

**ASSEMBLY, No. 470**

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**STATE OF NEW JERSEY**

**216th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman JERRY GREEN**  
**District 22 (Middlesex, Somerset and Union)**  
**Assemblyman TROY SINGLETON**  
**District 7 (Burlington)**  
**Assemblywoman MILA M. JASEY**  
**District 27 (Essex and Morris)**  
**Assemblyman JOHN S. WISNIEWSKI**  
**District 19 (Middlesex)**  
**Assemblywoman ANNETTE QUIJANO**  
**District 20 (Union)**  
**Assemblyman BENJIE E. WIMBERLY**  
**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblymen Giblin, Coughlin, Chivukula, Eustace, Conaway,**  
**Assemblywoman Sumter, Assemblymen Garcia and Lagana**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 1/28/2014)**

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 the  
14      number of mortgage foreclosure filings in New Jersey and across  
15      the nation. The number of mortgage foreclosure actions filed in the  
16      New Jersey Courts grew from just over 20,000 in 2005 to more than  
17      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.

46       f. The availability of tens of thousands of foreclosed  
47      residential properties presents a unique opportunity for the State to

1 facilitate the purchase and dedication, or the rental, of housing units  
2 for low-income and moderate-income residents.

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

8  
9 3. As used in this act:

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

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

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

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

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

28 "Corporation" means the "New Jersey Foreclosure Relief  
29 Corporation" established pursuant to this act.

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

32 "Individuals with special needs" means individuals with mental  
33 illness, physical or developmental disabilities, victims of domestic  
34 violence, ex-offenders, youth aging out of foster care, disabled and  
35 homeless veterans, individuals and households who are homeless,  
36 individuals with AIDS/HIV, and individuals in other emerging  
37 special needs groups identified by State agencies. Individuals shall  
38 be at least 18 years of age if not part of a household.

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

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

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

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

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

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

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

32 "Permanent supportive housing" means a permanent lease based  
33 housing unit that provides access to supportive services for  
34 individuals with special needs and households with individuals with  
35 special needs who can benefit from housing with services.

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

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

45 "Supportive shared living housing" means permanent lease-based  
46 supportive housing that provides access to supportive services to

1 individuals with special needs who maintain separate leases for  
2 bedrooms and share common living space.

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

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

16

17 4. a. There is established in the New Jersey Housing and  
18 Mortgage Finance Agency the "New Jersey Foreclosure Relief  
19 Corporation."

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

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

38 d. The three members appointed by the Governor shall be  
39 residents of the State and shall have knowledge in the areas of real  
40 estate, housing design, construction, or operation; mortgage  
41 banking, finance and foreclosure; or community development. Of  
42 the three members appointed by the Governor, one shall be a  
43 nominee of the Senate President and one shall be a nominee of the  
44 Speaker of the General Assembly. At least one of the members  
45 appointed by the Governor shall hold a license as a real estate  
46 broker, broker-salesperson, salesperson, or referral agent under the  
47 provisions of R.S.45:15-1 et seq. No more than two of the members

1 appointed by the Governor shall be members of the same political  
2 party. The members shall serve for two-year terms. Each member  
3 shall hold office for the term of his appointment and until the  
4 appointment of his successor. A member of the board shall be  
5 eligible for reappointment. A member of the board may be removed  
6 from office by the Governor, for cause, after a public hearing and  
7 may be suspended by the Governor pending the completion of such  
8 a hearing.

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

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

18 (3) The secretary to the board shall deliver a true copy of the  
19 minutes of every board meeting to the Governor. No action taken at  
20 a board meeting shall have force or effect until the Governor  
21 approves the action or fails to veto the action within 10 business  
22 days after a true copy of the minutes were delivered. During that  
23 10-day period, the Governor may render any action taken by the  
24 board or any member thereof null and void by returning a copy of  
25 the minutes with a veto of the action to the board.

