

ASSEMBLY, No. 1049

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

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District 35 (Bergen and Passaic)

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Assemblymen Giblin, Coughlin, Conaway, Assemblywomen Sumter, Pintor Marin, Murphy, Timberlake, Assemblymen Spearman, Holley, Assemblywomen Reynolds-Jackson, Vainieri Huttie and Assemblyman Mejia

SYNOPSIS

Establishes the “New Jersey Residential Foreclosure Transformation Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/15/2020)

1 **AN ACT** concerning the transfer and dedication of foreclosed
2 residential properties for affordable housing, and supplementing
3 Title 55 of the Revised Statutes.

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

7
8 1. This act shall be known and may be cited as the "New Jersey
9 Residential Foreclosure Transformation Act."

10
11 2. The Legislature finds and declares that:

12 a. In recent years, there has been an enormous expansion in the
13 number of mortgage foreclosure filings in New Jersey and across
14 the nation. The number of mortgage foreclosure actions filed in the
15 New Jersey Courts grew from just over 20,000 in 2005 to more than
16 51,000 in 2008, 66,000 in 2009, and 58,000 in 2010.

17 b. Preliminary information indicates a decline in the number of
18 residential mortgage foreclosure filings over 2011. However, this
19 decline is largely attributable to actions undertaken by the New
20 Jersey Judiciary which, in December of 2010, suspended the
21 processing of uncontested residential foreclosures by the six biggest
22 lenders in order to address "robo-signing" and other processing
23 irregularities.

24 c. Despite this decline, it has been reported that more than one
25 in 10 New Jersey mortgage loans are already in foreclosure or are
26 90 days or more in arrears. Because of the large number of
27 foreclosures filed during the 2009-2010 period, and the Judiciary's
28 suspension of foreclosure processing, reports indicate that as of
29 August 2011 more than 100,000 residential foreclosure cases were
30 still open. Now that the courts have resumed processing
31 foreclosures for the big six lenders, it is widely believed that
32 foreclosure filings will increase during 2012. This is due in part to
33 the large number of mortgages that are seriously delinquent, more
34 than 90 days past due. Reports have indicated that during the
35 suspension period mortgage lenders were waiting to file more than
36 28,000 additional foreclosures and that another 55,000 mortgage
37 loans were over 90 days delinquent.

38 d. Many of these foreclosed residential properties are vacant,
39 undermining the health, safety, and economic vitality of
40 neighborhoods, depressing their property values, and reducing
41 revenues to municipalities.

42 e. It is the public policy of this State to encourage the
43 production of low-income and moderate-income housing to serve
44 the general welfare of all the State's residents.

45 f. The availability of tens of thousands of foreclosed
46 residential properties presents a unique opportunity for the State to
47 facilitate the purchase and dedication, or the rental, of housing units
48 for low-income and moderate-income residents.

1 g. Establishment of a temporary State entity dedicated to the
2 purpose of identifying foreclosed residential properties and
3 facilitating their purchase and dedication for occupancy or their
4 rental, including but not limited to low-income and moderate-
5 income families, is in the public interest of the State.

6
7 3. As used in this act:

8 "Affordable" means a sales price or rent within the means of a
9 low or moderate income household.

10 "Agency" means the New Jersey Housing and Mortgage Finance
11 Agency established pursuant to section 4 of P.L.1983, c.530
12 (C.55:14K-4).

13 "Community development corporation" means a nonprofit
14 community development corporation established pursuant to Title
15 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or
16 other law of this State, with a focus on producing and operating
17 affordable housing or housing with on-site social services for
18 individuals with special needs.

19 "Community development financial institution" means an entity
20 designated and certified by the United States Department of the
21 Treasury as a Community Development Financial Institution
22 pursuant to 12 CFR Part 1805.

23 "Contractor" means a qualified community development
24 financial institution that enters into a contract or loan with the
25 corporation pursuant to section 7 of this act.

26 "Corporation" means the "New Jersey Foreclosure Relief
27 Corporation" established pursuant to this act.

28 "Eligible property" means any residential property that is owned
29 by an institutional lender as the result of a mortgage foreclosure.

30 "Individuals with special needs" means individuals with mental
31 illness, physical or developmental disabilities, victims of domestic
32 violence, ex-offenders, youth aging out of foster care, disabled and
33 homeless veterans, individuals and households who are homeless,
34 individuals with AIDS/HIV, and individuals in other emerging
35 special needs groups identified by State agencies. Individuals shall
36 be at least 18 years of age if not part of a household.

