

[First Reprint]

ASSEMBLY, No. 1049

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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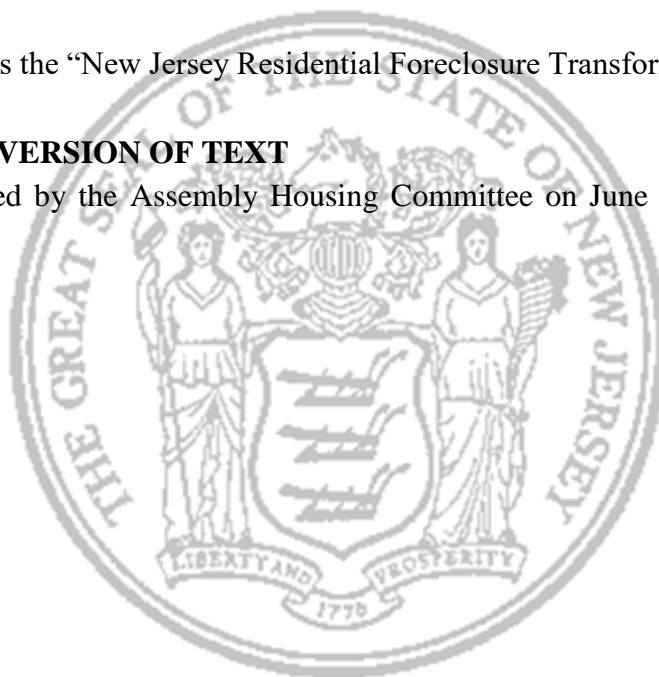
Assemblymen Giblin, Coughlin, Conaway, Assemblywomen Sumter, Pintor Marin, Murphy, Timberlake, Assemblymen Spearman, Holley, Assemblywomen Reynolds-Jackson, Vainieri Huttle, Assemblymen Mejia, Calabrese, Verrelli, Armato, and Mazzeo

SYNOPSIS

Establishes the “New Jersey Residential Foreclosure Transformation Act.”

CURRENT VERSION OF TEXT

As reported by the Assembly Housing Committee on June 15, 2020, with amendments.



(Sponsorship Updated As Of: 6/18/2020)

1 AN ACT concerning the transfer and dedication of foreclosed
2 residential properties for affordable housing, ¹~~and~~¹
3 supplementing Title 55 of the Revised Statutes ¹, and amending
4 Title 2A of the New Jersey Statutes¹.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. This act shall be known and may be cited as the "New Jersey
10 Residential Foreclosure Transformation Act."

11
12 2. The Legislature finds and declares that:

13 a. ¹~~In recent years,~~ Over the past decade¹ there ¹~~has been~~
14 was¹ an enormous expansion in the number of mortgage foreclosure
15 filings in New Jersey and across the nation. The number of
16 mortgage foreclosure actions filed in the New Jersey Courts grew
17 from just over 20,000 in 2005 to more than ¹~~51,000 in 2008,~~¹
18 ~~66,000 in 2009~~ ¹~~, and 58,000 in 2010~~ ¹. Filings remained elevated
19 for nearly a decade until recently returning to normal levels¹.

20 b. ¹~~Preliminary information indicates a decline in the number~~
21 ~~of residential mortgage foreclosure filings over 2011. However,~~
22 ~~this decline is largely attributable to actions undertaken by the New~~
23 ~~Jersey Judiciary which, in December of 2010, suspended the~~
24 ~~processing of uncontested residential foreclosures by the six biggest~~
25 ~~lenders in order to address "robo-signing" and other processing~~
26 ~~irregularities.~~

27 c. Despite this decline, it has been reported that more than one
28 in 10 New Jersey mortgage loans are already in foreclosure or are
29 90 days or more in arrears. Because of the large number of
30 foreclosures filed during the 2009-2010 period, and the Judiciary's
31 suspension of foreclosure processing, reports indicate that as of
32 August 2011 more than 100,000 residential foreclosure cases were
33 still open. Now that the courts have resumed processing
34 foreclosures for the big six lenders, it is widely believed that
35 foreclosure filings will increase during 2012. This is due in part to
36 the large number of mortgages that are seriously delinquent, more
37 than 90 days past due. Reports have indicated that during the
38 suspension period mortgage lenders were waiting to file more than
39 28,000 additional foreclosures and that another 55,000 mortgage
40 loans were over 90 days delinquent.

