

**SENATE, No. 1513**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Senator NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**SYNOPSIS**

Establishes the “New Jersey Residential Foreclosure Transformation Act.”

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/24/2020)**

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. Over the past decade there was an enormous expansion in  
13 the number of mortgage foreclosure filings in New Jersey and  
14 across the nation. The number of mortgage foreclosure actions filed  
15 in the New Jersey Courts grew from just over 20,000 in 2005 to  
16 more than 66,000 in 2009. Filings remained elevated for nearly a  
17 decade until recently returning to normal levels.

18 b. Many of these foreclosed residential properties remain  
19 vacant, undermining the health, safety, and economic vitality of  
20 neighborhoods, depressing their property values, and reducing  
21 revenues to municipalities.

22 c. It is the public policy of this State to encourage the  
23 production of low-income and moderate-income housing to serve  
24 the general welfare of all the State's residents.

25 d. The availability of tens of thousands of foreclosed  
26 residential properties presents a unique opportunity for the State to  
27 facilitate the purchase and dedication, or the rental, of housing units  
28 for low-income and moderate-income residents.

29 e. Establishment of a temporary State entity dedicated to the  
30 purpose of identifying foreclosed residential properties and  
31 facilitating their purchase and dedication for occupancy or their  
32 rental, including but not limited to low-income and moderate-  
33 income families, is in the public interest of the State.

34  
35 3. As used in this act:

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

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

41 "Community development corporation" means a nonprofit  
42 community development corporation established pursuant to Title  
43 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or  
44 other law of this State, with a focus on producing and operating  
45 affordable housing or housing with on-site social services for  
46 individuals with special needs.

47 "Community development financial institution" means an entity  
48 designated and certified by the United States Department of the

1 Treasury as a Community Development Financial Institution  
2 pursuant to 12 CFR Part 1805.

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

6 "Corporation" means the "New Jersey Foreclosure Relief  
7 Corporation" established pursuant to this act.

8 "Eligible property" means any residential property that is either  
9 owned by an institutional lender as the result of a mortgage  
10 foreclosure judgment, or owned by a municipality as the result of a  
11 tax foreclosure judgment.

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

19 "Institutional lender" or "lender" means any lawfully constituted  
20 mortgage lender, mortgage investor, or mortgage loan servicer that  
21 owns an eligible property including, but not limited to any agency  
22 or instrumentality of the United States, including, but not limited to,  
23 the Government National Mortgage Association, the Federal Home  
24 Loan Mortgage Corporation, the Federal National Mortgage  
25 Association, the Federal Housing Administration, the Small  
26 Business Administration, the Resolution Funding Corporation, and  
27 the Federal Deposit Insurance Corporation.

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

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

37 "Low-income housing" means housing affordable according to  
38 United States Department of Housing and Urban Development or  
39 other recognized standards for home ownership and rental costs,  
40 and occupied or reserved for occupancy by households with a gross  
41 household income equal to 50 percent or less of the median gross  
42 household income for households of the same size within the  
43 housing region in which the housing is located.

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

46 "Moderate-income" means more than 50 percent but less than 80  
47 percent of the median gross household income for households of the  
48 same size within the housing region in which the household is

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

4 "Moderate-income housing" means housing affordable according  
5 to United States Department of Housing and Urban Development or  
6 other recognized standards for home ownership and rental costs and  
7 occupied or reserved for occupancy by households with a gross  
8 household income equal to more than 50 percent but less than 80  
9 percent of the median gross household income for households of the  
10 same size within the housing region in which the housing is located.

11 "Permanent supportive housing" means a permanent lease based  
12 housing unit that provides access to supportive services for  
13 individuals with special needs and households with individuals with  
14 special needs who can benefit from housing with services.

15 "Qualified community development financial institution" means  
16 a community development financial institution that has a minimum  
17 of \$50 million in assets under management and a minimum of 2  
18 years' experience in the financing and acquisition of real estate for  
19 affordable housing.

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

24 "Supportive shared living housing" means permanent lease-based  
25 supportive housing that provides access to supportive services to  
26 individuals with special needs who maintain separate leases for  
27 bedrooms and share common living space.

28 "Very-low-income" means 30 percent or less of the median gross  
29 household income for households of the same size within the  
30 housing region in which the household is located, based upon the  
31 United States Department of Housing and Urban Development's  
32 (HUD) Section 8 Income Limits (uncapped) averaged across  
33 counties for the housing region.

