

[Second Reprint]

SENATE, No. 1149

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Co-Sponsored by:

Senators Pou and O'Scanlon

SYNOPSIS

Concerns municipal property registration ordinances to address risk of blight.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on January 6, 2022, with amendments.



(Sponsorship Updated As Of: 1/6/2022)

1 AN ACT concerning ²**[vacant and abandoned]**² property ²**[and]**
 2 registration ordinances to address the risk of blight, revising
 3 various parts of the statutory law and² supplementing Title 40 of
 4 the Revised Statutes.

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

8
 9 ²**[1.** a. The responsible party for a vacant and abandoned property
 10 that is vacant and abandoned on the effective date of
 11 P.L. , c. (C.) (pending before the Legislature as this bill), shall
 12 file a certificate of registration with the clerk of the municipality in
 13 which the property is located within 30 days after the effective date.
 14 The responsible party for a property that becomes vacant and
 15 abandoned subsequent to the effective date of P.L. , c. (C.)
 16 (pending before the Legislature as this bill), shall file a certificate of
 17 registration with the clerk of the municipality in which the property is
 18 located within 90 days after the property becomes vacant and
 19 abandoned or within 30 days after the responsible party assumes
 20 ownership of or responsibility for an already vacant and abandoned
 21 property, whichever is later. The certificate of registration shall be
 22 filed on forms prescribed by the Commissioner of Community Affairs
 23 and shall contain:

24 (1) the name, street address, and telephone number of a natural
 25 person who resides or maintains an office within the State and who is
 26 either the responsible party or an authorized agent designated by the
 27 responsible party to receive notices and complaints of property
 28 maintenance and code violations on behalf of the responsible party;

29 (2) the name, street address, and telephone number of the person
 30 responsible for maintaining the property, if different; and

31 (3) evidence of any liability insurance required by an ordinance
 32 adopted pursuant to paragraph (3) of subsection c. of this section.

33 A responsible party for a vacant and abandoned property shall file
 34 an amended certificate of registration within 30 days after any change
 35 in the information required to be included thereon.

36 b. A certificate of registration shall remain valid for one year and
 37 shall be renewed on an annual basis if the property remains vacant and
 38 abandoned. A municipality may by ordinance establish a fee of not
 39 more than \$250 for a certificate of registration for a vacant and
 40 abandoned property. A renewal fee of not more than \$500 may be
 41 established for a renewal if there is an outstanding property
 42 maintenance or code violation on a vacant and abandoned property
 43 that remains unabated at the time of renewal. A renewal fee of not
 44 more than \$750 may be established for a subsequent renewal if there
 45 continues to be an outstanding property maintenance or code violation

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted December 16, 2021.

²Senate SBA committee amendments adopted January 6, 2022.

1 or there is a new such violation on a vacant and abandoned property
2 that remains unabated at the time of renewal. If a greater fee for the
3 registration or renewal of a vacant and abandoned property was
4 established by an ordinance adopted prior to the effective date of
5 P.L. , c. (C.) (pending before the Legislature as this bill), then
6 the municipality may continue to impose and collect that greater fee.

7 c. A municipality may by ordinance require that, no sooner than
8 45 days after 'the municipality notifies the responsible party that' the
9 property '[becomes] is' vacant and abandoned and until the property
10 is reoccupied, the responsible party for a vacant and abandoned
11 property:

12 (1) '[Enclose and secure] Secure' the property against
13 unauthorized entry;

14 (2) Post a sign affixed to the inside of the property and visible to
15 the public indicating the name, address, and telephone number of the
16 responsible party, any authorized agent designated by the responsible
17 party for the purpose of receiving service of process, and the person
18 responsible for maintaining the property if different from the
19 responsible party or authorized agent; or

20 (3) Acquire and otherwise maintain liability insurance by
21 procuring a vacancy policy, covering any damage to any person or any
22 property caused by any physical condition of the property.

23 d. A responsible party that violates any provision of this section
24 or any ordinance adopted pursuant hereto, shall be liable to a penalty
25 of not less than \$500 and not more than \$1,000; provided, however,
26 that a greater penalty for such violations that was established by an
27 ordinance adopted prior to the effective date of P.L. , c. (C.)
28 (pending before the Legislature as this bill) may continue to be
29 imposed and collected. Each day that a violation continues shall
30 constitute an additional, separate, and distinct offense. Any penalty
31 imposed pursuant to this section shall be recoverable by a summary
32 proceeding under the "Penalty Enforcement Law of 1999," P.L.1999,
33 c.274 (C.2A:58-10 et seq.). The Superior Court, Law Division, in the
34 county, or the municipal court of the municipality, in which the
35 property is located shall have jurisdiction to enforce such penalty.