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

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

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

46 (2) Each annual report shall set forth the current nature and  
47 extent of foreclosure activity in New Jersey and shall depict

1 changes in foreclosure activity from the prior calendar year. The  
2 report shall set forth a complete operating and financial statement  
3 covering the corporation's operations, transactions and holdings  
4 during the preceding year, including but not limited to:

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

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

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

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

18 i. The corporation shall cease its operations on December 31,  
19 2017. On that date, any assets, liabilities, properties, or funds held  
20 by the corporation shall transfer to the agency. The corporation  
21 shall expire upon transmittal of the 2017 annual report.

22

23 5. The corporation shall have the following powers:

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

25 b. To enter into contracts and modify, or consent to the  
26 modification of, any contract or agreement to which the corporation  
27 is a party or in which the corporation has an interest under this act,  
28 with or without public bidding, notwithstanding the provisions of  
29 any other law.

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

31 d. To acquire, hold, lease, mortgage, maintain, and dispose of,  
32 at public or private sale, real and personal property, using any  
33 legally available private sector methods including without  
34 limitation, securitization of debt or equity, limited partnerships,  
35 mortgage investment conduits, and real estate investment trusts, and  
36 otherwise exercise all the usual incidents of ownership of property  
37 necessary and convenient to the operations of the corporation;  
38 provided, however, that every contract for the acquisition of real  
39 property entered into by the corporation, and every deed conveying  
40 real property to the corporation, shall provide that if the corporation  
41 holds title to the property on the 61st day after the date of the deed,  
42 all rights, title, and interest conveyed to the corporation shall  
43 automatically revert to and vest in the grantor without the necessity  
44 of any further act on the part of or on behalf of the grantor, it being  
45 the intent to convey a determinable estate.

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

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

18  
19 6. In addition to the powers of the corporation described in  
20 section 5 of P.L. , c. (C. ) (pending before the Legislature as  
21 this bill), the corporation shall have the following powers:

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

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

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

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

40 (2) identifying underwriting standards, securitization of debt,  
41 and credit standards for the acquisition of foreclosed residential  
42 properties or mortgage assets.

43  
44 7. a. (1) The corporation shall enter into contracts or loans, or  
45 both, with no more than two qualified community development  
46 financial institutions to negotiate, bid for, and purchase eligible  
47 properties and mortgage assets from institutional lenders for the



1 purpose of producing affordable housing. In selecting contractors  
2 from among qualified community development financial  
3 institutions, the corporation shall accord a strong preference to  
4 qualified community development financial institutions that have  
5 substantial experience in lending in New Jersey and substantial  
6 knowledge of New Jersey real estate markets. The corporation may  
7 enter into contracts or loans, or both, with a partnership or consortia  
8 of organizations, as long as a qualified community development  
9 financial institution is the lead entity, or a partnership or consortia  
10 of multiple qualified community development financial institutions.

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

23 b. (1) As soon as possible after entering into a contract to  
24 purchase an eligible property or mortgage asset for use as  
25 affordable housing by the corporation or its contractors, the  
26 municipality in which the property is located shall be afforded a 45-  
27 day period of time within which the municipal governing body may  
28 opt to purchase the property in lieu of the corporation in accordance  
29 with the provisions set forth in this act. The municipality may waive  
30 this right through written notice to the corporation or, if so  
31 designated by the corporation, its contractors, prior to the expiration  
32 of the 45-day period.

33 (2) Those eligible properties purchased by the qualified  
34 community development financial institutions and designated  
35 pursuant to this act for use as affordable housing shall be restricted  
36 for occupancy as affordable housing for a period of 30 years. The  
37 restriction shall be set forth in the deed and recorded in the office of  
38 the county recording officer of the county wherein the real estate is  
39 situated. Affordability controls shall be imposed upon purchase and  
40 maintained upon transfer in accordance with the provisions of the  
41 Uniform Housing Affordability Controls promulgated by the  
42 agency.