41 d.]¹ Many of these foreclosed residential properties ¹~~are~~
42 remain¹ vacant, undermining the health, safety, and economic
43 vitality of neighborhoods, depressing their property values, and
44 reducing revenues to municipalities.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHO committee amendments adopted June 15, 2020.

1 **1[e.] c.**¹ It is the public policy of this State to encourage the
2 production of low-income and moderate-income housing to serve
3 the general welfare of all the State's residents.

4 **1[f.] d.**¹ The availability of tens of thousands of foreclosed
5 residential properties presents a unique opportunity for the State to
6 facilitate the purchase and dedication, or the rental, of housing units
7 for low-income and moderate-income residents.

8 **1[g.] e.**¹ Establishment of a **1[temporary]**¹ State **1[entity]**
9 **program**¹ dedicated to the purpose of identifying foreclosed
10 residential properties and facilitating their purchase and dedication
11 for occupancy or their rental, including but not limited to low-
12 income and moderate-income families, is in the public interest of
13 the State.

14

15 3. As used in this act:

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

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

21 "Community development corporation" means a nonprofit
22 community development corporation established pursuant to Title
23 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or
24 other law of this State, with a focus on producing and operating
25 affordable housing or housing with on-site social services for
26 individuals with special needs.

27 "Community development financial institution" means an entity
28 designated and certified by the United States Department of the
29 Treasury as a Community Development Financial Institution
30 pursuant to 12 CFR Part 1805.

31 "Contractor" means a qualified community development
32 financial institution that enters into a contract or loan with the
33 **1[corporation] agency**¹ pursuant to section **1[7 of this act] 5** of
34 **P.L.1983, c.530 (C.55:14K-5)**¹.

35 **1["Corporation"]**¹ means the "New Jersey Foreclosure Relief
36 Corporation" established pursuant to this act. **1]**¹

37 "Eligible property" means any residential property that is owned
38 by an institutional lender as the result of a mortgage foreclosure
39 **1judgment, or deed in lieu of foreclosure, owned by a municipality**
40 **as the result of a tax foreclosure judgment or is subject to a**
41 **nonperforming loan from an institutional lender**¹.

42 "Individuals with special needs" means individuals with mental
43 illness, physical or developmental disabilities, victims of domestic
44 violence, ex-offenders, youth aging out of foster care, disabled and
45 homeless veterans, individuals and households who are homeless,
46 individuals with AIDS/HIV, and individuals in other emerging

1 special needs groups identified by State agencies. Individuals shall
2 be at least 18 years of age if not part of a household.

3 "Institutional lender" or "lender" means any lawfully constituted
4 mortgage lender, mortgage investor, or mortgage loan servicer that
5 owns an eligible property including, but not limited to any agency
6 or instrumentality of the United States ¹or the State¹, including, but
7 not limited to, the Government National Mortgage Association, the
8 Federal Home Loan Mortgage Corporation, the Federal National
9 Mortgage Association, the Federal Housing Administration, the
10 Small Business Administration, the Resolution Funding
11 Corporation, and the Federal Deposit Insurance Corporation.

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

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

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

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

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

36 "Moderate-income housing" means housing affordable according
37 to United States Department of Housing and Urban Development or
38 other recognized standards for home ownership and rental costs and
39 occupied or reserved for occupancy by households with a gross
40 household income equal to more than 50 percent but less than 80
41 percent of the median gross household income for households of the
42 same size within the housing region in which the housing is located.

43 "Permanent supportive housing" means a permanent lease based
44 housing unit that provides access to supportive services for
45 individuals with special needs and households with individuals with
46 special needs who can benefit from housing with services.

47 ¹"Program" means the "New Jersey Residential Foreclosure
48 Transformation Program" established pursuant to this act.¹

1 "Qualified community development financial institution" means
2 a community development financial institution that has a minimum
3 of \$50 million in assets under management and a minimum of 2
4 years' experience in the financing and acquisition of real estate for
5 affordable housing.

