

**CHAPTER 134**  
**(CORRECTED COPY)**

**AN ACT** concerning residential properties under foreclosure, supplementing P.L.2008, c.127 (C.55:14K-82 et al.), and amending P.L.1995, c.244.

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

C.46:10B-49.1 Database reflecting extent of residential properties under foreclosure.

1. a. The Department of Community Affairs shall produce a database that details the extent to which residential properties in this State are under foreclosure pursuant to the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et seq.). The department shall develop, maintain, and update the database based upon information submitted to the department by residential mortgage lenders pursuant to section 2 of P.L.2019, c.134 (C.46:10B-49.2), and information obtained from any other public sources.

b. The database shall contain:

(1) The address of each residential property under foreclosure and the county, municipality, lot and block number;

(2) the current owner of record; and

(3) the date the notice of intention to foreclose was sent to the residential mortgage debtor by registered or certified mail, return receipt requested.

c. The database shall be considered confidential and shall be used only by the department, the county clerks, the county registers of deeds and mortgages, the county sheriffs, the Administrative Office of the Courts and such other agencies as the Commissioner of Community Affairs designates, except that a municipality shall have access to the database only with respect to information pertaining to the geographical area within the municipality's jurisdiction. The database shall not be subject to public access, inspection or copying pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to public records.

d. The Commissioner of Community Affairs may adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of P.L.2019, c.134 (C.46:10B-49.1 et al.).

C.46:10B-49.2 Notice of intention to foreclose, centralized portal for submission.

2. a. A residential mortgage lender shall provide to the Department of Community Affairs the notice of intention to foreclose required pursuant to section 4 of P.L.1995, c.244 (C.2A:50-56) and a description of the subject property by street address, block, and lot as shown on the municipal tax map at the time the notice is given to the residential mortgage debtor. Upon receipt of the notice of intention to foreclose pursuant to this section, the Department of Community Affairs shall provide the residential mortgage lender with a written acknowledgement of the department's receipt of the notice of intention to foreclose. Compliance with this section shall be set forth in the pleadings of any legal action referred to in section 4 of P.L.1995, c.244 (C.2A:50-56).

b. The Department of Community Affairs shall create a centralized portal allowing for electronic submittal of the notice of intention to foreclose as required pursuant to subsection a. of this section.

C.46:10B-49.3 Required notifications by lender.

3. A residential mortgage lender that serves a summons and complaint in an action to foreclose on a mortgage on a residential property in this State pursuant to the "Fair

Foreclosure Act,” P.L.1995, c.244 (C.2A:50-53 et seq.), shall, within 10 days of serving the summons and complaint, notify the Department of Community Affairs, the municipal clerk, the municipal tax collector, and the chief of police in the municipality in which the property is located, and all public utilities as defined in R.S.48:2-13 which provide services in the municipality in which the property is located, and the county executive in the county in which the property is located, that a summons and complaint in an action to foreclose on a mortgage has been filed against the property.

4. Section 4 of P.L.1995, c.244 (C.2A:50-56) is amended to read as follows:

C.2A:50-56 Notice of intention to foreclose.

4. a. Upon failure to perform any obligation of a residential mortgage by the residential mortgage debtor and before any residential mortgage lender may accelerate the maturity of any residential mortgage obligation and commence any foreclosure or other legal action to take possession of the residential property which is the subject of the mortgage, the residential mortgage lender shall give a notice of intention, which shall include a notice of the right to cure the default as provided in section 5 of P.L.1995, c.244 (C.2A:50-57), at least 30 days, but not more than 180 days, in advance of such action as provided in this section, to the residential mortgage debtor, and, if the mortgage is secured by a residence for which a restriction on affordability was recorded in the county in which the property is located, the clerk of the municipality in which the subject property is located, the municipal housing liaison, if one has been appointed by the municipality pursuant to the regulations of the Council on Affordable Housing, and the Commissioner of Community Affairs. For the purposes of this section, “restriction on affordability” means any conditions recorded with a mortgage or a deed which would limit the sale of such property to income qualified households pursuant to the rules adopted to effectuate the “Fair Housing Act,” P.L.1985, c.222 (C.52:27D-301 et al.).

b. Notice of intention to take action as specified in subsection a. of this section shall be in writing, provided to the Department of Community Affairs in accordance with subsection a. of section 2 of P.L.2019, c.134 (C.46:10B-49.2), sent to the debtor by registered or certified mail, return receipt requested, at the debtor's last known address, and, if different, to the address of the property which is the subject of the residential mortgage. The notice is deemed to have been effectuated on the date the notice is delivered in person or mailed to the party.

c. The written notice shall clearly and conspicuously state in a manner calculated to make the debtor aware of the situation:

- (1) the particular obligation or real estate security interest;
- (2) the nature of the default claimed;
- (3) the right of the debtor to cure the default as provided in section 5 of P.L.1995, c.244 (C.2A:50-57);
- (4) what performance, including what sum of money, if any, and interest, shall be tendered to cure the default as of the date specified under paragraph (5) of this subsection c.;
- (5) the date by which the debtor shall cure the default to avoid initiation of foreclosure proceedings, which date shall not be less than 30 days after the date the notice is effective, and the name and address and phone number of a person to whom the payment or tender shall be made;