36 e. This section shall not be construed to diminish any property
37 maintenance responsibilities of property owners who are not subject to
38 the provisions of the section.

39 f. For the purposes of this section:

40 "Responsible party" means the title holder of a vacant and
41 abandoned property or a creditor responsible for the maintenance of a
42 property pursuant to section 17 of P.L.2008, c.127 (C.46:10B-51).

43 "Street address" means an address at which a natural person who is
44 the responsible party or an authorized agent actually resides or actively
45 uses for business purposes, and shall include a street name or rural
46 delivery route.

47 "Vacant and abandoned property" means any residential or
48 commercial building which is not legally occupied by a mortgagor or

1 tenant, which is in such condition that it cannot be legally reoccupied,
2 and at which at least two of the following conditions exist:

- 3 (1) Overgrown or neglected vegetation;
- 4 (2) The accumulation of newspapers, circulars, flyers, or mail on
5 the property;
- 6 (3) Disconnected gas, electric, or water utility services to the
7 property;
- 8 (4) The accumulation of hazardous, noxious, or unhealthy
9 substances or materials on the property;
- 10 (5) The accumulation of junk, litter, trash, or debris on the
11 property;
- 12 (6) The absence of window treatments such as blinds, curtains, or
13 shutters;
- 14 (7) The absence of furnishings and personal items;
- 15 (8) Statements of neighbors, delivery persons, or government
16 employees indicating that the property is vacant and abandoned;
- 17 (9) Windows or entrances to the property that are boarded up or
18 closed off, or multiple window panes that are damaged, broken, and
19 unrepaired;
- 20 (10) Doors to the property that are smashed through, broken off,
21 unhinged, or continuously unlocked;
- 22 (11) A risk to the health, safety, or welfare of the public or any
23 adjoining or adjacent property owners due to acts of vandalism,
24 loitering, criminal conduct, or the physical destruction or deterioration
25 of the property;
- 26 (12) An uncorrected violation of a municipal building, housing, or
27 similar code during the preceding year, or an order by municipal
28 authorities declaring the property to be unfit for occupancy and to
29 remain vacant and unoccupied;
- 30 (13) The mortgagee or other authorized party has secured or
31 winterized the property due to the property being deemed vacant and
32 unprotected or in danger of freezing;
- 33 (14) A written statement issued by a mortgagor expressing the
34 clear intent of all mortgagors to abandon the property; or
- 35 (15) Any other reasonable indicia of abandonment.】²

36
37 ²1. (New section) The Legislature finds and declares that:

38 a. Although New Jersey has made great strides in addressing
39 previous foreclosure crises, foreclosure continues to be an issue
40 confronting residents and municipalities;

41 b. Properties in foreclosure proceedings can involve properties
42 that are vacant and abandoned or have an increased risk of becoming
43 vacant and abandoned during the foreclosure proceeding;

44 c. Vacant and abandoned properties in foreclosure create a greater
45 risk of blight and can create a wide range of problems for the
46 communities in which they are located. These problems can include
47 fostering criminal activity, creating public health problems, depressing
48 neighboring property values and reducing revenues for municipalities.

1 and otherwise diminishing the quality of life for residents and business
2 operators in those areas;

3 d. Because of the increased risk of blight created by properties in
4 foreclosure, it is important that municipalities possess tools to identify
5 such properties, monitor their status, and mitigate the risk that they
6 become vacant and abandoned and, if vacant and abandoned, lead to
7 blight. The costs of identifying, monitoring, and mitigating such risks
8 can adversely impact a municipality's finances;

9 e. The State has enacted statutes intended to assist municipalities
10 in addressing such risks, including requiring that municipalities
11 receive notice of the initiation of a foreclosure action in court in
12 connection with residential properties and authorizing a public officer
13 in a municipality to take certain action against properties that have
14 been abandoned for more than six months;

15 f. Although these State laws provide municipalities with certain
16 tools to address blight and the risk of blight, the laws do not apply to
17 all properties, enable municipalities to create a comprehensive way to
18 identify, monitor, and address the risk of blight on all such properties
19 within their jurisdictions, or address the costs to municipalities to do
20 so;

