



**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

Murphy signs bills aimed at helping those facing foreclosure  
Associated Press State Wire: New Jersey (NJ) - April 29, 2019

Murphy Signs Bills Targeting State's Foreclosure Crisis  
New Jersey Law Journal, April 30, 2019

Murphy signs 9 bills to alleviate NJ foreclosure crisis  
NJBIZ (New Brunswick, NJ) - April 30, 2019

Murphy takes aim at state's foreclosure rate  
Star-Ledger, The (Newark, NJ) - April 30, 2019

Murphy signs foreclosure laws in A.C. - Murphy signs foreclosure package in Atlantic City  
Press of Atlantic City, The (NJ) - April 30, 2019

Murphy acts to combat foreclosure crisis  
Burlington County Times (Willingboro, NJ) - April 30, 2019

Gov. takes aim at N.J. foreclosures  
Hunterdon County Democrat (Flemington, NJ) - May 2, 2019

Foreclosure bill signed into law - Trenton. Gov. Phil Murphy signs measure that will tackle surge in New Jersey's foreclosures and streamline pending cases.  
Advertiser-News, The (Sussex County, NJ) - May 10, 2019

**Also of possible interest to researchers:**

Public hearing before Assembly Housing and Community Development Committee: the Committee will receive testimony from invited guests and the public concerning foreclosures and vacant properties in the State [September 20, 2018, Union, New Jersey]  
Call number 974.90 H842, 2018b  
Available online at <http://hdl.handle.net/10929/49433>

RWH/JA

P.L. 2019, CHAPTER 72, *approved April 29, 2019*  
Senate, No. 3413 (*Third Reprint*)

1 AN ACT concerning certain foreclosure procedures and amending  
2 P.L.2012, c.70.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.2012, c.70 (C.2A:50-73) is amended to read as  
8 follows:

9 1. a. For the purposes of this section, "vacant and abandoned"  
10 residential property means residential real estate with respect to which  
11 the mortgagee proves, by clear and convincing evidence, that the  
12 mortgaged real estate is vacant and has been abandoned or where a  
13 notice of violation has been issued pursuant to subsection b. of section  
14 1 of P.L.2014, c.35 (C.40:48-2.12s). Where a notice of violation has  
15 not been issued pursuant to subsection b. of section 1 of P.L.2014, c.35  
16 (C.40:48-2.12s), real property shall be deemed "vacant and  
17 abandoned" if the court finds that the mortgaged property is not  
18 occupied by a mortgagor or tenant as evidenced by a lease agreement  
19 entered into prior to the service of a notice of intention to commence  
20 foreclosure according to section 4 of the "Fair Foreclosure Act,"  
21 P.L.1995, c.244 (C.2A:50-56), and at least two of the following  
22 conditions exist:

- 23 (1) overgrown or neglected vegetation;  
24 (2) the accumulation of newspapers, circulars, flyers or mail on the  
25 property;  
26 (3) disconnected gas, electric, or water utility services to the  
27 property;  
28 (4) the accumulation of hazardous, noxious, or unhealthy  
29 substances or materials on the property;  
30 (5) the accumulation of junk, litter, trash or debris on the property;  
31 (6) the absence of window treatments such as blinds, curtains or  
32 shutters;  
33 (7) the absence of furnishings and personal items;  
34 (8) statements of neighbors, delivery persons, representatives of a  
35 common interest community association, or government employees  
36 indicating that the residence is vacant and abandoned;  
37 (9) windows or entrances to the property that are boarded up or  
38 closed off or multiple window panes that are damaged, broken and  
39 unrepaired;

**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:

<sup>1</sup>Senate SCU committee amendments adopted February 7, 2019.

<sup>2</sup>Senate floor amendments adopted February 21, 2019.

<sup>3</sup>Assembly floor amendments adopted March 25, 2019.

