

**ASSEMBLY, No. 2115**

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**STATE OF NEW JERSEY**

**218th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman JERRY GREEN**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

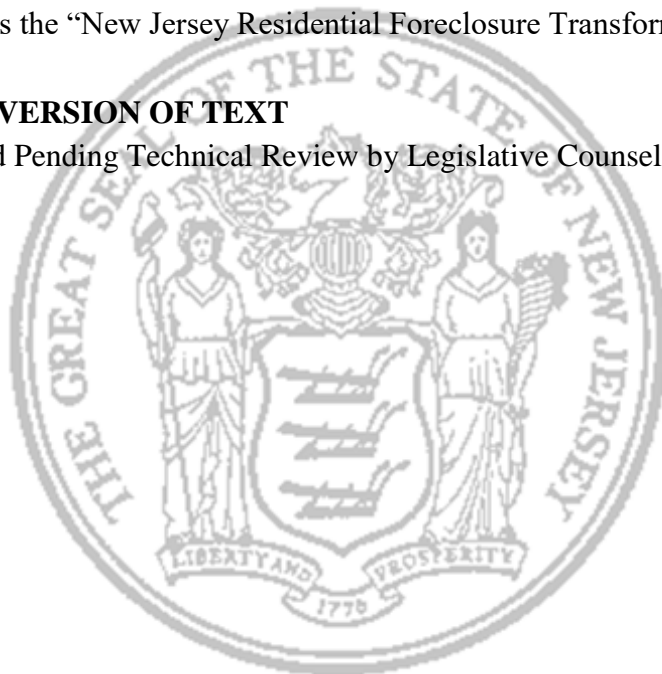
**Assemblymen Giblin, Coughlin, Eustace, Conaway, Assemblywoman Sumter, Assemblyman Lagana, Assemblywomen Pintor Marin, Murphy, Timberlake and Assemblyman Spearman**

**SYNOPSIS**

Establishes the “New Jersey Residential Foreclosure Transformation Act.”

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 12/18/2018)**

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. In recent years, there has been an enormous expansion in the  
13      number of mortgage foreclosure filings in New Jersey and across  
14      the nation. The number of mortgage foreclosure actions filed in the  
15      New Jersey Courts grew from just over 20,000 in 2005 to more than  
16      51,000 in 2008, 66,000 in 2009, and 58,000 in 2010.

17      b. Preliminary information indicates a decline in the number of  
18      residential mortgage foreclosure filings over 2011. However, this  
19      decline is largely attributable to actions undertaken by the New  
20      Jersey Judiciary which, in December of 2010, suspended the  
21      processing of uncontested residential foreclosures by the six biggest  
22      lenders in order to address "robo-signing" and other processing  
23      irregularities.

24      c. Despite this decline, it has been reported that more than one  
25      in 10 New Jersey mortgage loans are already in foreclosure or are  
26      90 days or more in arrears. Because of the large number of  
27      foreclosures filed during the 2009-2010 period, and the Judiciary's  
28      suspension of foreclosure processing, reports indicate that as of  
29      August 2011 more than 100,000 residential foreclosure cases were  
30      still open. Now that the courts have resumed processing  
31      foreclosures for the big six lenders, it is widely believed that  
32      foreclosure filings will increase during 2012. This is due in part to  
33      the large number of mortgages that are seriously delinquent, more  
34      than 90 days past due. Reports have indicated that during the  
35      suspension period mortgage lenders were waiting to file more than  
36      28,000 additional foreclosures and that another 55,000 mortgage  
37      loans were over 90 days delinquent.

38      d. Many of these foreclosed residential properties are vacant,  
39      undermining the health, safety, and economic vitality of  
40      neighborhoods, depressing their property values, and reducing  
41      revenues to municipalities.

42      e. It is the public policy of this State to encourage the  
43      production of low-income and moderate-income housing to serve  
44      the general welfare of all the State's residents.

