[Second Reprint]

SENATE, No. 2157

STATE OF NEW JERSEY

215th LEGISLATURE

INTRODUCED JULY 30, 2012

Sponsored by:
Senator RAYMOND J. LESNIAK
District 20 (Union)
Assemblyman JERRY GREEN
District 22 (Middlesex, Somerset and Union)
Assemblywoman MILA M. JASEY
District 27 (Essex and Morris)
Assemblyman ALBERT COUTINHO
District 29 (Essex)

Co-Sponsored by:
Senators Cunningham, Ruiz, Pou and Greenstein

SYNOPSIS

Establishes the "New Jersey Residential Foreclosure Transformation Act."

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on October 1, 2012, with amendments.

(Sponsorship Updated As Of: 12/4/2012)

AN ACT concerning the foreclosure of residential properties, the transfer and dedication of foreclosed residential properties for affordable housing, and supplementing Title 55 of the Revised Statutes.

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

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

2. The Legislature finds and declares that:

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

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

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

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

e. It is the public policy of this State to encourage the production of low-income and moderate-income housing to serve

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 <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SEG committee amendments adopted August 20, 2012.
[2]Senate SBA committee amendments adopted October 1, 2012.

the general welfare of all the State's residents.

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

g. Establishment of a temporary [1][State entity] program within the New Jersey Housing and Mortgage Finance Agency[1] dedicated to the purpose of identifying foreclosed residential properties and facilitating their purchase and dedication for occupancy or their rental, including [1],[1] but not limited to [1],[1] low-income and moderate-income families, is in the public interest of the State.

3. As used in this act:

“Affordable” means a sales price or rent within the means of a low [1]-[1] or moderate [1]-[1] income household.

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

"Community development financial institution" means an entity designated and certified by the United States Department of the Treasury as a Community Development Financial Institution pursuant to 12 CFR Part 1805.

"Contractor" means a qualified community development financial institution that enters into a contract or loan with the [1][corporation] agency[1] pursuant to section 7 of this act.

[1][“Corporation" means the "New Jersey Foreclosure Relief Corporation" established pursuant to this act.][1]

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

"Institutional lender" or "lender" means any lawfully constituted mortgage lender, mortgage investor, or mortgage loan servicer that owns an eligible property including, but not limited to any agency or instrumentality of the United States, including, but not limited to, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration, the Small Business Administration, the Resolution Funding Corporation, and the Federal Deposit Insurance Corporation.

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

"Low-income" means 50 percent or less of the median gross household income for households of the same size within the housing region in which the household is located, based upon the United States Department of Housing and Urban Development’s [1][(HUD)][1] Section 8 Income Limits (uncapped) averaged across counties for the housing region.

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

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

"Moderate-income" means more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the household is located, based upon the United States Department of Housing and Urban Development's ¹**[**(HUD's)**]**¹ Section 8 Income Limits (uncapped) averaged across counties for the housing region.

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

¹"Program" means the "New Jersey Foreclosure Transformation Program" established pursuant to this act.¹

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

"Qualifying household" means a very-low ¹-¹, low-, or moderate-income household, the head of which certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months.

"Very-low-income" means 30 percent or less of the median gross household income for households of the same size within the housing region in which the household is located, based upon the United States Department of Housing and Urban Development's ¹**[**(HUD)**]**¹ Section 8 Income Limits (uncapped) averaged across counties for the housing region.

"Very-low-income housing" means housing affordable ¹**[**to**]**¹ , according to United States Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied ¹**[**by,**]**¹ or reserved for occupancy by ¹**[**,**]**¹ households with a gross household income equal to 30 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

[1][4. a. There is established in the New Jersey Housing and Mortgage Finance Agency the "New Jersey Foreclosure Relief Corporation."

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

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

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

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

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

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

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

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

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

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

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

(b) the total numbers of very-low-income, low-income, and moderate-income units that were produced for sale and for rental in the preceding year pursuant to this act, their locations by municipality, and the sources of financing used.