1 (10) doors to the property that are smashed through, broken off,  
2 unhinged, or continuously unlocked;

3 (11) a risk to the health, safety or welfare of the public, or any  
4 adjoining or adjacent property owners, exists due to acts of vandalism,  
5 loitering, criminal conduct, or the physical destruction or deterioration  
6 of the property;

7 (12) an uncorrected violation of a municipal building, housing, or  
8 similar code during the preceding year, or an order by municipal  
9 authorities declaring the property to be unfit for occupancy and to  
10 remain vacant and unoccupied;

11 (13) the mortgagee or other authorized party has secured or  
12 winterized the property due to the property being deemed vacant and  
13 unprotected or in danger of freezing;

14 (14) a written statement issued by any mortgagor expressing the  
15 clear intent of all mortgagors to abandon the property;

16 (15) any other reasonable indicia of abandonment.

17 b. For the purposes of this section, a residential property shall not  
18 be considered "vacant and abandoned" if, on the property:

19 (1) there is an unoccupied building which is undergoing  
20 construction, renovation, or rehabilitation that is proceeding diligently  
21 to completion, and the building is in compliance with all applicable  
22 ordinances, codes, regulations, and statutes;

23 (2) there is a building occupied on a seasonal basis, but otherwise  
24 secure; or

25 (3) there is a building that is secure, but is the subject of a probate  
26 action, action to quiet title, or other ownership dispute.

27 c. In addition to the residential mortgage foreclosure procedures  
28 set out in the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et  
29 seq.), a summary action to foreclose a mortgage debt secured by  
30 residential property that is vacant and abandoned **[may]** <sup>2</sup>**[shall]** may<sup>2</sup>  
31 be brought by a lender in the Superior Court. In addition, a lender  
32 **[may, at any time after filing a foreclosure action,]** <sup>2</sup>**[shall]** may, at  
33 any time after filing a foreclosure action,<sup>2</sup> file with the court, in  
34 accordance with the Rules Governing the Courts of the State of New  
35 Jersey, an application to proceed in a summary manner because the  
36 residential property that is the subject of the foreclosure action is  
37 believed to be "vacant and abandoned"; provided, however, that this  
38 section shall not apply to a foreclosure of a timeshare interest secured  
39 by a mortgage.

40 d. (1) In addition to the service of process required by the Rules  
41 of Court, a lender shall establish, for the entry of a residential  
42 foreclosure judgment under this section, that a process server has made  
43 two unsuccessful attempts to serve the mortgagor or occupant at the  
44 residential property, which attempts must be at least 72 hours apart,  
45 and during different times of the day, either before noon, between  
46 noon and 6 P.M., or between 6 P.M. and 10 P.M.

47 (2) In addition to any notices required to be served by law or the  
48 Rules of Court, a lender shall, with any order to show cause served as

1 original service of process or a motion to proceed summarily, serve a  
2 notice that the lender is seeking, on the return date of the order to show  
3 cause, or on the date fixed by the court, to proceed summarily for entry  
4 of a residential foreclosure judgment because the property is vacant  
5 and abandoned.

6 (3) When a property is deemed vacant and abandoned as herein  
7 defined, a lender shall not be required to serve the debtor with the  
8 notice to cure required by section 6 of the "Fair Foreclosure Act,"  
9 P.L.1995, c.244 (C.2A:50-58).

10 e. (1) The court may enter a final residential mortgage  
11 foreclosure judgment under this section upon a finding, (a) by clear  
12 and convincing evidence, that the residential property is vacant and  
13 abandoned as defined under subsection a. of this section, and (b) that a  
14 review of the pleadings and documents filed with the court, as required  
15 by the Rules of Court, supports the entry of a final residential  
16 mortgage foreclosure judgment.

17 (2) A final residential mortgage foreclosure judgment under this  
18 section shall not be entered if the court finds that:

19 (a) the property is not vacant or abandoned; or

20 (b) the mortgagor or any other defendant has filed an answer,  
21 appearance, or other written objection that is not withdrawn and the  
22 defenses or objection asserted provide cause to preclude the entry of a  
23 final residential mortgage foreclosure judgment.

24 f. If a final residential mortgage foreclosure judgment under this  
25 section is not entered on the original or adjourned return date of an  
26 order to show cause or the date fixed by the court to proceed  
27 summarily, the court may direct that the foreclosure action continue on  
28 the normal track for residential mortgage foreclosure actions for  
29 properties that are not vacant and abandoned and the notice to cure  
30 served with the order to show cause or the order fixing that date for the  
31 matter to proceed summarily shall be of no effect.

