

[Second Reprint]

ASSEMBLY, No. 1049

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

Senator TROY SINGLETON

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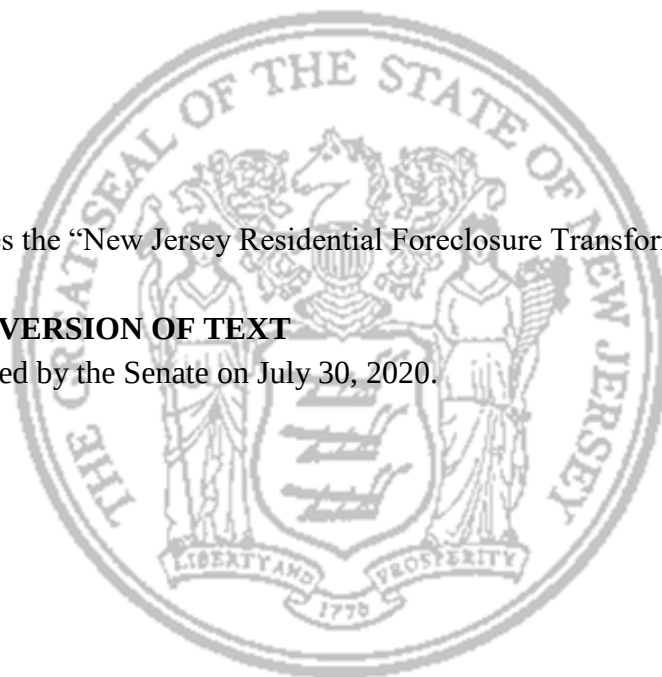
Assemblymen Giblin, Coughlin, Conaway, Assemblywomen Sumter, Pintor Marin, Murphy, Timberlake, Assemblymen Spearman, Holley, Assemblywomen Reynolds-Jackson, Vainieri Huttie, Assemblymen Mejia, Calabrese, Verrelli, Armato, and Mazzeo

SYNOPSIS

Establishes the “New Jersey Residential Foreclosure Transformation Act.”

CURRENT VERSION OF TEXT

As amended by the Senate on July 30, 2020.



(Sponsorship Updated As Of: 8/27/2020)

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:

¹**Assembly AHO committee amendments adopted June 15, 2020.**

²**Senate floor amendments adopted July 30, 2020.**

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 **‘[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 **‘[g.] e.**¹ Establishment of a **‘[temporary]’** State **‘[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 **‘[corporation] agency**¹ pursuant to section **‘[7 of this act] 5 of**
34 **P.L.1983, c.530 (C.55:14K-5)**¹.

35 **‘[“Corporation” means the “New Jersey Foreclosure Relief**
36 **Corporation” established pursuant to this act.]’**¹

37 "Eligible property" means any residential property that is owned
38 by an institutional lender as the result of a mortgage foreclosure
39 **‘judgment, 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.

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

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

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

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

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

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

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

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

¹**[5.** The corporation shall have the following powers:

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

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

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

d. To acquire, hold, lease, mortgage, maintain, and dispose of, 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】 agency¹
 35 described in section 5 of ¹【P.L. , c. (C.) (pending before the
 36 Legislature as this bill), the corporation】 P.L.1983, c.530 (C.55:14K-
 37 5), the agency¹ shall have the following powers:

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

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

1 'firms', auction marketing 'firms' , '[and]' brokerage services '[, if
 2 such services are available in the private sector and the corporation
 3 determines utilization of such services are practicable and efficient]
 4 firms, appraisers and such other consultants and employees required in
 5 the ²'[judgement] judgment² of the agency, notwithstanding the
 6 provisions of Title 11A of the New Jersey Statutes¹.

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

11 (1) determining the target amount of bond proceeds to be raised by
 12 the agency for the activities of the corporation, as well as the sources
 13 of repayment of, and security for, the agency's bonds; and] agency
 14 shall adopt a funding plan for the program utilizing the "Foreclosure to
 15 Affordable ²Housing² Transformation Fund" established pursuant to
 16 section 9 of this act. The agency may directly fund the program
 17 through revenue generated by the fund. The agency shall have the
 18 authority to alter its funding plan as the Executive Director of the
 19 agency deems necessary.¹

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

25 '[7.] 6.' a. (1) The '[corporation shall] agency may' enter into
 26 contracts or loans, or both, with no more than two qualified
 27 community development financial institutions to negotiate, bid for, and
 28 purchase eligible properties and mortgage assets '[from institutional
 29 lenders]' for the purpose of producing affordable housing 'as part of
 30 the program'. In selecting contractors from among qualified
 31 community development financial institutions, the '[corporation]
 32 agency' shall accord a strong preference to qualified community
 33 development financial institutions that have substantial experience in
 34 lending in New Jersey and substantial knowledge of New Jersey real
 35 estate markets. The '[corporation] agency' may enter into contracts
 36 or loans, or both, with a partnership or consortia of organizations, as
 37 long as a qualified community development financial institution is the
 38 lead entity, or a partnership or consortia of multiple qualified
 39 community development financial institutions.