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

10 "Supportive shared living housing" means permanent lease-based
11 supportive housing that provides access to supportive services to
12 individuals with special needs who maintain separate leases for
13 bedrooms and share common living space.

14 "Very-low-income" means 30 percent or less of the median gross
15 household income for households of the same size within the
16 housing region in which the household is located, based upon the
17 United States Department of Housing and Urban Development's
18 (HUD) Section 8 Income Limits (uncapped) averaged across
19 counties for the housing region.

20 "Very-low-income housing" means housing affordable to,
21 according to United States Department of Housing and Urban
22 Development or other recognized standards for home ownership
23 and rental costs, and occupied by, or reserved for occupancy by,
24 households with a gross household income equal to 30 percent or
25 less of the median gross household income for households of the
26 same size within the housing region in which the housing is located.

27

28 4. a. There is established in the New Jersey Housing and
29 Mortgage Finance Agency the "New Jersey ¹Residential¹
30 Foreclosure ¹Relief Corporation."

31 b. The corporation shall constitute a body corporate and politic
32 and an instrumentality exercising public and essential governmental
33 functions, and the exercise by the corporation of the powers
34 conferred by this act shall be deemed and held to be an essential
35 governmental function of the State.

36 c. The corporation shall be governed by a seven-member
37 board, consisting of the Commissioner of Community Affairs, the
38 Executive Director of the New Jersey Housing and Mortgage
39 Finance Agency, the Commissioner of Banking and Insurance, and
40 the State Treasurer, who shall be members ex officio, and three
41 members appointed by the Governor. Each ex officio member of
42 the board may designate an officer or employee of his department to
43 represent him at meetings of the board, and each such designee may
44 lawfully vote and otherwise act on behalf of the member for whom
45 he constitutes the designee. Any such designation shall be in
46 writing delivered to the secretary of the board and shall continue in
47 effect until revoked or amended by writing delivered to the
48 secretary of the board.

1 d. The three members appointed by the Governor shall be
2 residents of the State and shall have knowledge in the areas of real
3 estate, housing design, construction, or operation; mortgage
4 banking, finance and foreclosure; or community development. Of
5 the three members appointed by the Governor, one shall be a
6 nominee of the Senate President and one shall be a nominee of the
7 Speaker of the General Assembly. At least one of the members
8 appointed by the Governor shall hold a license as a real estate
9 broker, broker-salesperson, salesperson, or referral agent under the
10 provisions of R.S.45:15-1 et seq. No more than two of the members
11 appointed by the Governor shall be members of the same political
12 party. The members shall serve for two-year terms. Each member
13 shall hold office for the term of his appointment and until the
14 appointment of his successor. A member of the board shall be
15 eligible for reappointment. A member of the board may be removed
16 from office by the Governor, for cause, after a public hearing and
17 may be suspended by the Governor pending the completion of such
18 a hearing.

19 e. (1) The Executive Director of the New Jersey Housing and
20 Mortgage Finance Agency shall be the chairperson of the board.
21 The chairperson shall appoint the secretary to the board. The
22 chairperson shall convene an organizational meeting of the board as
23 soon as possible after the appointment of its members.

24 (2) The board shall have the exclusive authority to approve all
25 financial transactions of the corporation, to approve minutes of
26 board meetings, and to make determinations concerning the
27 corporation's governing structure.

28 (3) The secretary to the board shall deliver a true copy of the
29 minutes of every board meeting to the Governor. No action taken at
30 a board meeting shall have force or effect until the Governor
31 approves the action or fails to veto the action within 10 business
32 days after a true copy of the minutes were delivered. During that
33 10-day period, the Governor may render any action taken by the
34 board or any member thereof null and void by returning a copy of
35 the minutes with a veto of the action to the board.

36 f. The corporation shall use employees (selected by the board)
37 of the agency and the agency shall provide such personnel to the
38 corporation for its use. In addition to persons otherwise employed
39 by the agency, the agency shall employ, and shall provide to the
40 corporation, such persons as the corporation may request from time
41 to time. Agency employees provided to the corporation shall be
42 subject to the direction and control of the corporation and any of
43 them may be returned to the agency at any time by the corporation
44 in the discretion of the corporation. The corporation may use
45 administrative services of the agency and, if it does so, shall
46 reimburse the agency for the actual costs of providing such
47 services.

