

ASSEMBLY, No. 2824

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:
Assemblywoman CAROL A. MURPHY
District 7 (Burlington)

SYNOPSIS

Requires creditors to maintain vacant and abandoned non-residential properties under foreclosure.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT requiring creditors to maintain vacant and abandoned non-
2 residential properties under foreclosure and amending P.L.2014,
3 c.35 and P.L.2008, c.127.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.2014, c.35 (C.40:48-2.12s) is amended to
9 read as follows:

10 1. a. The governing body of any municipality may adopt
11 ordinances to regulate the care, maintenance, security, and upkeep
12 of the exterior of vacant and abandoned **residential** properties on
13 which a summons and complaint in an action to foreclose has been
14 filed.

15 b. (1) An ordinance adopted pursuant to subsection a. of this
16 section shall provide that the creditor filing the summons and
17 complaint in an action to foreclose shall be responsible for the care,
18 maintenance, security, and upkeep of the exterior of the vacant and
19 abandoned **residential** property, and if located out-of-State, shall
20 be responsible for appointing an in-State representative or agent to
21 act for the foreclosing creditor.

22 (2) An ordinance adopted pursuant to subsection a. of this
23 section shall authorize a public officer, appointed pursuant to
24 P.L.1942, c.112 (C.40:48-2.3 et seq.), or any other local official
25 responsible for administration of any property maintenance or
26 public nuisance code to issue a notice to the creditor filing the
27 summons and complaint in an action to foreclose, if the public
28 officer or other authorized municipal official determines that the
29 creditor has violated the ordinance by failing to provide for the
30 care, maintenance, security, and upkeep of the exterior of the
31 property. Such notice shall require the person or entity to correct
32 the violation within 30 days of receipt of the notice, or within 10
33 days of receipt of the notice if the violation presents an imminent
34 threat to public health and safety. The issuance of a notice pursuant
35 to this paragraph shall constitute proof that a property is "vacant
36 and abandoned" for the purposes of section 1 of P.L.2012, c.70
37 (C.2A:50-73).

38 (3) An ordinance adopted pursuant to subsection a. of this
39 section shall provide that an out-of-State creditor shall include the
40 full name and contact information of the in-State representative or
41 agent, and any other person or entity retained by the creditor or a
42 representative of the creditor, in the notice required to be provided
43 pursuant to paragraph (1) of subsection a. of section 17 of P.L.2008,
44 c.127 (C.46:10B-51).

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.

1 c. (1) An out-of-State creditor subject to an ordinance adopted
2 pursuant to subsection a. of this section found by the municipal
3 court of the municipality in which the property subject to the
4 ordinance is located, or by any other court of competent
5 jurisdiction, to be in violation of the requirement to appoint an in-
6 State representative or agent pursuant to the ordinance shall be
7 subject to a fine of \$2,500 for each day of the violation. Any fines
8 imposed on a creditor for the failure to appoint an in-State
9 representative or agent shall commence on the day after the 10-day
10 period set forth in paragraph (1) of subsection a. of section 17 of
11 P.L.2008, c.127 (C.46:10B-51) for providing notice to the
12 municipal clerk that a summons and complaint in an action to
13 foreclose on a mortgage has been served.

14 (2) A creditor subject to an ordinance adopted pursuant to
15 subsection a. of this section found by the municipal court of the
16 municipality in which the property subject to the ordinance is
17 located, or by any other court of competent jurisdiction, to be in
18 violation of the requirement to correct a care, maintenance, security,
19 or upkeep violation cited in a notice issued pursuant to the
20 ordinance shall be subject to a fine of \$1,500 for each day of the
21 violation. Any fines imposed pursuant to this paragraph shall
22 commence 31 days following receipt of the notice, except if the
23 violation presents an imminent risk to public health and safety, in
24 which case any fines shall commence 11 days following receipt of
25 the notice.

26 d. No less than 20 percent of any money collected pursuant to
27 subsection a. of this section shall be utilized by the municipality for
28 municipal code enforcement purposes.
29 (cf: P.L.2019, c.66, s.1)

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31 2. Section 17 of P.L.2008, c.127 (C.46:10B-51) is amended to
32 read as follows:

33 17. a. (1) A creditor serving a summons and complaint in an
34 action to foreclose on a mortgage on **【residential】** property in this
35 State shall, within 10 days of serving the summons and complaint,
36 notify the municipal clerk and the mayor or other chief executive
37 officer of the municipality in which the property is located that a
38 summons and complaint in an action to foreclose on a mortgage has
39 been filed against the subject property. The notice shall contain the
40 full name, address, and telephone number for the representative of
41 the creditor who is responsible for receiving complaints of property
42 maintenance and code violations and the full name and contact
43 information for any person or entity retained by the creditor or a
44 representative of the creditor to be responsible for any care,
45 maintenance, security or upkeep of the property. The notice may
46 contain information about more than one property, and shall be
47 provided by mail or electronic communication, at the discretion of
48 the municipal clerk. In the event the creditor that has served a

1 summons and complaint in an action to foreclose on a **【residential】**
2 property is located out-of-State, the notice shall also contain the full
3 name, address, and telephone number of an in-State representative
4 or agent who shall be responsible for the care, maintenance,
5 security, and upkeep of the exterior of the property if it becomes
6 vacant and abandoned. If the municipality has appointed a public
7 officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the
8 municipal clerk shall forward a copy of the notice to the public
9 officer or shall otherwise provide it to any other local official
10 responsible for administration of any property maintenance or
11 public nuisance code.

12 In the event that the property being foreclosed on is an
13 affordable unit pursuant to the "Fair Housing Act," P.L.1985, c.222
14 (C.52:27D-301 et al.), then the creditor shall identify that the
15 property is subject to the "Fair Housing Act."