37 "Institutional lender" or "lender" means any lawfully constituted
38 mortgage lender, mortgage investor, or mortgage loan servicer that
39 owns an eligible property including, but not limited to any agency
40 or instrumentality of the United States, including, but not limited to,
41 the Government National Mortgage Association, the Federal Home
42 Loan Mortgage Corporation, the Federal National Mortgage
43 Association, the Federal Housing Administration, the Small
44 Business Administration, the Resolution Funding Corporation, and
45 the Federal Deposit Insurance Corporation.

46 "Intercreditor agreement" means an agreement among creditors
47 that sets forth the various lien positions and the rights and liabilities
48 of each creditor and its impacts on the other creditors.

1 "Low-income" means 50 percent or less of the median gross
2 household income for households of the same size within the
3 housing region in which the household is located, based upon the
4 United States Department of Housing and Urban Development's
5 (HUD) Section 8 Income Limits (uncapped) averaged across
6 counties for the housing region.

7 "Low-income housing" means housing affordable according to
8 United States Department of Housing and Urban Development or
9 other recognized standards for home ownership and rental costs,
10 and occupied or reserved for occupancy by households with a gross
11 household income equal to 50 percent or less of the median gross
12 household income for households of the same size within the
13 housing region in which the housing is located.

14 "Market-rate units" means housing not restricted to low- and
15 moderate-income households that may sell or rent at any price.

16 "Moderate-income" means more than 50 percent but less than 80
17 percent of the median gross household income for households of the
18 same size within the housing region in which the household is
19 located, based upon the United States Department of Housing and
20 Urban Development's (HUD's) Section 8 Income Limits (uncapped)
21 averaged across counties for the housing region.

22 "Moderate-income housing" means housing affordable according
23 to United States Department of Housing and Urban Development or
24 other recognized standards for home ownership and rental costs and
25 occupied or reserved for occupancy by households with a gross
26 household income equal to more than 50 percent but less than 80
27 percent of the median gross household income for households of the
28 same size within the housing region in which the housing is located.

29 "Permanent supportive housing" means a permanent lease based
30 housing unit that provides access to supportive services for
31 individuals with special needs and households with individuals with
32 special needs who can benefit from housing with services.

33 "Qualified community development financial institution" means
34 a community development financial institution that has a minimum
35 of \$50 million in assets under management and a minimum of 2
36 years' experience in the financing and acquisition of real estate for
37 affordable housing.

38 "Qualifying household" means a very-low, low-, or moderate-
39 income household, the head of which certifies in writing that the
40 household intends to occupy the property as a principal residence
41 for at least 12 months.

42 "Supportive shared living housing" means permanent lease-based
43 supportive housing that provides access to supportive services to
44 individuals with special needs who maintain separate leases for
45 bedrooms and share common living space.

46 "Very-low-income" means 30 percent or less of the median gross
47 household income for households of the same size within the
48 housing region in which the household is located, based upon the

1 United States Department of Housing and Urban Development's
2 (HUD) Section 8 Income Limits (uncapped) averaged across
3 counties for the housing region.

4 "Very-low-income housing" means housing affordable to,
5 according to United States Department of Housing and Urban
6 Development or other recognized standards for home ownership
7 and rental costs, and occupied by, or reserved for occupancy by,
8 households with a gross household income equal to 30 percent or
9 less of the median gross household income for households of the
10 same size within the housing region in which the housing is located.

11

12 4. a. There is established in the New Jersey Housing and
13 Mortgage Finance Agency the "New Jersey Foreclosure Relief
14 Corporation."

15 b. The corporation shall constitute a body corporate and politic
16 and an instrumentality exercising public and essential governmental
17 functions, and the exercise by the corporation of the powers
18 conferred by this act shall be deemed and held to be an essential
19 governmental function of the State.

20 c. The corporation shall be governed by a seven-member
21 board, consisting of the Commissioner of Community Affairs, the
22 Executive Director of the New Jersey Housing and Mortgage
23 Finance Agency, the Commissioner of Banking and Insurance, and
24 the State Treasurer, who shall be members ex officio, and three
25 members appointed by the Governor. Each ex officio member of
26 the board may designate an officer or employee of his department to
27 represent him at meetings of the board, and each such designee may
28 lawfully vote and otherwise act on behalf of the member for whom
29 he constitutes the designee. Any such designation shall be in
30 writing delivered to the secretary of the board and shall continue in
31 effect until revoked or amended by writing delivered to the
32 secretary of the board.