40 (2) '[The] Should the agency contract with a community
 41 development financial institution for the purposes of this act, the'
 42 contracts shall specify the amounts, schedules, and types of funding to
 43 be provided by the '[corporation] agency' to the qualified community
 44 development financial institutions, the repayment schedule for the
 45 portion of that funding to be repaid, and targeted goals of affordable
 46 housing to be produced. The '[corporation] agency' may condition

1 funding and goals upon the availability of funds to the ¹['corporation']
2 program¹. The contracts shall specify reasonable administrative costs
3 sufficient to enable the qualified community development financial
4 institutions to exercise their obligations pursuant to this act. The
5 contracts shall set forth criteria for instances when the purchase, sale,
6 lease, and conveyance of properties as market-rate units furthers the
7 purposes of this act.

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

17 (2)]¹ ²(1) As soon as possible after entering into a contract to
18 purchase an eligible property or mortgage asset for use as affordable
19 housing by the agency or its contractors, the municipality in which the
20 property is located, unless the eligible property is already owned by
21 the municipality as a result of a tax foreclosure judgment, shall be
22 afforded a 45-day period of time within which the municipal
23 governing body may opt to purchase the property in lieu of the agency
24 in accordance with the provisions set forth in this act. The
25 municipality may waive this right through written notice to the agency
26 or, if so designated by the agency, its contractors, prior to the
27 expiration of the 45-day period.

28 (2)² Those eligible properties purchased by the qualified
29 community development financial institutions ¹or the agency¹ and
30 designated pursuant to this act for use as affordable housing shall be
31 restricted for occupancy as affordable housing for a period of ¹up to¹
32 30 years. The restriction shall be set forth in the deed and recorded in
33 the office of the county recording officer of the county wherein the
34 real estate is situated. Affordability controls shall be imposed upon
35 purchase and maintained upon transfer in accordance with the
36 provisions of the Uniform Housing Affordability Controls
37 promulgated by the agency.

38 c. (1) As soon as possible after entering into a contract to
39 purchase an eligible property, but not less than ¹['five'] ten business¹
40 days after the date the ¹['corporation'] agency¹ or its contractors enters
41 into the contract, the ¹['corporation'] agency¹ or its contractors shall
42 provide written notice by personal service or certified mail to the
43 governing body of the municipality within which the eligible property
44 is located ¹[']. The notice shall inform the governing body of the
45 municipality's opportunity to purchase the eligible property, the
46 municipality's right of first refusal to purchase the property, and the
47 municipality's right to use monies deposited in its affordable housing

1 trust fund². The notice shall inform the governing body of the
2 municipality's opportunity to purchase the eligible property, the
3 municipality's right of first refusal to purchase the property, and the
4 municipality's right to use monies deposited in its affordable housing
5 trust fund,² except that the written notice shall not be required if the
6 eligible property is already owned by the municipality as a result of a
7 tax foreclosure judgment¹.

8 (2) As soon as possible after entering into a contract to purchase an
9 eligible property, but not less than ¹~~['five']~~ ten business¹ days after the
10 date the ¹~~['corporation']~~ agency¹ or its contractors enters into the
11 contract, the ¹~~['corporation']~~ agency¹ or its contractors shall list the
12 property on the ¹~~['Department of Treasury's']~~ agency's¹ website. The
13 listing shall contain basic information about the property, including but
14 not limited to location, condition, and information relating to the
15 estimated fair market value of the property. ¹~~['The corporation or its~~
16 ~~contractors shall make information about the listing available to the~~
17 ~~agency and, upon request, to municipalities, other public agencies,~~
18 ~~community development corporations, developers, and qualifying~~
19 ~~households.】¹~~

20 (3) The ¹~~['corporation']~~ agency¹ or its contractors ¹, after entering
21 into a contract to purchase an eligible property,¹ shall allow public
22 agencies, community development corporations, developers, and
23 qualifying households reasonable access to ¹~~['an']~~ the¹ eligible
24 property for purposes of inspection.

