

SENATE, No. 2702

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JANUARY 15, 2015

Sponsored by:

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

Senator CHRISTOPHER J. CONNORS

District 9 (Atlantic, Burlington and Ocean)

Co-Sponsored by:

Senator Cruz-Perez

SYNOPSIS

Requires creditors to maintain interior of vacant and abandoned residential property under foreclosure.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/26/2015)

1 AN ACT requiring creditors to maintain the interior of vacant and
2 abandoned residential property under foreclosure and amending
3 P.L.2014, c.35 and P.L.2008, c.127.

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

7
8 1. Section 1 of P.L.2014, c.35 (C.40:48-2.12s) is amended to
9 read as follows:

10 1. a. The governing body of any municipality may adopt
11 ordinances to regulate the care, maintenance, security, and upkeep
12 of **【the exterior of】** vacant and abandoned residential properties on
13 which a summons and complaint in an action to foreclose has been
14 filed.

15 b. (1) An ordinance adopted pursuant to subsection a. of this
16 section shall provide that the creditor filing the summons and
17 complaint in an action to foreclose shall be responsible for the care,
18 maintenance, security, and upkeep of **【the exterior of】** the vacant
19 and abandoned residential property, and if located out-of-State,
20 shall be responsible for appointing an in-State representative or
21 agent to act for the foreclosing creditor.

22 (2) An ordinance adopted pursuant to subsection a. of this
23 section shall authorize a public officer, appointed pursuant to
24 P.L.1942, c.112 (C.40:48-2.3 et seq.), or any other local official
25 responsible for administration of any property maintenance or
26 public nuisance code to issue a notice to the creditor filing the
27 summons and complaint in an action to foreclose, if the public
28 officer or other authorized municipal official determines that the
29 creditor has violated the ordinance by failing to provide for the
30 care, maintenance, security, and upkeep of **【the exterior of】** the
31 property. Such notice shall require the person or entity to correct
32 the violation within 30 days of receipt of the notice, or within 10
33 days of receipt of the notice if the violation presents an imminent
34 threat to public health and safety; provided, however, that such
35 deadline may be extended if a court order is required to enter a
36 property to correct an interior violation. The issuance of a notice
37 pursuant to this paragraph shall constitute proof that a property is
38 "vacant and abandoned" for the purposes of P.L.2012,
39 c.70 (C.2A:50-73).

40 (3) An ordinance adopted pursuant to subsection a. of this
41 section shall provide that an out-of-State creditor include the full
42 name and contact information of the in-State representative or agent
43 in the notice required to be provided pursuant to paragraph (1) of
44 subsection a. of section 17 of P.L.2008, c.127 (C.46:10B-51).

45 c. (1) An out-of-State creditor subject to an ordinance adopted
46 pursuant to subsection a. of this section found by the municipal

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.

1 court of the municipality in which the property subject to the
2 ordinance is located, or by any other court of competent
3 jurisdiction, to be in violation of the requirement to appoint an in-
4 State representative or agent pursuant to the ordinance shall be
5 subject to a fine of \$2,500 for each day of the violation. Any fines
6 imposed on a creditor for the failure to appoint an in-State
7 representative or agent shall commence on the day after the 10-day
8 period set forth in paragraph (1) of subsection a. of section 17 of
9 P.L.2008, c.127 (C.46:10B-51) for providing notice to the
10 municipal clerk that a summons and complaint in an action to
11 foreclose on a mortgage has been served.

12 (2) A creditor subject to an ordinance adopted pursuant to
13 subsection a. of this section found by the municipal court of the
14 municipality in which the property subject to the ordinance is
15 located, or by any other court of competent jurisdiction, to be in
16 violation of the requirement to correct a care, maintenance, security,
17 or upkeep violation cited in a notice issued pursuant to the
18 ordinance shall be subject to a fine of \$1,500 for each day of the
19 violation. Any fines imposed pursuant to this paragraph shall
20 commence 31 days following receipt of the notice, except if the
21 violation presents an imminent risk to public health and safety, in
22 which case any fines shall commence 11 days following receipt of
23 the notice; provided, however, that if a court order is required to
24 enter a property to correct an interior violation, any fines imposed
25 pursuant to this paragraph shall commence 31 days following
26 receipt of the court order, except if the violation presents an
27 imminent risk to public health and safety, in which case any fines
28 shall commence 11 days following receipt of the court order.

29 d. No less than 20 percent of any money collected pursuant to
30 subsection a. of this section shall be utilized by the municipality for
31 municipal code enforcement purposes.

