

# ASSEMBLY, No. 2036

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblyman JERRY GREEN**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Assemblywoman SHEILA Y. OLIVER**

**District 34 (Essex and Passaic)**

**SYNOPSIS**

Creates Foreclosure Prevention and Neighborhood Stabilization Revolving Trust Fund; places temporary surcharge on mortgage foreclosure complaints.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 1/20/2017)**

1 AN ACT concerning the prevention of residential foreclosures and  
2 supplementing and amending P.L.2008, c.127.

3

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

6

7 1. (New section) This act shall be known and may be cited as  
8 the “New Jersey Foreclosure Prevention and Neighborhood  
9 Stabilization Trust Fund Act.”

10

11 2. (New section) The Legislature finds and declares that:

12 a. Many thousands of New Jersey residents have lost their  
13 homes and thousands of other homeowners are at risk of losing their  
14 homes in the immediate future as a result of the mortgage  
15 foreclosure crisis.

16 b. Foreclosure involves the loss of a family’s home, which is  
17 often the family’s most valuable asset, and foreclosure undermines  
18 the stability, health and economic vitality of neighborhoods,  
19 particularly the in urban neighborhoods where the a  
20 disproportionate share of foreclosures take place.

21 c. Foreclosures cost homeowners own property close to  
22 foreclosed homes billions of dollars in lost property value and result  
23 in millions of dollars of additional expenses to State and local  
24 governments.

25 d. Foreclosures, particularly in urban neighborhoods, often  
26 result in abandonment and deterioration of the property, creating  
27 additional financial pressures on local governments and severely  
28 destabilizing the neighborhoods where the properties are located.

29 e. It is possible to reduce the number of foreclosures, and thus  
30 mitigate the negative secondary effects that result from  
31 foreclosures, by providing resources to both public and not-for-  
32 profit entities to assist individuals at risk of foreclosure, and to  
33 acquire, and rehabilitate or demolish vacant and abandoned  
34 properties resulting from foreclosures.

35 f. In light of the direct relationship between foreclosure and  
36 family and neighborhood instability the imposition of a fee on  
37 creditors filing complaints for foreclosure will partially mitigate the  
38 harmful effects of foreclosures on the neighborhoods of the State.

39

40 3. (New section) As used in this act:

41 “Department” means the Department of Community Affairs.

42 “Qualified foreclosure prevention entities” shall mean entities  
43 approved by the department based on their demonstrated experience  
44 in providing foreclosure prevention assistance to low and moderate

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 income homeowners and on evidence that their employees have  
2 received training in foreclosure prevention counseling.

3 “Trust fund” shall mean the Foreclosure Prevention and  
4 Neighborhood Stabilization Revolving Trust Fund established  
5 pursuant to section 4 of P.L. , c. (C. ) (pending before the  
6 Legislature as this bill).

7  
8 4. (New section) a. There is established in the Department of  
9 Community Affairs a Foreclosure Prevention and Neighborhood  
10 Stabilization Revolving Trust Fund, for monies collected and  
11 accruing pursuant to section 6 of P.L. , c. (C. ) (pending  
12 before the Legislature as this bill) and such other monies as may be  
13 appropriated or otherwise made available to the trust fund by any  
14 agency of State government for the purpose of supporting the  
15 activities in this section.

16 b. The department may utilize up to five percent of the revenue  
17 deposited in the fund, or \$500,000, whichever is less, annually for  
18 the purpose of contracting with qualified vendors to provide  
19 training for qualified foreclosure prevention entities to provide  
20 training and technical assistance to local governments and nonprofit  
21 entities conducting neighborhood stabilization activities, and to  
22 provide information, outreach, educational programs for borrowers  
23 at risk of foreclosure.

24 c. The department may utilize up to \$500,000 in the first year  
25 that the trust fund is in effect, and up to \$300,000 in each  
26 subsequent year that monies are deposited into the trust fund, for  
27 the purpose of collecting, analyzing and disseminating foreclosure  
28 data, including but not limited to the data collected pursuant to  
29 section 6 of P.L. , c. (C. ) (pending before the Legislature as  
30 this bill).

31 d. Except as otherwise provided for in this section, the first \$10  
32 million deposited into the fund during any fiscal year shall be  
33 allocated as grants to qualified foreclosure prevention entities for  
34 the purpose of maintaining or expanding their foreclosure  
35 prevention counseling and related activities, including but not  
36 limited to foreclosure mediation services, legal services related to  
37 the foreclosure process. Any monies deposited in the fund, but not  
38 allocated, by the end of the fiscal year shall be available for use in  
39 the next fiscal year.