33 d. The three members appointed by the Governor shall be
34 residents of the State and shall have knowledge in the areas of real
35 estate, housing design, construction, or operation; mortgage
36 banking, finance and foreclosure; or community development. Of
37 the three members appointed by the Governor, one shall be a
38 nominee of the Senate President and one shall be a nominee of the
39 Speaker of the General Assembly. At least one of the members
40 appointed by the Governor shall hold a license as a real estate
41 broker, broker-salesperson, salesperson, or referral agent under the
42 provisions of R.S.45:15-1 et seq. No more than two of the members
43 appointed by the Governor shall be members of the same political
44 party. The members shall serve for two-year terms. Each member
45 shall hold office for the term of his appointment and until the
46 appointment of his successor. A member of the board shall be
47 eligible for reappointment. A member of the board may be removed
48 from office by the Governor, for cause, after a public hearing and

1 may be suspended by the Governor pending the completion of such
2 a hearing.

3 e. (1) The Executive Director of the New Jersey Housing and
4 Mortgage Finance Agency shall be the chairperson of the board.
5 The chairperson shall appoint the secretary to the board. The
6 chairperson shall convene an organizational meeting of the board as
7 soon as possible after the appointment of its members.

8 (2) The board shall have the exclusive authority to approve all
9 financial transactions of the corporation, to approve minutes of
10 board meetings, and to make determinations concerning the
11 corporation's governing structure.

12 (3) The secretary to the board shall deliver a true copy of the
13 minutes of every board meeting to the Governor. No action taken at
14 a board meeting shall have force or effect until the Governor
15 approves the action or fails to veto the action within 10 business
16 days after a true copy of the minutes were delivered. During that
17 10-day period, the Governor may render any action taken by the
18 board or any member thereof null and void by returning a copy of
19 the minutes with a veto of the action to the board.

20 f. The corporation shall use employees (selected by the board)
21 of the agency and the agency shall provide such personnel to the
22 corporation for its use. In addition to persons otherwise employed
23 by the agency, the agency shall employ, and shall provide to the
24 corporation, such persons as the corporation may request from time
25 to time. Agency employees provided to the corporation shall be
26 subject to the direction and control of the corporation and any of
27 them may be returned to the agency at any time by the corporation
28 in the discretion of the corporation. The corporation may use
29 administrative services of the agency and, if it does so, shall
30 reimburse the agency for the actual costs of providing such
31 services.

32 g. With the agreement of an executive department or other
33 executive agency, the corporation may utilize the personnel of that
34 department or agency on a reimbursable basis to cover actual and
35 reasonable expenses.

36 h. (1) On or before the last day of March in each year, the
37 corporation shall make an annual report of its activities for the
38 preceding calendar year, and its planned activities for the current
39 and following calendar year, to the Governor and to the Legislature.

40 (2) Each annual report shall set forth the current nature and
41 extent of foreclosure activity in New Jersey and shall depict
42 changes in foreclosure activity from the prior calendar year. The
43 report shall set forth a complete operating and financial statement
44 covering the corporation's operations, transactions and holdings
45 during the preceding year, including but not limited to:

46 (a) the total number of re-capitalized market rate units.

47 (b) the total numbers of very-low-income, low-income, and
48 moderate-income units that were produced for sale and for rental in

1 the preceding year pursuant to this act, their locations by
2 municipality, and the sources of financing used.

3 (3) The corporation shall cause an audit of its books and
4 accounts to be made at least once in each year by certified public
5 accountants. The cost of the audit shall be considered an expense of
6 the corporation and a copy thereof shall be filed with the State
7 Treasurer.

8 (4) The corporation shall provide copies of its annual reports
9 and audits to the agency and the agency shall display the
10 corporation's annual reports and audits on the agency's website.

11 i. The corporation shall cease its operations on December 31,
12 2017. On that date, any assets, liabilities, properties, or funds held
13 by the corporation shall transfer to the agency. The corporation
14 shall expire upon transmittal of the 2017 annual report.

15

16 5. The corporation shall have the following powers:

17 a. To adopt, alter, and use a corporate seal.

18 b. To enter into contracts and modify, or consent to the
19 modification of, any contract or agreement to which the corporation
20 is a party or in which the corporation has an interest under this act,
21 with or without public bidding, notwithstanding the provisions of
22 any other law.

23 c. To make advance, progress, or other payments.

24 d. To acquire, hold, lease, mortgage, maintain, and dispose of,
25 at public or private sale, real and personal property, using any
26 legally available private sector methods including without
27 limitation, securitization of debt or equity, limited partnerships,
28 mortgage investment conduits, and real estate investment trusts, and
29 otherwise exercise all the usual incidents of ownership of property
30 necessary and convenient to the operations of the corporation;
31 provided, however, that every contract for the acquisition of real
32 property entered into by the corporation, and every deed conveying
33 real property to the corporation, shall provide that if the corporation
34 holds title to the property on the 61st day after the date of the deed,
35 all rights, title, and interest conveyed to the corporation shall
36 automatically revert to and vest in the grantor without the necessity
37 of any further act on the part of or on behalf of the grantor, it being
38 the intent to convey a determinable estate.