34 "Very-low-income housing" means housing affordable to,  
35 according to United States Department of Housing and Urban  
36 Development or other recognized standards for home ownership  
37 and rental costs, and occupied by, or reserved for occupancy by,  
38 households with a gross household income equal to 30 percent or  
39 less of the median gross household income for households of the  
40 same size within the housing region in which the housing is located.

41  
42 4. a. There is established in the New Jersey Housing and  
43 Mortgage Finance Agency the "New Jersey Foreclosure Relief  
44 Corporation."

45 b. The corporation shall constitute a body corporate and politic  
46 and an instrumentality exercising public and essential governmental  
47 functions, and the exercise by the corporation of the powers

1 conferred by this act shall be deemed and held to be an essential  
2 governmental function of the State.

3 c. The corporation shall be governed by a seven-member  
4 board, consisting of the Commissioner of Community Affairs, the  
5 Executive Director of the New Jersey Housing and Mortgage  
6 Finance Agency, the Commissioner of Banking and Insurance, and  
7 the State Treasurer, who shall be members ex officio, and three  
8 members appointed by the Governor. Each ex officio member of  
9 the board may designate an officer or employee of his department to  
10 represent him at meetings of the board, and each such designee may  
11 lawfully vote and otherwise act on behalf of the member for whom  
12 he constitutes the designee. Any such designation shall be in  
13 writing delivered to the secretary of the board and shall continue in  
14 effect until revoked or amended by writing delivered to the  
15 secretary of the board.

16 d. The three members appointed by the Governor shall be  
17 residents of the State and shall have knowledge in the areas of real  
18 estate, housing design, construction, or operation; mortgage  
19 banking, finance and foreclosure; or community development. Of  
20 the three members appointed by the Governor, one shall be a  
21 nominee of the Senate President and one shall be a nominee of the  
22 Speaker of the General Assembly. At least one of the members  
23 appointed by the Governor shall hold a license as a real estate  
24 broker, broker-salesperson, salesperson, or referral agent under the  
25 provisions of R.S.45:15-1 et seq. No more than two of the members  
26 appointed by the Governor shall be members of the same political  
27 party. The members shall serve for two-year terms. Each member  
28 shall hold office for the term of his appointment and until the  
29 appointment of his successor. A member of the board shall be  
30 eligible for reappointment. A member of the board may be removed  
31 from office by the Governor, for cause, after a public hearing and  
32 may be suspended by the Governor pending the completion of such  
33 a hearing.

34 e. (1) The Executive Director of the New Jersey Housing and  
35 Mortgage Finance Agency shall be the chairperson of the board.  
36 The chairperson shall appoint the secretary to the board. The  
37 chairperson shall convene an organizational meeting of the board as  
38 soon as possible after the appointment of its members.

39 (2) The board shall have the exclusive authority to approve all  
40 financial transactions of the corporation, to approve minutes of  
41 board meetings, and to make determinations concerning the  
42 corporation's governing structure.

43 (3) The secretary to the board shall deliver a true copy of the  
44 minutes of every board meeting to the Governor. No action taken at  
45 a board meeting shall have force or effect until the Governor  
46 approves the action or fails to veto the action within 10 business  
47 days after a true copy of the minutes were delivered. During that  
48 10-day period, the Governor may render any action taken by the

1 board or any member thereof null and void by returning a copy of  
2 the minutes with a veto of the action to the board.

3 f. The corporation shall use employees (selected by the board)  
4 of the agency and the agency shall provide such personnel to the  
5 corporation for its use. In addition to persons otherwise employed  
6 by the agency, the agency shall employ, and shall provide to the  
7 corporation, such persons as the corporation may request from time  
8 to time. Agency employees provided to the corporation shall be  
9 subject to the direction and control of the corporation and any of  
10 them may be returned to the agency at any time by the corporation  
11 in the discretion of the corporation. The corporation may use  
12 administrative services of the agency and, if it does so, shall  
13 reimburse the agency for the actual costs of providing such  
14 services.

15 g. With the agreement of an executive department or other  
16 executive agency, the corporation may utilize the personnel of that  
17 department or agency on a reimbursable basis to cover actual and  
18 reasonable expenses.