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

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

i. The corporation shall cease its operations on December 31, 2017. On that date, any assets, liabilities, properties, or funds held by the corporation shall transfer to the agency. The corporation shall expire upon transmittal of the 2017 annual report, but no later than March 31, 2017.**]**[1]

[1]4. There is established in the New Jersey Housing and Mortgage Finance Agency the "New Jersey Foreclosure Transformation Program," which shall be a temporary program for the purpose of purchasing foreclosed residential properties from institutional lenders and dedicating them for occupancy as affordable housing.[1]

5. [1]**[**The corporation**]** To implement the program, the agency[1] shall have the following powers:

a. [1]**[**To adopt, alter, and use a corporate seal.

b.**]**[1] To enter into contracts and modify, or consent to the modification of, any contract or agreement to which the [1]**[**corporation**]** agency[1] is a party or in which the [1]**[**corporation**]** agency[1] has an interest under this act, with or without public bidding, notwithstanding the provisions of any other law.

[1]**[**c.**]** b.[1] To make advance, progress, or other payments.

[1]**[**d.**]** c.[1] To acquire, hold, lease, mortgage, maintain, and dispose of, at public or private sale, real and personal property, using any legally available private sector methods including without limitation, securitization of debt or equity, limited partnerships, mortgage investment conduits, and real estate investment trusts, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the operations of the [1]**[**corporation**]** agency[1]; provided, however, that every contract for the acquisition of real property entered into by the [1]**[**corporation**]** agency[1], and every deed conveying real property to the [1]**[**corporation**]** agency[1], shall provide that if the [1]**[**corporation**]** agency[1] holds title to the property on the 61st day after the date of the deed, all rights, title, and interest conveyed to the [1]**[**corporation**]** agency[1] shall automatically revert to and vest in the grantor without the necessity of any further act on the part of or on behalf of the grantor, it being the intent to convey a determinable estate. In each case where title has reverted to and re-vested in the grantor as provided in this subsection, the [1]**[**corporation**]** agency[1] shall memorialize the reversion and re-vesting of title by the immediate execution and delivery of a deed to the grantor conveying all of the [1]**[**corporation's**]** agency's[1] estate, right, title and interest in and to the property described therein.

[1]**[**e.**]** d.[1] To sue and be sued in its [1]**[**corporate capacity**]** own name[1] in any court of competent jurisdiction.

[1][f. To exercise any other power established under this section and such incidental powers as are necessary to carry out its duties and functions under this section. The corporation may indemnify the directors, officers, and employees of the corporation on such terms as the corporation deems proper against any liability under any civil suit pursuant to any statute or pursuant to common law with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction entered into involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the corporation. For purposes of this subsection, the terms "officers" and "employees" include officers and employees of the agency. The indemnification authorized by this subsection shall be in addition to and not in lieu of any immunities or other protections that may be available to such person under applicable law, and this provision does not affect any such immunities or other protections.][1]

6. In addition to the powers of the [1][corporation] agency[1] described in section 5 of P.L. , c. (C.) (pending before the Legislature as this bill) [1]in implementing the program[1], the [1][corporation] agency[1] shall have the following powers:

a. The [1][corporation] agency[1] may enter into contracts with any person, corporation, or entity which the [1][corporation] agency[1] determines to be necessary or appropriate to carry out its responsibilities under this act. Such contracts shall be subject to the procedures adopted pursuant to section 7 of this act.

b. In carrying out the [1][corporation's] agency's[1] duties under this act, the [1][corporation] agency[1] may utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the [1][corporation] agency[1] determines utilization of such services are practicable and efficient.