43 c. (1) As soon as possible after entering into a contract to  
44 purchase an eligible property, but not less than five days after the  
45 date the corporation or its contractors enters into the contract, the  
46 corporation or its contractors shall provide written notice by  
47 personal service or certified mail to the governing body of the

1 municipality within which the eligible property is located. The  
2 notice shall inform the governing body of the municipality's  
3 opportunity to purchase the eligible property, the municipality's  
4 right of first refusal to purchase the property, and the municipality's  
5 right to use monies deposited in its affordable housing trust fund.

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

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

22 d. (1) In order to exercise its right to purchase an eligible  
23 property, the governing body of the municipality shall provide  
24 written notice to the chairperson of the corporation or, if so  
25 designated by the corporation, its contractors, within 45 days of the  
26 municipality's receipt of the notice required pursuant to subsection  
27 c. of this section.

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

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

39 (4) Whenever a municipality does not exercise an option to  
40 purchase an eligible property under this section, the corporation or  
41 its contractors may convey the property for occupancy as affordable  
42 housing subject to a 30-year deed restriction to another public  
43 agency, a community development corporation, a developer, or a  
44 qualifying household or the contractors may lease the property for  
45 occupancy as affordable housing subject to a 30-year deed  
46 restriction. A municipality that does not exercise an option to  
47 purchase an eligible property under this section may adopt a

1 resolution authorizing the corporation or its contractors to use  
2 monies deposited in that municipality's affordable housing trust  
3 fund, up to and including the negotiated purchase price of the  
4 eligible property, and apply those funds to the purchase of the  
5 eligible property.

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

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

20

21 8. a. A municipality that purchases an eligible property  
22 pursuant to this act shall sell and convey or lease the housing unit or  
23 units acquired within 60 days of the date of purchase, unless it is  
24 not possible to do so due to practical or market conditions. In the  
25 event that an eligible property is not conveyed or leased within 180  
26 days of the date of purchase, or remains vacant for a 180-day period  
27 during the pendency of affordability controls, the corporation, or  
28 the agency as successor to the corporation, may commence  
29 proceedings to take control of the property and to sell and convey or  
30 lease the property in furtherance of the purposes of this act and deed  
31 restrictions of record.

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

39 c. Except as provided in subsection d. of this section, whenever  
40 the corporation, its contractors, or a municipality purchases an  
41 eligible property pursuant to this act from monies deposited in the  
42 municipality's affordable housing trust fund and dedicates the  
43 property for affordable housing, as required by this act, that  
44 municipality shall receive:

45 (1) two units of credit towards its affordable housing obligation  
46 for:

1 (a) each eligible property sold or conveyed as a for-sale unit or  
2 leased as rental housing, and  
3 (b) each unit of affordable housing dedicated for permanent  
4 supportive housing other than supportive shared living housing.  
5 (2) one and one-quarter units of credit towards its affordable  
6 housing obligation for each new bedroom dedicated in supportive  
7 shared living housing.  
8 d. The total number of additional units of credit beyond the  
9 actual units of housing provided pursuant to this act shall not  
10 exceed 25 percent of whatever the municipality's affordable  
11 housing obligation may be. No unit or bedroom shall receive the  
12 additional units of credit described in this act in addition to any  
13 other type of additional units of credit that may be available  
14 towards a municipality's affordable housing obligation.  
15  
16 9. The corporation and the State Treasurer shall prioritize the  
17 allocation of tax-exempt private activity bonds in the amount  
18 necessary to effectuate the purposes of this act in each year until the  
19 corporation ceases operation, provided that the proceeds of tax-  
20 exempt private activity bonds to support the purposes of this act  
21 shall be limited to contracts with and loans to qualified community  
22 development financial institutions pursuant to section 7 of this act.  
23  
24 10. a. For the purposes of this section:  
25 "Foreclosure-impacted municipality" means a municipality that  
26 documents a minimum of 10 units of housing that have been  
27 foreclosed upon and have remained unsold on a Multiple Listing  
28 Service for at least 60 days; and  
29 "Units of housing" means units of housing that are not age-  
30 restricted and are habitable year-round, including but not limited to,  
31 single family homes, condominium units, cooperative units, and  
32 mobile homes with at least two bedrooms.  
33 b. (1) Prior to the date that a foreclosure-impacted  
34 municipality's development fees or payments-in-lieu fees are  
35 scheduled to transfer to the "New Jersey Affordable Housing Trust  
36 Fund" pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) or  
37 section 9 of P.L.2008, c.46 (C.52:27D-329.3), the municipality may  
38 adopt a resolution committing the expenditure of municipal  
39 affordable housing trust fund monies. These funds shall be used to  
40 produce very-low-income, low-income, and moderate-income  
41 housing. The resolution shall authorize the transfer of a minimum  
42 of \$150,000 from the municipality's municipal affordable housing  
43 trust fund to the "Foreclosure to Affordable Housing  
44 Transformation Fund" for use by the corporation or its contractors  
45 for the provision of affordable housing pursuant to this section and  
46 the procedures specified in section 7 of this act.