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

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

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

30 (b) the total numbers of very-low-income, low-income, and  
31 moderate-income units that were produced for sale and for rental in  
32 the preceding year pursuant to this act, their locations by  
33 municipality, and the sources of financing used.

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

39 (4) The corporation shall provide copies of its annual reports  
40 and audits to the agency and the agency shall display the  
41 corporation's annual reports and audits on the agency's website.

42 i. The corporation shall cease its operations on December 31,  
43 2022. On that date, any assets, liabilities, properties, or funds held  
44 by the corporation shall transfer to the agency. The corporation  
45 shall expire upon transmittal of the 2022 annual report.

46  
47 5. The corporation shall have the following powers:

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

1       b. To enter into contracts and modify, or consent to the  
2 modification of, any contract or agreement to which the corporation  
3 is a party or in which the corporation has an interest under this act,  
4 with or without public bidding, notwithstanding the provisions of  
5 any other law.

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

7       d. To acquire, hold, lease, mortgage, maintain, and dispose of,  
8 at public or private sale, real and personal property, using any  
9 legally available private sector methods including without  
10 limitation, securitization of debt or equity, limited partnerships,  
11 mortgage investment conduits, and real estate investment trusts, and  
12 otherwise exercise all the usual incidents of ownership of property  
13 necessary and convenient to the operations of the corporation;  
14 provided, however, that every contract for the acquisition of real  
15 property entered into by the corporation, and every deed conveying  
16 real property to the corporation, shall provide that if the corporation  
17 holds title to the property on the 61st day after the date of the deed,  
18 all rights, title, and interest conveyed to the corporation shall  
19 automatically revert to and vest in the grantor without the necessity  
20 of any further act on the part of or on behalf of the grantor, it being  
21 the intent to convey a determinable estate.

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

24       f. To exercise any other power established under this section  
25 and such incidental powers as are necessary to carry out its duties  
26 and functions under this section. The corporation may indemnify  
27 the directors, officers, and employees of the corporation on such  
28 terms as the corporation deems proper against any liability under  
29 any civil suit pursuant to any statute or pursuant to common law  
30 with respect to any claim arising out of or resulting from any act or  
31 omission by such person within the scope of such person's  
32 employment in connection with any transaction entered into  
33 involving the disposition of assets (or any interests in any assets or  
34 any obligations backed by any assets) by the corporation. For  
35 purposes of this subsection, the terms "officers" and "employees"  
36 include officers and employees of the agency. The indemnification  
37 authorized by this subsection shall be in addition to and not in lieu  
38 of any immunities or other protections that may be available to such  
39 person under applicable law, and this provision does not affect any  
40 such immunities or other protections.

41  
42       6. In addition to the powers of the corporation described in  
43 section 5 of P.L. , c. (C. ) (pending before the Legislature as  
44 this bill), the corporation shall have the following powers:

45       a. The corporation may enter into contracts with any person,  
46 corporation, or entity which the corporation determines to be  
47 necessary or appropriate to carry out its responsibilities under this

1 act. Such contracts shall be subject to the procedures adopted  
2 pursuant to section 7 of this act.

3 b. In carrying out the corporation's duties under this act, the  
4 corporation may utilize the services of private persons, including  
5 real estate and loan portfolio asset management, property  
6 management, auction marketing, and brokerage services, if such  
7 services are available in the private sector and the corporation  
8 determines utilization of such services are practicable and efficient.

9 c. Within 120 days after the adoption of this act, the  
10 corporation shall enter into a mutually binding funding agreement  
11 with the New Jersey Housing and Mortgage Finance Agency for the  
12 purposes of

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

16 (2) identifying underwriting standards, securitization of debt,  
17 and credit standards for the acquisition of foreclosed residential  
18 properties or mortgage assets.

19

20 7. a. (1) The corporation shall enter into contracts or loans,  
21 or both, with no more than two qualified community development  
22 financial institutions to negotiate, bid for, and purchase eligible  
23 properties and mortgage assets for the purpose of producing  
24 affordable housing. In selecting contractors from among qualified  
25 community development financial institutions, the corporation shall  
26 accord a strong preference to qualified community development  
27 financial institutions that have substantial experience in lending in  
28 New Jersey and substantial knowledge of New Jersey real estate  
29 markets. The corporation may enter into contracts or loans, or both,  
30 with a partnership or consortia of organizations, as long as a  
31 qualified community development financial institution is the lead  
32 entity, or a partnership or consortia of multiple qualified community  
33 development financial institutions.