45      f. The availability of tens of thousands of foreclosed  
46      residential properties presents a unique opportunity for the State to  
47      facilitate the purchase and dedication, or the rental, of housing units  
48      for low-income and moderate-income residents.

1 g. Establishment of a temporary State entity dedicated to the  
2 purpose of identifying foreclosed residential properties and  
3 facilitating their purchase and dedication for occupancy or their  
4 rental, including but not limited to low-income and moderate-  
5 income families, is in the public interest of the State.

6  
7 3. As used in this act:

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

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

13 "Community development corporation" means a nonprofit  
14 community development corporation established pursuant to Title  
15 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or  
16 other law of this State, with a focus on producing and operating  
17 affordable housing or housing with on-site social services for  
18 individuals with special needs.

19 "Community development financial institution" means an entity  
20 designated and certified by the United States Department of the  
21 Treasury as a Community Development Financial Institution  
22 pursuant to 12 CFR Part 1805.

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

26 "Corporation" means the "New Jersey Foreclosure Relief  
27 Corporation" established pursuant to this act.

28 "Eligible property" means any residential property that is owned  
29 by an institutional lender as the result of a mortgage foreclosure.

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

37 "Institutional lender" or "lender" means any lawfully constituted  
38 mortgage lender, mortgage investor, or mortgage loan servicer that  
39 owns an eligible property including, but not limited to any agency  
40 or instrumentality of the United States, including, but not limited to,  
41 the Government National Mortgage Association, the Federal Home  
42 Loan Mortgage Corporation, the Federal National Mortgage  
43 Association, the Federal Housing Administration, the Small  
44 Business Administration, the Resolution Funding Corporation, and  
45 the Federal Deposit Insurance Corporation.

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

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

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

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

16 "Moderate-income" means more than 50 percent but less than 80  
17 percent of the median gross household income for households of the  
18 same size within the housing region in which the household is  
19 located, based upon the United States Department of Housing and  
20 Urban Development's (HUD's) Section 8 Income Limits (uncapped)  
21 averaged across counties for the housing region.

22 "Moderate-income housing" means housing affordable according  
23 to United States Department of Housing and Urban Development or  
24 other recognized standards for home ownership and rental costs and  
25 occupied or reserved for occupancy by households with a gross  
26 household income equal to more than 50 percent but less than 80  
27 percent of the median gross household income for households of the  
28 same size within the housing region in which the housing is located.

29 "Permanent supportive housing" means a permanent lease based  
30 housing unit that provides access to supportive services for  
31 individuals with special needs and households with individuals with  
32 special needs who can benefit from housing with services.

33 "Qualified community development financial institution" means  
34 a community development financial institution that has a minimum  
35 of \$50 million in assets under management and a minimum of 2  
36 years' experience in the financing and acquisition of real estate for  
37 affordable housing.

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

42 "Supportive shared living housing" means permanent lease-based  
43 supportive housing that provides access to supportive services to  
44 individuals with special needs who maintain separate leases for  
45 bedrooms and share common living space.

46 "Very-low-income" means 30 percent or less of the median gross  
47 household income for households of the same size within the  
48 housing region in which the household is located, based upon the

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

4 "Very-low-income housing" means housing affordable to,  
5 according to United States Department of Housing and Urban  
6 Development or other recognized standards for home ownership  
7 and rental costs, and occupied by, or reserved for occupancy by,  
8 households with a gross household income equal to 30 percent or  
9 less of the median gross household income for households of the  
10 same size within the housing region in which the housing is located.

11

12 4. a. There is established in the New Jersey Housing and  
13 Mortgage Finance Agency the "New Jersey Foreclosure Relief  
14 Corporation."

15 b. The corporation shall constitute a body corporate and politic  
16 and an instrumentality exercising public and essential governmental  
17 functions, and the exercise by the corporation of the powers  
18 conferred by this act shall be deemed and held to be an essential  
19 governmental function of the State.

