

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 3411

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2019

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 3411.

This bill revises the “Fair Foreclosure Act,” P.L.1995, c.244 (C.2A:50-53 et seq.) to require that a notice of intention to foreclose, including a notice of the right to cure the default, which currently must be sent at least 30 days in advance of a residential mortgage lender commencing a foreclosure or other legal action to take possession of a residential property, be sent no more than 180 days in advance of taking that action. If more than 180 days have elapsed since the date the notice of intention to foreclose is sent, and a foreclosure or other legal action to take possession of the residential property has not yet commenced, a new notice would have to be sent at least 30 days, but not more than 180 days, in advance of that action.

The bill also requires the notice of intention to foreclose to include notice 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.

The bill also provides that if a plaintiff’s action to foreclose a residential mortgage has been dismissed without prejudice pursuant to R.4:64-8 of the Rules Governing the Courts of New Jersey of the State of New Jersey, reinstatement of the plaintiff’s action may be permitted only on motion for good cause shown and reinstatements would be limited to three for any action. The fee for a plaintiff to reinstate a residential mortgage foreclosure action would be twice the amount set by the Administrative Office of the Courts for filing a foreclosure complaint. The plaintiff would not be able to charge or otherwise pass a reinstatement fee onto the debtor or any other person.

The bill also provides that the amounts paid by plaintiffs for reinstating a mortgage, that are over and above the amounts set by the Administrative Office of the Courts for filing a foreclosure complaint, have to be aggregated and divided equally on an annual basis, with one-half dedicated to the New Jersey Housing and Mortgage Finance Agency for the purposes of funding the counseling component provided by the agency for the New Jersey Judiciary’s Foreclosure Mediation Program, and one-half dedicated to the Administrative Office of the Courts for the general operations provided by the office for the New Jersey Judiciary’s Foreclosure Mediation Program.