32 g. All actions brought to foreclose on real property pursuant to  
33 this section shall proceed in accordance with the Rules of Court.

34 h. Nothing in this section is intended to supersede or limit other  
35 procedures adopted by the Court to resolve residential mortgage  
36 foreclosure actions, including, but not limited to, foreclosure  
37 mediation.

38 i. Nothing in this section shall be construed to affect the rights of  
39 a tenant to possession of a leasehold interest under the Anti-Eviction  
40 Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.), the "New Jersey  
41 Foreclosure Fairness Act," P.L.2009, c.296 (C.2A:50-69 et seq.), or  
42 any other applicable law.

43 j. <sup>1</sup>(1)<sup>1</sup> Notwithstanding paragraph (3) of subsection a. of section  
44 12 of P.L.1995, c.244 (C.2A:50-64) to the contrary, <sup>1</sup>["if the court  
45 makes a finding in the foreclosure judgment that the property is vacant  
46 and abandoned,"]<sup>1</sup> the sheriff shall sell the property within <sup>3</sup>["60"] <sup>3</sup>90<sup>3</sup>  
47 days of the sheriff's receipt of any writ of execution issued by the court  
48 <sup>1</sup>if:

1       (a) the court makes a finding in the foreclosure judgment that the  
2 property is vacant and abandoned; or

3       (b) the court issues an order directing the sheriff to sell the  
4 property within <sup>3</sup>~~60~~ 90<sup>3</sup> days, pursuant to the provisions of  
5 subsection k. of this section<sup>1</sup>.

6       <sup>1</sup>(2)<sup>1</sup> If it becomes apparent that the sheriff cannot comply with the  
7 provisions of <sup>1</sup>paragraph (1) of<sup>1</sup> this subsection, the foreclosing  
8 plaintiff **may** shall apply to the court for an order appointing a  
9 Special Master or judicial agent to hold the foreclosure sale , within  
10 <sup>3</sup>~~60~~ 90<sup>3</sup> days of the date of application.

11       <sup>1</sup>k. (1) Following issuance of a foreclosure judgment, in which the  
12 court did not make a finding that the property is vacant and  
13 abandoned, a foreclosing plaintiff may make application to the court  
14 for the property to be sold by the sheriff within <sup>3</sup>~~60~~ 90<sup>3</sup> days of the  
15 date of application. The application shall include a certification that  
16 the mortgaged real estate is vacant and abandoned.

17       (2) Upon application that meets the criteria set forth in paragraph  
18 (1) of this subsection, the court shall issue an order directing the  
19 sheriff to sell the property in accordance with the provisions of  
20 subsection j. of this section. A hearing shall not be required unless the  
21 application is contested.<sup>1</sup>

22 (cf: P.L.2014, c.35, s.3)

23

24       2. This act shall take effect <sup>3</sup>**immediately** on the 30th day next  
25 following the date of enactment<sup>3</sup>.

26

27

28

29

30       Makes certain changes to summary action foreclosure process  
31 under “Fair Foreclosure Act.”

# SENATE, No. 3413

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 31, 2019

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**Senator DAWN MARIE ADDIEGO**

**District 8 (Atlantic, Burlington and Camden)**

**SYNOPSIS**

Makes certain changes to summary action foreclosure process under “Fair Foreclosure Act.”

**CURRENT VERSION OF TEXT**

As introduced.