39 e. To sue and be sued in its corporate capacity in any court of
40 competent jurisdiction.

41 f. To exercise any other power established under this section
42 and such incidental powers as are necessary to carry out its duties
43 and functions under this section. The corporation may indemnify
44 the directors, officers, and employees of the corporation on such
45 terms as the corporation deems proper against any liability under
46 any civil suit pursuant to any statute or pursuant to common law
47 with respect to any claim arising out of or resulting from any act or
48 omission by such person within the scope of such person's

1 employment in connection with any transaction entered into
2 involving the disposition of assets (or any interests in any assets or
3 any obligations backed by any assets) by the corporation. For
4 purposes of this subsection, the terms "officers" and "employees"
5 include officers and employees of the agency. The indemnification
6 authorized by this subsection shall be in addition to and not in lieu
7 of any immunities or other protections that may be available to such
8 person under applicable law, and this provision does not affect any
9 such immunities or other protections.

10
11 6. In addition to the powers of the corporation described in
12 section 5 of P.L. , c. (C.) (pending before the Legislature as
13 this bill), the corporation shall have the following powers:

14 a. The corporation may enter into contracts with any person,
15 corporation, or entity which the corporation determines to be
16 necessary or appropriate to carry out its responsibilities under this
17 act. Such contracts shall be subject to the procedures adopted
18 pursuant to section 7 of this act.

19 b. In carrying out the corporation's duties under this act, the
20 corporation may utilize the services of private persons, including
21 real estate and loan portfolio asset management, property
22 management, auction marketing, and brokerage services, if such
23 services are available in the private sector and the corporation
24 determines utilization of such services are practicable and efficient.

25 c. Within 120 days after the adoption of this act, the
26 corporation shall enter into a mutually binding funding agreement
27 with the New Jersey Housing and Mortgage Finance Agency for the
28 purposes of

29 (1) determining the target amount of bond proceeds to be raised
30 by the agency for the activities of the corporation, as well as the
31 sources of repayment of, and security for, the agency's bonds; and

32 (2) identifying underwriting standards, securitization of debt,
33 and credit standards for the acquisition of foreclosed residential
34 properties or mortgage assets.

35
36 7. a. (1) The corporation shall enter into contracts or loans, or
37 both, with no more than two qualified community development
38 financial institutions to negotiate, bid for, and purchase eligible
39 properties and mortgage assets from institutional lenders for the
40 purpose of producing affordable housing. In selecting contractors
41 from among qualified community development financial
42 institutions, the corporation shall accord a strong preference to
43 qualified community development financial institutions that have
44 substantial experience in lending in New Jersey and substantial
45 knowledge of New Jersey real estate markets. The corporation may
46 enter into contracts or loans, or both, with a partnership or consortia
47 of organizations, as long as a qualified community development

1 financial institution is the lead entity, or a partnership or consortia
2 of multiple qualified community development financial institutions.

3 (2) The contracts shall specify the amounts, schedules, and
4 types of funding to be provided by the corporation to the qualified
5 community development financial institutions, the repayment
6 schedule for the portion of that funding to be repaid, and targeted
7 goals of affordable housing to be produced. The corporation may
8 condition funding and goals upon the availability of funds to the
9 corporation. The contracts shall specify reasonable administrative
10 costs sufficient to enable the qualified community development
11 financial institutions to exercise their obligations pursuant to this
12 act. The contracts shall set forth criteria for instances when the
13 purchase, sale, lease, and conveyance of properties as market-rate
14 units furthers the purposes of this act.

15 b. (1) As soon as possible after entering into a contract to
16 purchase an eligible property or mortgage asset for use as
17 affordable housing by the corporation or its contractors, the
18 municipality in which the property is located shall be afforded a 45-
19 day period of time within which the municipal governing body may
20 opt to purchase the property in lieu of the corporation in accordance
21 with the provisions set forth in this act. The municipality may waive
22 this right through written notice to the corporation or, if so
23 designated by the corporation, its contractors, prior to the expiration
24 of the 45-day period.

25 (2) Those eligible properties purchased by the qualified
26 community development financial institutions and designated
27 pursuant to this act for use as affordable housing shall be restricted
28 for occupancy as affordable housing for a period of 30 years. The
29 restriction shall be set forth in the deed and recorded in the office of
30 the county recording officer of the county wherein the real estate is
31 situated. Affordability controls shall be imposed upon purchase and
32 maintained upon transfer in accordance with the provisions of the
33 Uniform Housing Affordability Controls promulgated by the
34 agency.