1 g. With the agreement of an executive department or other
2 executive agency, the corporation may utilize the personnel of that
3 department or agency on a reimbursable basis to cover actual and
4 reasonable expenses] Transformation Program, which shall be
5 subject to the powers of the agency, as designated pursuant to
6 section 5 of P.L.1983, c.530 (C.55:14K-5)¹.

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

11 (2) Each] b. As part of the¹ annual report ¹made by the agency
12 pursuant to section 40 of P.L.1983, c.530 (C.55:14K-40), the
13 agency¹ shall ¹include a section to¹ set forth the current nature and
14 extent of foreclosure activity in New Jersey and shall depict
15 changes in foreclosure activity from the prior calendar year. The
16 report shall set forth a complete operating and financial statement
17 covering the ¹corporation's program's¹ operations, transactions
18 and holdings during the preceding year, including but not limited
19 to:

20 ¹[(a)] (1)¹ the total number of re-capitalized market rate units.

21 ¹[(b)] (2)¹ the total numbers of very-low-income, low-income,
22 and moderate-income units that were produced for sale and for
23 rental in the preceding year pursuant to this act, their locations by
24 municipality, and the sources of financing used.

25 ¹[(3) The corporation shall cause an audit of its books and
26 accounts to be made at least once in each year by certified public
27 accountants. The cost of the audit shall be considered an expense of
28 the corporation and a copy thereof shall be filed with the State
29 Treasurer.

30 (4) The corporation shall provide copies of its annual reports
31 and audits to the agency and the agency shall display the
32 corporation's annual reports and audits on the agency's website.

33 i. The corporation shall cease its operations on December 31,
34 2017. On that date, any assets, liabilities, properties, or funds held
35 by the corporation shall transfer to the agency. The corporation
36 shall expire upon transmittal of the 2017 annual report.]¹

37
38 ¹5. The corporation shall have the following powers:

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

40 b. To enter into contracts and modify, or consent to the
41 modification of, any contract or agreement to which the corporation
42 is a party or in which the corporation has an interest under this act,
43 with or without public bidding, notwithstanding the provisions of
44 any other law.

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

46 d. To acquire, hold, lease, mortgage, maintain, and dispose of,
47 at public or private sale, real and personal property, using any

1 legally available private sector methods including without
2 limitation, securitization of debt or equity, limited partnerships,
3 mortgage investment conduits, and real estate investment trusts, and
4 otherwise exercise all the usual incidents of ownership of property
5 necessary and convenient to the operations of the corporation;
6 provided, however, that every contract for the acquisition of real
7 property entered into by the corporation, and every deed conveying
8 real property to the corporation, shall provide that if the corporation
9 holds title to the property on the 61st day after the date of the deed,
10 all rights, title, and interest conveyed to the corporation shall
11 automatically revert to and vest in the grantor without the necessity
12 of any further act on the part of or on behalf of the grantor, it being
13 the intent to convey a determinable estate.

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

16 f. To exercise any other power established under this section
17 and such incidental powers as are necessary to carry out its duties
18 and functions under this section. The corporation may indemnify
19 the directors, officers, and employees of the corporation on such
20 terms as the corporation deems proper against any liability under
21 any civil suit pursuant to any statute or pursuant to common law
22 with respect to any claim arising out of or resulting from any act or
23 omission by such person within the scope of such person's
24 employment in connection with any transaction entered into
25 involving the disposition of assets (or any interests in any assets or
26 any obligations backed by any assets) by the corporation. For
27 purposes of this subsection, the terms "officers" and "employees"
28 include officers and employees of the agency. The indemnification
29 authorized by this subsection shall be in addition to and not in lieu
30 of any immunities or other protections that may be available to such
31 person under applicable law, and this provision does not affect any
32 such immunities or other protections.]¹

33
34 ¹[6.] 5.¹ In addition to the powers of the ¹[corporation]
35 agency¹ described in section 5 of ¹[P.L. , c. (C.) (pending
36 before the Legislature as this bill), the corporation] P.L.1983, c.530
37 (C.55:14K-5), the agency¹ shall have the following powers:

38 a. The ¹[corporation] agency in furtherance of the program¹
39 may enter into contracts with any person, corporation, or entity
40 which the ¹[corporation] agency¹ determines to be necessary or
41 appropriate to carry out its responsibilities under this act. Such
42 contracts shall be subject to the procedures adopted pursuant to
43 section ¹[7] 6¹ of this act.

