

# SENATE, No. 1630

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 16, 2016

**Sponsored by:**

**Senator JEFF VAN DREW**

**District 1 (Atlantic, Cape May and Cumberland)**

**Senator NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/19/2017)

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).

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

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

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

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

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

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

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

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

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

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

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

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

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

24

25 3. This act shall take effect immediately.

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#### STATEMENT

29

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

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

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1 penalties with respect to the exterior of vacant and abandoned  
2 residential property under foreclosure.

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