25 d. ¹~~['(1) In order to exercise its right to purchase an eligible~~
26 ~~property, the governing body of the municipality shall provide written~~
27 ~~notice to the chairperson of the corporation or, if so designated by the~~
28 ~~corporation, its contractors, within 45 days of the municipality's~~
29 ~~receipt of the notice required pursuant to subsection c. of this section.~~

30 (2) The governing body of a municipality may adopt a resolution
31 authorizing the mayor or other designated municipal official to
32 respond to notices received pursuant to subsection c. of this section.
33 The resolution may establish parameters for that exercise of authority,
34 including but not limited to the total amount of funds that may be
35 expended and the amount that may be expended for each unit of
36 housing.

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

41 (4) Whenever a municipality does not exercise an option to
42 purchase an eligible property under this section, the corporation¹
43 ²~~['The']~~ (1) In order to exercise its right to purchase an eligible
44 property, the governing body of the municipality shall provide written
45 notice to the agency or, if so designated by the agency, its contractors,

1 within 45 days of the municipality's receipt of the notice required
2 pursuant to subsection c. of this section.

3 (2) The governing body of a municipality may adopt a resolution
4 authorizing the mayor or other designated municipal official to
5 respond to notices received pursuant to subsection c. of this section.
6 The resolution may establish parameters for that exercise of authority,
7 including but not limited to the total amount of funds that may be
8 expended and the amount that may be expended for each unit of
9 housing.

10 (3) A municipality may use any available funding sources to
11 purchase eligible properties or mortgage assets through the agency
12 pursuant to this act, except for funds that are dedicated to another
13 purpose by law, covenant, or other obligation.

14 (4) Whenever a municipality does not exercise an option to
15 purchase an eligible property under this section, the² agency¹ or its
16 contractors may convey the property for occupancy as affordable
17 housing subject to a 30-year ¹maximum¹ deed restriction to another
18 public agency, a community development corporation, a developer, or
19 a qualifying household or the contractors may lease the property for
20 occupancy as affordable housing subject to a 30-year ¹maximum¹ deed
21 restriction. ¹【A municipality that does not exercise an option to
22 purchase an eligible property under this section may adopt a resolution
23 authorizing the corporation or its contractors to use monies deposited
24 in that municipality's affordable housing trust fund, up to and
25 including the negotiated purchase price of the eligible property, and
26 apply those funds to the purchase of the eligible property.】¹ ²A
27 municipality that does not exercise an option to purchase an eligible
28 property under this section may adopt a resolution authorizing the
29 agency or its contractors to use monies deposited in that municipality's
30 affordable housing trust fund, up to and including the negotiated
31 purchase price of the eligible property, and apply those funds to the
32 purchase of the eligible property.²

33 e. Notwithstanding any other provision of this section to the
34 contrary, the ¹【corporation】agency¹ and, if authorized by contract, its
35 contractors, may purchase, sell, lease, and convey market rate-units
36 ¹【without offering those units to the municipality and】¹ ²without
37 offering those units to the municipality and² without imposing
38 affordability controls upon the property if the purchase, sale, lease, and
39 conveyance of those properties as market-rate units satisfy criteria
40 established pursuant to contract in accordance with subsection a. of
41 this section and does not violate the terms of any other provision of
42 law or requirement, including those governing the use of funds used to
43 make the purchase.

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

1 ¹8. a. A municipality that purchases an eligible property
 2 pursuant to this act shall sell and convey or lease the housing unit or
 3 units acquired within 60 days of the date of purchase, unless it is not
 4 possible to do so due to practical or market conditions. In the event
 5 that an eligible property is not conveyed or leased within 180 days of
 6 the date of purchase, or remains vacant for a 180-day period during the
 7 pendency of affordability controls, the corporation, or the agency as
 8 successor to the corporation, may commence proceedings to take
 9 control of the property and to sell and convey or lease the property in
 10 furtherance of the purposes of this act and deed restrictions of record.

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

18 c. ¹ 7. a. ² A municipality that purchases an eligible property
 19 pursuant to this act shall sell and convey, or lease, the housing unit or
 20 units acquired within 60 days of the date of purchase, unless it is not
 21 possible to do so due to practical or market conditions. In the event
 22 that an eligible property is not conveyed or leased within 180 days of
 23 the date of purchase, or remains vacant for a 180-day period during the
 24 pendency of affordability controls, the agency may commence
 25 proceedings to take control of the property and to sell and convey or
 26 lease the property in furtherance of the purposes of this act and deed
 27 restrictions of record.