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

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

13       (2) If the corporation or its contractors are unable to utilize  
14 some or all of the funds provided to produce affordable housing  
15 within the municipality within two years of the transfer of such  
16 funds to the "Foreclosure to Affordable Housing Transformation  
17 Fund," the funds shall be returned to the municipality as soon as  
18 practicable after the two-year anniversary of such transfer. From  
19 the date any such funds are returned to the municipality, the  
20 municipality shall be required to commit the funds in accordance  
21 with section 8 of P.L.2008, c.46 (C.52:27D-329.2) or section 9 of  
22 P.L.2008, c.46 (C.52:27D-329.3), as applicable, within the time  
23 constraints set forth in those sections or within six months after the  
24 date of transfer of funds back to the municipality, whichever is  
25 later.

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

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

37

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

46       b. The agency may transfer into the "Foreclosure to Affordable  
47 Housing Transformation Fund" any amounts held or received by the

1 agency that may be used for the production of affordable housing  
2 and that is needed by the corporation or its contractors for the  
3 purchase of eligible property. Subject to the provisions of sections  
4 20 through 28 of P.L.1983, c.530 (C.55:14K-20 et seq.), the agency  
5 is authorized to issue its bonds to fund the activities of the  
6 corporation; provided, however, that tax-exempt bonds shall only be  
7 issued consistent with the requirements of section 9 of P.L. ,  
8 c. (C. ) (pending before the Legislature as this bill).

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

15 d. Notwithstanding any provision of law to the contrary, the  
16 Commissioner of Community Affairs may transfer into the  
17 "Foreclosure to Affordable Housing Transformation Fund" amounts  
18 held for the production of affordable housing and not designated for  
19 a specific purpose beyond the overall production of affordable  
20 housing by the annual budget, including but not limited to monies  
21 deposited in the "New Jersey Affordable Housing Trust Fund,"  
22 which amounts are needed by the corporation for the purchase of  
23 eligible property. The commissioner shall consider the transfer of  
24 funds from the "New Jersey Affordable Housing Trust Fund" to the  
25 "Foreclosure to Affordable Housing Transformation Fund" as a  
26 priority for funding until the corporation ceases its operations.

27 e. All amounts deposited into the "Foreclosure to Affordable  
28 Housing Transformation Fund" that are derived from federal  
29 funding sources or are otherwise dedicated to the production of  
30 affordable housing shall be used exclusively for the production of  
31 affordable housing. The corporation may use other funds for the  
32 production of affordable housing or market rate housing.