34 (2) The contracts shall specify the amounts, schedules, and  
35 types of funding to be provided by the corporation to the qualified  
36 community development financial institutions, the repayment  
37 schedule for the portion of that funding to be repaid, and targeted  
38 goals of affordable housing to be produced. The corporation may  
39 condition funding and goals upon the availability of funds to the  
40 corporation. The contracts shall specify reasonable administrative  
41 costs sufficient to enable the qualified community development  
42 financial institutions to exercise their obligations pursuant to this  
43 act. The contracts shall set forth criteria for instances when the  
44 purchase, sale, lease, and conveyance of properties as market-rate  
45 units furthers the purposes of this act.

46 b. (1) As soon as possible after entering into a contract to  
47 purchase an eligible property or mortgage asset for use as  
48 affordable housing by the corporation or its contractors, the



1 municipality in which the property is located, unless the  
2 municipality already owns the property as a result of a tax  
3 foreclosure judgment, shall be afforded a 45-day period of time  
4 within which the municipal governing body may opt to purchase the  
5 property in lieu of the corporation in accordance with the provisions  
6 set forth in this act. The municipality may waive this right through  
7 written notice to the corporation or, if so designated by the  
8 corporation, its contractors, prior to the expiration of the 45-day  
9 period.

10 (2) Those eligible properties purchased by the qualified  
11 community development financial institutions and designated  
12 pursuant to this act for use as affordable housing shall be restricted  
13 for occupancy as affordable housing for a period of 30 years. The  
14 restriction shall be set forth in the deed and recorded in the office of  
15 the county recording officer of the county wherein the real estate is  
16 situated. Affordability controls shall be imposed upon purchase and  
17 maintained upon transfer in accordance with the provisions of the  
18 Uniform Housing Affordability Controls promulgated by the  
19 agency.

20 c. (1) As soon as possible after entering into a contract to  
21 purchase an eligible property, but not less than five days after the  
22 date the corporation or its contractors enters into the contract, the  
23 corporation or its contractors shall provide written notice by  
24 personal service or certified mail to the governing body of the  
25 municipality within which the eligible property is located, except  
26 that the written notice shall not be required if the eligible property  
27 is already owned by the municipality as a result of a tax foreclosure  
28 judgment. The notice shall inform the governing body of the  
29 municipality's opportunity to purchase the eligible property, the  
30 municipality's right of first refusal to purchase the property, and the  
31 municipality's right to use monies deposited in its affordable  
32 housing trust fund.

33 (2) As soon as possible after entering into a contract to purchase  
34 an eligible property, but not less than five days after the date the  
35 corporation or its contractors enters into the contract, the  
36 corporation or its contractors shall list the property on the  
37 Department of the Treasury's website. The listing shall contain  
38 basic information about the property, including but not limited to  
39 location, condition, and information relating to the estimated fair  
40 market value of the property. The corporation or its contractors  
41 shall make information about the listing available to the agency  
42 and, upon request, to municipalities, other public agencies,  
43 community development corporations, developers, and qualifying  
44 households.

45 (3) The corporation or its contractors, after entering into a  
46 contract to purchase an eligible property, shall allow public  
47 agencies, community development corporations, developers, and

1 qualifying households reasonable access to the eligible property for  
2 purposes of inspection.

3 d. (1) In order to exercise its right to purchase an eligible  
4 property, the governing body of the municipality shall provide  
5 written notice to the chairperson of the corporation or, if so  
6 designated by the corporation, its contractors, within 45 days of the  
7 municipality's receipt of the notice required pursuant to subsection  
8 c. of this section.

9 (2) The governing body of a municipality may adopt a  
10 resolution authorizing the mayor or other designated municipal  
11 official to respond to notices received pursuant to subsection c. of  
12 this section. The resolution may establish parameters for that  
13 exercise of authority, including but not limited to the total amount  
14 of funds that may be expended and the amount that may be  
15 expended for each unit of housing.

