

ASSEMBLY, No. 2043

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

SYNOPSIS

Requires provisions regarding sellers' obligation to deliver marketable and insurable title in certain residential real estate contracts of sale.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 Owned” or “REO” property) through a contract with a new
2 purchaser. In these transactions, issues have arisen with respect to
3 the seller’s failure to deliver marketable and insurable title at
4 closing, thereby breaching the contract and leaving the new
5 purchaser with “out of pocket” expenses incurred in connection
6 with the purchase of the property, such as costs for surveys, title
7 searches, and home inspections.

8 Accordingly, the bill provides certain protections to a purchaser
9 in these situations by requiring that a real estate contract of sale
10 between a seller who takes title to a residential property as a result
11 of a sheriff’s sale pursuant to the provisions of the “Fair
12 Foreclosure Act,” and a purchaser, shall provide that:

13 (1) the seller shall provide marketable and insurable title to the
14 purchaser;

15 (2) any failure of the seller to satisfy the requirement of
16 providing marketable and insurable title pursuant to paragraph (1)
17 shall constitute a breach of contract; and

18 (3) in the event of a breach of contract pursuant to paragraph
19 (2), in addition to any other remedies that the purchaser may have,
20 the seller shall return to the purchaser any deposit money paid by
21 the purchaser and shall reimburse the purchaser for any expenses
22 incurred by the purchaser in connection with the purchase of the
23 property.

24 The bill provides that any provision in a real estate contract of
25 sale that is subject to this bill, that is not in compliance with the
26 requirements of the bill, or that attempts to limit any obligation of
27 the seller as set forth in the bill, shall be null and void and
28 unenforceable as a matter of law.

29 The bill defines “seller of residential property” to mean any
30 residential mortgage lender who has taken title to a residential
31 property as a result of a purchase at a sheriff’s sale pursuant to the
32 provisions of the “Fair Foreclosure Act,” or any person or entity
33 who has taken title to the residential property through an
34 assignment or conveyance from the residential mortgage lender.
35 This definition recognizes that, as a common practice, residential
36 mortgage lenders use other companies to whom they have assigned
37 or conveyed title, to sell REO properties on their behalf.