32 (cf: P.L.2014, c.35, s.1)

33

34 2. Section 17 of P.L.2008, c.127 (C.46:10B-51) is amended to
35 read as follows:

36 17. a. (1) A creditor serving a summons and complaint in an
37 action to foreclose on a mortgage on residential property in this
38 State shall, within 10 days of serving the summons and complaint,
39 notify the municipal clerk of the municipality in which the property
40 is located that a summons and complaint in an action to foreclose
41 on a mortgage has been filed against the subject property. The
42 notice shall contain the name and contact information for the
43 representative of the creditor who is responsible for receiving
44 complaints of property maintenance and code violations, may
45 contain information about more than one property, and shall be
46 provided by mail or electronic communication, at the discretion of
47 the municipal clerk. In the event the creditor that has served a
48 summons and complaint in an action to foreclose on a residential

1 property is located out-of-State, the notice shall also contain the full
2 name and contact information of an in-State representative or agent
3 who shall be responsible for the care, maintenance, security, and
4 upkeep of **【the exterior of】** the property if it becomes vacant and
5 abandoned. If the municipality has appointed a public officer
6 pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal
7 clerk shall forward a copy of the notice to the public officer or shall
8 otherwise provide it to any other local official responsible for
9 administration of any property maintenance or public nuisance
10 code.

11 In the event that the property being foreclosed on is an
12 affordable unit pursuant to the "Fair Housing Act," P.L.1985,
13 c.222 (C.52:27D-301 et al.), then the creditor shall identify that the
14 property is subject to the "Fair Housing Act."

15 The notice shall also include the street address, lot and block
16 number of the property, and the full name and contact information
17 of an individual located within the State who is authorized to accept
18 service on behalf of the creditor. The notice shall be provided to
19 the municipal clerk within 10 days of service of a summons and
20 complaint in an action to foreclose on a mortgage against the
21 subject property.

22 (2) Within 30 days following the effective date of P.L.2009,
23 c.296 (C.2A:50-69 et al.), any creditor that has initiated a
24 foreclosure proceeding on any residential property which is pending
25 in Superior Court shall provide to the municipal clerk of the
26 municipality in which the property is located, a listing of all
27 residential properties in the municipality for which the creditor has
28 foreclosure actions pending by street address and lot and block
29 number. If the municipality has appointed a public officer pursuant
30 to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal clerk shall
31 forward a copy of the notice to the public officer, or shall otherwise
32 provide it to any other local official responsible for administration
33 of any property maintenance or public nuisance code.

34 b. If the owner of a residential property vacates or abandons
35 any property on which a foreclosure proceeding has been initiated
36 or if a residential property becomes vacant at any point subsequent
37 to the creditor's filing the summons and complaint in an action to
38 foreclose on a mortgage against the subject property, but prior to
39 vesting of title in the creditor or any other third party, and **【the**
40 **exterior of】** the property is found to be a nuisance or in violation of
41 any applicable State or local code, the local public officer,
42 municipal clerk, or other authorized municipal official shall notify
43 the creditor or the representative or agent of an out-of-State
44 creditor, as applicable, which shall have the responsibility to abate
45 the nuisance or correct the violation in the same manner and to the
46 same extent as the title owner of the property, to such standard or
47 specification as may be required by State law or municipal
48 ordinance. The municipality shall include a description of the

1 conditions that gave rise to the violation with the notice of violation
2 and shall provide a period of not less than 30 days from the
3 creditor's receipt of the notice for the creditor to remedy the
4 violation, which time period may be extended if a court order is
5 required to enter a property to correct an interior violation. If the
6 creditor fails to remedy the violation within that time period, the
7 municipality may impose penalties allowed for the violation of
8 municipal ordinances pursuant to R.S.40:49-5; provided, however,
9 that if a court order is required to enter a property to correct an
10 interior violation, any fines imposed pursuant to this subsection
11 shall commence not less than 31 days following receipt of the court
12 order.

13 c. If the municipality expends public funds in order to abate a
14 nuisance or correct a violation on a residential property in situations
15 in which the creditor was given notice pursuant to the provisions of
16 subsection b. of this section but failed to abate the nuisance or
17 correct the violation as directed, the municipality shall have the
18 same recourse against the creditor as it would have against the title
19 owner of the property, including but not limited to the recourse
20 provided under section 23 of P.L.2003, c.210 (C.55:19-100).
21 (cf: P.L.2014, c.35, s.2)

22

23 3. This act shall take effect immediately.

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STATEMENT

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28 This bill would require creditors to maintain the interior of
29 vacant and abandoned residential property under foreclosure.
30 Current law only requires creditors to maintain the exterior of
31 vacant and abandoned residential property under foreclosure. The
32 interiors of vacant and abandoned residential properties present a
33 host of serious maintenance issues to neighbors. For instance,
34 mold, vermin, and fire hazards can easily affect neighbors,
35 particularly in the case of attached housing. This bill would extend
36 creditors' responsibility to maintain vacant and abandoned
37 residential property under foreclosure to include the interior of such
38 property in order to protect neighbors and to prevent municipalities
39 from bearing such maintenance costs.

40

41 The bill would also allow municipalities to adopt ordinances
42 providing for a fine of \$1,500 for each day a maintenance violation
43 concerning the interior of a vacant and abandoned residential
44 property under foreclosure goes uncorrected following a 30-day
45 window to correct, or a 10-day window to correct in the case of an
46 imminent threat to public health and safety. Current law only
47 allows municipalities to adopt ordinances providing for such
48 penalties with respect to the exterior of vacant and abandoned
49 residential property under foreclosure.

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- 1 Under the bill, the deadlines for correcting interior violations
- 2 may be extended if a court order is needed to enter a property to
- 3 make such corrections.