35 c. (1) As soon as possible after entering into a contract to
36 purchase an eligible property, but not less than five days after the
37 date the corporation or its contractors enters into the contract, the
38 corporation or its contractors shall provide written notice by
39 personal service or certified mail to the governing body of the
40 municipality within which the eligible property is located. The
41 notice shall inform the governing body of the municipality's
42 opportunity to purchase the eligible property, the municipality's
43 right of first refusal to purchase the property, and the municipality's
44 right to use monies deposited in its affordable housing trust fund.

45 (2) As soon as possible after entering into a contract to purchase
46 an eligible property, but not less than five days after the date the
47 corporation or its contractors enters into the contract, the
48 corporation or its contractors shall list the property on the

1 Department of the Treasury's website. The listing shall contain
2 basic information about the property, including but not limited to
3 location, condition, and information relating to the estimated fair
4 market value of the property. The corporation or its contractors
5 shall make information about the listing available to the agency
6 and, upon request, to municipalities, other public agencies,
7 community development corporations, developers, and qualifying
8 households.

9 (3) The corporation or its contractors shall allow public
10 agencies, community development corporations, developers, and
11 qualifying households reasonable access to an eligible property for
12 purposes of inspection.

13 d. (1) In order to exercise its right to purchase an eligible
14 property, the governing body of the municipality shall provide
15 written notice to the chairperson of the corporation or, if so
16 designated by the corporation, its contractors, within 45 days of the
17 municipality's receipt of the notice required pursuant to subsection
18 c. of this section.

19 (2) The governing body of a municipality may adopt a
20 resolution authorizing the mayor or other designated municipal
21 official to respond to notices received pursuant to subsection c. of
22 this section. The resolution may establish parameters for that
23 exercise of authority, including but not limited to the total amount
24 of funds that may be expended and the amount that may be
25 expended for each unit of housing.

26 (3) A municipality may use any available funding sources to
27 purchase eligible properties or mortgage assets through the
28 corporation pursuant to this act, except for funds that are dedicated
29 to another purpose by law, covenant, or other obligation.

30 (4) Whenever a municipality does not exercise an option to
31 purchase an eligible property under this section, the corporation or
32 its contractors may convey the property for occupancy as affordable
33 housing subject to a 30-year deed restriction to another public
34 agency, a community development corporation, a developer, or a
35 qualifying household or the contractors may lease the property for
36 occupancy as affordable housing subject to a 30-year deed
37 restriction. A municipality that does not exercise an option to
38 purchase an eligible property under this section may adopt a
39 resolution authorizing the corporation or its contractors to use
40 monies deposited in that municipality's affordable housing trust
41 fund, up to and including the negotiated purchase price of the
42 eligible property, and apply those funds to the purchase of the
43 eligible property.

44 e. Notwithstanding any other provision of this section to the
45 contrary, the corporation and, if authorized by contract, its
46 contractors, may purchase, sell, lease, and convey market rate-units
47 without offering those units to the municipality and without
48 imposing affordability controls upon the property if the purchase,

1 sale, lease, and conveyance of those properties as market-rate units
 2 satisfy criteria established pursuant to contract in accordance with
 3 subsection a. of this section and does not violate the terms of any
 4 other provision of law or requirement, including those governing
 5 the use of funds used to make the purchase.

6 f. All purchases, sales, leases, and conveyances of property by
 7 qualified community development financial institutions exercised
 8 pursuant to this section shall be deemed to lessen the burdens of
 9 government in furthering the purposes of this act.

10

11 8. a. A municipality that purchases an eligible property
 12 pursuant to this act shall sell and convey or lease the housing unit or
 13 units acquired within 60 days of the date of purchase, unless it is
 14 not possible to do so due to practical or market conditions. In the
 15 event that an eligible property is not conveyed or leased within 180
 16 days of the date of purchase, or remains vacant for a 180-day period
 17 during the pendency of affordability controls, the corporation, or
 18 the agency as successor to the corporation, may commence
 19 proceedings to take control of the property and to sell and convey or
 20 lease the property in furtherance of the purposes of this act and deed
 21 restrictions of record.

22 b. The governing body of a municipality that purchases an
 23 eligible property pursuant to this act may, by resolution, authorize
 24 the private sale and conveyance or the lease of a housing unit or
 25 units acquired pursuant to this act. Every deed and rental
 26 agreement shall contain a provision specifying the requirement that
 27 the housing unit or units shall remain available to low- and
 28 moderate-income households for a period of at least 30 years.

