

[Third Reprint]

**ASSEMBLY, No. 5000**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

INTRODUCED FEBRUARY 7, 2019

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**Co-Sponsored by:**

**Assemblywomen Murphy, Lampitt, Jasey and Vainieri Huttle**

**SYNOPSIS**

Requires DCA to produce and maintain database concerning residential properties under foreclosure.

**CURRENT VERSION OF TEXT**

As amended on May 16, 2019 by the General Assembly pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 6/11/2019)

1 AN ACT concerning residential properties under foreclosure,  
 2 supplementing P.L.2008, c.127 (C.55:14K-82 et al.) <sup>3</sup>, and  
 3 amending P.L.1995, c.244<sup>3</sup>.

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

7  
 8 1. <sup>3</sup>(New section)<sup>3</sup> a. The Department of <sup>1</sup>**[Banking and**  
 9 **Insurance]** Community Affairs<sup>1</sup> shall produce a database <sup>3</sup>**[with an**  
 10 **interactive mapping component which]** that<sup>3</sup> details <sup>3</sup>**[,** and  
 11 provides a graphic representation to allow the department to  
 12 visualize,<sup>3</sup> the extent to which residential properties in this State  
 13 are under foreclosure pursuant to the “Fair Foreclosure Act,”  
 14 P.L.1995, c.244 (C.2A:50-53 et seq.). The department shall  
 15 develop, maintain, and update the database <sup>1</sup>**[in real time]**<sup>1</sup> based  
 16 upon information submitted to the department by <sup>3</sup>**[,** and in  
 17 cooperation with, <sup>1</sup>the county clerks, the county registers of deeds  
 18 and mortgages, the county sheriffs, and<sup>1</sup> the Administrative Office  
 19 of the Courts] residential mortgage lenders<sup>3</sup> pursuant to section 2 of  
 20 <sup>1</sup>**[this act]** P.L. , c. (C. ) (pending before the Legislature as  
 21 this bill)<sup>1</sup>, and information obtained from any other public sources.

22 b. The database shall contain <sup>3</sup>**[,** and the map shall represent<sup>3</sup>]:

23 (1) The <sup>3</sup>**[location]** address<sup>3</sup> of each residential property under  
 24 foreclosure <sup>3</sup>**[by]** and the<sup>3</sup> county, municipality, lot and block  
 25 number;

26 (2) the current owner of record; <sup>3</sup>and<sup>3</sup>

27 (3) the date <sup>1</sup>**[that]**<sup>1</sup> the <sup>1</sup>**[notice of intention to foreclose]** <sup>3</sup>**[lis**  
 28 pendens<sup>1</sup> is filed;] notice of intention to foreclose was sent to the  
 29 residential mortgage debtor by registered or certified mail, return  
 30 receipt requested.<sup>3</sup>

31 <sup>3</sup>**[**(4) the date the foreclosure complaint is filed;

32 (5) the date of judgment of foreclosure; <sup>2</sup>**[and]**<sup>2</sup>

33 (6) the date of any deed transfer pursuant to a sheriff’s sale and  
 34 the name of the purchaser<sup>2</sup>;

35 (7) any person responsible for maintenance of the property and  
 36 that person’s contact information; and

37 (8) secondary lien holders and their contact information.<sup>3</sup>

38 c. The database shall be considered confidential and shall be  
 39 used only by the department, the county clerks, the county registers  
 40 of deeds and mortgages, the county sheriffs, the Administrative

**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:

<sup>1</sup>Assembly AHO committee amendments adopted March 7, 2019.

<sup>2</sup>Assembly AAP committee amendments adopted March 18, 2019.

<sup>3</sup>Assembly amendments adopted in accordance with Governor's recommendations May 16, 2019.

1 Office of the Courts and such other agencies as the Commissioner  
2 of Community Affairs designates, except that a municipality shall  
3 have access to the database only with respect to information  
4 pertaining to the geographical area within the municipality's  
5 jurisdiction. The database shall not be subject to public access,  
6 inspection or copying pursuant to P.L.1963, c.73 (C.47:1A-  
7 1 et seq.) or the common law concerning access to public records<sup>2</sup>.