[1][c. Within 120 days after the adoption of this act, the corporation shall enter into a mutually binding funding agreement with the New Jersey Housing and Mortgage Finance Agency for the purposes of

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

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

7. a. (1) [1][The corporation] To implement the program, the agency[1] shall enter into contracts or loans, or both, with no more

than two qualified community development financial institutions to negotiate, bid for, and purchase eligible properties and mortgage assets from institutional lenders for the purpose of producing affordable housing. In selecting contractors from among qualified community development financial institutions, the [1][corporation] agency[1] shall accord a strong preference to qualified community development financial institutions that have substantial experience in lending in New Jersey and substantial knowledge of New Jersey real estate markets. The [1][corporation] agency[1] may enter into contracts or loans, or both, with a partnership or consortia of organizations, as long as a qualified community development financial institution is the lead entity, or a partnership or consortia of multiple qualified community development financial institutions.

(2) The contracts shall specify the amounts, schedules, and types of funding to be provided by the [1][corporation] agency[1] to the qualified community development financial institutions, the repayment schedule for the portion of that funding to be repaid, and targeted goals of affordable housing to be produced. The [1][corporation] agency[1] may condition funding and goals upon the availability of funds to the [1][corporation] agency[1]. The contracts shall specify reasonable administrative costs sufficient to enable the qualified community development financial institutions to exercise their obligations pursuant to this act. The contracts shall set forth criteria for instances when the purchase, sale, lease, and conveyance of properties as market-rate units furthers the purposes of this act.

b. (1) As soon as possible after the [1][corporation] agency[1] or one of its contractors enters into a contract to purchase an eligible property or mortgage asset for use as affordable housing, the [1][corporation] agency[1] or contractor shall provide the municipality in which the property is located a 45-day period of time within which the municipal governing body may:

(a) consent or withhold consent to the [1][corporation's] agency's[1] or contractor's purchase of the eligible property for use as affordable housing, or

(b) opt to purchase the property in lieu of the [1][corporation] agency[1] or contractor in accordance with the provisions set forth in this act. The municipality may waive these rights through written notice to the [1][corporation] agency[1] or, if so designated by the [1][corporation] agency[1], its contractors, prior to the expiration of the 45-day period.

(2) Those eligible properties purchased by the qualified community development financial institutions and designated pursuant to this act for use as affordable housing shall be restricted for occupancy as affordable housing for a period of 30 years. The restriction shall be set forth in the deed and recorded in the office of the county recording officer of the county wherein the real estate is situated. Affordability controls shall be imposed upon purchase and

maintained upon transfer in accordance with the provisions of the Uniform Housing Affordability Controls promulgated by the agency.

c. (1) As soon as possible after entering into a contract to purchase an eligible property for use as affordable housing, but not less than five days after the date the [1][corporation] agency[1] or its contractors enters into the contract, the [1][corporation] agency[1] or its contractors shall provide written notice by personal service or certified mail to the governing body of the municipality within which the eligible property is located. The notice shall inform the municipal governing body of:

(a) the [1][corporation's] agency's[1] or contractor's intent to purchase the eligible property and to restrict it for use as affordable housing for 30 years,

(b) the municipality's opportunity to consent or to withhold consent to the proposed purchase and dedication of the property for affordable housing,

(c) the municipality's opportunity to purchase the eligible property,

(d) the municipality's right of first refusal to purchase the property, and

(e) the municipality's right to use monies deposited in its affordable housing trust fund.

(2) As soon as possible after entering into a contract to purchase an eligible property, but not less than five days after the date the [1][corporation] agency[1] or its contractors enters into the contract, the [1][corporation] agency[1] or its contractors shall list the property on the Department of the Treasury's website. The listing shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. The [1][corporation] agency[1] or its contractors shall make information about the listing available to the agency and, upon request, to municipalities, other public agencies, community development corporations, developers, and qualifying households.

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

d. (1) In order to consent or withhold consent to the proposed purchase and dedication of an eligible property as affordable housing or exercise its right to purchase an eligible property, the governing body of the municipality shall provide written notice to the [1][chairperson] executive director[1] of the [1][corporation] agency[1] or, if so designated by the [1][corporation] agency[1], its contractors, within 45 days of the municipality's receipt of the notice required pursuant to subsection c. of this section.