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

36  
37 12. a. For the purposes of this section, "vacant and abandoned"  
38 residential property means residential real estate with respect to  
39 which the mortgagee proves, by clear and convincing evidence, that  
40 the mortgaged real estate is vacant and has been abandoned. Real  
41 property shall be deemed "vacant and abandoned" if the court finds  
42 that the mortgaged property is not occupied by a mortgagor or  
43 tenant as evidenced by a lease agreement entered into prior to the  
44 service of a notice of intention to commence foreclosure according  
45 to section 4 of the "Fair Foreclosure Act," P.L.1995, c.244  
46 (C.2A:50-56), and at least two of the following conditions exist:

47 (1) overgrown or neglected vegetation;

- 1 (2) the accumulation of newspapers, circulars, flyers or mail on
- 2 the property;
- 3 (3) disconnected gas, electric, or water utility services to the
- 4 property;
- 5 (4) the accumulation of hazardous, noxious, or unhealthy
- 6 substances or materials on the property;
- 7 (5) the accumulation of junk, litter, trash or debris on the
- 8 property;
- 9 (6) the absence of window treatments such as blinds, curtains or
- 10 shutters;
- 11 (7) the absence of furnishings and personal items;
- 12 (8) statements of neighbors, delivery persons, or government
- 13 employees indicating that the residence is vacant and abandoned;
- 14 (9) windows or entrances to the property that are boarded up or
- 15 closed off or multiple window panes that are damaged, broken and
- 16 unrepaired;
- 17 (10) doors to the property that are smashed through, broken off,
- 18 unhinged, or continuously unlocked;
- 19 (11) a risk to the health, safety or welfare of the public, or any
- 20 adjoining or adjacent property owners, exists due to acts of
- 21 vandalism, loitering, criminal conduct, or the physical destruction
- 22 or deterioration of the property;
- 23 (12) an uncorrected violation of a municipal building, housing,
- 24 or similar code during the preceding year, or an order by municipal
- 25 authorities declaring the property to be unfit for occupancy and to
- 26 remain vacant and unoccupied;
- 27 (13) the mortgagee or other authorized party has secured or
- 28 winterized the property due to the property being deemed vacant
- 29 and unprotected or in danger of freezing;
- 30 (14) a written statement issued by any mortgagor expressing the
- 31 clear intent of all mortgagors to abandon the property;
- 32 (15) any other reasonable indicia of abandonment.
- 33 b. For the purposes of this section, a residential property shall
- 34 not be considered "vacant and abandoned" if, on the property:
- 35 (1) there is an unoccupied building which is undergoing
- 36 construction, renovation, or rehabilitation that is proceeding
- 37 diligently to completion, and the building is in compliance with all
- 38 applicable ordinances, codes, regulations, and statutes;
- 39 (2) there is a building occupied on a seasonal basis, but
- 40 otherwise secure; or
- 41 (3) there is a building that is secure, but is the subject of a
- 42 probate action, action to quiet title, or other ownership dispute.
- 43 c. In addition to the residential mortgage foreclosure
- 44 procedures set out in the "Fair Foreclosure Act," P.L.1995, c.244
- 45 (C.2A:50-53 et seq.), a summary action to foreclose a mortgage
- 46 debt secured by residential property that is vacant and abandoned
- 47 may be brought by a lender in the Superior Court. In addition, a

1 lender may, at any time after filing a foreclosure action, file with  
2 the court, in accordance with the Rules Governing the Courts of the  
3 State of New Jersey, an application to proceed in a summary  
4 manner because the residential property that is the subject of the  
5 foreclosure action is believed to be "vacant and abandoned";  
6 provided, however, that this section shall not apply to a foreclosure  
7 of a timeshare interest secured by a mortgage.

8 d. (1) In addition to the service of process required by the  
9 Rules of Court, a lender shall establish, for the entry of a residential  
10 foreclosure judgment under this section, that a process server has  
11 made two unsuccessful attempts to serve the mortgagor or occupant  
12 at the residential property, which attempts must be at least 72 hours  
13 apart, and during different times of the day, either before noon,  
14 between noon and 6 P.M., or between 6 P.M. and 10 P.M.