8 <sup>2</sup>[c.] d.<sup>2</sup> The Commissioner of Community Affairs may adopt  
9 rules and regulations, pursuant to the "Administrative Procedure  
10 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the  
11 provisions of P.L. , c. (C. ) (pending before the Legislature  
12 as this bill).<sup>1</sup>

13  
14 <sup>3</sup>[2. The county clerks, the county registers of deeds and  
15 mortgages, the county sheriffs, and the<sup>1</sup> Administrative Office of the  
16 Courts shall <sup>1</sup>, as appropriate,<sup>1</sup> provide the Department of <sup>1</sup>[Banking  
17 and Insurance] Community Affairs<sup>1</sup> with as much of the information  
18 listed in subsection b. of section 1 of <sup>1</sup>[this act] P.L. , c. (C. )  
19 (pending before the Legislature as this bill)<sup>1</sup> with respect to <sup>1</sup>[the  
20 residential<sup>1</sup> property <sup>1</sup>under foreclosure<sup>1</sup> as is reasonably available  
21 from records maintained by, or accessible to, the <sup>1</sup>[office] offices<sup>1</sup>.  
22 The information shall be provided <sup>1</sup>[in real time] daily<sup>1</sup> in <sup>1</sup>[a] an  
23 electronic<sup>1</sup> format <sup>1</sup>[, electronic or otherwise,]<sup>1</sup> as is useful to the  
24 department to develop, maintain <sup>1</sup>, <sup>1</sup> and update the database and map  
25 required by section 1 of <sup>1</sup>[this act] P.L. , c. (C. ) (pending  
26 before the Legislature as this bill)<sup>1</sup>.<sup>3</sup>

27  
28 <sup>3</sup>[3. As of the effective date of <sup>1</sup>[this act] P.L. , c. (C. )  
29 (pending before the Legislature as this bill)<sup>1</sup>, the revenue from  
30 additional fees for recording deeds and lis pendens fees collected by  
31 county clerks and registers of deeds and mortgages and received by the  
32 Department of <sup>1</sup>[Banking and Insurance] Community Affairs<sup>1</sup>,  
33 pursuant to section 4 of <sup>1</sup>[this act] P.L. , c. (C. ) (pending  
34 before the Legislature as this bill)<sup>1</sup>, shall be deposited into a separate  
35 fund within the department and shall only be used by the department  
36 for the purpose of developing, maintaining, and updating the database  
37 and map<sup>1</sup> created pursuant to section 1 of <sup>1</sup>[this act]  
38 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>1</sup>.<sup>3</sup>

39  
40 <sup>3</sup>[4. In addition to each fee for the recording of a deed or a lis  
41 pendens collected by county clerks and registers of deeds and  
42 mortgages pursuant to section 2 of P.L.1965, c.123 (C.22A:4-4.1) and  
43 any other rule, regulation, or law, an amount of \$30 shall be collected  
44 by the county clerks and registers of deeds and mortgages on the  
45 recording of each deed or lis pendens. The revenues obtained from  
46 these increased amounts, after deduction of any actual administrative

1 costs incurred by county clerks <sup>1</sup>【and】 county<sup>1</sup> registers of deeds and  
2 mortgages <sup>1</sup>, and county sheriffs<sup>1</sup> in carrying out the provisions of  
3 <sup>1</sup>【this subsection】 P.L.     , c.      (C.     ) (pending before the  
4 Legislature as this bill)<sup>1</sup>, shall be transmitted quarterly by the <sup>1</sup>【office  
5 of the】<sup>1</sup> county <sup>1</sup>【clerk or register of deeds and mortgages, as  
6 appropriate,】<sup>1</sup> to the Department of <sup>1</sup>【Banking and Insurance】  
7 Community Affairs<sup>1</sup>, for the purposes set forth in sections 1 through 3  
8 of <sup>1</sup>【this act】 P.L.     , c.      (C.     ) (pending before the Legislature as  
9 this bill)<sup>1</sup>.<sup>3</sup>

10  
11 <sup>3</sup>2. (New section) a. A residential mortgage lender shall  
12 provide to the Department of Community Affairs the notice of  
13 intention to foreclose required pursuant to section 4 of P.L.1995,  
14 c.244 (C.2A:50-56) and a description of the subject property by  
15 street address, block, and lot as shown on the municipal tax map at  
16 the time the notice is given to the residential mortgage debtor. Upon  
17 receipt of the notice of intention to foreclose pursuant to this  
18 section, the Department of Community Affairs shall provide the  
19 residential mortgage lender with a written acknowledgement of the  
20 department’s receipt of the notice of intention to foreclose.  
21 Compliance with this section shall be set forth in the pleadings of  
22 any legal action referred to in section 4 of P.L.1995, c.244  
23 (C.2A:50-56).