40 e. The department shall require quarterly reports from entities  
41 receiving funds under this section, setting forth the use of the funds,  
42 including the number of households that received counseling or  
43 participated in mediation, and the number of mediations which were  
44 successful in modifying the terms of the loan.

45 f. The department, pursuant to the “Administrative Procedure  
46 Act,” P.L.1986, c.410 (C.52:14B-1 et seq.), shall adopt regulations  
47 necessary to effectuate the purpose of this section.

1       5. (New section) a. Any amount collected by the Foreclosure  
2 Prevention and Neighborhood Stabilization Revolving Trust Fund  
3 in excess of \$10 million during any fiscal year shall be made  
4 available as loans or grants to public bodies, including local  
5 governments, public authorities, non-profit community development  
6 or housing organizations, or other entities capable of carrying out  
7 an or all of the activities set forth in this section in order to further  
8 the stabilization of neighborhoods destabilized by foreclosures and  
9 vacancies, including acquiring properties that have been foreclosed  
10 upon by creditors or purchasing vacant properties on which a notice  
11 of foreclosure has been served, restoring vacant properties for  
12 productive use, demolition of vacant properties in order to eliminate  
13 blight and public nuisance, maintenance of vacant properties,  
14 including all costs related to code enforcement and nuisance  
15 abatement activities by local government.

16       b. Whenever a local government utilizes monies from the fund  
17 for the purpose of code enforcement or nuisance abatement  
18 activities with respect to privately owned properties or properties  
19 for which a foreclosing creditor has the responsibility to maintain  
20 pursuant to section 17 of P.L.2008, c.127 (C.46:10B-51), the local  
21 units shall take all steps possible to recover those funds from the  
22 property owner or the foreclosing creditor, including but not limited  
23 to the recourse provided for in section 23 of P.L.2003, c.210  
24 (C.55:19-100). Any such funds received by the local unit and any  
25 other funds recovered by the by any entity as a result of the sale of  
26 land or properties acquired or restored with funds provided under  
27 this section may be retained by the local unit, or other entity, solely  
28 for the purposes set forth in this section.

29       c. When allocating grants and loans pursuant to this section,  
30 the Department shall give priority to areas with high rates of  
31 foreclosure and vacancy in residential dwellings.

32  
33       6. (New section) a. A temporary surcharge of \$800 is imposed  
34 upon each complaint for foreclosure filed in the Superior Court of  
35 New Jersey. All money collected as a result of the surcharge shall  
36 be forwarded by the Clerk of Superior Court to the State Treasurer  
37 for deposit in the Foreclosure Prevention and Neighborhood  
38 Stabilization Revolving Trust Fund for use pursuant to sections 4  
39 and 5 of P.L. , c. (C. ) (pending before the Legislature as this  
40 bill). The creditor shall not add the amount of the surcharge to the  
41 total amount owed by the borrower.

42       b. This section shall expire five years following its effective  
43 date, or until the number of residential mortgage foreclosure  
44 complaints filed in the State during a calendar year is less than  
45 20,000, whichever shall occur sooner as determined by the  
46 department.

1       7. Section 15 of P.L.2008, c.127 (C.46:10B-49) is amended to  
2 read as follows:

3       15. a. (1) Except as provided in paragraph (2) of this  
4 subsection, a creditor that institutes a mortgage foreclosure action  
5 in the Superior Court of New Jersey shall report to the Department  
6 of Banking and Insurance, on a quarterly basis and on a form  
7 promulgated by the department, information about the number of  
8 mortgage foreclosure actions filed by the creditor in the State. The  
9 report shall also include, but not be limited to, information,  
10 segregated by county and municipality, pertaining to the status and  
11 disposition of each foreclosure action specifying whether such  
12 action was disposed of through sheriff's sale, short sale, or loan  
13 modification, and the terms of the modification, refinancing, or any  
14 other outcome. The report shall be provided by the creditor no later  
15 than 30 days following the end of each quarter.

16       A copy of the quarterly report also shall be submitted to the  
17 Department of Community Affairs in the same manner and time as  
18 prescribed herein for submission to the Department of Banking and  
19 Insurance.

20       (2) When a creditor or other person is required by any Rule of  
21 Court or otherwise by law to file electronically with the Superior  
22 Court of New Jersey pleadings in an action to foreclose on a  
23 mortgage, and the Administrative Office of the Courts is capable of  
24 collecting and transmitting the data set forth in paragraphs (1)  
25 through (8) of subsection b. of this section in electronic form, the  
26 creditor or other person shall transmit the data to the Superior  
27 Court, in a manner prescribed by the Superior Court, as part of the  
28 pleadings in an action to foreclose a mortgage. The Administrative  
29 Office of the Courts shall collect the electronically submitted data  
30 and transmit it to the Department of Banking and Insurance, which  
31 shall produce and make available on its website quarterly reports, as  
32 set forth in subsection b. of this section.