15 (2) In addition to any notices required to be served by law or the  
16 Rules of Court, a lender shall, with any order to show cause served  
17 as original service of process or a motion to proceed summarily,  
18 serve a notice that the lender is seeking, on the return date of the  
19 order to show cause, or on the date fixed by the court, to proceed  
20 summarily for entry of a residential foreclosure judgment because  
21 the property is vacant and abandoned.

22 (3) Notwithstanding the procedure for serving a notice to cure  
23 required by section 6 of the "Fair Foreclosure Act," P.L.1995, c.244  
24 (C.2A:50-58), a lender filing a summary action for entry of a  
25 residential mortgage foreclosure judgment under this section shall  
26 serve the mortgagor with a notice to cure with the order to show  
27 cause served as original service of process. When a lender makes  
28 application to proceed summarily because a property is vacant and  
29 abandoned, a notice to cure shall be served with the order fixing the  
30 date for the matter to proceed summarily.

31 e. (1) The court may enter a final residential mortgage  
32 foreclosure judgment under this section upon a finding, (1) by clear  
33 and convincing evidence, that the residential property is vacant and  
34 abandoned as defined under subsection a. of this section, and (2)  
35 that a review of the pleadings and documents filed with the court, as  
36 required by the Rules of Court, supports the entry of a final  
37 residential mortgage foreclosure judgment.

38 (2) A final residential mortgage foreclosure judgment under this  
39 section shall not be entered if the court finds that

40 (a) the property is not vacant or abandoned, or

41 (b) the mortgagor or any other defendant has filed an answer,  
42 appearance, or other written objection that is not withdrawn and the  
43 defenses or objection asserted provide cause to preclude the entry of  
44 a final residential mortgage foreclosure judgment.

45 f. If a final residential mortgage foreclosure judgment under  
46 this section is not entered on the original or adjourned return date of  
47 an order to show cause or the date fixed by the court to proceed



1 summarily, the court may direct that the foreclosure action continue  
2 on the normal track for residential mortgage foreclosure actions for  
3 properties that are not vacant and abandoned and the notice to cure  
4 served with the order to show cause or the order fixing that date for  
5 the matter to proceed summarily shall be of no effect.

6 g. All actions brought to foreclose on real property pursuant to  
7 this section shall proceed in accordance with the Rules of the Court.

8 h. Nothing in this section is intended to supersede or limit other  
9 procedures adopted by the Court to resolve residential mortgage  
10 foreclosure actions, including, but not limited to, foreclosure  
11 mediation.

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

17 j. Notwithstanding paragraph (3) of subsection a. of section 12  
18 of P.L.1995 c.244 (C.2A:50-64) to the contrary, if the court makes a  
19 finding in the foreclosure judgment that the property is vacant and  
20 abandoned, the sheriff shall sell the property within 75 days of the  
21 sheriff's receipt of any writ of execution issued by the court. If it  
22 becomes apparent that the sheriff cannot comply with the provisions  
23 of this subsection, the foreclosing plaintiff may apply to the court  
24 for an order appointing a Special Master or judicial agent to hold  
25 the foreclosure sale.

26  
27 13. This act shall take effect immediately, except that section 12  
28 shall remain inoperative until the first day of the fourth month next  
29 following enactment.

### 30 31 32 STATEMENT

33  
34 This bill, the "New Jersey Residential Foreclosure  
35 Transformation Act," establishes the "New Jersey Foreclosure  
36 Relief Corporation" as a temporary entity within the New Jersey  
37 Housing and Mortgage Finance Agency (HMFA) for the purpose of  
38 purchasing foreclosed residential properties from institutional  
39 lenders and dedicating them for occupancy as affordable housing.  
40 The corporation will cease its operations on December 31, 2017.  
41 On that date, any assets, properties, or funds held by the corporation  
42 will transfer to the HMFA.

