

[First Reprint]

ASSEMBLY, No. 4999

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED FEBRUARY 7, 2019

Sponsored by:

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator TROY SINGLETON

District 7 (Burlington)

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

Co-Sponsored by:

Assemblywoman Murphy

SYNOPSIS

Requires filing of certain creditor contact information with residential mortgage foreclosure complaint and lis pendens.

CURRENT VERSION OF TEXT

As reported by the Assembly Housing and Community Development Committee on March 7, 2019, with amendments.

(Sponsorship Updated As Of: 3/26/2019)

1 AN ACT concerning residential mortgage foreclosures and amending
2 ¹P.L.2014, c.35 and¹ 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 ¹1. Section 1 of P.L.2014, c.35 (C.40:48-2.12s) is amended to
8 read as follows:

9 1. a. The governing body of any municipality may adopt
10 ordinances to regulate the care, maintenance, security, and upkeep of
11 the exterior of vacant and abandoned residential properties on which a
12 summons and complaint in an action to foreclose has been filed.

13 b. (1) An ordinance adopted pursuant to subsection a. of this
14 section shall provide that the creditor filing the summons and
15 complaint in an action to foreclose shall be responsible for the care,
16 maintenance, security, and upkeep of the exterior of the vacant and
17 abandoned residential property, and if located out-of-State, shall be
18 responsible for appointing an in-State representative or agent to act for
19 the foreclosing creditor.

20 (2) An ordinance adopted pursuant to subsection a. of this section
21 shall authorize a public officer, appointed pursuant to P.L.1942, c.112
22 (C.40:48-2.3 et seq.), or any other local official responsible for
23 administration of any property maintenance or public nuisance code to
24 issue a notice to the creditor filing the summons and complaint in an
25 action to foreclose, if the public officer or other authorized municipal
26 official determines that the creditor has violated the ordinance by
27 failing to provide for the care, maintenance, security, and upkeep of
28 the exterior of the property. Such notice shall require the person or
29 entity to correct the violation within 30 days of receipt of the notice, or
30 within 10 days of receipt of the notice if the violation presents an
31 imminent threat to public health and safety. The issuance of a notice
32 pursuant to this paragraph shall constitute proof that a property is
33 "vacant and abandoned" for the purposes of section 1 of P.L.2012,
34 c.70 (C.2A:50-73).

35 (3) An ordinance adopted pursuant to subsection a. of this section
36 shall provide that an out-of-State creditor shall include the full name
37 and contact information of the in-State representative or agent, and any
38 other person or entity retained by the creditor or a representative of the
39 creditor, in the notice required to be provided pursuant to paragraph
40 (1) of subsection a. of section 17 of P.L.2008, c.127 (C.46:10B-51).

41 c. (1) An out-of-State creditor subject to an ordinance adopted
42 pursuant to subsection a. of this section found by the municipal court
43 of the municipality in which the property subject to the ordinance is
44 located, or by any other court of competent jurisdiction, to be in
45 violation of the requirement to appoint an in-State representative or

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHO committee amendments adopted March 7, 2019.

1 agent pursuant to the ordinance shall be subject to a fine of \$2,500 for
2 each day of the violation. Any fines imposed on a creditor for the
3 failure to appoint an in-State representative or agent shall commence
4 on the day after the 10-day period set forth in paragraph (1) of
5 subsection a. of section 17 of P.L.2008, c.127 (C.46:10B-51) for
6 providing notice to the municipal clerk that a summons and complaint
7 in an action to foreclose on a mortgage has been served.

8 (2) A creditor subject to an ordinance adopted pursuant to
9 subsection a. of this section found by the municipal court of the
10 municipality in which the property subject to the ordinance is located,
11 or by any other court of competent jurisdiction, to be in violation of
12 the requirement to correct a care, maintenance, security, or upkeep
13 violation cited in a notice issued pursuant to the ordinance shall be
14 subject to a fine of \$1,500 for each day of the violation. Any fines
15 imposed pursuant to this paragraph shall commence 31 days following
16 receipt of the notice, except if the violation presents an imminent risk
17 to public health and safety, in which case any fines shall commence 11
18 days following receipt of the notice.

19 d. No less than 20 percent of any money collected pursuant to
20 subsection a. of this section shall be utilized by the municipality for
21 municipal code enforcement purposes.¹

22 (cf: P.L.2014, c.35, s.1)

23
24 ¹**[1.] 2.**¹ Section 17 of P.L.2008, c.127 (C.46:10B-51) is
25 amended to read as follows:

26 17. a. (1) A creditor serving a summons and complaint in an
27 action to foreclose on a mortgage on residential property in this State
28 shall, within 10 days of serving the summons and complaint, notify the
29 municipal clerk ¹and the mayor or other chief executive officer¹ of the
30 municipality in which the property is located that a summons and
31 complaint in an action to foreclose on a mortgage has been filed
32 against the subject property. The notice shall contain the ¹full¹ name
33 ¹, address,¹ and ¹**[contact information]** telephone number¹ for the
34 representative of the creditor who is responsible for receiving
35 complaints of property maintenance and code violations¹**[,]** and the
36 full name and contact information for any person or entity retained by
37 the creditor or a representative of the creditor to be responsible for any
38 care, maintenance, security or upkeep of the property. The notice¹
39 may contain information about more than one property, and shall be
40 provided by mail or electronic communication, at the discretion of the
41 municipal clerk. In the event the creditor that has served a summons
42 and complaint in an action to foreclose on a residential property is
43 located out-of-State, the notice shall also contain the full name ¹,
44 address,¹ and ¹**[contact information]** telephone number¹ of an in-State
45 representative or agent who shall be responsible for the care,
46 maintenance, security, and upkeep of the exterior of the property if it
47 becomes vacant and abandoned. If the municipality has appointed a

1 public officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the
2 municipal clerk shall forward a copy of the notice to the public officer
3 or shall otherwise provide it to any other local official responsible for
4 administration of any property maintenance or public nuisance code.