44 b. In carrying out the ¹[corporation's] agency's¹ duties under
45 this act, the ¹[corporation] agency¹ may ¹[utilize] employ¹ the
46 consulting¹ services of ¹[private persons, including]¹ real estate
47 and loan portfolio asset management ¹firms¹, property management

1 'firms', auction marketing 'firms', '[and]' brokerage services '[,
2 if such services are available in the private sector and the
3 corporation determines utilization of such services are practicable
4 and efficient] firms, appraisers and such other consultants and
5 employees required in the judgement of the agency,
6 notwithstanding the provisions of Title 11A of the New Jersey
7 Statutes'.

8 c. '(1)' Within '[120] 180' days after the adoption of this act,
9 the '[corporation shall enter into a mutually binding funding
10 agreement with the New Jersey Housing and Mortgage Finance
11 Agency for the purposes of

12 (1) determining the target amount of bond proceeds to be raised
13 by the agency for the activities of the corporation, as well as the
14 sources of repayment of, and security for, the agency's bonds; and]
15 agency shall adopt a funding plan for the program utilizing the
16 "Foreclosure to Affordable Transformation Fund" established
17 pursuant to section 9 of this act. The agency may directly fund the
18 program through revenue generated by the fund. The agency shall
19 have the authority to alter its funding plan as the Executive Director
20 of the agency deems necessary.'

21 (2) 'The funding plan as required by paragraph (1) of this
22 subsection shall include but not be limited to' identifying
23 underwriting standards, '[securitization of debt,]' and credit
24 standards for the acquisition of foreclosed residential properties or
25 mortgage assets.

26
27 '[7.] 6.' a. (1) The '[corporation shall] agency may' enter
28 into contracts or loans, or both, with no more than two qualified
29 community development financial institutions to negotiate, bid for,
30 and purchase eligible properties and mortgage assets '[from
31 institutional lenders]' for the purpose of producing affordable
32 housing 'as part of the program'. In selecting contractors from
33 among qualified community development financial institutions, the
34 '[corporation] agency' shall accord a strong preference to qualified
35 community development financial institutions that have substantial
36 experience in lending in New Jersey and substantial knowledge of
37 New Jersey real estate markets. The '[corporation] agency' may
38 enter into contracts or loans, or both, with a partnership or consortia
39 of organizations, as long as a qualified community development
40 financial institution is the lead entity, or a partnership or consortia
41 of multiple qualified community development financial institutions.

42 (2) '[The] Should the agency contract with a community
43 development financial institution for the purposes of this act, the'
44 contracts shall specify the amounts, schedules, and types of funding
45 to be provided by the '[corporation] agency' to the qualified
46 community development financial institutions, the repayment

1 schedule for the portion of that funding to be repaid, and targeted
2 goals of affordable housing to be produced. The ¹【corporation】
3 agency¹ may condition funding and goals upon the availability of
4 funds to the ¹【corporation】 program¹. The contracts shall specify
5 reasonable administrative costs sufficient to enable the qualified
6 community development financial institutions to exercise their
7 obligations pursuant to this act. The contracts shall set forth criteria
8 for instances when the purchase, sale, lease, and conveyance of
9 properties as market-rate units furthers the purposes of this act.

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

20 (2)¹ Those eligible properties purchased by the qualified
21 community development financial institutions ¹or the agency¹ and
22 designated pursuant to this act for use as affordable housing shall be
23 restricted for occupancy as affordable housing for a period of ¹up
24 to¹ 30 years. The restriction shall be set forth in the deed and
25 recorded in the office of the county recording officer of the county
26 wherein the real estate is situated. Affordability controls shall be
27 imposed upon purchase and maintained upon transfer in accordance
28 with the provisions of the Uniform Housing Affordability Controls
29 promulgated by the agency.