29 c. Except as provided in subsection d. of this section, whenever
 30 the corporation, its contractors, or a municipality purchases an
 31 eligible property pursuant to this act from monies deposited in the
 32 municipality's affordable housing trust fund and dedicates the
 33 property for affordable housing, as required by this act, that
 34 municipality shall receive:

35 (1) two units of credit towards its affordable housing obligation
 36 for:

37 (a) each eligible property sold or conveyed as a for-sale unit or
 38 leased as rental housing, and

39 (b) each unit of affordable housing dedicated for permanent
 40 supportive housing other than supportive shared living housing.

41 (2) one and one-quarter units of credit towards its affordable
 42 housing obligation for each new bedroom dedicated in supportive
 43 shared living housing.

44 d. The total number of additional units of credit beyond the
 45 actual units of housing provided pursuant to this act shall not
 46 exceed 25 percent of whatever the municipality's affordable
 47 housing obligation may be. No unit or bedroom shall receive the
 48 additional units of credit described in this act in addition to any

1 other type of additional units of credit that may be available
2 towards a municipality's affordable housing obligation.

3
4 9. The corporation and the State Treasurer shall prioritize the
5 allocation of tax-exempt private activity bonds in the amount
6 necessary to effectuate the purposes of this act in each year until the
7 corporation ceases operation, provided that the proceeds of tax-
8 exempt private activity bonds to support the purposes of this act
9 shall be limited to contracts with and loans to qualified community
10 development financial institutions pursuant to section 7 of this act.

11
12 10. a. For the purposes of this section:

13 "Foreclosure-impacted municipality" means a municipality that
14 documents a minimum of 10 units of housing that have been
15 foreclosed upon and have remained unsold on a Multiple Listing
16 Service for at least 60 days; and

17 "Units of housing" means units of housing that are not age-
18 restricted and are habitable year-round, including but not limited to,
19 single family homes, condominium units, cooperative units, and
20 mobile homes with at least two bedrooms.

21 b. (1) Prior to the date that a foreclosure-impacted
22 municipality's development fees or payments-in-lieu fees are
23 scheduled to transfer to the "New Jersey Affordable Housing Trust
24 Fund" pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) or
25 section 9 of P.L.2008, c.46 (C.52:27D-329.3), the municipality may
26 adopt a resolution committing the expenditure of municipal
27 affordable housing trust fund monies. These funds shall be used to
28 produce very-low-income, low-income, and moderate-income
29 housing. The resolution shall authorize the transfer of a minimum
30 of \$150,000 from the municipality's municipal affordable housing
31 trust fund to the "Foreclosure to Affordable Housing
32 Transformation Fund" for use by the corporation or its contractors
33 for the provision of affordable housing pursuant to this section and
34 the procedures specified in section 7 of this act.

35 (2) The resolution may authorize the mayor or other designated
36 municipal official to exercise the municipal powers described in
37 section 7 of this act. The resolution may establish parameters for
38 that exercise of authority, including but not limited to purchase
39 price levels for the exercise of that power.

40 c. (1) The corporation or its contractors shall use funds
41 transferred pursuant to subsection b. of this section to produce very-
42 low, low-, and moderate-income housing within the municipality
43 transferring funds pursuant to this section, with a deed restriction
44 specifying that the housing unit or units shall remain available to
45 low- and moderate-income households for a period of at least 30
46 years.

47 (2) If the corporation or its contractors are unable to utilize
48 some or all of the funds provided to produce affordable housing

1 within the municipality within two years of the transfer of such
2 funds to the "Foreclosure to Affordable Housing Transformation
3 Fund," the funds shall be returned to the municipality as soon as
4 practicable after the two-year anniversary of such transfer. From
5 the date any such funds are returned to the municipality, the
6 municipality shall be required to commit the funds in accordance
7 with section 8 of P.L.2008, c.46 (C.52:27D-329.2) or section 9 of
8 P.L.2008, c.46 (C.52:27D-329.3), as applicable, within the time
9 constraints set forth in those sections or within six months after the
10 date of transfer of funds back to the municipality, whichever is
11 later.

12 d. Affordable housing created through the "Foreclosure to
13 Affordable Housing Transformation Fund" pursuant to this section
14 shall receive bonus affordable housing credit as set forth in
15 subsection c. of section 8 of this act, even if the municipality does
16 not exercise its right to purchase the property.

17 e. No agency of the State of New Jersey shall take any action
18 to transfer funds from a municipal affordable housing trust fund to
19 the "New Jersey Affordable Housing Trust Fund" established
20 pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) when
21 such funds are designated to effectuate the purposes of this act
22 during the timeframes established in this section.