21 g. A number of municipalities have adopted ordinances on an ad
22 hoc basis to create property registration programs to identify, monitor,
23 and address the risk of blight on residential and commercial properties
24 within their jurisdictions; and

25 h. The Legislature finds such property registration programs
26 provide a valuable tool to municipalities in confronting the risk of
27 blight created by properties on which foreclosure proceedings have
28 been initiated and such properties that become vacant and abandoned.
29 The Legislature finds that it is in the State's interest for municipalities
30 that operate such programs to do so with certain uniformity as part of
31 the State's overall statutory scheme addressing the risk of blight.²
32

33 ²2. (New section) a. (1) A creditor serving a summons and
34 complaint in an action to foreclose on a mortgage on commercial
35 property in the State shall, within 10 days of serving the summons and
36 complaint, notify the municipal clerk and the mayor or other chief
37 executive officer of the municipality in which the property is located
38 that a summons and complaint in an action to foreclose on a mortgage
39 has been filed against the subject property. The notice shall contain
40 the full name, address, and telephone number for the representative of
41 the creditor who is responsible for receiving complaints of property
42 maintenance and code violations and the full name and contact
43 information for any person or entity retained by the creditor or a
44 representative of the creditor to be responsible for any care,
45 maintenance, security, or upkeep of the property. The notice may
46 contain information about more than one property, and shall be
47 provided by mail or electronic communication, at the discretion of the
48 municipal clerk. In the event the creditor that has served a summons

1 and complaint in an action to foreclose on a commercial property that
2 is located out-of-State, the notice shall also contain the full name,
3 address, and telephone number of an in-State representative or agent
4 who shall be responsible for the care, maintenance, security, and
5 upkeep of the exterior of the property if it becomes vacant and
6 abandoned. If the municipality has designated or appointed a public
7 officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal
8 clerk shall forward a copy of the notice to the public officer or shall
9 otherwise provide it to any other local official responsible for
10 administration of any property maintenance or public nuisance code.
11 The notice shall also include the street address, lot, and block number
12 of the property.

13 If there is any change in the name, address, or telephone number
14 for a representative, agent, or individual authorized to accept service
15 on behalf of a creditor required to be provided in a notice pursuant to
16 this paragraph following the filing of the summons and complaint, the
17 creditor shall provide a notice to the applicable municipal clerk
18 containing the updated name, address, or telephone number within 10
19 days of the change in that information.

20 (2) Within 30 days following the effective date of P.L. _____,
21 c. (C. _____) (pending before the Legislature as this bill), any creditor
22 that has initiated a foreclosure proceeding on any commercial property
23 that is pending in Superior Court shall provide to the municipal clerk
24 of the municipality in which the property is located, a listing of all
25 commercial properties in the municipality for which the creditor has
26 foreclosure actions pending by street address and lot and block
27 number. If the municipality has designated or appointed a public
28 officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal
29 clerk shall forward a copy of the notice to the public officer, or shall
30 otherwise provide it to any other local official responsible for
31 administration of any property maintenance or public nuisance code.

32 b. If the owner of a commercial property vacates or abandons any
33 property on which a foreclosure proceeding has been initiated or if a
34 commercial property becomes vacant at any point subsequent to the
35 creditor's filing the summons and complaint in an action to foreclose
36 on a mortgage against the subject property, but prior to vesting of title
37 in the creditor or any other third party, and the exterior of the property
38 is found to be a nuisance or in violation of any applicable State or local
39 code, the local public officer, municipal clerk, or other authorized
40 municipal official shall notify the creditor or the representative or
41 agent of an out-of-State creditor, as applicable, which shall have the
42 responsibility to abate the nuisance or correct the violation in the same
43 manner and to the same extent as the title owner of the property, to
44 such standard or specification as may be required by State law or
45 municipal ordinance. The municipality shall include a description of
46 the conditions that gave rise to the violation with the notice of
47 violation and shall provide a period of not less than 30 days from the
48 creditor's receipt of the notice for the creditor to remedy the violation.

1 If the creditor fails to remedy the violation within that time period, the
2 municipality may impose penalties allowed for the violation of
3 municipal ordinances.

4 c. If the municipality expends public funds in order to abate a
5 nuisance or correct a violation on a commercial property in situations
6 in which the creditor was given notice pursuant to the provisions of
7 subsection b. of this section but failed to abate the nuisance or correct
8 the violation as directed, the municipality shall have the same recourse
9 against the creditor as it would have against the title owner of the
10 property, including but not limited to the recourse provided under
11 section 23 of P.L.2003, c.210 (C.55:19-100).