30 c. (1) As soon as possible after entering into a contract to
31 purchase an eligible property, but not less than ¹【five】 ten
32 business¹ days after the date the ¹【corporation】 agency¹ or its
33 contractors enters into the contract, the ¹【corporation】 agency¹ or
34 its contractors shall provide written notice by personal service or
35 certified mail to the governing body of the municipality within
36 which the eligible property is located ¹【. The notice shall inform
37 the governing body of the municipality's opportunity to purchase
38 the eligible property, the municipality's right of first refusal to
39 purchase the property, and the municipality's right to use monies
40 deposited in its affordable housing trust fund】 except that the
41 written notice shall not be required if the eligible property is already
42 owned by the municipality as a result of a tax foreclosure
43 judgment¹.

44 (2) As soon as possible after entering into a contract to purchase
45 an eligible property, but not less than ¹【five】 ten business¹ days
46 after the date the ¹【corporation】 agency¹ or its contractors enters

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

11 (3) The **1**corporation**1** agency**1** or its contractors **1**, after
12 entering into a contract to purchase an eligible property,**1** shall
13 allow public agencies, community development corporations,
14 developers, and qualifying households reasonable access to **1**an
15 the**1** eligible property for purposes of inspection.

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

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

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

33 (4) Whenever a municipality does not exercise an option to
34 purchase an eligible property under this section, the corporation **1**
35 The agency**1** or its contractors may convey the property for
36 occupancy as affordable housing subject to a 30-year **1**maximum**1**
37 deed restriction to another public agency, a community
38 development corporation, a developer, or a qualifying household or
39 the contractors may lease the property for occupancy as affordable
40 housing subject to a 30-year **1**maximum**1** deed restriction. **1**A
41 municipality that does not exercise an option to purchase an eligible
42 property under this section may adopt a resolution authorizing the
43 corporation or its contractors to use monies deposited in that
44 municipality's affordable housing trust fund, up to and including the
45 negotiated purchase price of the eligible property, and apply those
46 funds to the purchase of the eligible property.**1**

1 e. Notwithstanding any other provision of this section to the
2 contrary, the ¹corporation agency¹ and, if authorized by contract,
3 its contractors, may purchase, sell, lease, and convey market rate-
4 units ¹without offering those units to the municipality and¹
5 without imposing affordability controls upon the property if the
6 purchase, sale, lease, and conveyance of those properties as market-
7 rate units satisfy criteria established pursuant to contract in
8 accordance with subsection a. of this section and does not violate
9 the terms of any other provision of law or requirement, including
10 those governing the use of funds used to make the purchase.

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

15

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

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

34 c. ¹7. a. ¹ Except as provided in subsection ¹d. ¹b. ¹ of this
35 section, whenever the ¹corporation agency¹, ¹or¹ its contractors,
36 ¹or a municipality¹ purchases an eligible property pursuant to this
37 act from monies deposited in the municipality's affordable housing
38 trust fund and dedicates the property for affordable housing, as
39 required by this act, that municipality shall receive ¹:

40 (1) ¹ two units of credit towards its affordable housing
41 obligation for:

42 ¹(a) ¹(1) ¹ each eligible property sold or conveyed as a for-sale
43 unit or leased as rental housing ¹, and

44 (b) ¹; (2) ¹ each unit of affordable housing dedicated for
45 permanent supportive housing other than supportive shared living
46 housing ¹.

1 (2) one and one-quarter units of credit towards its affordable
2 housing obligation for] : and (3)¹ each new bedroom dedicated in
3 supportive shared living housing.

4 b. The total number of additional units of credit beyond the
5 actual units of housing provided pursuant to this act ¹, when
6 combined with any additional credits that may apply towards a
7 municipality's affordable housing obligation.¹ shall not exceed 25
8 percent of whatever the municipality's ¹total cumulative new
9 construction¹ affordable housing obligation may be. No unit or
10 bedroom shall receive the additional units of credit described in this
11 act in addition to any other type of additional units of credit that
12 may be available towards a municipality's affordable housing
13 obligation.
14

15 ¹[9. The corporation and the State Treasurer shall prioritize the
16 allocation of tax-exempt private activity bonds in the amount
17 necessary to effectuate the purposes of this act in each year until the
18 corporation ceases operation, provided that the proceeds of tax-
19 exempt private activity bonds to support the purposes of this act
20 shall be limited to contracts with and loans to qualified community
21 development financial institutions pursuant to section 7 of this
22 act.]¹
23

24 ¹[10.] 8.¹ a. For the purposes of this section:

25 "Foreclosure-impacted municipality" means a municipality that
26 documents a minimum of 10 units of housing that have been
27 foreclosed upon and have remained unsold on a Multiple Listing
28 Service for at least 60 days; and

29 "Units of housing" means units of housing that are not age-
30 restricted and are habitable year-round, including but not limited to,
31 single family homes, condominium units, cooperative units, and
32 mobile homes with at least two bedrooms.