23

24 11. a. There is established within the agency a "Foreclosure to
25 Affordable Housing Transformation Fund," which shall be a non-
26 lapsing, revolving fund and which shall be the repository for funds
27 appropriated or otherwise made available for the purposes of this
28 act, and any interest earned thereon. The fund shall be administered
29 by the agency, in accordance with its authority under section 5 of
30 P.L.1983, c.530 (C.55:14K-5) to manage funds for housing
31 programs.

32 b. The agency may transfer into the "Foreclosure to Affordable
33 Housing Transformation Fund" any amounts held or received by the
34 agency that may be used for the production of affordable housing
35 and that is needed by the corporation or its contractors for the
36 purchase of eligible property. Subject to the provisions of sections
37 20 through 28 of P.L.1983, c.530 (C.55:14K-20 et seq.), the agency
38 is authorized to issue its bonds to fund the activities of the
39 corporation; provided, however, that tax-exempt bonds shall only be
40 issued consistent with the requirements of section 9 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill).

42 c. In any year in which the proceeds from the receipts of the
43 additional fee collected pursuant to paragraph (2) of subsection a. of
44 section 3 of P.L.1968, c.49 (C.46:15-7) exceeds \$75 million, the
45 first \$10 million above the \$75 million collected shall be transferred
46 into the "Foreclosure to Affordable Housing Transformation Fund"
47 for the purposes of the production of affordable housing.

1 d. Notwithstanding any provision of law to the contrary, the
2 Commissioner of Community Affairs may transfer into the
3 "Foreclosure to Affordable Housing Transformation Fund" amounts
4 held for the production of affordable housing and not designated for
5 a specific purpose beyond the overall production of affordable
6 housing by the annual budget, including but not limited to monies
7 deposited in the "New Jersey Affordable Housing Trust Fund,"
8 which amounts are needed by the corporation for the purchase of
9 eligible property. The commissioner shall consider the transfer of
10 funds from the "New Jersey Affordable Housing Trust Fund" to the
11 "Foreclosure to Affordable Housing Transformation Fund" as a
12 priority for funding until the corporation ceases its operations.

13 e. All amounts deposited into the "Foreclosure to Affordable
14 Housing Transformation Fund" that are derived from federal
15 funding sources or are otherwise dedicated to the production of
16 affordable housing shall be used exclusively for the production of
17 affordable housing. The corporation may use other funds for the
18 production of affordable housing or market rate housing.

19 f. The corporation may use annually up to three percent of the
20 monies available in the fund for the payment of any necessary
21 administrative costs related to the administration of this act.

22
23 12. This act shall take effect immediately.
24
25

26 STATEMENT

27
28 This bill, the "New Jersey Residential Foreclosure
29 Transformation Act," establishes the "New Jersey Foreclosure
30 Relief Corporation" as a temporary entity within the New Jersey
31 Housing and Mortgage Finance Agency (HMFA) for the purpose of
32 purchasing foreclosed residential properties from institutional
33 lenders and dedicating the properties for occupancy as affordable
34 housing. The corporation will cease its operations on December 31,
35 2017. On that date, any assets, properties, or funds held by the
36 corporation will transfer to the HMFA.

37 The bill provides for the corporation to be governed by a seven-
38 member board, consisting of the Commissioner of Community
39 Affairs, the Executive Director of the HMFA, the Commissioner of
40 Banking and Insurance, and the State Treasurer, ex officio, and
41 three New Jersey residents, appointed by the Governor, who have
42 knowledge in the areas of real estate, housing design, construction,
43 or operation; mortgage banking, finance, and foreclosure; or
44 community development. The Senate President and the Speaker of
45 the General Assembly will each nominate one member for
46 appointment by the Governor.

47 The bill requires the corporation to make an annual report of its
48 activities to the Governor and to the Legislature, setting forth a

1 complete operating and financial statement covering its operations,
2 transactions, and holdings during the year. The corporation's books
3 and accounts must be audited at least once each year by certified
4 public accountants.

5 The bill empowers the corporation to purchase foreclosed
6 residential property and mortgage assets from institutional lenders
7 to produce affordable housing and dedicate it for those purposes for
8 30 years. The bill directs the corporation to enter into contracts or
9 loans, or both, with no more than two experienced, financially
10 sophisticated, community development financial institutions to
11 enhance the ability of the corporation to fulfill its purpose of
12 producing affordable housing.

13 The corporation or, if applicable, one of its contractors, will give
14 the municipality in which the property is located a right of first
15 refusal to purchase the property and dedicate it as affordable
16 housing. The bill allows a municipality to exercise its right to
17 purchase and dedicate eligible property for affordable housing,
18 decline the option to purchase, or decline to exercise the option but,
19 instead, authorize the corporation or its contractors to use monies
20 from the municipality's affordable housing trust fund to purchase
21 the property.

