

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 1584

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 2018

The Senate Economic Growth Committee reports favorably with committee amendments Senate Bill No. 1584.

As amended and reported, this bill, the "New Jersey Residential Foreclosure Transformation Act," establishes the "New Jersey Foreclosure Relief Corporation" as a temporary entity within the New Jersey Housing and Mortgage Finance Agency (HMFA) for the purpose of purchasing foreclosed residential properties from institutional lenders and dedicating the properties for occupancy as affordable housing. The corporation will cease its operations on December 31, 2022. On that date, any assets, properties, or funds held by the corporation will transfer to the HMFA.

The bill provides for the corporation to be governed by a seven-member board, consisting of the Commissioner of Community Affairs, the Executive Director of the HMFA, the Commissioner of Banking and Insurance, and the State Treasurer and three New Jersey residents, appointed by the Governor, who have relevant backgrounds as described in the bill. The Senate President and the Speaker of the General Assembly will each nominate one member for appointment by the Governor.

The bill requires the corporation to make an annual report of its activities to the Governor and to the Legislature, setting forth a complete operating and financial statement. The corporation's books and accounts must be audited at least once each year by certified public accountants.

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

The corporation or, if applicable, one of its contractors, will give the municipality in which the property is located a right of first refusal to purchase the property and dedicate it as affordable housing. The bill allows a municipality to exercise its right to purchase and dedicate eligible property for affordable housing, decline the option to

purchase, or decline to exercise the option but, instead, authorize the corporation or its contractors to use monies from the municipality's affordable housing trust fund to purchase the property.

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

If the corporation, its contractors or a municipality purchases an eligible property from monies deposited in a municipality's affordable housing trust fund, the municipality will receive bonus credits toward any constitutionally-imposed obligation to provide affordable housing as follows: two units of credit for each eligible property sold or conveyed as a for-sale unit or leased as rental housing; two units of credit for each unit of affordable housing dedicated for permanent supportive housing, other than supportive shared living housing; and one and one-quarter units of credit for each new bedroom dedicated in supportive shared living housing. The bill provides that the number of additional units of credit that a municipality can receive towards its affordable housing obligation for property purchased and dedicated as affordable housing under the bill cannot exceed 25 percent of the municipality's affordable housing obligation. The bill specifies that a municipality cannot receive both additional units of credit for producing a unit of affordable housing under this bill, and additional units of credit for that unit under another provision of law.

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

The bill requires the corporation to use funds transferred from a foreclosure-impacted municipality to produce affordable housing within that municipality. If the corporation is unable to use all of the transferred funds within two years of the date of transfer, the corporation will return the remaining funds to the municipality and the municipality will have at least six months from the date the funds are returned to commit the funds in accordance with other provisions of law. During this period, all municipal trust fund monies designated for the purchase of foreclosed properties will be protected from transfer to the State. A municipality will receive bonus credits, as otherwise

provided by the bill, for affordable housing produced by the corporation or by one of its contractors pursuant to this mechanism.

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

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

The bill provides that in any year in which the proceeds from the additional fee segment of the realty transfer fee exceed \$75 million, the first \$10 million above the \$75 million collected will be transferred into the "Foreclosure to Affordable Housing Transformation Fund" for purposes of producing affordable housing. The bill authorizes the Commissioner of Community Affairs to transfer into the fund certain amounts held for the production of affordable housing, including but not limited to monies deposited in the "New Jersey Affordable Housing Trust Fund."

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

The committee amended the bill to revise the date when the corporation will cease operations from December 31, 2017 to December 31, 2022.