S3413 SINGLETON, OROHO

2

1 AN ACT concerning certain foreclosure procedures and amending  
2 P.L.2012, c.70.

3

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

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7 1. Section 1 of P.L.2012, c.70 (C.2A:50-73) is amended to read  
8 as follows:

9 1. a. For the purposes of this section, "vacant and abandoned"  
10 residential property means residential real estate with respect to  
11 which the mortgagee proves, by clear and convincing evidence, that  
12 the mortgaged real estate is vacant and has been abandoned or  
13 where a notice of violation has been issued pursuant to subsection  
14 b. of section 1 of P.L.2014, c.35 (C.40:48-2.12s). Where a notice of  
15 violation has not been issued pursuant to subsection b. of section 1  
16 of P.L.2014, c.35 (C.40:48-2.12s), real property shall be deemed  
17 "vacant and abandoned" if the court finds that the mortgaged  
18 property is not occupied by a mortgagor or tenant as evidenced by a  
19 lease agreement entered into prior to the service of a notice of  
20 intention to commence foreclosure according to section 4 of the  
21 "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-56), and at least  
22 two of the following conditions exist:

23 (1) overgrown or neglected vegetation;

24 (2) the accumulation of newspapers, circulars, flyers or mail on  
25 the property;

26 (3) disconnected gas, electric, or water utility services to the  
27 property;

28 (4) the accumulation of hazardous, noxious, or unhealthy  
29 substances or materials on the property;

30 (5) the accumulation of junk, litter, trash or debris on the  
31 property;

32 (6) the absence of window treatments such as blinds, curtains or  
33 shutters;

34 (7) the absence of furnishings and personal items;

35 (8) statements of neighbors, delivery persons, representatives of  
36 a common interest community association, or government  
37 employees indicating that the residence is vacant and abandoned;

38 (9) windows or entrances to the property that are boarded up or  
39 closed off or multiple window panes that are damaged, broken and  
40 unrepaired;

41 (10) doors to the property that are smashed through, broken off,  
42 unhinged, or continuously unlocked;

43 (11) a risk to the health, safety or welfare of the public, or any  
44 adjoining or adjacent property owners, exists due to acts of

**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.**



S3413 SINGLETON, OROHO

1 vandalism, loitering, criminal conduct, or the physical destruction  
2 or deterioration of the property;

3 (12) an uncorrected violation of a municipal building, housing,  
4 or similar code during the preceding year, or an order by municipal  
5 authorities declaring the property to be unfit for occupancy and to  
6 remain vacant and unoccupied;

7 (13) the mortgagee or other authorized party has secured or  
8 winterized the property due to the property being deemed vacant  
9 and unprotected or in danger of freezing;

10 (14) a written statement issued by any mortgagor expressing the  
11 clear intent of all mortgagors to abandon the property;

12 (15) any other reasonable indicia of abandonment.

13 b. For the purposes of this section, a residential property shall  
14 not be considered "vacant and abandoned" if, on the property:

15 (1) there is an unoccupied building which is undergoing  
16 construction, renovation, or rehabilitation that is proceeding  
17 diligently to completion, and the building is in compliance with all  
18 applicable ordinances, codes, regulations, and statutes;

19 (2) there is a building occupied on a seasonal basis, but  
20 otherwise secure; or

21 (3) there is a building that is secure, but is the subject of a  
22 probate action, action to quiet title, or other ownership dispute.

23 c. In addition to the residential mortgage foreclosure  
24 procedures set out in the "Fair Foreclosure Act," P.L.1995, c.244  
25 (C.2A:50-53 et seq.), a summary action to foreclose a mortgage  
26 debt secured by residential property that is vacant and abandoned  
27 **【may】 shall** be brought by a lender in the Superior Court. In  
28 addition, a lender **【may, at any time after filing a foreclosure**  
29 **action,】 shall** file with the court, in accordance with the Rules  
30 Governing the Courts of the State of New Jersey, an application to  
31 proceed in a summary manner because the residential property that  
32 is the subject of the foreclosure action is believed to be "vacant and  
33 abandoned"; provided, however, that this section shall not apply to  
34 a foreclosure of a timeshare interest secured by a mortgage.

35 d. (1) In addition to the service of process required by the Rules  
36 of Court, a lender shall establish, for the entry of a residential  
37 foreclosure judgment under this section, that a process server has  
38 made two unsuccessful attempts to serve the mortgagor or occupant  
39 at the residential property, which attempts must be at least 72 hours  
40 apart, and during different times of the day, either before noon,  
41 between noon and 6 P.M., or between 6 P.M. and 10 P.M.