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

(3) A municipality may use any available funding sources to purchase eligible properties or mortgage assets through the [1][corporation] agency[1] pursuant to this act, except for funds that are dedicated to another purpose by law, covenant, or other obligation.

(4) Whenever a municipality does not exercise an option to purchase an eligible property under this section or withhold consent to the proposed purchase and dedication of the property for affordable housing within 45 days of the municipality's receipt of the notice required pursuant to subsection c. of this section, the [1][corporation] agency[1] or its contractors may convey the property for occupancy as affordable housing subject to a 30-year deed restriction to another public agency, a community development corporation, a developer, or a qualifying household or the contractors may lease the property for occupancy as affordable housing subject to a 30-year deed restriction. A municipality that does not exercise an option to purchase an eligible property under this section may adopt a resolution authorizing the [1][corporation] agency[1] or its contractors to use monies deposited in that municipality's affordable housing trust fund, up to and including the negotiated purchase price of the eligible property, and apply those funds to the purchase of the eligible property.

e. Notwithstanding any other provision of this section to the contrary, the [1][corporation] agency[1] and, if authorized by contract, its contractors, may purchase, sell, lease, and convey market rate-units without offering those units to the municipality and without imposing affordability controls upon the property if the purchase, sale, lease, and conveyance of those properties as market-rate units satisfy criteria established pursuant to contract in accordance with subsection a. of this section and does not violate the terms of any other provision of law or requirement, including those governing the use of funds used to make the purchase.

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

8. a. A municipality that purchases an eligible property pursuant to this act shall sell and convey or lease the housing unit or units acquired within 60 days of the date of purchase, unless it is

not possible to do so due to practical or market conditions. In the event that an eligible property is not conveyed or leased within 180 days of the date of purchase, or remains vacant for a 180-day period during the pendency of affordability controls, the ¹[corporation, or the]¹ agency ¹[as successor to the corporation,]¹ may commence proceedings to take control of the property and to sell and convey or lease the property in furtherance of the purposes of this act and deed restrictions of record.

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

c. Except as provided in subsection d. of this section, whenever the ¹[corporation] agency¹, its contractors, or a municipality purchases an eligible property pursuant to this act from monies deposited in the municipality's affordable housing trust fund and dedicates the property for affordable housing, as required by this act, that municipality shall receive two units of credit towards its affordable housing obligation for each unit of affordable housing dedicated and provided.

d. The total number of ¹[additional] bonus¹ units of credit beyond the actual units of housing provided pursuant to this act shall not exceed 25 percent of whatever the municipality’s affordable housing obligation may be. No unit of affordable housing shall receive the ¹[additional] bonus¹ units of credit described in this act in addition to any other type of additional units of credit that may be available towards a municipality's affordable housing obligation.

9. The ¹[corporation] agency¹ and the State Treasurer shall prioritize the allocation of tax-exempt private activity bonds in the amount necessary to effectuate the purposes of this act in each year until the ¹[corporation] agency¹ ceases operation ¹of the program¹, provided that the proceeds of tax-exempt private activity bonds to support the purposes of this act shall be limited to contracts with and loans to qualified community development financial institutions pursuant to section 7 of this act.

10. a. For the purposes of this section:

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

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

b. (1) Prior to the date that a foreclosure-impacted municipality's development fees or payments-in-lieu fees are scheduled to transfer to the "New Jersey Affordable Housing Trust Fund" pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) or section 9 of P.L.2008, c.46 (C.52:27D-329.3), the municipality may adopt a resolution committing the expenditure of municipal affordable housing trust fund monies. These funds shall be used to produce very-low-income, low-income, and moderate-income housing. The resolution shall authorize the transfer of a minimum of $150,000 from the municipality's municipal affordable housing trust fund to the "Foreclosure to Affordable Housing Transformation Fund" ⁅established pursuant to section 11 of this act⁆ for use by the ⁅[corporation] agency⁆ or its contractors for the provision of affordable housing pursuant to this section and the procedures specified in section 7 of this act.