43 As established, the corporation will be governed by a seven-  
44 member board, consisting of the Commissioner of Community  
45 Affairs, the Executive Director of the New Jersey Housing and  
46 Mortgage Finance Agency, the Commissioner of Banking and  
47 Insurance, and the State Treasurer, ex officio, and three New Jersey  
48 residents, appointed by the Governor, who have knowledge in the

1 areas of real estate, housing design, construction, or operation;  
2 mortgage banking, finance, and foreclosure; or community  
3 development. The Senate President and the Speaker of the General  
4 Assembly will each nominate one member for appointment by the  
5 Governor.

6 The corporation will make an annual report of its activities to the  
7 Governor and to the Legislature, setting forth a complete operating  
8 and financial statement covering its operations, transactions, and  
9 holdings during the year. The corporation's books and accounts  
10 will be audited at least once in each year by certified public  
11 accountants.

12 The bill empowers the corporation to purchase foreclosed  
13 residential property and mortgage assets from institutional lenders  
14 to produce affordable housing and dedicate it as such for 30 years.  
15 The bill directs the corporation to enter into contracts or loans, or  
16 both, with no more than two experienced, financially sophisticated,  
17 community development financial institutions to enhance the ability  
18 of the corporation to fulfill its purpose of producing affordable  
19 housing.

20 The corporation or, if applicable, one of its contractors, will give  
21 the municipality in which the property is located a right of first  
22 refusal to purchase the property and dedicate it as affordable  
23 housing. The bill allows a municipality to exercise its right to  
24 purchase and dedicate eligible property for affordable housing,  
25 decline the option to purchase, or decline to exercise the option but,  
26 instead, authorize the corporation or its contractors to use monies  
27 from the municipality's affordable housing trust fund to purchase  
28 the property.

29 If a municipality does not exercise its right of first refusal to  
30 purchase a property, the corporation may purchase the property and  
31 convey it for occupancy as affordable housing subject to a 30-year  
32 deed restriction to another public agency, a community  
33 development corporation, a developer, or a qualifying household.

34 If the corporation, its contractors or a municipality purchases an  
35 eligible property from monies deposited in a municipality's  
36 affordable housing trust fund, the municipality will receive bonus  
37 credits toward any constitutionally-imposed obligation to provide  
38 affordable housing as follows: two units of credit for each eligible  
39 property sold or conveyed as a for-sale unit or leased as rental  
40 housing; two units of credit for each unit of affordable housing  
41 dedicated for permanent supportive housing, other than supportive  
42 shared living housing; and one and one-quarter units of credit for  
43 each new bedroom dedicated in supportive shared living housing.  
44 The bill awards municipalities additional units of credit, above the  
45 actual number of dedicated affordable housing units produced, as an  
46 incentive for municipalities to authorize the use of their affordable

1 housing trust fund monies for the purchase of eligible properties  
2 and to dedicate them as affordable housing.

3 The bill provides that the number of additional units of credit  
4 that a municipality can receive towards its affordable housing  
5 obligation for property purchased and dedicated as affordable  
6 housing under the bill cannot exceed 25 percent of the  
7 municipality's affordable housing obligation. The bill specifies that  
8 a municipality cannot receive both additional units of credit for  
9 producing a unit of affordable housing under this bill, and  
10 additional units of credit for that unit under another provision of  
11 law.

12 The bill establishes a mechanism through which a "foreclosure-  
13 impacted municipality," one that has 10 or more foreclosed homes  
14 listed on a multiple listing service for at least 60 days, can insulate  
15 its affordable housing trust funds from the laws that will require the  
16 transfer of its trust fund monies to the "New Jersey Affordable  
17 Housing Trust Fund." A foreclosure-impacted municipality can  
18 accomplish this by adopting a resolution committing the  
19 expenditure of its municipal affordable housing trust fund monies  
20 for the production of affordable housing and authorizing the  
21 transfer of at least \$150,000 of its municipal affordable housing  
22 trust fund monies to the corporation for the corporation to use to  
23 produce affordable housing.

