

**SENATE, No. 2344**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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INTRODUCED JUNE 9, 2016

**Sponsored by:**  
**Senator BRIAN P. STACK**  
**District 33 (Hudson)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



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2

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

**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.

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

5  
6 4. (New section) a. There is established in the Department of  
7 Community Affairs a Foreclosure Prevention and Neighborhood  
8 Stabilization Revolving Trust Fund, for monies collected and  
9 accruing pursuant to section 6 of P.L. , c. (C. ) (pending  
10 before the Legislature as this bill) and such other monies as may be  
11 appropriated or otherwise made available to the trust fund by any  
12 agency of State government for the purpose of supporting the  
13 activities in this section.

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

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

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

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

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

46  
47 5. (New section) a. Any amount collected by the Foreclosure  
48 Prevention and Neighborhood Stabilization Revolving Trust Fund

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

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

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

30  
31 6. (New section) a. A temporary surcharge of \$800 is imposed  
32 upon each complaint for foreclosure filed in the Superior Court of  
33 New Jersey. All money collected as a result of the surcharge shall  
34 be forwarded by the Clerk of Superior Court to the State Treasurer  
35 for deposit in the Foreclosure Prevention and Neighborhood  
36 Stabilization Revolving Trust Fund for use pursuant to sections 4  
37 and 5 of P.L. , c. (C. ) (pending before the Legislature as this  
38 bill). The creditor shall not add the amount of the surcharge to the  
39 total amount owed by the borrower.

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

45  
46 7. Section 15 of P.L.2008, c.127 (C.46:10B-49) is amended to  
47 read as follows:

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

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

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

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

- 39       (1) prime rate mortgages **[foreclosed upon]**;  
40       (2) subprime rate mortgages **[foreclosed upon]**;  
41       (3) fixed rate mortgages **[foreclosed upon]**;  
42       (4) adjustable rate mortgages **[foreclosed upon]**;  
43       (5) nonconforming mortgages, as defined by Fannie Mae,  
44 Freddie Mac, or their successors;  
45       (6) mortgages insured by the Federal Housing Administration  
46 **[foreclosed upon]**;  
47       (7) mortgages insured by the Veteran's Administration  
48 **[foreclosed upon]**; and

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

11  
12 8. This act shall take effect on the first day of the second month  
13 next following enactment.

14  
15  
16 STATEMENT

17  
18 This bill establishes a Foreclosure Prevention and Neighborhood  
19 Stabilization Trust Fund in the Department of Community Affairs.  
20 Money allocated to the fund will be utilized for foreclosure  
21 prevention activities, such as legal services to low and moderate  
22 income homeowners in danger of losing their homes to foreclosure,  
23 mediation services, and training for non-governmental groups who  
24 assist homeowners in addressing the foreclosure process. The fund  
25 will be financed through a temporary \$800 surcharge placed on  
26 each foreclosure complaint filed in the State. The surcharge will  
27 expire five years after the effective date of this bill, or when the  
28 annual number of foreclosure complaints filed Statewide is less than  
29 20,0000, whichever occurs first.

30 The Department of Community Affairs shall provide up to  
31 \$500,000 from the fund to train qualified vendors to provide  
32 training to local governments and non-profit entities undertaking  
33 neighborhood stabilization efforts. The department may utilize  
34 \$500,000 in the first year of the fund, and \$300,000 each year  
35 thereafter, for the purpose of collecting and disseminating  
36 foreclosure data. Following these disbursements from the fund, the  
37 next \$10 million collected during the fiscal year shall be allocated  
38 to qualified non-profit entities for the purpose of maintaining or  
39 expanding their foreclosure prevention programs. Entities receiving  
40 these funds shall issue quarterly reports detailing the success of  
41 their foreclosure prevention programs.

42 Any funds disbursed in excess of \$10 million shall be provided  
43 to local governments, public authorities, or non-profit community  
44 development or housing organizations to mitigate the negative  
45 secondary effects of foreclosures in residential neighborhoods.  
46 These funds may be used to purchase, repair, or demolish vacant  
47 properties on which a notice of foreclosure has been served. This  
48 legislation requires a municipality that utilizes money from the fund

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1 for code enforcement or nuisance abatement purposes to make a  
2 diligent effort to recover the expended funds from the property  
3 owner or the creditor seeking to foreclose on the property.

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