12 d. For the purposes of this section, "creditor" means a State
13 chartered bank, savings bank, savings and loan association or credit
14 union, any person required to be licensed under the provisions of the
15 "New Jersey Residential Mortgage Lending Act," sections 1 through
16 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89), and any
17 entity acting on behalf of the creditor named in the debt obligation
18 including, but not limited to, servicers. For purposes of this section, a
19 creditor shall not include the State, a political subdivision of the State,
20 or a State, county, or local government entity, or their agent or
21 assignee, such as the servicer.²

22
23 ²3. (New section) a. The governing body of any municipality
24 may adopt ordinances to:

25 (1) create a property registration program for the purposes of
26 identifying and monitoring residential and commercial properties
27 within the municipality for which a summons and complaint in an
28 action to foreclose on a mortgage has been filed;

29 (2) regulate the care, maintenance, security, and upkeep of the
30 exterior of vacant and abandoned residential and commercial
31 properties for which a summons and complaint in an action to
32 foreclose has been filed; and

33 (3) impose property registration fees on the creditor of residential
34 or commercial properties, on an annual or semi-annual basis.

35 b. An ordinance adopted pursuant to subsection a. of this section
36 shall:

37 (1) require that the creditor filing a summons and complaint in an
38 action to foreclose shall, in addition to the notice provided to the
39 municipality pursuant to section 17 of P.L.2008, c.127 (C.46:10B-51)
40 or section 2 of P.L. , c. (C.) (pending before the Legislature
41 as this bill), register the residential or commercial property with the
42 municipality's property registration program as a property in
43 foreclosure and, as part of that registration: (a) provide the
44 municipality with the information regarding the creditor required by
45 paragraph (1) of subsection a. of section 17 of P.L.2008, c.127
46 (C.46:10B-51) or paragraph (1) of subsection a. of section 2 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill); (b) identify
48 the date the summons and complaint in an action to foreclose on a

1 mortgage was filed against the subject property, the court in which it
2 was filed, and the docket number of the filing; and (c) identify whether
3 the property is vacant and abandoned in accordance with the definition
4 in the ordinance required by paragraph (8) of this subsection;

5 (2) require, if there is any change in the name, address, or
6 telephone number for a representative, agent, or individual authorized
7 to accept service on behalf of a creditor required to register pursuant to
8 the property registration program following the filing of the summons
9 and complaint, the creditor shall update the property registration
10 program within 10 days of the change in that information;

11 (3) require that the creditor filing a summons and complaint in an
12 action to foreclose shall, if the registered property becomes vacant and
13 abandoned in accordance with the definition in the ordinance required
14 by paragraph (8) of this subsection after the property is initially
15 registered with the municipality, update the property registration with
16 the municipality to reflect the change in the property's status;

17 (4) require that the creditor filing a summons and complaint in an
18 action to foreclose shall be responsible for the care, maintenance,
19 security, and upkeep of the exterior of the property if the property is
20 vacant and abandoned at any time while the property is registered with
21 the property registration program;

22 (5) require that a creditor located out-of-State shall be responsible
23 for appointing an in-State representative or agent to act for the
24 foreclosing creditor;

25 (6) identify any requirements that the municipality imposes on the
26 creditor filing a summons and complaint in an action to foreclose on a
27 property, that is or becomes vacant and abandoned, relating to the care,
28 maintenance, security, and upkeep of the exterior of the property,
29 including, but not limited to, any requirements to secure the property
30 against unauthorized entry, post a sign affixed to the inside of the
31 property and visible to the public indicating the name, address, and
32 telephone number of the creditor or an out-of-State creditor's in-State
33 representative or agent for the purpose of receiving service of process,
34 or acquire and otherwise maintain liability insurance by procuring a
35 vacancy policy, covering any damage to any person or any property
36 caused by any physical condition of the property while registered with
37 the property registration program;

38 (7) identify any fees that may be imposed on the creditor in
39 connection with the property registration program that are authorized
40 pursuant to subsection e. of this section; and

41 (8) define that a property shall be considered vacant and
42 abandoned if it is not legally occupied by a mortgagor or tenant, which
43 is in such condition that it cannot be legally reoccupied, because of the
44 presence or finding of at least two of the following:

45 (a) overgrown or neglected vegetation;

46 (b) the accumulation of newspapers, circulars, flyers, or mail on
47 the property;

1 (c) disconnected gas, electric, or water utility services to the
2 property;

