

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 3413

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2019

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 3413, with committee amendments.

As amended, this bill revises the summary action foreclosure process under the “Fair Foreclosure Act,” to: (1) expand the definition of “vacant and abandoned”; (2) require lenders to bring a summary action to foreclose a mortgage debt secured by residential property that is vacant and abandoned; and (3) ensure that foreclosure sales of vacant and abandoned properties are conducted within 60 days of a foreclosure judgment.

The current definition of “vacant and abandoned” provides that statements of neighbors, delivery persons, or government employees may be used to indicate that a residence is vacant and abandoned. The bill amends the definition to include statements of representatives of a common interest community association.

The bill also provides that a lender would be required to file a summary action to foreclose a mortgage debt secured by residential property that is vacant and abandoned, if the lender has initiated the foreclosure process. Under current law, lenders may file such actions, but are not required to do so.

Current law provides that if the court makes a finding in a foreclosure judgment that the property is vacant and abandoned, the sheriff is required to sell the property within 60 days of the sheriff’s receipt of any writ of execution issued by the court. If it becomes apparent the sheriff cannot comply with that provision, the foreclosing plaintiff is permitted to apply to the court for an order appointing a Special Master or judicial agent to hold the foreclosure sale. The bill would require the foreclosing plaintiff to make this application for appointment of a Special master or judicial agent.

Finally, the bill provides that if a finding was not made in the foreclosing judgment that the property was vacant and abandoned, the foreclosing plaintiff may make application to the court to order an expedited sale of the property, if the application includes a certification that the property is vacant and abandoned.

COMMITTEE AMENDMENTS:

The committee amendments provide that if a finding was not made in a foreclosing judgment that a property was vacant and abandoned, the foreclosing plaintiff may make application to the court to order an expedited sale of the property, if the application includes a certification that the property is vacant and abandoned.

Upon application, the amendments require the court to issue an order directing the sheriff to sell the property within 60 days, in accordance with the expedited sale provisions in current law. The amendments also provide that a hearing would not be required unless the foreclosing plaintiff's application is contested