33 b. ¹[(1)]¹ Prior to the date that a foreclosure-impacted
34 municipality's development fees or payments-in-lieu fees are
35 scheduled to transfer to the "New Jersey Affordable Housing Trust
36 Fund" pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) or
37 section 9 of P.L.2008, c.46 (C.52:27D-329.3), the municipality may
38 adopt a resolution committing the expenditure of municipal
39 affordable housing trust fund monies. These funds shall be used to
40 produce very-low-income, low-income, and moderate-income
41 housing. The resolution shall authorize the transfer of a minimum
42 of \$150,000 from the municipality's municipal affordable housing
43 trust fund to the "Foreclosure to Affordable Housing
44 Transformation Fund" for use by the ¹[corporation] agency¹ or its
45 contractors for the provision of affordable housing pursuant to this
46 section and the procedures specified in section ¹[(7)] 6¹ of this act.

1 ¹[(2) The resolution may authorize the mayor or other
2 designated municipal official to exercise the municipal powers
3 described in section 7 of this act. The resolution may establish
4 parameters for that exercise of authority, including but not limited
5 to purchase price levels for the exercise of that power.]¹

6 c. (1) The ¹[corporation] agency¹ or its contractors shall use
7 funds transferred pursuant to subsection b. of this section to
8 produce very-low, low-, and moderate-income housing within the
9 municipality transferring funds pursuant to this section, with a deed
10 restriction specifying that the housing unit or units shall remain
11 available to low- and moderate-income households for a period ¹[of
12 at least] up to¹ 30 years.

13 (2) If the ¹[corporation] agency¹ or its contractors are unable to
14 utilize some or all of the funds provided to produce affordable
15 housing within the municipality within two years of the transfer of
16 such funds to the "Foreclosure to Affordable Housing
17 Transformation Fund," the funds shall be returned to the
18 municipality as soon as practicable after the two-year anniversary of
19 such transfer. From the date any such funds are returned to the
20 municipality, the municipality shall be required to commit the funds
21 in accordance with section 8 of P.L.2008, c.46 (C.52:27D-329.2) or
22 section 9 of P.L.2008, c.46 (C.52:27D-329.3), as applicable, within
23 the time constraints set forth in those sections or within six months
24 after the date of transfer of funds back to the municipality,
25 whichever is later.

26 d. Affordable housing created through the "Foreclosure to
27 Affordable Housing Transformation Fund" pursuant to this section
28 shall receive bonus affordable housing credit as set forth in
29 subsection c. of section ¹[8] 7¹ of this act ¹[, even if the
30 municipality does not exercise its right to purchase the property]¹.

31 e. No agency of the State of New Jersey shall take any action
32 to transfer funds from a municipal affordable housing trust fund to
33 the "New Jersey Affordable Housing Trust Fund" established
34 pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) when
35 such funds are designated to effectuate the purposes of this act
36 during the timeframes established in this section.

37
38 ¹[11.] 9.¹ a. There is established within the agency a
39 "Foreclosure to Affordable Housing Transformation Fund," which
40 shall be a non-lapsing, revolving fund and which shall be the
41 repository for funds appropriated or otherwise made available for
42 the purposes of this act, and any interest earned thereon. The fund
43 shall be administered by the agency, in accordance with its
44 authority under section 5 of P.L.1983, c.530 (C.55:14K-5) to
45 manage funds for housing programs.