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

c. (1) The ⁅[corporation] agency⁆ or its contractors shall use funds transferred pursuant to subsection b. of this section to produce very-low-, low-, and moderate-income housing within the municipality transferring funds pursuant to this section, with a deed restriction specifying that the housing unit or units shall remain available to low- and moderate-income households for a period of at least 30 years.

(2) If the ⁅[corporation] agency⁆ or its contractors are unable to utilize some or all of the funds provided to produce affordable housing within the municipality within two years of the transfer of such funds to the “Foreclosure to Affordable Housing Transformation ⁅[Fund,"] ⁅Fund” established pursuant to section 11 of this act,⁆ the funds shall be returned to the municipality as soon as practicable after the two-year anniversary of such transfer. From the date any such funds are returned to the municipality, the municipality shall be required to commit the funds in accordance with section 8 of P.L.2008, c.46 (C.52:27D-329.2) or section 9 of P.L.2008, c.46 (C.52:27D-329.3), as applicable, within the time constraints set forth in those sections or within six months after the date of transfer of funds back to the municipality, whichever is later.

d. Affordable housing created ⁅pursuant to this section⁆ through the "Foreclosure to Affordable Housing Transformation

Fund" [1][pursuant to this section] established pursuant to section 11 of this act,[1] shall receive [1][bonus] additional[1] affordable housing credit as set forth in subsection c. of section 8 of this act, even if the municipality does not exercise its right to purchase the property.

e. No agency of the State of New Jersey shall take any action to transfer funds from a municipal affordable housing trust fund to the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) when such funds are designated to effectuate the purposes of this act during the timeframes established in this section. [2]Nothing in this act shall be construed as requiring the State to spend monies that have been deposited in the General Fund to effectuate the purposes of this act.[2]

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

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

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

d. Notwithstanding any provision of law to the contrary, the Commissioner of Community Affairs may transfer into the "Foreclosure to Affordable Housing Transformation Fund" amounts held for the production of affordable housing and not designated for a specific purpose beyond the overall production of affordable housing by the annual budget, including but not limited to monies deposited in the "New Jersey Affordable Housing Trust Fund," which amounts are needed by the [1][corporation] agency[1] for the

purchase of eligible property. The commissioner shall consider the transfer of funds from the "New Jersey Affordable Housing Trust Fund" to the "Foreclosure to Affordable Housing Transformation Fund" as a priority for funding until the ⁅[corporation] agency⁆ ceases ⁅[its] the program's⁆ operations.

e. All amounts deposited into the "Foreclosure to Affordable Housing Transformation Fund" that are derived from federal funding sources or are otherwise dedicated to the production of affordable housing shall be used exclusively for the production of affordable housing. The ⁅[corporation] agency⁆ may use other funds for the production of affordable housing or market rate housing.

f. The ⁅[corporation] agency⁆ may use annually up to three percent of the monies available in the fund for the payment of any necessary administrative costs related to the administration of this act.

⁅12. a. On or before the last day of March in each year, the agency shall make an annual report of the program's activities for the preceding calendar year, and the program's planned activities for the current and following calendar year, to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The agency shall display the annual reports on the agency's website.

b. Each annual report shall set forth the current nature and extent of foreclosure activity in New Jersey and shall depict changes in foreclosure activity from the prior calendar year. The report shall set forth a complete operating and financial statement covering the program's operations, transactions, and holdings during the preceding year, including but not limited to:

(1) the total number of re-capitalized market rate units; and

(2) the total numbers of very-low-income, low-income, and moderate-income units that were produced for sale and for rental in the preceding year pursuant to this act, their locations by municipality, and the sources of financing used.⁆

⁅13. The agency shall cease the program's operations on December 31, 2017. On that date, any assets, liabilities, properties, or funds held by the agency shall transfer to other authorized programs operated by the agency.⁆

⁅[12.] 14.⁆ This act shall take effect immediately.