22 If a municipality does not exercise its right of first refusal to
23 purchase a property, the corporation may purchase the property and
24 convey it for occupancy as affordable housing subject to a 30-year
25 deed restriction to another public agency, a community
26 development corporation, a developer, or a qualifying household.

27 If the corporation, its contractors or a municipality purchases an
28 eligible property from monies deposited in a municipality's
29 affordable housing trust fund, the municipality will receive bonus
30 credits toward any constitutionally-imposed obligation to provide
31 affordable housing as follows: two units of credit for each eligible
32 property sold or conveyed as a for-sale unit or leased as rental
33 housing; two units of credit for each unit of affordable housing
34 dedicated for permanent supportive housing, other than supportive
35 shared living housing; and one and one-quarter units of credit for
36 each new bedroom dedicated in supportive shared living housing.
37 The bill awards municipalities additional units of credit, above the
38 actual number of dedicated affordable housing units produced, as an
39 incentive for municipalities to authorize the use of their affordable
40 housing trust fund monies for the purchase of eligible properties
41 and to dedicate them as affordable housing.

42 The bill provides that the number of additional units of credit
43 that a municipality can receive towards its affordable housing
44 obligation for property purchased and dedicated as affordable
45 housing under the bill cannot exceed 25 percent of the
46 municipality's affordable housing obligation. The bill specifies that
47 a municipality cannot receive both additional units of credit for
48 producing a unit of affordable housing under this bill, and

1 additional units of credit for that unit under another provision of
2 law.

3 The bill establishes a mechanism through which a "foreclosure-
4 impacted municipality," one that has 10 or more foreclosed homes
5 listed on a multiple listing service for at least 60 days, can insulate
6 its affordable housing trust funds from the laws that require the
7 transfer of its trust fund monies to the "New Jersey Affordable
8 Housing Trust Fund." A foreclosure-impacted municipality can
9 accomplish this by adopting a resolution committing the
10 expenditure of its municipal affordable housing trust fund monies
11 for the production of affordable housing and authorizing the
12 transfer of at least \$150,000 of its municipal affordable housing
13 trust fund monies to the corporation for the corporation to use to
14 produce affordable housing.

15 The bill requires the corporation to use funds transferred from a
16 foreclosure-impacted municipality to produce affordable housing
17 within that municipality. If the corporation is unable to use all of
18 the transferred funds within two years of the date of transfer, the
19 corporation will return the remaining funds to the municipality and
20 the municipality will have at least six months from the date the
21 funds are returned to commit the funds in accordance with other
22 provisions of law. During this period, all municipal trust fund
23 monies designated for the purchase of foreclosed properties will be
24 protected from transfer to the State. A municipality will receive
25 bonus credits, as otherwise provided by the bill, for affordable
26 housing produced by the corporation or by one of its contractors
27 pursuant to this mechanism.

28 The bill allows the corporation to establish criteria to identify the
29 circumstances when the purchase, sale, lease, or conveyance of
30 market-rate units furthers the purposes of the corporation. The
31 corporation, or its contractors, will be able to purchase, sell, lease,
32 or convey market-rate units in accordance with those criteria
33 without imposing affordability controls upon the property provided
34 the transaction does not violate any other law or requirement.

35 The bill establishes the "Foreclosure to Affordable Housing
36 Transformation Fund," to serve as the repository for funds
37 appropriated or made available for the corporation. The HMFA
38 will administer the fund, and is authorized to transfer into the fund
39 any amounts it has that may be used for the production of
40 affordable housing. The bill authorizes HMFA to issue bonds to
41 fund the activities of the corporation. The bill calls for
42 prioritization of the allocation of tax-exempt private activity bonds
43 to allow the corporation to fulfill the bill's purposes.

44 The bill provides that in any year in which the proceeds from the
45 additional fee segment of the realty transfer fee exceed \$75 million,
46 the first \$10 million above the \$75 million collected will be
47 transferred into the "Foreclosure to Affordable Housing
48 Transformation Fund" for purposes of producing affordable

1 housing. The bill authorizes the Commissioner of Community
2 Affairs to transfer into the fund certain amounts held for the
3 production of affordable housing, including but not limited to
4 monies deposited in the "New Jersey Affordable Housing Trust
5 Fund."

6 The bill requires amounts deposited in the "Foreclosure to
7 Affordable Housing Transformation Fund" that are derived from
8 federal funding sources or are otherwise dedicated to the production
9 of affordable housing be used for the production of affordable
10 housing. The bill allows the corporation to use other funds for the
11 production of affordable housing or market-rate housing, and allows
12 the corporation to use annually up to three percent of fund monies
13 for administrative costs.

14 The bill takes effect immediately upon enactment.