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

20 (4) Whenever a municipality does not exercise an option to  
21 purchase an eligible property under this section, the corporation or  
22 its contractors may convey the property for occupancy as affordable  
23 housing subject to a 30-year deed restriction to another public  
24 agency, a community development corporation, a developer, or a  
25 qualifying household or the contractors may lease the property for  
26 occupancy as affordable housing subject to a 30-year deed  
27 restriction. A municipality that does not exercise an option to  
28 purchase an eligible property under this section may adopt a  
29 resolution authorizing the corporation or its contractors to use  
30 monies deposited in that municipality's affordable housing trust  
31 fund, up to and including the negotiated purchase price of the  
32 eligible property, and apply those funds to the purchase of the  
33 eligible property.

34 (5) The provisions of this subsection shall not apply if the  
35 eligible property is purchased by the corporation or its contractor  
36 from a municipality that owned the property as a result of a tax  
37 foreclosure judgment.

38 e. Notwithstanding any other provision of this section to the  
39 contrary, the corporation and, if authorized by contract, its  
40 contractors, may purchase, sell, lease, and convey market rate-units  
41 without offering those units to the municipality and without  
42 imposing affordability controls upon the property if the purchase,  
43 sale, lease, and conveyance of those properties as market-rate units  
44 satisfy criteria established pursuant to contract in accordance with  
45 subsection a. of this section and does not violate the terms of any  
46 other provision of law or requirement, including those governing  
47 the use of funds used to make the purchase.

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

5  
6 8. a. A municipality that purchases an eligible property that  
7 was owned by an institutional lender as a result of a mortgage  
8 foreclosure judgment pursuant to this act shall sell and convey or  
9 lease the housing unit or units acquired within 60 days of the date  
10 of purchase, unless it is not possible to do so due to practical or  
11 market conditions. In the event that the eligible property is not  
12 conveyed or leased within 180 days of the date of purchase, or  
13 remains vacant for a 180-day period during the pendency of  
14 affordability controls, the corporation, or the agency as successor to  
15 the corporation, may commence proceedings to take control of the  
16 property and to sell and convey or lease the property in furtherance  
17 of the purposes of this act and deed restrictions of record.

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

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

34 (1) each eligible property sold or conveyed as a for-sale unit or  
35 leased as rental housing;

36 (2) each unit of affordable housing dedicated for permanent  
37 supportive housing other than supportive shared living housing; and

38 (3) each new bedroom dedicated in supportive shared living  
39 housing.

40 d. The total number of additional units of credit beyond the  
41 actual units of housing provided pursuant to this act, when  
42 combined with any other type of additional units of credit that may  
43 be available towards a municipality's affordable housing obligation,  
44 shall not exceed 25 percent of whatever the municipality's total  
45 cumulative new construction affordable housing obligation may be.  
46 No unit or bedroom shall receive the additional units of credit  
47 described in this act in addition to any other type of additional units

1 of credit that may be available towards a municipality's affordable  
2 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  
41 P.L. , c. (C. ) (pending before the Legislature as this  
42 bill).

43 c. In any year in which the proceeds from the receipts of the  
44 additional fee collected pursuant to paragraph (2) of subsection a. of  
45 section 3 of P.L.1968, c.49 (C.46:15-7) exceeds \$75 million, the  
46 first \$10 million above the \$75 million collected shall be transferred  
47 into the "Foreclosure to Affordable Housing Transformation Fund"  
48 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 Transformation  
29 Act," establishes the "New Jersey Foreclosure Relief Corporation" as a  
30 temporary entity within the New Jersey Housing and Mortgage  
31 Finance Agency (HMFA) for the purpose of purchasing foreclosed  
32 residential properties and dedicating the properties for occupancy as  
33 affordable housing. The corporation will cease its operations on  
34 December 31, 2022. On that date, any assets, properties, or funds held  
35 by the corporation will transfer to the HMFA.

36 The bill provides for the corporation to be governed by a seven-  
37 member board, consisting of the Commissioner of Community Affairs,  
38 the Executive Director of the HMFA, the Commissioner of Banking  
39 and Insurance, and the State Treasurer and three New Jersey residents,  
40 appointed by the Governor, who have relevant backgrounds as  
41 described in the bill. The Senate President and the Speaker of the  
42 General Assembly will each nominate one member for appointment by  
43 the Governor.

44 The bill requires the corporation to make an annual report of its  
45 activities to the Governor and to the Legislature, setting forth a  
46 complete operating and financial statement. The corporation's books  
47 and accounts must be audited at least once each year by certified  
48 public accountants.