16 The notice shall also include the street address, lot and block
17 number of the property, and the full name, address, and telephone
18 number of an individual located within the State who is authorized
19 to accept service on behalf of the creditor. The notice shall be
20 provided to the municipal clerk and the mayor or other chief
21 executive officer within 10 days of service of a summons and
22 complaint in an action to foreclose on a mortgage against the
23 subject property.

24 If there is any change in the name, address, or telephone number
25 for a representative, agent, or individual authorized to accept
26 service on behalf of a creditor required to be provided in a notice
27 pursuant to this paragraph following the filing of the summons and
28 complaint, the creditor shall provide a notice to the applicable
29 municipal clerk containing the updated name, address, or telephone
30 number within 10 days of the change in that information.

31 (2) Within 30 days following the effective date of P.L.2009,
32 c.296 (C.2A:50-69 et al.), any creditor that has initiated a
33 foreclosure proceeding on any **【residential】** property which is
34 pending in Superior Court shall provide to the municipal clerk of
35 the municipality in which the property is located, a listing of all
36 **【residential】** properties in the municipality for which the creditor
37 has foreclosure actions pending by street address and lot and block
38 number. If the municipality has appointed a public officer pursuant
39 to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal clerk shall
40 forward a copy of the notice to the public officer, or shall otherwise
41 provide it to any other local official responsible for administration
42 of any property maintenance or public nuisance code.

43 b. If the owner of a **【residential】** property vacates or abandons
44 any property on which a foreclosure proceeding has been initiated
45 or if a **【residential】** property becomes vacant at any point
46 subsequent to the creditor's filing the summons and complaint in an
47 action to foreclose on a mortgage against the subject property, but

1 prior to vesting of title in the creditor or any other third party, and
2 the exterior of the property is found to be a nuisance or in violation
3 of any applicable State or local code, the local public officer,
4 municipal clerk, or other authorized municipal official shall notify
5 the creditor or the representative or agent of an out-of-State
6 creditor, as applicable, which shall have the responsibility to abate
7 the nuisance or correct the violation in the same manner and to the
8 same extent as the title owner of the property, to such standard or
9 specification as may be required by State law or municipal
10 ordinance. The municipality shall include a description of the
11 conditions that gave rise to the violation with the notice of violation
12 and shall provide a period of not less than 30 days from the
13 creditor's receipt of the notice for the creditor to remedy the
14 violation. If the creditor fails to remedy the violation within that
15 time period, the municipality may impose penalties allowed for the
16 violation of municipal ordinances pursuant to R.S.40:49-5.

17 c. If the municipality expends public funds in order to abate a
18 nuisance or correct a violation on a **【residential】** property in
19 situations in which the creditor was given notice pursuant to the
20 provisions of subsection b. of this section but failed to abate the
21 nuisance or correct the violation as directed, the municipality shall
22 have the same recourse against the creditor as it would have against
23 the title owner of the property, including but not limited to the
24 recourse provided under section 23 of P.L.2003, c.210 (C.55:19-
25 100).

26 d. A creditor that institutes a foreclosure proceeding on
27 **【residential】** property pursuant to the "Fair Foreclosure Act,"
28 P.L.1995, c.244 (C.2A:50-53 et seq.), shall file with the summons
29 and complaint in Superior Court, and with the lis pendens filed with
30 the office of the county clerk or register of deeds and mortgages,
31 the following information:

32 (1) the full name, address, and telephone number for the
33 representative of the creditor and any servicer who is responsible
34 for receiving complaints of property maintenance and code
35 violations pursuant to subsection b. of this section;

36 (2) if the creditor or servicer is located out-of-State, the full
37 name, address, and telephone number of an in-State representative
38 or agent who shall be responsible for the care, maintenance,
39 security, and upkeep of the property if it becomes vacant and
40 abandoned ; and

41 (3) if there is any change in the information required to be filed
42 pursuant to paragraph (1) or (2) of this subsection following the
43 filing of the summons and complaint or the lis pendens, the updated
44 name, address, or telephone number, to be filed with the Superior
45 Court, the office of the county clerk or register of deeds and
46 mortgages, and all other parties, within 10 days of the change in
47 that information.

48 (cf: P.L.2019, c.66, s.2)

1 3. This act shall take effect immediately.

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STATEMENT

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6 This bill would require creditors to maintain vacant and
7 abandoned non-residential properties under foreclosure. Current
8 law only requires creditors to maintain the exterior of vacant and
9 abandoned residential properties under foreclosure. Vacant and
10 abandoned commercial and other non-residential properties present
11 the same kinds of maintenance issues to communities as do vacant
12 and abandoned residential properties. This bill would extend
13 creditors' responsibility to maintain vacant and abandoned
14 properties under foreclosure to include non-residential properties so
15 that municipalities do not bear the cost of maintaining these
16 properties. The bill would also require creditors to notify each
17 municipality of new and pending foreclosure actions on vacant and
18 abandoned non-residential properties within the municipality.

19 The bill would also allow municipalities to provide for a fine of
20 \$1,500 for each day a maintenance violation concerning the exterior
21 of a vacant and abandoned non-residential property under
22 foreclosure goes uncorrected following a 30-day window to correct,
23 or a 10-day window in the case of an imminent threat to public
24 health and safety. The bill would also allow municipalities to
25 provide for a fine of \$2,500 for each day an out-of-State creditor
26 fails to appoint an in-State representative or agent after the 10-day
27 deadline to notify a municipality that a summons and complaint in
28 an action to foreclose on a non-residential property has been served.
29 Current law only expressly allows municipalities to provide for
30 such penalties with respect to vacant and abandoned residential
31 properties.