24 b. The Department of Community Affairs shall create a  
25 centralized portal allowing for electronic submittal of the notice of  
26 intention to foreclose as required pursuant to subsection a. of this  
27 section.<sup>3</sup>

28  
29 <sup>3</sup>【<sup>2</sup>5.】 3. (New section)<sup>3</sup> A residential mortgage lender that  
30 serves a summons and complaint in an action to foreclose on a  
31 mortgage on a residential property in this State pursuant to the “Fair  
32 Foreclosure Act,” P.L.1995, c.244 (C.2A:50-53 et seq.), shall,  
33 within 10 days of serving the summons and complaint, notify<sup>3</sup> the  
34 Department of Community Affairs,<sup>3</sup> the municipal clerk, the  
35 municipal tax collector, and the chief of police in the municipality  
36 in which the property is located, and all public utilities as defined in  
37 R.S.48:2-13 which provide services in the municipality in which the  
38 property is located, and the county executive in the county in which  
39 the property is located, that a summons and complaint in an action  
40 to foreclose on a mortgage has been filed against the property.<sup>2</sup>

41  
42 <sup>3</sup>4. Section 4 of P.L.1995, c.244 (C.2A:50-56) is amended to  
43 read as follows:

44 4. a. Upon failure to perform any obligation of a residential  
45 mortgage by the residential mortgage debtor and before any  
46 residential mortgage lender may accelerate the maturity of any

1 residential mortgage obligation and commence any foreclosure or  
2 other legal action to take possession of the residential property  
3 which is the subject of the mortgage, the residential mortgage  
4 lender shall give the residential mortgage debtor notice of such  
5 intention, which shall include a notice of the right to cure the  
6 default as provided in section 5 of P.L.1995, c.244 (C.2A:50-57),  
7 at least 30 days, but not more than 180 days, in advance of such action  
8 as provided in this section.

9 b. Notice of intention to take action as specified in subsection  
10 a. of this section shall be in writing, provided to the Department of  
11 Community Affairs in accordance with subsection a. of section 2 of  
12 P.L. , c. (C. ) (pending before the Legislature as this bill),  
13 sent to the debtor by registered or certified mail, return receipt  
14 requested, at the debtor's last known address, and, if different, to the  
15 address of the property which is the subject of the residential  
16 mortgage. The notice is deemed to have been effectuated on the  
17 date the notice is delivered in person or mailed to the party.

18 c. The written notice shall clearly and conspicuously state in a  
19 manner calculated to make the debtor aware of the situation:

20 (1) the particular obligation or real estate security interest;

21 (2) the nature of the default claimed;

22 (3) the right of the debtor to cure the default as provided in  
23 section 5 of P.L.1995, c.244 (C.2A:50-57);

24 (4) what performance, including what sum of money, if any, and  
25 interest, shall be tendered to cure the default as of the date specified  
26 under paragraph (5) of this subsection c.;

27 (5) the date by which the debtor shall cure the default to avoid  
28 initiation of foreclosure proceedings, which date shall not be less  
29 than 30 days after the date the notice is effective, and the name and  
30 address and phone number of a person to whom the payment or  
31 tender shall be made;

32 (6) that if the debtor does not cure the default by the date  
33 specified under paragraph (5) of this subsection c., the lender may  
34 take steps to terminate the debtor's ownership in the property by  
35 commencing a foreclosure suit in a court of competent jurisdiction;

36 (7) that if the lender takes the steps indicated pursuant to  
37 paragraph (6) of this subsection c., a debtor shall still have the right  
38 to cure the default pursuant to section 5 of P.L.1995, c.244  
39 (C.2A:50-57), but that the debtor shall be responsible for the  
40 lender's court costs and attorneys' fees in an amount not to exceed  
41 that amount permitted pursuant to the Rules Governing the Courts  
42 of the State of New Jersey;

43 (8) the right, if any, of the debtor to transfer the real estate to  
44 another person subject to the security interest and that the transferee  
45 may have the right to cure the default as provided in P.L.1995,  
46 c.244 (C.2A:50-53 et seq.), subject to the mortgage documents;

47 (9) that the debtor is advised to seek counsel from an attorney of  
48 the debtor's own choosing concerning the debtor's residential

1 mortgage default situation, and that, if the debtor is unable to obtain  
2 an attorney, the debtor may communicate with the New Jersey Bar  
3 Association or Lawyer Referral Service in the county in which the  
4 residential property securing the mortgage loan is located; and that,  
5 if the debtor is unable to afford an attorney, the debtor may  
6 communicate with the Legal Services Office in the county in which  
7 the property is located;