5 In the event that the property being foreclosed on is an affordable
6 unit pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-
7 301 et al.), then the creditor shall identify that the property is subject to
8 the "Fair Housing Act."

9 The notice shall also include the street address, lot and block
10 number of the property, and the full name ¹, address,¹ and ¹contact
11 information telephone number¹ of an individual located within the
12 State who is authorized to accept service on behalf of the creditor. The
13 notice shall be provided to the municipal clerk ¹and the mayor or other
14 chief executive officer¹ within 10 days of service of a summons and
15 complaint in an action to foreclose on a mortgage against the subject
16 property.

17 ¹If there is any change in the name, address, or telephone number
18 for a representative, agent, or individual authorized to accept service
19 on behalf of a creditor required to be provided in a notice pursuant to
20 this paragraph following the filing of the summons and complaint, the
21 creditor shall provide a notice to the applicable municipal clerk
22 containing the updated name, address, or telephone number within 10
23 days of the change in that information.¹

24 (2) Within 30 days following the effective date of P.L.2009, c.296
25 (C.2A:50-69 et al.), any creditor that has initiated a foreclosure
26 proceeding on any residential property which is pending in Superior
27 Court shall provide to the municipal clerk of the municipality in which
28 the property is located, a listing of all residential properties in the
29 municipality for which the creditor has foreclosure actions pending by
30 street address and lot and block number. If the municipality has
31 appointed a public officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et
32 seq.), the municipal clerk shall forward a copy of the notice to the
33 public officer, or shall otherwise provide it to any other local official
34 responsible for administration of any property maintenance or public
35 nuisance code.

36 b. If the owner of a residential property vacates or abandons any
37 property on which a foreclosure proceeding has been initiated or if a
38 residential property becomes vacant at any point subsequent to the
39 creditor's filing the summons and complaint in an action to foreclose
40 on a mortgage against the subject property, but prior to vesting of title
41 in the creditor or any other third party, and the exterior of the property
42 is found to be a nuisance or in violation of any applicable State or local
43 code, the local public officer, municipal clerk, or other authorized
44 municipal official shall notify the creditor or the representative or
45 agent of an out-of-State creditor, as applicable, which shall have the
46 responsibility to abate the nuisance or correct the violation in the same
47 manner and to the same extent as the title owner of the property, to

1 such standard or specification as may be required by State law or
2 municipal ordinance. The municipality shall include a description of
3 the conditions that gave rise to the violation with the notice of
4 violation and shall provide a period of not less than 30 days from the
5 creditor's receipt of the notice for the creditor to remedy the violation.
6 If the creditor fails to remedy the violation within that time period, the
7 municipality may impose penalties allowed for the violation of
8 municipal ordinances pursuant to R.S.40:49-5.

9 c. If the municipality expends public funds in order to abate a
10 nuisance or correct a violation on a residential property in situations in
11 which the creditor was given notice pursuant to the provisions of
12 subsection b. of this section but failed to abate the nuisance or correct
13 the violation as directed, the municipality shall have the same recourse
14 against the creditor as it would have against the title owner of the
15 property, including but not limited to the recourse provided under
16 section 23 of P.L.2003, c.210 (C.55:19-100).

17 d. A creditor that institutes a foreclosure proceeding on residential
18 property pursuant to the "Fair Foreclosure Act," P.L.1995, c.244
19 (C.2A:50-53 et seq.), shall file with the summons and complaint in
20 Superior Court, and with the lis pendens filed with the office of the
21 county clerk or register of deeds and mortgages, the following
22 information:

23 (1) the 'full' name ', address,' and '[contact information]
24 telephone number' for the representative of the creditor 'and any
25 servicer' who is responsible for receiving complaints of property
26 maintenance and code violations pursuant to subsection b. of this
27 section; '[and]'

28 (2) if the creditor 'or servicer' is located out-of-State, the full
29 name ', address,' and '[contact information] telephone number' of an
30 in-State representative 'or' agent who shall be responsible for the care,
31 maintenance, security, and upkeep of the property if it becomes vacant
32 and abandoned '; and

33 (3) if there is any change in the information required to be filed
34 pursuant to paragraphs (1) or (2) of this subsection following the filing
35 of the summons and complaint or the lis pendens, the updated name,
36 address, or telephone number, to be filed with the Superior Court, the
37 office of the county clerk or register of deeds and mortgages, and all
38 other parties, within 10 days of the change in that information' .

39 (cf: P.L.2014, c.35, s.2)

40
41 **¹[2.] 3.¹** This act shall take effect on the 90th day next
42 following enactment and shall apply to residential mortgage
43 foreclosure actions commenced on or after that date.