20 c. The corporation shall be governed by a seven-member  
21 board, consisting of the Commissioner of Community Affairs, the  
22 Executive Director of the New Jersey Housing and Mortgage  
23 Finance Agency, the Commissioner of Banking and Insurance, and  
24 the State Treasurer, who shall be members ex officio, and three  
25 members appointed by the Governor. Each ex officio member of  
26 the board may designate an officer or employee of his department to  
27 represent him at meetings of the board, and each such designee may  
28 lawfully vote and otherwise act on behalf of the member for whom  
29 he constitutes the designee. Any such designation shall be in  
30 writing delivered to the secretary of the board and shall continue in  
31 effect until revoked or amended by writing delivered to the  
32 secretary of the board.

33 d. The three members appointed by the Governor shall be  
34 residents of the State and shall have knowledge in the areas of real  
35 estate, housing design, construction, or operation; mortgage  
36 banking, finance and foreclosure; or community development. Of  
37 the three members appointed by the Governor, one shall be a  
38 nominee of the Senate President and one shall be a nominee of the  
39 Speaker of the General Assembly. At least one of the members  
40 appointed by the Governor shall hold a license as a real estate  
41 broker, broker-salesperson, salesperson, or referral agent under the  
42 provisions of R.S.45:15-1 et seq. No more than two of the members  
43 appointed by the Governor shall be members of the same political  
44 party. The members shall serve for two-year terms. Each member  
45 shall hold office for the term of his appointment and until the  
46 appointment of his successor. A member of the board shall be  
47 eligible for reappointment. A member of the board may be removed  
48 from office by the Governor, for cause, after a public hearing and

1 may be suspended by the Governor pending the completion of such  
2 a hearing.

3 e. (1) The Executive Director of the New Jersey Housing and  
4 Mortgage Finance Agency shall be the chairperson of the board.  
5 The chairperson shall appoint the secretary to the board. The  
6 chairperson shall convene an organizational meeting of the board as  
7 soon as possible after the appointment of its members.

8 (2) The board shall have the exclusive authority to approve all  
9 financial transactions of the corporation, to approve minutes of  
10 board meetings, and to make determinations concerning the  
11 corporation's governing structure.

12 (3) The secretary to the board shall deliver a true copy of the  
13 minutes of every board meeting to the Governor. No action taken at  
14 a board meeting shall have force or effect until the Governor  
15 approves the action or fails to veto the action within 10 business  
16 days after a true copy of the minutes were delivered. During that  
17 10-day period, the Governor may render any action taken by the  
18 board or any member thereof null and void by returning a copy of  
19 the minutes with a veto of the action to the board.

20 f. The corporation shall use employees (selected by the board)  
21 of the agency and the agency shall provide such personnel to the  
22 corporation for its use. In addition to persons otherwise employed  
23 by the agency, the agency shall employ, and shall provide to the  
24 corporation, such persons as the corporation may request from time  
25 to time. Agency employees provided to the corporation shall be  
26 subject to the direction and control of the corporation and any of  
27 them may be returned to the agency at any time by the corporation  
28 in the discretion of the corporation. The corporation may use  
29 administrative services of the agency and, if it does so, shall  
30 reimburse the agency for the actual costs of providing such  
31 services.

32 g. With the agreement of an executive department or other  
33 executive agency, the corporation may utilize the personnel of that  
34 department or agency on a reimbursable basis to cover actual and  
35 reasonable expenses.

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

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

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

47 (b) the total numbers of very-low-income, low-income, and  
48 moderate-income units that were produced for sale and for rental in

1 the preceding year pursuant to this act, their locations by  
2 municipality, and the sources of financing used.

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

8 (4) The corporation shall provide copies of its annual reports  
9 and audits to the agency and the agency shall display the  
10 corporation's annual reports and audits on the agency's website.

11 i. The corporation shall cease its operations on December 31,  
12 2017. On that date, any assets, liabilities, properties, or funds held  
13 by the corporation shall transfer to the agency. The corporation  
14 shall expire upon transmittal of the 2017 annual report.