42 (2) In addition to any notices required to be served by law or the  
43 Rules of Court, a lender shall, with any order to show cause served  
44 as original service of process or a motion to proceed summarily,  
45 serve a notice that the lender is seeking, on the return date of the  
46 order to show cause, or on the date fixed by the court, to proceed  
47 summarily for entry of a residential foreclosure judgment because  
48 the property is vacant and abandoned.

1 (3) When a property is deemed vacant and abandoned as herein  
2 defined, a lender shall not be required to serve the debtor with the  
3 notice to cure required by section 6 of the "Fair Foreclosure Act,"  
4 P.L.1995, c.244 (C.2A:50-58).

5 e. (1) The court may enter a final residential mortgage  
6 foreclosure judgment under this section upon a finding, (a) by clear  
7 and convincing evidence, that the residential property is vacant and  
8 abandoned as defined under subsection a. of this section, and (b)  
9 that a review of the pleadings and documents filed with the court, as  
10 required by the Rules of Court, supports the entry of a final  
11 residential mortgage foreclosure judgment.

12 (2) A final residential mortgage foreclosure judgment under this  
13 section shall not be entered if the court finds that:

14 (a) the property is not vacant or abandoned; or  
15 (b) the mortgagor or any other defendant has filed an answer,  
16 appearance, or other written objection that is not withdrawn and the  
17 defenses or objection asserted provide cause to preclude the entry of  
18 a final residential mortgage foreclosure judgment.

19 f. If a final residential mortgage foreclosure judgment under  
20 this section is not entered on the original or adjourned return date of  
21 an order to show cause or the date fixed by the court to proceed  
22 summarily, the court may direct that the foreclosure action continue  
23 on the normal track for residential mortgage foreclosure actions for  
24 properties that are not vacant and abandoned and the notice to cure  
25 served with the order to show cause or the order fixing that date for  
26 the matter to proceed summarily shall be of no effect.

27 g. All actions brought to foreclose on real property pursuant to  
28 this section shall proceed in accordance with the Rules of Court.

29 h. Nothing in this section is intended to supersede or limit other  
30 procedures adopted by the Court to resolve residential mortgage  
31 foreclosure actions, including, but not limited to, foreclosure  
32 mediation.

33 i. Nothing in this section shall be construed to affect the rights  
34 of a tenant to possession of a leasehold interest under the Anti-  
35 Eviction Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.), the "New  
36 Jersey Foreclosure Fairness Act," P.L.2009, c.296 (C.2A:50-69 et  
37 seq.), or any other applicable law.

38 j. Notwithstanding paragraph (3) of subsection a. of section 12  
39 of P.L.1995, c.244 (C.2A:50-64) to the contrary, if the court makes  
40 a finding in the foreclosure judgment that the property is vacant and  
41 abandoned, the sheriff shall sell the property within 60 days of the  
42 sheriff's receipt of any writ of execution issued by the court. If it  
43 becomes apparent that the sheriff cannot comply with the provisions  
44 of this subsection, the foreclosing plaintiff **【may】** shall apply to the  
45 court for an order appointing a Special Master or judicial agent to  
46 hold the foreclosure sale , within 60 days of the date of application.  
47 (cf: P.L.2014, c.35, s.3)

1       2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6       This bill amends the summary action foreclosure process under  
7 the “Fair Foreclosure Act,” to: (1) expand the definition of “vacant  
8 and abandoned”; (2) require lenders to bring a summary action to  
9 foreclose a mortgage debt secured by residential property that is  
10 vacant and abandoned; and (3) ensure that foreclosure sales of  
11 vacant and abandoned properties are conducted within 60 days of a  
12 foreclosure judgment.

13       The current definition of “vacant and abandoned” provides that  
14 statements of neighbors, delivery persons, or government  
15 employees may be used to indicate that a residence is vacant and  
16 abandoned. The bill amends the definition to include statements of  
17 representatives of a common interest community association.

18       The bill also provides that a lender would be required to file a  
19 summary action to foreclose a mortgage debt secured by residential  
20 property that is vacant and abandoned, if the lender has initiated the  
21 foreclosure process. Under current law, lenders may file such  
22 actions, but are not required to do so.