33       b. The Department of Banking and Insurance shall produce a  
34 report, on a quarterly basis, detailing information about mortgage  
35 foreclosures filed by creditors and the status and disposition of  
36 foreclosure actions in each county and in each municipality of the  
37 State, and shall make the report available to the public on its  
38 website. The report shall [describe the type of mortgage] identify  
39 each mortgage being foreclosed on by county, municipality, status,  
40 and disposition based on the following categories:

- 41       (1) prime rate mortgages **[foreclosed upon]**;
- 42       (2) subprime rate mortgages **[foreclosed upon]**;
- 43       (3) fixed rate mortgages **[foreclosed upon]**;
- 44       (4) adjustable rate mortgages **[foreclosed upon]**;
- 45       (5) nonconforming mortgages, as defined by Fannie Mae,  
46 Freddie Mac, or their successors;

1 (6) mortgages insured by the Federal Housing Administration  
2 **【foreclosed upon】**;  
3 (7) mortgages insured by the Veteran's Administration  
4 **【foreclosed upon】**; and  
5 (8) any other category of classification the department deems  
6 appropriate to effectuate the purpose of this section.  
7 c. The Department of Banking and Insurance, pursuant to the  
8 "Administrative Procedure Act," P.L.1986, c.410 (C.52:14B-1 et  
9 seq.) shall adopt regulations necessary to effectuate the purpose of  
10 this section. Following the enactment of P.L.2009, c.296 (C.2A:50-  
11 69 et al.), the department, in consultation with the Administrative  
12 Office of the Courts, shall adopt regulations necessary to effectuate  
13 the purpose of this section.  
14 (cf: P.L.2009, c.296, s.4)

15  
16 8. This act shall take effect on the first day of the second month  
17 next following enactment.

18  
19  
20 STATEMENT

21  
22 This bill establishes a Foreclosure Prevention and Neighborhood  
23 Stabilization Trust Fund in the Department of Community Affairs.  
24 Money allocated to the fund will be utilized for foreclosure  
25 prevention activities, such as legal services to low and moderate  
26 income homeowners in danger of losing their homes to foreclosure,  
27 mediation services, and training for non-governmental groups who  
28 assist homeowners in addressing the foreclosure process. The fund  
29 will be financed through a temporary \$800 surcharge placed on  
30 each foreclosure complaint filed in the State. The surcharge will  
31 expire five years after the effective date of this bill, or when the  
32 annual number of foreclosure complaints filed Statewide is less than  
33 20,000, whichever occurs first.

34 The Department of Community Affairs shall provide up to  
35 \$500,000 from the fund to train qualified vendors to provide  
36 training to local governments and non-profit entities undertaking  
37 neighborhood stabilization efforts. The department may utilize  
38 \$500,000 in the first year of the fund, and \$300,000 each year  
39 thereafter, for the purpose of collecting and disseminating  
40 foreclosure data. Following these disbursements from the fund, the  
41 next \$10 million collected during the fiscal year shall be allocated  
42 to qualified non-profit entities for the purpose of maintaining or  
43 expanding their foreclosure prevention programs. Entities receiving  
44 these funds shall issue quarterly reports detailing the success of  
45 their foreclosure prevention programs.

46 Any funds disbursed in excess of \$10 million shall be provided  
47 to local governments, public authorities, or non-profit community  
48 development or housing organizations to mitigate the negative

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1 secondary effects of foreclosures in residential neighborhoods.  
2 These funds may be used to purchase, repair, or demolish vacant  
3 properties on which a notice of foreclosure has been served. This  
4 legislation requires a municipality that utilizes money from the fund  
5 for code enforcement or nuisance abatement purposes to make a  
6 diligent effort to recover the expended funds from the property  
7 owner or the creditor seeking to foreclose on the property.

8 The bill requires creditors that report to the department on a  
9 quarterly basis to also provide information, segregated by county  
10 and municipality, pertaining to the status and disposition of each  
11 foreclosure action specifying whether such action was disposed of  
12 through sheriff's sale, short sale, or loan modification, and the  
13 terms of the modification, refinancing, or any other outcome.  
14 Under the provisions of the bill, the report shall be provided by the  
15 creditor no later than 30 days following the end of each quarter and  
16 a copy of the quarterly report also shall be submitted to the  
17 Department of Community Affairs in the same manner and time as  
18 prescribed for submission to the Department of Banking and  
19 Insurance.