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

35 c. ² Except as provided in subsection ¹ [d.] ² [b. ¹] d. ² of this
 36 section, whenever the ¹ [corporation] agency¹, ² [¹ or ¹]² its
 37 contractors, ¹ [or a municipality]¹ ² or a municipality² purchases an
 38 eligible property pursuant to this act from monies deposited in the
 39 municipality's affordable housing trust fund and dedicates the property
 40 for affordable housing, as required by this act, that municipality shall
 41 receive ¹ [:

42 (1) ¹ two units of credit towards its affordable housing obligation
 43 for:

44 ¹ [(a)] (1) ¹ each eligible property sold or conveyed as a for-sale
 45 unit or leased as rental housing ¹ [, and

1 (b) ~~】~~ ; ~~(2)~~¹ each unit of affordable housing dedicated for
 2 permanent supportive housing other than supportive shared living
 3 housing ~~1~~ ~~【~~.

4 (2) one and one-quarter units of credit towards its affordable
 5 housing obligation for ~~】~~ ; and ~~(3)~~¹ each new bedroom dedicated in
 6 supportive shared living housing.

7 ~~1~~ ~~【d.】~~ ~~2~~ ~~【b.1】~~ ~~d.~~² The total number of additional units of credit
 8 beyond the actual units of housing provided pursuant to this act ¹,
 9 when combined with any additional credits that may apply towards a
 10 municipality's affordable housing obligation,¹ shall not exceed 25
 11 percent of whatever the municipality's ¹total cumulative new
 12 construction¹ affordable housing obligation may be. No unit or
 13 bedroom shall receive the additional units of credit described in this
 14 act in addition to any other type of additional units of credit that may
 15 be available towards a municipality's affordable housing obligation.
 16

17 ¹ ~~【9.~~ The corporation and the State Treasurer shall prioritize the
 18 allocation of tax-exempt private activity bonds in the amount
 19 necessary to effectuate the purposes of this act in each year until the
 20 corporation ceases operation, provided that the proceeds of tax-
 21 exempt private activity bonds to support the purposes of this act
 22 shall be limited to contracts with and loans to qualified community
 23 development financial institutions pursuant to section 7 of this
 24 act. ~~】~~¹
 25

26 ¹ ~~【10.】~~ ~~8.~~¹ a. For the purposes of this section:

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

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

35 b. ~~1~~ ~~【(1)】~~¹ ~~2~~ ~~(1)~~² Prior to the date that a foreclosure-impacted
 36 municipality's development fees or payments-in-lieu fees are
 37 scheduled to transfer to the "New Jersey Affordable Housing Trust
 38 Fund" pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) or
 39 section 9 of P.L.2008, c.46 (C.52:27D-329.3), the municipality may
 40 adopt a resolution committing the expenditure of municipal affordable
 41 housing trust fund monies. These funds shall be used to produce very-
 42 low-income, low-income, and moderate-income housing. The
 43 resolution shall authorize the transfer of a minimum of \$150,000 from
 44 the municipality's municipal affordable housing trust fund to the
 45 "Foreclosure to Affordable Housing Transformation Fund" for use by
 46 the ¹ ~~【corporation】~~ agency¹ or its contractors for the provision of

1 affordable housing pursuant to this section and the procedures
2 specified in section ¹~~['7] 6~~¹ of this act.

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

8 ²~~(2) The resolution may authorize the mayor or other designated~~
9 ~~municipal official to exercise the municipal powers set forth in section~~
10 ~~7 of this act. The resolution may establish parameters for that exercise~~
11 ~~of authority, including but not limited to purchase price levels for the~~
12 ~~exercise of that power.]~~²

13 c. (1) The ¹~~['corporation] agency~~¹ or its contractors shall use
14 funds transferred pursuant to subsection b. of this section to produce
15 very-low, low-, and moderate-income housing within the municipality
16 transferring funds pursuant to this section, with a deed restriction
17 specifying that the housing unit or units shall remain available to low-
18 and moderate-income households for a period ¹~~['of at least] up to~~¹ 30
19 years.

20 (2) If the ¹~~['corporation] agency~~¹ or its contractors are unable to
21 utilize some or all of the funds provided to produce affordable housing
22 within the municipality within two years of the transfer of such funds
23 to the "Foreclosure to Affordable Housing Transformation Fund," the
24 funds shall be returned to the municipality as soon as practicable after
25 the two-year anniversary of such transfer. From the date any such
26 funds are returned to the municipality, the municipality shall be
27 required to commit the funds in accordance with section 8 of P.L.2008,
28 c.46 (C.52:27D-329.2) or section 9 of P.L.2008, c.46 (C.52:27D-
29 329.3), as applicable, within the time constraints set forth in those
30 sections or within six months after the date of transfer of funds back to
31 the municipality, whichever is later.