23       Finally, current law provides that if the court makes a finding in  
24 a foreclosure judgment that the property is vacant and abandoned,  
25 the sheriff is required to sell the property within 60 days of the  
26 sheriff's receipt of any writ of execution issued by the court. The  
27 law further provides that if it becomes apparent the sheriff cannot  
28 comply with that provision, the foreclosing plaintiff may apply to  
29 the court for an order appointing a Special Master or judicial agent  
30 to hold the foreclosure sale.

31       Under the bill, when a sheriff cannot conduct a sale within 60  
32 days, the foreclosing plaintiff would be required to apply to the  
33 court for an order appointing a Special Master or judicial agent to  
34 hold the foreclosure sale. The bill provides that the foreclosure sale  
35 would be held within 60 days of the date of application to the court.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### **SENATE, No. 3413**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 7, 2019

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 3413, with committee amendments.

As amended, this bill revises the summary action foreclosure process under the “Fair Foreclosure Act,” to: (1) expand the definition of “vacant and abandoned”; (2) require lenders to bring a summary action to foreclose a mortgage debt secured by residential property that is vacant and abandoned; and (3) ensure that foreclosure sales of vacant and abandoned properties are conducted within 60 days of a foreclosure judgment.

The current definition of “vacant and abandoned” provides that statements of neighbors, delivery persons, or government employees may be used to indicate that a residence is vacant and abandoned. The bill amends the definition to include statements of representatives of a common interest community association.

The bill also provides that a lender would be required to file a summary action to foreclose a mortgage debt secured by residential property that is vacant and abandoned, if the lender has initiated the foreclosure process. Under current law, lenders may file such actions, but are not required to do so.

Current law provides that if the court makes a finding in a foreclosure judgment that the property is vacant and abandoned, the sheriff is required to sell the property within 60 days of the sheriff’s receipt of any writ of execution issued by the court. If it becomes apparent the sheriff cannot comply with that provision, the foreclosing plaintiff is permitted to apply to the court for an order appointing a Special Master or judicial agent to hold the foreclosure sale. The bill would require the foreclosing plaintiff to make this application for appointment of a Special master or judicial agent.

Finally, the bill provides that if a finding was not made in the foreclosing judgment that the property was vacant and abandoned, the foreclosing plaintiff may make application to the court to order an expedited sale of the property, if the application includes a certification that the property is vacant and abandoned.

COMMITTEE AMENDMENTS:

The committee amendments provide that if a finding was not made in a foreclosing judgment that a property was vacant and abandoned, the foreclosing plaintiff may make application to the court to order an expedited sale of the property, if the application includes a certification that the property is vacant and abandoned.

Upon application, the amendments require the court to issue an order directing the sheriff to sell the property within 60 days, in accordance with the expedited sale provisions in current law. The amendments also provide that a hearing would not be required unless the foreclosing plaintiff's application is contested

STATEMENT TO  
[First Reprint]  
**SENATE, No. 3413**

with Senate Floor Amendments  
(Proposed by Senator SINGLETON)

ADOPTED: FEBRUARY 21, 2019

These floor amendments provide that in addition to the residential mortgage foreclosure procedures set forth in the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et seq.), a lender would be permitted to file a summary action in the Superior Court to foreclosure a mortgage debt secured by residential property that is vacant and abandoned. The amendments would maintain the provisions of current law. As introduced, the bill required the lender to file such action.

STATEMENT TO  
[Second Reprint]  
**SENATE, No. 3413**

with Assembly Floor Amendments  
(Proposed by Assemblyman ARMATO)

ADOPTED: MARCH 25, 2019

These floor amendments increase the time period in which a sheriff, Special Master, or judicial agent is required to sell a vacant and abandoned property from 60 days to 90 days. The amendments also provide that the bill would take effect on the 30th day after the date of enactment. As introduced, the bill would have taken effect immediately following enactment.

As amended, the bill would be identical to Assembly Bill No. 5005 (2R), which was reported by the Assembly Appropriations Committee with amendments on March 18, 2019.

