered
20 by the agency, in accordance with its authority under section 5 of
21 P.L.1983, c.530 (C.55:14K-5) to manage funds for housing
22 programs.

23 b. The agency may transfer into the "Foreclosure to Affordable
24 Housing Transformation Fund" any amounts held or received by the
25 agency that may be used for the production of affordable housing
26 and that is needed by the corporation or its contractors for the
27 purchase of eligible property. 'Subject to the provisions of sections
28 20 through 28 of P.L.1983, c.530 (C.55:14K-20 through C.55:14K-
29 28), the agency is authorized to issue its bonds to fund the activities
30 of the corporation; provided, however, that tax-exempt bonds shall
31 only be issued consistent with the requirements of section 9 of
32 P.L. , c. (C.) (pending before the Legislature as this bill).¹

33 c. In any year in which the proceeds from the receipts of the
34 additional fee collected pursuant to paragraph (2) of subsection a. of
35 section 3 of P.L.1968, c.49 (C.46:15-7) exceeds \$75 million, the
36 first \$10 million above the \$75 million collected shall be transferred
37 into the "Foreclosure to Affordable Housing Transformation Fund"
38 for the purposes of the production of affordable housing.

39 d. Notwithstanding any provision of law to the contrary, the
40 Commissioner of Community Affairs may transfer into the
41 "Foreclosure to Affordable Housing Transformation Fund" amounts
42 held for the production of affordable housing and not designated for
43 a specific purpose beyond the overall production of affordable
44 housing by the annual budget, including but not limited to monies
45 deposited in the "New Jersey Affordable Housing Trust Fund,"
46 which amounts are needed by the corporation for the purchase of
47 eligible property. The commissioner shall consider the transfer of
48 funds from the "New Jersey Affordable Housing Trust Fund" to the

1 "Foreclosure to Affordable Housing Transformation Fund" as a
2 priority for funding until the corporation ceases its operations.

3 e. All amounts deposited into the "Foreclosure to Affordable
4 Housing Transformation Fund" that are derived from federal
5 funding sources or are otherwise dedicated to the production of
6 affordable housing shall be used exclusively for the production of
7 affordable housing. The corporation may use other funds for the
8 production of affordable housing or market rate housing.

9 f. The corporation may use annually up to three percent of the
10 monies available in the fund for the payment of any necessary
11 administrative costs related to the administration of this act.

12

13 12. a. In an uncontested action to enforce a residential mortgage
14 governed by the "Fair Foreclosure Act," P.L.1995, c.244 (C. 2A:50-
15 53 et seq.), against vacant and abandoned real property, the lender
16 may file a Motion for Expedited Judgment and Sale. The motion
17 shall be accompanied by an affidavit from a person having personal
18 knowledge of the contents and shall plead the specific facts upon
19 which the finding of vacancy and abandonment is based, consistent
20 with subsection b. of this section. If the Superior Court finds the
21 motion and affidavit to be in compliance with the provisions of this
22 section, the Superior Court shall enter final judgment in foreclosure
23 and direct issuance of a writ of execution to the sheriff of the
24 county in which the real property is situate, or to a receiver
25 appointed by the Superior Court, for the sale of the property within
26 45 days after entry of final judgment.

27 b. Real property shall be presumed vacant and abandoned
28 under this section if there has been no legal resident or tenant for a
29 period of 45 or more consecutive days. Vacancy and abandonment
30 may also be evidenced by the presence of any condition that on its
31 own, or in combination with other conditions present, would lead a
32 reasonable person to believe that the property is vacant and
33 abandoned, including: (1) the failure to pay taxes; (2) a failure to
34 claim certified mail; (3) the filing of a change of address form; (4)
35 overgrown or dead vegetation; (5) accumulation of flyers, mail, or
36 trash; (6) disconnected utilities; (7) the absence of window
37 coverings or furniture; (8) statements of neighbors, delivery
38 persons, or government employees that are consistent with vacancy
39 and abandonment.

40 c. If a tenant occupied all or a portion of the property prior to
41 the mailing of a default notice by the lender, and the tenant is
42 paying fair market value rent to the landlord or debtor pursuant to a
43 valid assignment of rents, then a presumption shall exist that the
44 property has not been abandoned for the purposes of this section. If
45 a debtor enters into a lease agreement with a tenant after the mailing
46 of a default notice from the lender, then a presumption that the
47 property has not been abandoned shall not be made, but shall be

1 weighed against other factors as to whether or not the property has
2 been abandoned.

3 d. Nothing in this section shall be construed to affect the rights
4 of a tenant to possession of a leasehold interest under the Anti-
5 Eviction Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.), the "New
6 Jersey Foreclosure Fairness Act," P.L.2009, c.296 (C.2A:50-69 et
7 seq.), or any other applicable law.

8 e. A Motion for Expedited Judgment and Sale filed pursuant to
9 this section shall be deemed to be constructive notice to all persons
10 and entities with an interest in the property that is properly recorded
11 with the county clerk or county registrar prior to the recording of
12 the notice of lis pendens in the foreclosure action, whether or not
13 the person or entity entered an appearance or answered the
14 foreclosure complaint. Pursuant to the New Jersey Rules of Court,
15 any interested party may present a defense to rebut a claim of
16 abandonment that shall be accompanied by an affidavit stating that
17 the defense is not made for the purpose of delaying the relief
18 requested pursuant to the Motion for Expedited Judgment and Sale.

19

20 13. This act shall take effect immediately.