32 d. Affordable housing created through the "Foreclosure to
33 Affordable Housing Transformation Fund" pursuant to this section
34 shall receive bonus affordable housing credit as set forth in subsection
35 c. of section ¹~~['8] 7~~¹ of this act ¹~~['], even if the municipality does not~~
36 ~~exercise its right to purchase the property]~~^{1 2}, even if the municipality
37 does not exercise its right to purchase the property².

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

44
45 ¹~~['11.] 9.~~¹ a. There is established within the agency a
46 "Foreclosure to Affordable Housing Transformation Fund," which
47 shall be a non-lapsing, revolving fund and which shall be the

1 repository for funds appropriated or otherwise made available for
2 the purposes of this act, and any interest earned thereon. The fund
3 shall be administered by the agency, in accordance with its
4 authority under section 5 of P.L.1983, c.530 (C.55:14K-5) to
5 manage funds for housing programs.

6 b. The agency may transfer into the "Foreclosure to Affordable
7 Housing Transformation Fund" any amounts held or received by the
8 agency that may be used for the production of affordable housing
9 and that is needed by the ¹['[corporation] agency'] or its contractors
10 for the purchase of eligible property. ¹['Subject to the provisions of
11 sections 20 through 28 of P.L.1983, c.530 (C.55:14K-20 et seq.),
12 the agency is authorized to issue its bonds to fund the activities of
13 the corporation; provided, however, that tax-exempt bonds shall
14 only be issued consistent with the requirements of section 9 of
15 P.L. , c. (C.) (pending before the Legislature as this
16 bill).

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

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

35 e. All amounts deposited into the "Foreclosure to Affordable
36 Housing Transformation Fund" that are derived from federal
37 funding sources or are otherwise dedicated to the production of
38 affordable housing shall be used exclusively for the production of
39 affordable housing. The corporation may use other funds for the
40 production of affordable housing or market rate housing.

41 f.] c.¹ The ¹['[corporation] agency'] may use annually up to
42 ¹['[three] fifteen'] percent of the monies available in the fund for the
43 payment of any necessary administrative costs related to the
44 administration of this ¹['[act] program].

45 d. Revenue generated through the mechanisms established
46 pursuant to section 10 of this act exceeding the funding plan
47 developed pursuant to subsection c. of section 5 of this act may be

1 appropriated by the agency for additional foreclosure prevention
 2 programs¹.

3
 4 ¹10. N.J.S.2A:17-38 is amended to read as follows:

5 2A:17-38. a. When a sheriff or other officer makes a sale by
 6 virtue of an execution or executions to him directed, he shall, within
 7 30 days thereafter, make and file, with his bill of costs or execution
 8 fees, in the office of the clerk of the court out of which the execution
 9 or executions issued, a true statement and calculation, in order of time,
 10 of the execution or executions by virtue of which the sale was made,
 11 the amount or amounts due thereon, respectively, at the time of the
 12 sale, the time or times of sale and the amount of the sales.

13 ²b.² (1) When calculating the amount due thereon, as described
 14 in ²[section] subsection² a. of this ²[act] section² , the sheriff or
 15 officer shall additionally consider \$350 per sale to be utilized by the
 16 ²[Foreclosure to Affordable Housing Trust Fund in] "Foreclosure to
 17 Affordable Housing Transformation Fund" within the New Jersey
 18 Housing and Mortgage Finance Agency² as established in section 9 of
 19 P.L. , c. (C.) (pending before the Legislature as this bill).

20 (2) The revenues obtained from these increased amounts, after
 21 deduction of any actual administrative costs incurred by the officer in
 22 carrying out the provisions of this subsection, shall be transmitted no
 23 later than the first day of each quarter by the officer to the
 24 "Foreclosure to Affordable Housing ²[Trust] Transformation² Fund"
 25 within the New Jersey Housing and Mortgage Finance Agency as
 26 established in section 9 of P.L. , c. (C.) (pending before the
 27 Legislature as this bill).

28 (3) The provisions of paragraphs (1) and (2) of ²this² subsection
 29 ²[a. of section 12 of P.L. , c. (C.) (pending before the
 30 Legislature as this bill)]² shall not be applied when the purchaser is
 31 financing the sale through the use of a first-time homebuyer loan
 32 insured by the Federal Housing Administration.

33 ²[b.] c.² The statement shall be certified under the hand of the
 34 officer making and filing it, and shall be conclusive against the officer
 35 only. If there be more sales than ²[1] one², the statement shall be
 36 made and filed within 30 days after the final sale.¹
 37 (cf: N.J.S.2A:17-38)

38
 39 ¹[12.] 11.¹ This act shall take effect immediately.