8 (10) the possible availability of financial assistance for curing a  
9 default from programs operated by the State or federal government  
10 or nonprofit organizations, if any, as identified by the  
11 Commissioner of Banking and Insurance. This requirement shall be  
12 satisfied by attaching a list of such programs promulgated by the  
13 commissioner;

14 (11) the name and address of the lender and the telephone  
15 number of a representative of the lender whom the debtor may  
16 contact if the debtor disagrees with the lender's assertion that a  
17 default has occurred or the correctness of the mortgage lender's  
18 calculation of the amount required to cure the default;

19 (12) that if the lender takes the steps indicated pursuant to  
20 paragraph (6) of this subsection, the debtor has the option to  
21 participate in the Foreclosure Mediation Program following the  
22 filing of a mortgage foreclosure complaint by initiating mediation  
23 pursuant to paragraph (2) of subsection a. of section 4 of P.L.2019,  
24 c.64 (C.2A:50-77). Notice of the option to participate in the  
25 Foreclosure Mediation Program shall adhere to the requirements of  
26 section 3 of P.L.2019, c.64 (C.2A:50-76) and any court rules,  
27 procedures, or guidelines adopted by the Supreme Court;

28 (13) that the debtor is entitled to housing counseling, at no cost  
29 to the debtor, through the Foreclosure Mediation Program  
30 established by the New Jersey Judiciary, including information on  
31 how to contact the program;

32 (14) that if the property which is the subject of the mortgage has  
33 more than one dwelling unit but less than five, one of which is  
34 occupied by the debtor or a member of the debtor's immediate  
35 family as the debtor's or member's residence at the time the loan is  
36 originated, and is not properly maintained and meets the necessary  
37 conditions for receivership eligibility, established pursuant to  
38 section 4 of the "Multifamily Housing Preservation and  
39 Receivership Act," P.L.2003, c.295 (C.2A:42-117), the residential  
40 mortgage lender shall file an order to show cause to appoint a  
41 receiver; and

42 (15) that the lender is either licensed in accordance with the  
43 "New Jersey Residential Mortgage Lending Act," sections 1  
44 through 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89)  
45 or exempt from licensure under the act in accordance with  
46 applicable law.

47 d. The notice of intention to foreclose required to be provided  
48 pursuant to this section shall not be required if the debtor has

1 voluntarily surrendered the property which is the subject of the  
2 residential mortgage.

3 e. The duty of the lender under this section to serve notice of  
4 intention to foreclose is independent of any other duty to give  
5 notice under the common law, principles of equity, State or federal  
6 statute, or rule of court and of any other right or remedy the debtor  
7 may have as a result of the failure to give such notice.

8 f. Compliance with this section and subsection a. of section 2  
9 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
10 shall be set forth in the pleadings of any legal action referred to in  
11 this section. If the plaintiff in any complaint seeking foreclosure of  
12 a residential mortgage alleges that the property subject to the  
13 residential mortgage has been abandoned or voluntarily  
14 surrendered, the plaintiff shall plead the specific facts upon which  
15 this allegation is based.

16 g. If more than 180 days have elapsed since the date the notice  
17 required pursuant to this section is sent, and any foreclosure or  
18 other legal action to take possession of the residential property  
19 which is the subject of the mortgage has not yet been commenced,  
20 the lender shall send a new written notice at least 30 days, but not  
21 more than 180 days, in advance of that action.

22 h. If the property which is the subject of the notice of intention  
23 to foreclose has more than one dwelling unit but less than five, one  
24 of which is occupied by the debtor or a member of the debtor's  
25 immediate family as the debtor's or member's residence at the time  
26 the loan is originated, and is not properly maintained and meets the  
27 necessary conditions for receivership eligibility, established  
28 pursuant to section 4 of the "Multifamily Housing Preservation and  
29 Receivership Act," P.L.2003, c.295 (C.2A:42-117), the residential  
30 mortgage lender shall file an order to show cause to appoint a  
31 receiver.<sup>3</sup>

32 (cf: P.L.2019, c.70, s.2)

33

34 <sup>2</sup>[5.] <sup>3</sup>[6.2] 5.<sup>3</sup> This act shall take effect on the first day of the  
35 <sup>3</sup>[seventh] tenth<sup>3</sup> month next following the date of enactment <sup>1</sup>, but  
36 the Commissioner of Community Affairs may take such  
37 anticipatory administrative action in advance thereof as shall be  
38 necessary for the implementation of this act<sup>1</sup>.