

**ASSEMBLY, No. 2060**

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**STATE OF NEW JERSEY**

**217th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Assemblywoman SHEILA Y. OLIVER**

**District 34 (Essex and Passaic)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Co-Sponsored by:**

**Assemblywomen Spencer, Schepisi, Assemblymen Johnson, Wimberly,  
Coughlin and Assemblywoman Caride**

**SYNOPSIS**

Establishes process for consideration of offers from short sale buyers during residential mortgage foreclosures.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning foreclosure of residential properties and  
2 amending and supplementing P.L.1995, c.244.

3

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

6

7 1. Section 3 of P.L.1995, c.244 (C.2A:50-55) is amended to  
8 read as follows:

9 3. As used in this act:

10 "Deed in lieu of foreclosure" means a voluntary, knowing and  
11 uncoerced conveyance by the residential mortgage debtor to the  
12 residential mortgage lender of all claim, interest and estate in the  
13 property subject to the mortgage. In order for a conveyance to be  
14 voluntary, the debtor shall have received notice of, and been fully  
15 apprised of the debtor's rights as specified in section 4 of this act.  
16 For purposes of this act, "voluntarily surrendered" has the same  
17 meaning as "deed in lieu of foreclosure."

18 "Immediate family" means the debtor, the debtor's spouse, or the  
19 mother, father, sister, brother or child of the debtor or debtor's  
20 spouse.

21 "Non-residential mortgage" means a mortgage, security interest  
22 or the like which is not a residential mortgage. If a mortgage  
23 document includes separate tracts or properties, those portions of  
24 the mortgage document covering the non-residential tracts or  
25 properties shall be a non-residential mortgage.

26 "Obligation" means a promissory note, bond or other similar  
27 evidence of a duty to pay.

28 "Office" means the Office of Foreclosure within the  
29 Administrative Office of the Courts.

30 "Residential mortgage" means a mortgage, security interest or  
31 the like, in which the security is a residential property such as a  
32 house, real property or condominium, which is occupied, or is to be  
33 occupied, by the debtor, who is a natural person, or a member of the  
34 debtor's immediate family, as that person's residence. This act shall  
35 apply to all residential mortgages wherever made, which have as  
36 their security such a residence in the State of New Jersey, provided  
37 that the real property which is the subject of the mortgage shall not  
38 have more than four dwelling units, one of which shall be, or is  
39 planned to be, occupied by the debtor or a member of the debtor's  
40 immediate family as the debtor's or member's residence at the time  
41 the loan is originated.

42 "Residential mortgage debtor" or "debtor" means any person  
43 shown on the record of the residential mortgage lender as being  
44 obligated to pay the obligation secured by the residential mortgage.

**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 "Residential mortgage lender" or "lender" means any person,  
2 corporation, or other entity which makes or holds a residential  
3 mortgage, and any person, corporation or other entity to which such  
4 residential mortgage is assigned.

5 "Servicer" means the person, corporation or other entity  
6 responsible for servicing a residential mortgage loan, including a  
7 residential mortgage lender who makes or holds a loan if the lender  
8 also services the loan.

9 "Servicing" means managing the mortgage loan account on a  
10 daily basis, including collecting and crediting periodic loan  
11 payments, managing escrow accounts, or enforcing the terms of the  
12 mortgage or note.

13 "Short sale" means the sale of real property in which the lender  
14 or servicer agrees to release the lien that is secured by a residential  
15 mortgage on the property upon receipt of a lesser amount than is  
16 owed on the mortgage.

17 (cf: P.L.1995, c.244, s.3)

18  
19 2. (New section) a. A servicer shall respond to a good faith  
20 offer from a seller, seller's agent, or authorized third party to  
21 purchase the property through a short sale within 60 days of the  
22 date of the offer. A response would include an approval, a denial,  
23 or a request for further information. If the servicer decides not to  
24 approve a short sale, or fails to respond to the seller's, seller's  
25 agent's, or authorized third party's offer within 60 days, any deposit  
26 made by the buyer in connection with the purchase of the property  
27 shall be refunded in its entirety and the potential purchaser<sup>2</sup> shall  
28 have no further obligation with respect to the sale or other  
29 disposition of the property.

30 b. Nothing in this section shall constitute a limitation on the  
31 ability of the servicer and debtor to participate in the New Jersey  
32 Judiciary's Foreclosure Mediation Program or any other form of  
33 mediation or settlement discussion, or enter into an agreement as a  
34 result of that mediation or settlement discussion.

35  
36 3. This act shall take effect on the 60<sup>th</sup> day following  
37 enactment.

#### 40 STATEMENT

41  
42 This bill amends and supplements New Jersey's "Fair  
43 Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et al.), to require  
44 residential mortgage loan servicers to engage in consultations on  
45 short sales with prospective buyers, and to respond to short sale  
46 offers from buyers within certain time periods.

47 The bill requires a mortgage loan servicer to respond to a good  
48 faith offer from a seller, seller's agent, or authorized third party to

1 purchase the property through a short sale within 60 days of the  
2 date of the offer. A response would include an approval, a denial,  
3 or a request for further information. If the servicer decides not to  
4 approve a short sale, or fails to respond to the seller's, seller's  
5 agent's, or authorized third party's offer within 60 days, any deposit  
6 made by the buyer in connection with the purchase of the property  
7 shall be refunded in its entirety and the potential purchaser shall  
8 have no further obligation with respect to the sale or other  
9 disposition of the property.

10 Nothing in the bill would constitute a limitation on the ability of  
11 the servicer and debtor to participate in the New Jersey Judiciary's  
12 Foreclosure Mediation Program or any other form of mediation or  
13 settlement discussion, or enter into an agreement as a result of that  
14 mediation or settlement discussion.

15 The bill would take effect on the 60th day following enactment.