15

16 5. The corporation shall have the following powers:

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

18 b. To enter into contracts and modify, or consent to the  
19 modification of, any contract or agreement to which the corporation  
20 is a party or in which the corporation has an interest under this act,  
21 with or without public bidding, notwithstanding the provisions of  
22 any other law.

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

24 d. To acquire, hold, lease, mortgage, maintain, and dispose of,  
25 at public or private sale, real and personal property, using any  
26 legally available private sector methods including without  
27 limitation, securitization of debt or equity, limited partnerships,  
28 mortgage investment conduits, and real estate investment trusts, and  
29 otherwise exercise all the usual incidents of ownership of property  
30 necessary and convenient to the operations of the corporation;  
31 provided, however, that every contract for the acquisition of real  
32 property entered into by the corporation, and every deed conveying  
33 real property to the corporation, shall provide that if the corporation  
34 holds title to the property on the 61st day after the date of the deed,  
35 all rights, title, and interest conveyed to the corporation shall  
36 automatically revert to and vest in the grantor without the necessity  
37 of any further act on the part of or on behalf of the grantor, it being  
38 the intent to convey a determinable estate.

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

41 f. To exercise any other power established under this section  
42 and such incidental powers as are necessary to carry out its duties  
43 and functions under this section. The corporation may indemnify  
44 the directors, officers, and employees of the corporation on such  
45 terms as the corporation deems proper against any liability under  
46 any civil suit pursuant to any statute or pursuant to common law  
47 with respect to any claim arising out of or resulting from any act or  
48 omission by such person within the scope of such person's

1 employment in connection with any transaction entered into  
2 involving the disposition of assets (or any interests in any assets or  
3 any obligations backed by any assets) by the corporation. For  
4 purposes of this subsection, the terms "officers" and "employees"  
5 include officers and employees of the agency. The indemnification  
6 authorized by this subsection shall be in addition to and not in lieu  
7 of any immunities or other protections that may be available to such  
8 person under applicable law, and this provision does not affect any  
9 such immunities or other protections.

10  
11 6. In addition to the powers of the corporation described in  
12 section 5 of P.L. , c. (C. ) (pending before the Legislature as  
13 this bill), the corporation shall have the following powers:

14 a. The corporation may enter into contracts with any person,  
15 corporation, or entity which the corporation determines to be  
16 necessary or appropriate to carry out its responsibilities under this  
17 act. Such contracts shall be subject to the procedures adopted  
18 pursuant to section 7 of this act.

19 b. In carrying out the corporation's duties under this act, the  
20 corporation may utilize the services of private persons, including  
21 real estate and loan portfolio asset management, property  
22 management, auction marketing, and brokerage services, if such  
23 services are available in the private sector and the corporation  
24 determines utilization of such services are practicable and efficient.

25 c. Within 120 days after the adoption of this act, the  
26 corporation shall enter into a mutually binding funding agreement  
27 with the New Jersey Housing and Mortgage Finance Agency for the  
28 purposes of

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

32 (2) identifying underwriting standards, securitization of debt,  
33 and credit standards for the acquisition of foreclosed residential  
34 properties or mortgage assets.

35  
36 7. a. (1) The corporation shall enter into contracts or loans, or  
37 both, with no more than two qualified community development  
38 financial institutions to negotiate, bid for, and purchase eligible  
39 properties and mortgage assets from institutional lenders for the  
40 purpose of producing affordable housing. In selecting contractors  
41 from among qualified community development financial  
42 institutions, the corporation shall accord a strong preference to  
43 qualified community development financial institutions that have  
44 substantial experience in lending in New Jersey and substantial  
45 knowledge of New Jersey real estate markets. The corporation may  
46 enter into contracts or loans, or both, with a partnership or consortia  
47 of organizations, as long as a qualified community development



1 financial institution is the lead entity, or a partnership or consortia  
2 of multiple qualified community development financial institutions.