3 (d) the accumulation of hazardous, noxious, or unhealthy
4 substances or materials on the property;

5 (e) the accumulation of junk, litter, trash, or debris on the
6 property;

7 (f) the absence of window treatments such as blinds, curtains, or
8 shutters;

9 (g) the absence of furnishings and personal items;

10 (h) statements of neighbors, delivery persons, or government
11 employees indicating that the property is vacant and abandoned;

12 (i) windows or entrances to the property that are boarded up or
13 closed off, or multiple window panes that are damaged, broken, and
14 unrepaired;

15 (j) doors to the property that are smashed through, broken off,
16 unhinged, or continuously unlocked;

17 (k) a risk to the health, safety, or welfare of the public or any
18 adjoining or adjacent property owners due to acts of vandalism,
19 loitering, criminal conduct, or the physical destruction or deterioration
20 of the property;

21 (l) an uncorrected violation of a municipal building, housing, or
22 similar code during the preceding year, or an order by municipal
23 authorities declaring the property to be unfit for occupancy and to
24 remain vacant and unoccupied;

25 (m) the mortgagee or other authorized party has secured or
26 winterized the property due to the property being deemed vacant and
27 unprotected or in danger of freezing;

28 (n) a written statement issued by a mortgagor expressing the clear
29 intent of all mortgagors to abandon the property; or

30 (o) any other reasonable indicia of abandonment.

31 c. An ordinance adopted pursuant to subsection a. of this section
32 shall authorize a public officer, designated or appointed pursuant to
33 P.L.1942, c.112 (C.40:48-2.3 et seq.), or any other local official
34 responsible for administration of any property maintenance or public
35 nuisance code to issue a notice to the creditor filing the summons and
36 complaint in an action to foreclose, if the public officer or other
37 authorized municipal official determines that the creditor has violated
38 the ordinance. In the case of a violation for failure to provide care,
39 maintenance, security, and upkeep of the exterior of vacant and
40 abandoned property, such notice shall require the person or entity to
41 correct the violation within 30 days of receipt of the notice, or within
42 10 days of receipt of the notice if the violation presents an imminent
43 threat to public health and safety.

44 d. A municipality may contract with and set the compensation of a
45 private entity, pursuant to the "Local Public Contracts Law," P.L.1971,
46 c.198 (C.40A:11-1 et seq.), to assist the municipality in the
47 implementation and administration of the property registration
48 program established pursuant to an ordinance adopted pursuant to

1 subsection a. of this section. A county or county improvement
2 authority may similarly contract with a private entity to assist the
3 county or authority in the implementation and administration of a
4 property registration system established for the use of a municipality
5 with a property registration program established pursuant to an
6 ordinance adopted pursuant to subsection a. of this section as well as
7 for the use of the county or improvement authority. A local unit may
8 delegate to such private entity any duties under the property
9 registration program, including, without limitation, identifying
10 properties located within the municipality that are subject to the
11 registration requirements of the property registration program,
12 maintaining and updating the property registrations for the
13 municipality, communicating with the creditors or the in-State
14 representative or agent appointed by creditors located out of State of
15 such properties, invoicing and collecting payment from the creditors
16 for such properties any fees authorized by the ordinance and
17 subsection e. of this section, and monitoring compliance with the
18 requirements of the ordinance. A local unit may conduct property
19 registration services on behalf of a municipality pursuant to a shared
20 services agreement subject to the "Uniform Shared Services and
21 Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et al.). Property
22 registration fees imposed pursuant to subsection e. of this section and
23 an ordinance adopted pursuant to subsection a. of this section shall be
24 considered a municipal charge pursuant to the "tax sale law,"
25 R.S.54:5-1 et seq., regardless of whether the fees are being collected
26 by a third-party entity or by the municipality directly. The Local
27 Finance Board of the Department of Community Affairs may adopt
28 rules and regulations pertaining to contracts, entered pursuant to this
29 subsection, with third-party entities for the implementation and
30 administration of a property registration program.

31 e. A municipality may impose an annual fee on a creditor required
32 to register a property pursuant to an ordinance adopted pursuant to
33 subsection a. of this section. The fee shall not exceed: (1) \$500 per
34 property annually for any property that is required to be registered
35 because a summons and complaint in an action to foreclose was filed
36 by the creditor; and (2) an additional \$2,000 per property annually if
37 the property is vacant or abandoned pursuant to the definition in the
38 ordinance when the summons and complaint in an action to foreclose
39 is filed, or becomes vacant and abandoned pursuant to the definition in
40 the ordinance at any time thereafter while the property is in
41 foreclosure. All such annual fees and the due dates thereof shall be
42 identified in the ordinance adopted pursuant to subsection a. of this
43 section.