24 The bill requires the corporation to use funds transferred from a  
25 foreclosure-impacted municipality to produce affordable housing  
26 within that municipality. If the corporation is unable to use all of  
27 the transferred funds within two years of the date of transfer, the  
28 corporation will return the remaining funds to the municipality and  
29 the municipality will have at least six months from the date the  
30 funds are returned to commit the funds in accordance with other  
31 provisions of law. During this time period, all municipal trust fund  
32 monies designated for the purchase of foreclosed properties will be  
33 protected from transfer to the State. A municipality will receive  
34 bonus credits, as otherwise provided by the bill, for affordable  
35 housing produced by the corporation or by one of its contractors  
36 pursuant to this mechanism.

37 The bill allows the corporation to establish criteria to identify the  
38 circumstances when the purchase, sale, lease, or conveyance of  
39 market-rate units furthers the purposes of the corporation. The  
40 corporation itself, or through its contractors, will be able to  
41 purchase, sell, lease, or convey market-rate units in accordance with  
42 those criteria without imposing affordability controls upon the  
43 property as long as the transaction does not violate the terms of any  
44 other provision of law or requirement.

45 The bill establishes the "Foreclosure to Affordable Housing  
46 Transformation Fund," a nonlapsing, revolving fund to serve as the  
47 repository for funds appropriated or otherwise made available for

1 the corporation to fulfill its purposes. The HMFA will administer  
2 the fund and is authorized to transfer into the fund any amounts it  
3 has that may be used for the production of affordable housing. The  
4 bill authorizes HMFA to issue bonds to fund the activities of the  
5 corporation. The bill calls for prioritization of the allocation of tax-  
6 exempt private activity bonds in order to allow the corporation to  
7 fulfill the purposes of the bill.

8 Under the bill, in any year in which the proceeds from the Realty  
9 Transfer Fee additional fee, paid pursuant to paragraph (2) of  
10 subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7), exceed \$75  
11 million, the first \$10 million above the \$75 million collected will be  
12 transferred into the "Foreclosure to Affordable Housing  
13 Transformation Fund" for the purposes of the production of  
14 affordable housing. The bill authorizes the Commissioner of  
15 Community Affairs to transfer into the fund certain amounts held  
16 for the production of affordable housing, including but not limited  
17 to monies deposited in the "New Jersey Affordable Housing Trust  
18 Fund."

19 The bill requires that amounts deposited in the fund that are  
20 derived from federal funding sources or are otherwise dedicated to  
21 the production of affordable housing be used for the production of  
22 affordable housing. However, the bill allows the corporation to use  
23 other funds for the production of affordable housing or market-rate  
24 housing and allows the corporation to use annually up to three  
25 percent of fund monies for administrative cost.

26 The bill authorizes lenders to bring summary actions to foreclose  
27 mortgages on vacant and abandoned residential property. To secure  
28 entry of a foreclosure judgment, the bill requires a lender to follow  
29 procedures in addition to those set out in the "Fair Foreclosure Act"  
30 and the Rules of Court. The court may enter a final residential  
31 mortgage foreclosure judgment under the bill if it finds, by clear  
32 and convincing evidence, that the residential property is vacant and  
33 abandoned and that a review of the pleadings and documents filed  
34 with the court supports the entry of a final judgment. The bill  
35 precludes a court from entering a final residential mortgage  
36 foreclosure judgment if the court finds that the property is not  
37 vacant or abandoned, or the mortgagor or any other defendant has  
38 filed an answer, appearance or other written objection asserting  
39 defenses or objections that preclude the court from entering final  
40 judgment. The bill states that this new summary action is not  
41 intended to supersede or limit other procedures adopted by the  
42 Court to resolve residential mortgage foreclosure actions, including,  
43 but not limited to, foreclosure mediation. The bill provides that it  
44 should not be construed to affect the rights of a tenant to possession  
45 of a leasehold interest under the Anti-Eviction Act, P.L.1974, c.49  
46 (C.2A:18-61.1 et seq.), the "New Jersey Foreclosure Fairness Act,"  
47 P.L.2009, c.296 (C.2A:50-69 et seq.), or any other applicable law.