3 (2) The contracts shall specify the amounts, schedules, and  
4 types of funding to be provided by the corporation to the qualified  
5 community development financial institutions, the repayment  
6 schedule for the portion of that funding to be repaid, and targeted  
7 goals of affordable housing to be produced. The corporation may  
8 condition funding and goals upon the availability of funds to the  
9 corporation. The contracts shall specify reasonable administrative  
10 costs sufficient to enable the qualified community development  
11 financial institutions to exercise their obligations pursuant to this  
12 act. The contracts shall set forth criteria for instances when the  
13 purchase, sale, lease, and conveyance of properties as market-rate  
14 units furthers the purposes of this act.

15 b. (1) As soon as possible after entering into a contract to  
16 purchase an eligible property or mortgage asset for use as  
17 affordable housing by the corporation or its contractors, the  
18 municipality in which the property is located shall be afforded a 45-  
19 day period of time within which the municipal governing body may  
20 opt to purchase the property in lieu of the corporation in accordance  
21 with the provisions set forth in this act. The municipality may waive  
22 this right through written notice to the corporation or, if so  
23 designated by the corporation, its contractors, prior to the expiration  
24 of the 45-day period.

25 (2) Those eligible properties purchased by the qualified  
26 community development financial institutions and designated  
27 pursuant to this act for use as affordable housing shall be restricted  
28 for occupancy as affordable housing for a period of 30 years. The  
29 restriction shall be set forth in the deed and recorded in the office of  
30 the county recording officer of the county wherein the real estate is  
31 situated. Affordability controls shall be imposed upon purchase and  
32 maintained upon transfer in accordance with the provisions of the  
33 Uniform Housing Affordability Controls promulgated by the  
34 agency.

35 c. (1) As soon as possible after entering into a contract to  
36 purchase an eligible property, but not less than five days after the  
37 date the corporation or its contractors enters into the contract, the  
38 corporation or its contractors shall provide written notice by  
39 personal service or certified mail to the governing body of the  
40 municipality within which the eligible property is located. The  
41 notice shall inform the governing body of the municipality's  
42 opportunity to purchase the eligible property, the municipality's  
43 right of first refusal to purchase the property, and the municipality's  
44 right to use monies deposited in its affordable housing trust fund.

45 (2) As soon as possible after entering into a contract to purchase  
46 an eligible property, but not less than five days after the date the  
47 corporation or its contractors enters into the contract, the  
48 corporation or its contractors shall list the property on the

1 Department of the Treasury's website. The listing shall contain  
2 basic information about the property, including but not limited to  
3 location, condition, and information relating to the estimated fair  
4 market value of the property. The corporation or its contractors  
5 shall make information about the listing available to the agency  
6 and, upon request, to municipalities, other public agencies,  
7 community development corporations, developers, and qualifying  
8 households.

9 (3) The corporation or its contractors shall allow public  
10 agencies, community development corporations, developers, and  
11 qualifying households reasonable access to an eligible property for  
12 purposes of inspection.

13 d. (1) In order to exercise its right to purchase an eligible  
14 property, the governing body of the municipality shall provide  
15 written notice to the chairperson of the corporation or, if so  
16 designated by the corporation, its contractors, within 45 days of the  
17 municipality's receipt of the notice required pursuant to subsection  
18 c. of this section.

19 (2) The governing body of a municipality may adopt a  
20 resolution authorizing the mayor or other designated municipal  
21 official to respond to notices received pursuant to subsection c. of  
22 this section. The resolution may establish parameters for that  
23 exercise of authority, including but not limited to the total amount  
24 of funds that may be expended and the amount that may be  
25 expended for each unit of housing.