46 b. The agency may transfer into the "Foreclosure to Affordable
47 Housing Transformation Fund" any amounts held or received by the

1 agency that may be used for the production of affordable housing
2 and that is needed by the ¹['corporation'] agency¹ or its contractors
3 for the purchase of eligible property. ¹['Subject to the provisions of
4 sections 20 through 28 of P.L.1983, c.530 (C.55:14K-20 et seq.),
5 the agency is authorized to issue its bonds to fund the activities of
6 the corporation; provided, however, that tax-exempt bonds shall
7 only be issued consistent with the requirements of section 9 of
8 P.L. , c. (C.) (pending before the Legislature as this
9 bill).

10 c. In any year in which the proceeds from the receipts of the
11 additional fee collected pursuant to paragraph (2) of subsection a. of
12 section 3 of P.L.1968, c.49 (C.46:15-7) exceeds \$75 million, the
13 first \$10 million above the \$75 million collected shall be transferred
14 into the "Foreclosure to Affordable Housing Transformation Fund"
15 for the purposes of the production of affordable housing.

16 d. Notwithstanding any provision of law to the contrary, the
17 Commissioner of Community Affairs may transfer into the
18 "Foreclosure to Affordable Housing Transformation Fund" amounts
19 held for the production of affordable housing and not designated for
20 a specific purpose beyond the overall production of affordable
21 housing by the annual budget, including but not limited to monies
22 deposited in the "New Jersey Affordable Housing Trust Fund,"
23 which amounts are needed by the corporation for the purchase of
24 eligible property. The commissioner shall consider the transfer of
25 funds from the "New Jersey Affordable Housing Trust Fund" to the
26 "Foreclosure to Affordable Housing Transformation Fund" as a
27 priority for funding until the corporation ceases its operations.

28 e. All amounts deposited into the "Foreclosure to Affordable
29 Housing Transformation Fund" that are derived from federal
30 funding sources or are otherwise dedicated to the production of
31 affordable housing shall be used exclusively for the production of
32 affordable housing. The corporation may use other funds for the
33 production of affordable housing or market rate housing.

34 f.] c.¹ The ¹['corporation'] agency¹ may use annually up to
35 ¹['three'] fifteen¹ percent of the monies available in the fund for the
36 payment of any necessary administrative costs related to the
37 administration of this ¹['act'] program.

38 d. Revenue generated through the mechanisms established
39 pursuant to section 10 of this act exceeding the funding plan
40 developed pursuant to subsection c. of section 5 of this act may be
41 appropriated by the agency for additional foreclosure prevention
42 programs¹.

43
44 ¹10. N.J.S.2A:17-38 is amended to read as follows:

45 2A:17-38. a. When a sheriff or other officer makes a sale by
46 virtue of an execution or executions to him directed, he shall, within
47 30 days thereafter, make and file, with his bill of costs or execution

1 fees, in the office of the clerk of the court out of which the
2 execution or executions issued, a true statement and calculation, in
3 order of time, of the execution or executions by virtue of which the
4 sale was made, the amount or amounts due thereon, respectively, at
5 the time of the sale, the time or times of sale and the amount of the
6 sales.

7 (1) When calculating the amount due thereon, as described in
8 section a. of this act, the sheriff or officer shall additionally
9 consider \$350 per sale to be utilized by the Foreclosure to
10 Affordable Housing Trust Fund in as established in section 9 of
11 P.L. , c. (C.) (pending before the Legislature as this bill).

12 (2) The revenues obtained from these increased amounts, after
13 deduction of any actual administrative costs incurred by the officer
14 in carrying out the provisions of this subsection, shall be
15 transmitted no later than the first day of each quarter by the officer
16 to the “Foreclosure to Affordable Housing Trust Fund” within the
17 New Jersey Housing and Mortgage Finance Agency as established
18 in section 9 of P.L. , c. (C.) (pending before the Legislature
19 as this bill).

20 (3) The provisions of paragraphs (1) and (2) of subsection a. of
21 section 12 of P.L. , c. (C.) (pending before the Legislature
22 as this bill) shall not be applied when the purchaser is financing the
23 sale through the use of a first-time homebuyer loan insured by the
24 Federal Housing Administration.

25 b. The statement shall be certified under the hand of the officer
26 making and filing it, and shall be conclusive against the officer
27 only. If there be more sales than 1, the statement shall be made
28 and filed within 30 days after the final sale.¹

29 (cf: N.J.S.2A:17-38)

30

31 ¹**[12.] 11.**¹ This act shall take effect immediately.