

P.L. 2019, CHAPTER 69, *approved April 29, 2019*

Senate, No. 3411 (*Second Reprint*)

1 AN ACT concerning residential mortgage foreclosure and amending  
2 and supplementing P.L.1995, c.244.

3

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

6

7 1. Section 4 of P.L.1995, c.244 (C.2A:50-56) is amended to  
8 read as follows:

9 4. a. Upon failure to perform any obligation of a residential  
10 mortgage by the residential mortgage debtor and before any  
11 residential mortgage lender may accelerate the maturity of any  
12 residential mortgage obligation and commence any foreclosure or  
13 other legal action to take possession of the residential property  
14 which is the subject of the mortgage, the residential mortgage  
15 lender shall give the residential mortgage debtor notice of such  
16 intention <sup>1, 1</sup> which shall include a notice of the right to cure the  
17 default as provided in section 5 of P.L.1995, c.244 (C.2A:50-57) <sup>1, 1</sup>  
18 at least 30 days, but not more than 180 days, in advance of such  
19 action as provided in this section.

20 b. Notice of intention to take action as specified in subsection  
21 a. of this section shall be in writing, sent to the debtor by registered  
22 or certified mail, return receipt requested, at the debtor's last known  
23 address, and, if different, to the address of the property which is the  
24 subject of the residential mortgage. The notice is deemed to have  
25 been effectuated on the date the notice is delivered in person or  
26 mailed to the party.

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

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

30 (2) the nature of the default claimed;

31 (3) the right of the debtor to cure the default as provided in  
32 section 5 of **[this act]** P.L.1995, c.244 (C.2A:50-57);

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

36 (5) the date by which the debtor shall cure the default to avoid  
37 initiation of foreclosure proceedings, which date shall not be less  
38 than 30 days after the date the notice is effective, and the name and

**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>Senate floor amendments adopted February 21, 2019.

<sup>2</sup>Assembly floor amendments adopted March 25, 2019.

1 address and phone number of a person to whom the payment or  
2 tender shall be made;

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

7 (7) that if the lender takes the steps indicated pursuant to  
8 paragraph (6) of this subsection c., a debtor shall still have the right  
9 to cure the default pursuant to section 5 of **[this act]** P.L.1995,  
10 c.244 (C.2A:50-57), but that the debtor shall be responsible for the  
11 lender's court costs and attorneys' fees in an amount not to exceed  
12 that amount permitted pursuant to the Rules Governing the Courts  
13 of the State of New Jersey;

14 (8) the right, if any, of the debtor to transfer the real estate to  
15 another person subject to the security interest and that the transferee  
16 may have the right to cure the default as provided in **[this act]**  
17 P.L.1995, c.244 (C.2A:50-53 et seq.), subject to the mortgage  
18 documents;

19 (9) that the debtor is advised to seek counsel from an attorney of  
20 the debtor's own choosing concerning the debtor's residential  
21 mortgage default situation, and that, if the debtor is unable to obtain  
22 an attorney, the debtor may communicate with the New Jersey Bar  
23 Association or Lawyer Referral Service in the county in which the  
24 residential property securing the mortgage loan is located; and that,  
25 if the debtor is unable to afford an attorney, the debtor may  
26 communicate with the Legal Services Office in the county in which  
27 the property is located;

28 (10) the possible availability of financial assistance for curing a  
29 default from programs operated by the State or federal government  
30 or nonprofit organizations, if any, as identified by the  
31 Commissioner of Banking and Insurance. This requirement shall be  
32 satisfied by attaching a list of such programs promulgated by the  
33 commissioner; **[and]**

34 (11) the name and address of the lender and the telephone  
35 number of a representative of the lender whom the debtor may  
36 contact if the debtor disagrees with the lender's assertion that a  
37 default has occurred or the correctness of the mortgage lender's  
38 calculation of the amount required to cure the default; <sup>2</sup>**[and]**<sup>2</sup>

39 (12) that the debtor is entitled to housing counseling, at no cost  
40 to the debtor, through the Foreclosure Mediation Program  
41 established by the New Jersey Judiciary, including information on  
42 how to contact the program <sup>2</sup>; and

43 (13) that if the property which is the subject of the mortgage  
44 has more than one dwelling unit but less than five, one of which is  
45 occupied by the debtor or a member of the debtor's immediate  
46 family as the debtor's or member's residence at the time the loan is  
47 originated, and is not properly maintained and meets the necessary

1 conditions for receivership eligibility, established pursuant to  
2 section 4 of the “Multifamily Housing Preservation and  
3 Receivership Act,” P.L.2003, c.295 (C.2A:42-117), the residential  
4 mortgage lender shall file an order to show cause to appoint a  
5 receiver<sup>2</sup>.

6 d. The notice of intention to foreclose required to be provided  
7 pursuant to this section shall not be required if the debtor has  
8 voluntarily surrendered the property which is the subject of the  
9 residential mortgage.

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

15 f. Compliance with this section shall be set forth in the  
16 pleadings of any legal action referred to in this section. If the  
17 plaintiff in any complaint seeking foreclosure of a residential  
18 mortgage alleges that the property subject to the residential  
19 mortgage has been abandoned or voluntarily surrendered, the  
20 plaintiff shall plead the specific facts upon which this allegation is  
21 based.

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

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

38 (cf: P.L.2003, c.298, s.1)

39  
40 2. (New section) a. If a plaintiff’s action to foreclose a  
41 residential mortgage has been dismissed without prejudice pursuant  
42 to R.4:64-8 of the Rules Governing the Courts of New Jersey of the  
43 State of New Jersey, reinstatement of the plaintiff’s action may be  
44 permitted only on motion for good cause shown <sup>1</sup>[and  
45 reinstatements]. Reinstatements<sup>1</sup> shall be limited to three for any  
46 action <sup>1</sup>, except that a reinstatement which is granted following a  
47 dismissal without prejudice that resulted from the plaintiff’s

1 compliance with federal law or regulation shall not count toward  
2 the limit established by this subsection<sup>1</sup>. The fee for a plaintiff to  
3 reinstate a residential mortgage foreclosure action shall be twice the  
4 amount set <sup>1</sup>**【by the Administrative Office of the Courts】**<sup>1</sup> for filing  
5 a foreclosure complaint. The plaintiff shall not charge or otherwise  
6 pass a reinstatement fee onto the debtor or any other person.

7 b. The amounts paid by plaintiffs for reinstating a mortgage  
8 pursuant to subsection a. of this section, that are over and above the  
9 amounts set <sup>1</sup>**【by the Administrative Office of the Courts】**<sup>1</sup> for  
10 filing a foreclosure complaint, shall be aggregated and divided  
11 equally on an annual basis, with one-half dedicated to the New  
12 Jersey Housing and Mortgage Finance Agency for the purposes of  
13 funding the counseling component provided by the agency for the  
14 New Jersey Judiciary's Foreclosure Mediation Program, and one-  
15 half dedicated to the Administrative Office of the Courts for the  
16 general operations provided by the office for the New Jersey  
17 Judiciary's Foreclosure Mediation Program.

18  
19 3. This act shall take effect on the first day of the fourth month  
20 next after enactment.

21

22

23

24

25 \_\_\_\_\_  
26 Requires receivership appointment application prior to certain  
27 foreclosure actions; requires notice of intention to foreclosure on  
28 residential mortgage to be filed within 180 days prior to  
29 commencing foreclosure; limits reinstatements of dismissed  
mortgage foreclosure actions.