44 f. Notwithstanding the provisions of N.J.S.40A:5-15 to the
45 contrary, any property registration fees imposed pursuant to subsection
46 e. of this section and an ordinance adopted pursuant to subsection a. of
47 this section and collected by a third-party entity contracted with
48 pursuant to subsections d. and e. of this section shall be paid over to

1 the municipality within a timeframe specified in the contract between
2 the municipality and the third-party entity. Amounts collected by the
3 third-party entity on behalf of the local unit shall be paid over in full to
4 the local unit without any amount deducted as payment for services
5 rendered by the third-party entity. Once the collected fees are paid
6 over to the local unit, the officer charged with the custody of the
7 general funds shall deposit all such funds within 48 hours after the
8 receipt thereof to the credit of the municipality in its designated legal
9 depository. A third-party entity shall collect and pay over to the
10 municipality any interest and penalties, based upon the rate of interest
11 and penalties fixed by the governing body of the municipality for late
12 payment of property taxes, assessments, and other municipal charges
13 pursuant to R.S.54:4-67, for late payment of the property registration
14 fees imposed pursuant to subsection e. of this section and an ordinance
15 adopted pursuant to subsection a. of this section. The third-party
16 entity shall at least once a year, or as requested by the municipal tax
17 collector, file a certification as may be required by the tax collector to
18 enforce tax liens for all unpaid property registration program fees due
19 and owing at the time the certification is filed.

20 g. (1) An out-of-State creditor subject to an ordinance adopted
21 pursuant to subsection a. of this section found by the municipal court
22 of the municipality in which the property subject to the ordinance is
23 located, or by any other court of competent jurisdiction, to be in
24 violation of the requirement to appoint an in-State representative or
25 agent pursuant to the ordinance shall be subject to a fine of \$2,500 for
26 each day of the violation. Any fines imposed on a creditor for the
27 failure to appoint an in-State representative or agent shall commence
28 on the day after the 10-day period set forth in paragraph (1) of
29 subsection a. of section 17 of P.L.2008, c.127 (C.46:10B-51) or
30 paragraph (1) of subsection a. of section 2 of P.L. , c. (C.)
31 (pending before the Legislature as this bill) for providing notice to the
32 municipal clerk that a summons and complaint in an action to
33 foreclose on a mortgage has been served.

34 (2) A creditor subject to an ordinance adopted pursuant to
35 subsection a. of this section found by the municipal court of the
36 municipality in which the property subject to the ordinance is located,
37 or by any other court of competent jurisdiction, to be in violation,
38 excluding only a violation addressed by paragraph (1) of this
39 subsection, of the ordinance shall be subject to a fine of \$1,500 for
40 each day of the violation. Any fines imposed pursuant to this
41 paragraph shall commence 31 days following receipt of the notice of
42 violation, except if the violation presents an imminent risk to public
43 health and safety, in which case any fines shall commence 11 days
44 following receipt of the notice.

45 h. No less than 20 percent of any money collected pursuant to
46 subsection f. or g. of this section or an ordinance adopted pursuant to
47 subsection a. of this section shall be utilized by the municipality for
48 municipal code enforcement purposes.

1 i. As used in this section:

2 “Creditor” means a mortgagee or an agent or assignee of a
 3 mortgagee, such as the servicer, who has filed a complaint in the
 4 Superior Court seeking to foreclose upon a residential or commercial
 5 mortgage. If the entity seeking to foreclose upon the residential or
 6 commercial mortgage changes as a result of an assignment, transfer, or
 7 otherwise after the filing of the foreclosure complaint in the Superior
 8 Court, the new entity shall be deemed the creditor for purposes of this
 9 section. For purposes of this section, a creditor shall not include the
 10 State, a political subdivision of the State, a State, county, or local
 11 government entity, or their agent or assignee, such as the servicer.