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

30 (4) Whenever a municipality does not exercise an option to  
31 purchase an eligible property under this section, the corporation or  
32 its contractors may convey the property for occupancy as affordable  
33 housing subject to a 30-year deed restriction to another public  
34 agency, a community development corporation, a developer, or a  
35 qualifying household or the contractors may lease the property for  
36 occupancy as affordable housing subject to a 30-year deed  
37 restriction. A municipality that does not exercise an option to  
38 purchase an eligible property under this section may adopt a  
39 resolution authorizing the corporation or its contractors to use  
40 monies deposited in that municipality's affordable housing trust  
41 fund, up to and including the negotiated purchase price of the  
42 eligible property, and apply those funds to the purchase of the  
43 eligible property.

44 e. Notwithstanding any other provision of this section to the  
45 contrary, the corporation and, if authorized by contract, its  
46 contractors, may purchase, sell, lease, and convey market rate-units  
47 without offering those units to the municipality and without  
48 imposing affordability controls upon the property if the purchase,

1 sale, lease, and conveyance of those properties as market-rate units  
 2 satisfy criteria established pursuant to contract in accordance with  
 3 subsection a. of this section and does not violate the terms of any  
 4 other provision of law or requirement, including those governing  
 5 the use of funds used to make the purchase.

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

10

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

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

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

35 (1) two units of credit towards its affordable housing obligation  
 36 for:

37 (a) each eligible property sold or conveyed as a for-sale unit or  
 38 leased as rental housing, and

39 (b) each unit of affordable housing dedicated for permanent  
 40 supportive housing other than supportive shared living housing.

41 (2) one and one-quarter units of credit towards its affordable  
 42 housing obligation for each new bedroom dedicated in supportive  
 43 shared living housing.

44 d. The total number of additional units of credit beyond the  
 45 actual units of housing provided pursuant to this act shall not  
 46 exceed 25 percent of whatever the municipality's affordable  
 47 housing obligation may be. No unit or bedroom shall receive the  
 48 additional units of credit described in this act in addition to any

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

42 c. In any year in which the proceeds from the receipts of the  
43 additional fee collected pursuant to paragraph (2) of subsection a. of  
44 section 3 of P.L.1968, c.49 (C.46:15-7) exceeds \$75 million, the  
45 first \$10 million above the \$75 million collected shall be transferred  
46 into the "Foreclosure to Affordable Housing Transformation Fund"  
47 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  
29 Transformation Act," establishes the "New Jersey Foreclosure  
30 Relief Corporation" as a temporary entity within the New Jersey  
31 Housing and Mortgage Finance Agency (HMFA) for the purpose of  
32 purchasing foreclosed residential properties from institutional  
33 lenders and dedicating the properties for occupancy as affordable  
34 housing. The corporation will cease its operations on December 31,  
35 2017. On that date, any assets, properties, or funds held by the  
36 corporation will transfer to the HMFA.

37 The bill provides for the corporation to be governed by a seven-  
38 member board, consisting of the Commissioner of Community  
39 Affairs, the Executive Director of the HMFA, the Commissioner of  
40 Banking and Insurance, and the State Treasurer, ex officio, and  
41 three New Jersey residents, appointed by the Governor, who have  
42 knowledge in the areas of real estate, housing design, construction,  
43 or operation; mortgage banking, finance, and foreclosure; or  
44 community development. The Senate President and the Speaker of  
45 the General Assembly will each nominate one member for  
46 appointment by the Governor.

47 The bill requires the corporation to make an annual report of its  
48 activities to the Governor and to the Legislature, setting forth a

1 complete operating and financial statement covering its operations,  
2 transactions, and holdings during the year. The corporation's books  
3 and accounts must be audited at least once each year by certified  
4 public accountants.

5 The bill empowers the corporation to purchase foreclosed  
6 residential property and mortgage assets from institutional lenders  
7 to produce affordable housing and dedicate it for those purposes for  
8 30 years. The bill directs the corporation to enter into contracts or  
9 loans, or both, with no more than two experienced, financially  
10 sophisticated, community development financial institutions to  
11 enhance the ability of the corporation to fulfill its purpose of  
12 producing affordable housing.