(6) that if the debtor does not cure the default by the date specified under paragraph (5) of this subsection c., the lender may take steps to terminate the debtor's ownership in the property by commencing a foreclosure suit in a court of competent jurisdiction;

(7) that if the lender takes the steps indicated pursuant to paragraph (6) of this subsection c., a debtor shall still have the right to cure the default pursuant to section 5 of P.L.1995, c.244 (C.2A:50-57), but that the debtor shall be responsible for the lender's court costs and attorneys' fees in an amount not to exceed that amount permitted pursuant to the Rules Governing the Courts of the State of New Jersey;

(8) the right, if any, of the debtor to transfer the real estate to another person subject to the security interest and that the transferee may have the right to cure the default as provided in P.L.1995, c.244 (C.2A:50-53 et seq.), subject to the mortgage documents;

(9) that the debtor is advised to seek counsel from an attorney of the debtor's own choosing concerning the debtor's residential mortgage default situation, and that, if the debtor is unable to obtain an attorney, the debtor may communicate with the New Jersey Bar Association or Lawyer Referral Service in the county in which the residential property securing the mortgage loan is located; and that, if the debtor is unable to afford an attorney, the debtor may communicate with the Legal Services Office in the county in which the property is located;

(10) the possible availability of financial assistance for curing a default from programs operated by the State or federal government or nonprofit organizations, if any, as identified by the Commissioner of Banking and Insurance and, if the property is subject to restrictions on affordability, the address and phone number of the municipal affordable housing liaison and of the New Jersey Housing and Mortgage Finance Agency. This requirement shall be satisfied by attaching a list of such programs promulgated by the commissioner;

(11) the name and address of the lender and the telephone number of a representative of the lender whom the debtor may contact if the debtor disagrees with the lender's assertion that a default has occurred or the correctness of the mortgage lender's calculation of the amount required to cure the default;

(12) that if the lender takes the steps indicated pursuant to paragraph (6) of this subsection, the debtor has the option to participate in the Foreclosure Mediation Program following the filing of a mortgage foreclosure complaint by initiating mediation pursuant to paragraph (2) of subsection a. of section 4 of P.L.2019, c.64 (C.2A:50-77). Notice of the option to participate in the Foreclosure Mediation Program shall adhere to the requirements of section 3 of P.L.2019, c.64 (C.2A:50-76) and any court rules, procedures, or guidelines adopted by the Supreme Court;

(13) that the debtor is entitled to housing counseling, at no cost to the debtor, through the Foreclosure Mediation Program established by the New Jersey Judiciary, including information on how to contact the program;

(14) that if the property which is the subject of the mortgage has more than one dwelling unit but less than five, one of which is occupied by the debtor or a member of the debtor's immediate family as the debtor's or member's residence at the time the loan is originated, and is not properly maintained and meets the necessary conditions for receivership eligibility, established pursuant to section 4 of the "Multifamily Housing Preservation and Receivership Act," P.L.2003, c.295 (C.2A:42-117), the residential mortgage lender shall file an order to show cause to appoint a receiver; and

(15) that the lender is either licensed in accordance with the "New Jersey Residential Mortgage Lending Act," sections 1 through 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89) or exempt from licensure under the act in accordance with applicable law.

d. The notice of intention to foreclose required to be provided pursuant to this section shall not be required if the debtor has voluntarily surrendered the property which is the subject of the residential mortgage.

e. The duty of the lender under this section to serve notice of intention to foreclose is independent of any other duty to give notice under the common law, principles of equity, State or federal statute, or rule of court and of any other right or remedy the debtor may have as a result of the failure to give such notice.

f. Compliance with this section and subsection a. of section 2 of P.L.2019, c.134 (C.46:10B-49.2) shall be set forth in the pleadings of any legal action referred to in this section. If the plaintiff in any complaint seeking foreclosure of a residential mortgage alleges that the property subject to the residential mortgage has been abandoned or voluntarily surrendered, the plaintiff shall plead the specific facts upon which this allegation is based.

g. If more than 180 days have elapsed since the date the notice required pursuant to this section is sent, and any foreclosure or other legal action to take possession of the residential property which is the subject of the mortgage has not yet been commenced, the lender shall send a new written notice at least 30 days, but not more than 180 days, in advance of that action.

h. If the property which is the subject of the notice of intention to foreclose has more than one dwelling unit but less than five, one of which is occupied by the debtor or a member of the debtor's immediate family as the debtor's or member's residence at the time the loan is originated, and is not properly maintained and meets the necessary conditions for receivership eligibility, established pursuant to section 4 of the "Multifamily Housing Preservation and Receivership Act," P.L.2003, c.295 (C.2A:42-117), the residential mortgage lender shall file an order to show cause to appoint a receiver.

5. This act shall take effect on the first day of the tenth month next following the date of enactment , but the Commissioner of Community Affairs may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved June 24, 2019.