12 “Local unit” means a municipality, a county, or a county
 13 improvement authority or other subdivision of a municipality or
 14 county.²

15

16 ²4. Section 1 of P.L.2012, c.70 (C.2A:50-73) is amended to read
 17 as follows:

18 1. a. For the purposes of this section, "vacant and abandoned"
 19 residential property means residential real estate with respect to which
 20 the mortgagee proves, by clear and convincing evidence, that the
 21 mortgaged real estate is vacant and has been abandoned or where a
 22 notice of violation has been issued pursuant to **【subsection b. of**
 23 **section 1 of P.L.2014, c.35 (C.40:48-2.12s)】** section 3 of P.L.
 24 , c. (C.) (pending before the Legislature as this bill). Where a
 25 notice of violation has not been issued pursuant to **【subsection b. of**
 26 **section 1 of P.L.2014, c.35 (C.40:48-2.12s)】** section 3 of P.L. , c.
 27 (C.) (pending before the Legislature as this bill), real property
 28 shall be deemed "vacant and abandoned" if the court finds that the
 29 mortgaged property is not occupied by a mortgagor or tenant as
 30 evidenced by a lease agreement entered into prior to the service of a
 31 notice of intention to commence foreclosure according to section 4 of
 32 the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-56), and at least
 33 two of the following conditions exist:

34 (1) overgrown or neglected vegetation;

35 (2) the accumulation of newspapers, circulars, flyers or mail on
 36 the property;

37 (3) disconnected gas, electric, or water utility services to the
 38 property;

39 (4) the accumulation of hazardous, noxious, or unhealthy
 40 substances or materials on the property;

41 (5) the accumulation of junk, litter, trash or debris on the property;

42 (6) the absence of window treatments such as blinds, curtains or
 43 shutters;

44 (7) the absence of furnishings and personal items;

45 (8) statements of neighbors, delivery persons, representatives of a
 46 common interest community association, or government employees
 47 indicating that the residence is vacant and abandoned;

- 1 (9) windows or entrances to the property that are boarded up or
- 2 closed off or multiple window panes that are damaged, broken and
- 3 unrepaired;
- 4 (10) doors to the property that are smashed through, broken off,
- 5 unhinged, or continuously unlocked;
- 6 (11) a risk to the health, safety or welfare of the public, or any
- 7 adjoining or adjacent property owners, exists due to acts of vandalism,
- 8 loitering, criminal conduct, or the physical destruction or deterioration
- 9 of the property;
- 10 (12) an uncorrected violation of a municipal building, housing, or
- 11 similar code during the preceding year, or an order by municipal
- 12 authorities declaring the property to be unfit for occupancy and to
- 13 remain vacant and unoccupied;
- 14 (13) the mortgagee or other authorized party has secured or
- 15 winterized the property due to the property being deemed vacant and
- 16 unprotected or in danger of freezing;
- 17 (14) a written statement issued by any mortgagor expressing the
- 18 clear intent of all mortgagors to abandon the property;
- 19 (15) any other reasonable indicia of abandonment.
- 20 b. For the purposes of this section, a residential property shall not
- 21 be considered "vacant and abandoned" if, on the property:
- 22 (1) there is an unoccupied building which is undergoing
- 23 construction, renovation, or rehabilitation that is proceeding diligently
- 24 to completion, and the building is in compliance with all applicable
- 25 ordinances, codes, regulations, and statutes;
- 26 (2) there is a building occupied on a seasonal basis, but otherwise
- 27 secure; or
- 28 (3) there is a building that is secure, but is the subject of a probate
- 29 action, action to quiet title, or other ownership dispute.
- 30 c. In addition to the residential mortgage foreclosure procedures
- 31 set out in the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et
- 32 seq.), a summary action to foreclose a mortgage debt secured by
- 33 residential property that is vacant and abandoned may be brought by a
- 34 lender in the Superior Court. In addition, a lender may, at any time
- 35 after filing a foreclosure action, file with the court, in accordance with
- 36 the Rules Governing the Courts of the State of New Jersey, an
- 37 application to proceed in a summary manner because the residential
- 38 property that is the subject of the foreclosure action is believed to be
- 39 "vacant and abandoned"; provided, however, that this section shall not
- 40 apply to a foreclosure of a timeshare interest secured by a mortgage.
- 41 d. (1) In addition to the service of process required by the Rules
- 42 of Court, a lender shall establish, for the entry of a residential
- 43 foreclosure judgment under this section, that a process server has made
- 44 two unsuccessful attempts to serve the mortgagor or occupant at the
- 45 residential property, which attempts must be at least 72 hours apart,
- 46 and during different times of the day, either before noon, between
- 47 noon and 6 P.M., or between 6 P.M. and 10 P.M.