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

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

27 If the corporation, its contractors or a municipality purchases an  
28 eligible property from monies deposited in a municipality's  
29 affordable housing trust fund, the municipality will receive bonus  
30 credits toward any constitutionally-imposed obligation to provide  
31 affordable housing as follows: two units of credit for each eligible  
32 property sold or conveyed as a for-sale unit or leased as rental  
33 housing; two units of credit for each unit of affordable housing  
34 dedicated for permanent supportive housing, other than supportive  
35 shared living housing; and one and one-quarter units of credit for  
36 each new bedroom dedicated in supportive shared living housing.  
37 The bill awards municipalities additional units of credit, above the  
38 actual number of dedicated affordable housing units produced, as an  
39 incentive for municipalities to authorize the use of their affordable  
40 housing trust fund monies for the purchase of eligible properties  
41 and to dedicate them as affordable housing.

42 The bill provides that the number of additional units of credit  
43 that a municipality can receive towards its affordable housing  
44 obligation for property purchased and dedicated as affordable  
45 housing under the bill cannot exceed 25 percent of the  
46 municipality's affordable housing obligation. The bill specifies that  
47 a municipality cannot receive both additional units of credit for  
48 producing a unit of affordable housing under this bill, and

1 additional units of credit for that unit under another provision of  
2 law.

3 The bill establishes a mechanism through which a "foreclosure-  
4 impacted municipality," one that has 10 or more foreclosed homes  
5 listed on a multiple listing service for at least 60 days, can insulate  
6 its affordable housing trust funds from the laws that require the  
7 transfer of its trust fund monies to the "New Jersey Affordable  
8 Housing Trust Fund." A foreclosure-impacted municipality can  
9 accomplish this by adopting a resolution committing the  
10 expenditure of its municipal affordable housing trust fund monies  
11 for the production of affordable housing and authorizing the  
12 transfer of at least \$150,000 of its municipal affordable housing  
13 trust fund monies to the corporation for the corporation to use to  
14 produce affordable housing.

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

28 The bill allows the corporation to establish criteria to identify the  
29 circumstances when the purchase, sale, lease, or conveyance of  
30 market-rate units furthers the purposes of the corporation. The  
31 corporation, or its contractors, will be able to purchase, sell, lease,  
32 or convey market-rate units in accordance with those criteria  
33 without imposing affordability controls upon the property provided  
34 the transaction does not violate any other law or requirement.

35 The bill establishes the "Foreclosure to Affordable Housing  
36 Transformation Fund," to serve as the repository for funds  
37 appropriated or made available for the corporation. The HMFA  
38 will administer the fund, and is authorized to transfer into the fund  
39 any amounts it has that may be used for the production of  
40 affordable housing. The bill authorizes HMFA to issue bonds to  
41 fund the activities of the corporation. The bill calls for  
42 prioritization of the allocation of tax-exempt private activity bonds  
43 to allow the corporation to fulfill the bill's purposes.

44 The bill provides that in any year in which the proceeds from the  
45 additional fee segment of the realty transfer fee exceed \$75 million,  
46 the first \$10 million above the \$75 million collected will be  
47 transferred into the "Foreclosure to Affordable Housing  
48 Transformation Fund" for purposes of producing affordable



1 housing. The bill authorizes the Commissioner of Community  
2 Affairs to transfer into the fund certain amounts held for the  
3 production of affordable housing, including but not limited to  
4 monies deposited in the "New Jersey Affordable Housing Trust  
5 Fund."

6 The bill requires amounts deposited in the "Foreclosure to  
7 Affordable Housing Transformation Fund" that are derived from  
8 federal funding sources or are otherwise dedicated to the production  
9 of affordable housing be used for the production of affordable  
10 housing. The bill allows the corporation to use other funds for the  
11 production of affordable housing or market-rate housing, and allows  
12 the corporation to use annually up to three percent of fund monies  
13 for administrative costs.

14 The bill takes effect immediately upon enactment.