1       The bill empowers the corporation to purchase eligible foreclosed  
2 residential property and mortgage assets to produce affordable housing  
3 and dedicate it for those purposes for 30 years. The bill defines  
4 “eligible property” as any residential property that is either owned by a  
5 institutional lender as the result of a mortgage foreclosure judgment, or  
6 owned by a municipality as the result of a tax foreclosure judgment.  
7 The bill directs the corporation to enter into contracts or loans, or both,  
8 with no more than two experienced, financially sophisticated,  
9 community development financial institutions to enhance the ability of  
10 the corporation to fulfill its purpose of producing affordable housing.

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

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

26       If the corporation, its contractors or a municipality purchases an  
27 eligible property from monies deposited in a municipality's affordable  
28 housing trust fund, the municipality will receive bonus credits toward  
29 any constitutionally-imposed obligation to provide affordable housing  
30 as follows: two units of credit for each eligible property sold or  
31 conveyed as a for-sale unit or leased as rental housing; two units of  
32 credit for each unit of affordable housing dedicated for permanent  
33 supportive housing, other than supportive shared living housing; and  
34 two units of credit for each new bedroom dedicated in supportive  
35 shared living housing. The bill provides that the number of additional  
36 units of credit that a municipality can receive under the bill, when  
37 combined with any other type of additional units of credit that may be  
38 available towards a municipality's affordable housing obligation,  
39 cannot exceed 25 percent of the municipality's total cumulative new  
40 construction affordable housing obligation. The bill specifies that a  
41 municipality cannot receive both additional units of credit for  
42 producing a unit of affordable housing under this bill, and additional  
43 units of credit for that unit under another provision of law.

44       The bill establishes a mechanism through which a "foreclosure-  
45 impacted municipality," one that has 10 or more foreclosed homes  
46 listed on a multiple listing service for at least 60 days, can insulate its  
47 affordable housing trust funds from the laws that require the transfer of  
48 its trust fund monies to the "New Jersey Affordable Housing Trust

1 Fund." A foreclosure-impacted municipality can accomplish this by  
2 adopting a resolution committing the expenditure of its municipal  
3 affordable housing trust fund monies for the production of affordable  
4 housing and authorizing the transfer of at least \$150,000 of its  
5 municipal affordable housing trust fund monies to the corporation for  
6 the corporation to use to produce affordable housing.

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

19 The bill allows the corporation to establish criteria to identify the  
20 circumstances when the purchase, sale, lease, or conveyance of  
21 market-rate units furthers the purposes of the corporation. The  
22 corporation, or its contractors, will be able to purchase, sell, lease, or  
23 convey market-rate units in accordance with those criteria without  
24 imposing affordability controls upon the property provided the  
25 transaction does not violate any other law or requirement.

26 The bill establishes the "Foreclosure to Affordable Housing  
27 Transformation Fund," to serve as the repository for funds  
28 appropriated or made available for the corporation. The HMFA will  
29 administer the fund, and is authorized to transfer into the fund any  
30 amounts it has that may be used for the production of affordable  
31 housing. The bill authorizes HMFA to issue bonds to fund the  
32 activities of the corporation. The bill calls for prioritization of the  
33 allocation of tax-exempt private activity bonds to allow the  
34 corporation to fulfill the bill's purposes.

35 The bill provides that in any year in which the proceeds from the  
36 additional fee segment of the realty transfer fee exceed \$75 million,  
37 the first \$10 million above the \$75 million collected will be transferred  
38 into the "Foreclosure to Affordable Housing Transformation Fund" for  
39 purposes of producing affordable housing. The bill authorizes the  
40 Commissioner of Community Affairs to transfer into the fund certain  
41 amounts held for the production of affordable housing, including but  
42 not limited to monies deposited in the "New Jersey Affordable  
43 Housing Trust Fund."

44 The bill requires amounts deposited in the "Foreclosure to  
45 Affordable Housing Transformation Fund" that are derived from  
46 federal funding sources or are otherwise dedicated to the production of  
47 affordable housing be used for the production of affordable housing.  
48 The bill allows the corporation to use other funds for the production of



**S1513 CRUZ-PEREZ, SINGLETON**

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- 1 affordable housing or market-rate housing, and allows the corporation
- 2 to use annually up to three percent of fund monies for administrative
- 3 costs.