1 (2) In addition to any notices required to be served by law or the
2 Rules of Court, a lender shall, with any order to show cause served as
3 original service of process or a motion to proceed summarily, serve a
4 notice that the lender is seeking, on the return date of the order to show
5 cause, or on the date fixed by the court, to proceed summarily for entry
6 of a residential foreclosure judgment because the property is vacant
7 and abandoned.

8 (3) When a property is deemed vacant and abandoned as herein
9 defined, a lender shall not be required to serve the debtor with the
10 notice to cure required by section 6 of the "Fair Foreclosure Act,"
11 P.L.1995, c.244 (C.2A:50-58).

12 e. (1) The court may enter a final residential mortgage foreclosure
13 judgment under this section upon a finding, (a) by clear and
14 convincing evidence, that the residential property is vacant and
15 abandoned as defined under subsection a. of this section, and (b) that a
16 review of the pleadings and documents filed with the court, as required
17 by the Rules of Court, supports the entry of a final residential
18 mortgage foreclosure judgment.

19 (2) A final residential mortgage foreclosure judgment under this
20 section shall not be entered if the court finds that:

21 (a) the property is not vacant or abandoned; or

22 (b) the mortgagor or any other defendant has filed an answer,
23 appearance, or other written objection that is not withdrawn and the
24 defenses or objection asserted provide cause to preclude the entry of a
25 final residential mortgage foreclosure judgment.

26 f. If a final residential mortgage foreclosure judgment under this
27 section is not entered on the original or adjourned return date of an
28 order to show cause or the date fixed by the court to proceed
29 summarily, the court may direct that the foreclosure action continue on
30 the normal track for residential mortgage foreclosure actions for
31 properties that are not vacant and abandoned and the notice to cure
32 served with the order to show cause or the order fixing that date for the
33 matter to proceed summarily shall be of no effect.

34 g. All actions brought to foreclose on real property pursuant to this
35 section shall proceed in accordance with the Rules of Court.

36 h. Nothing in this section is intended to supersede or limit other
37 procedures adopted by the Court to resolve residential mortgage
38 foreclosure actions, including, but not limited to, foreclosure
39 mediation.

40 i. Nothing in this section shall be construed to affect the rights of a
41 tenant to possession of a leasehold interest under the Anti-Eviction
42 Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.), the "New Jersey
43 Foreclosure Fairness Act," P.L.2009, c.296 (C.2A:50-69 et seq.), or
44 any other applicable law.

45 j. (1) Notwithstanding paragraph (3) of subsection a. of section 12
46 of P.L.1995, c.244 (C.2A:50-64) to the contrary, the sheriff shall sell
47 the property within 90 days of the sheriff's receipt of any writ of
48 execution issued by the court if:

1 (a) the court makes a finding in the foreclosure judgment that the
2 property is vacant and abandoned; or

3 (b) the court issues an order directing the sheriff to sell the
4 property within 90 days, pursuant to the provisions of subsection k. of
5 this section.

6 (2) If it becomes apparent that the sheriff cannot comply with the
7 provisions of paragraph (1) of this subsection, the foreclosing plaintiff
8 shall apply to the court for an order appointing a Special Master or
9 judicial agent to hold the foreclosure sale, within 90 days of the date of
10 application.

11 k. (1) Following issuance of a foreclosure judgment, in which the
12 court did not make a finding that the property is vacant and
13 abandoned, a foreclosing plaintiff may make application to the court
14 for the property to be sold by the sheriff within 90 days of the date of
15 application. The application shall include a certification that the
16 mortgaged real estate is vacant and abandoned.

17 (2) Upon application that meets the criteria set forth in paragraph
18 (1) of this subsection, the court shall issue an order directing the
19 sheriff to sell the property in accordance with the provisions of
20 subsection j. of this section. A hearing shall not be required unless the
21 application is contested.²

22 (cf: P.L.2019, c.72, s.1)

23

24 ²5. Section 1 of P.L.2014, c.35 (C.40:48-2.12s) is repealed.²

25

26 ²~~2.1~~ 6.² This act shall take effect ²~~on the first day of the third~~
27 ~~month next following the date of enactment, but the Commissioner of~~
28 ~~Community Affairs may take such anticipatory administrative action~~
29 ~~in advance thereof as shall be necessary for the implementation of this~~
30 ~~act]~~ immediately, except that municipalities that have existing
31 ordinances that address property registration programs shall have until
32 the first day of the seventh month next following the effective date of
33 this act to amend their ordinances to the extent necessary to make them
34 consistent with this act².