# ASSEMBLY, No. 5005

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 7, 2019

**Sponsored by:**

**Assemblyman JOHN ARMATO**

**District 2 (Atlantic)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

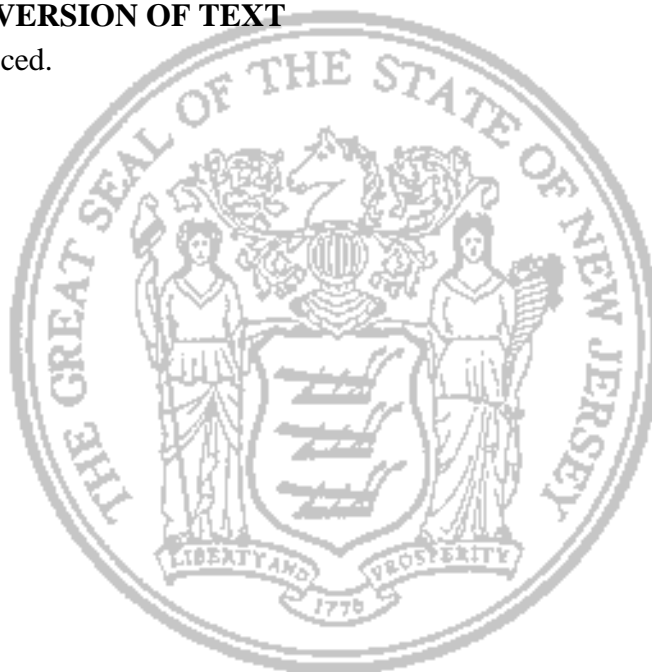
**Assemblyman Mazzeo**

**SYNOPSIS**

Requires foreclosing plaintiff to make application to court to enforce sale of vacant and abandoned residential property when sheriff cannot conduct timely sale.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/15/2019)**



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2 P.L.2012, c.70.

3

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

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7 1. Section 1 of P.L.2012, c.70 (C.2A:50-73) is amended to read  
8 as follows:

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12 the mortgaged real estate is vacant and has been abandoned or  
13 where a notice of violation has been issued pursuant to subsection  
14 b. of section 1 of P.L.2014, c.35 (C.40:48-2.12s). Where a notice of  
15 violation has not been issued pursuant to subsection b. of section 1  
16 of P.L.2014, c.35 (C.40:48-2.12s), real property shall be deemed  
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21 "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-56), and at least  
22 two of the following conditions exist:

23 (1) overgrown or neglected vegetation;

24 (2) the accumulation of newspapers, circulars, flyers or mail on  
25 the property;

26 (3) disconnected gas, electric, or water utility services to the  
27 property;

28 (4) the accumulation of hazardous, noxious, or unhealthy  
29 substances or materials on the property;

30 (5) the accumulation of junk, litter, trash or debris on the  
31 property;

32 (6) the absence of window treatments such as blinds, curtains or  
33 shutters;

34 (7) the absence of furnishings and personal items;

35 (8) statements of neighbors, delivery persons, or government  
36 employees indicating that the residence is vacant and abandoned;

37 (9) windows or entrances to the property that are boarded up or  
38 closed off or multiple window panes that are damaged, broken and  
39 unrepaired;

40 (10) doors to the property that are smashed through, broken off,  
41 unhinged, or continuously unlocked;

42 (11) a risk to the health, safety or welfare of the public, or any  
43 adjoining or adjacent property owners, exists due to acts of  
44 vandalism, loitering, criminal conduct, or the physical destruction  
45 or deterioration of the property;

**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 (12) an uncorrected violation of a municipal building, housing,  
2 or similar code during the preceding year, or an order by municipal  
3 authorities declaring the property to be unfit for occupancy and to  
4 remain vacant and unoccupied;

5 (13) the mortgagee or other authorized party has secured or  
6 winterized the property due to the property being deemed vacant  
7 and unprotected or in danger of freezing;

8 (14) a written statement issued by any mortgagor expressing the  
9 clear intent of all mortgagors to abandon the property;

10 (15) any other reasonable indicia of abandonment.

11 b. For the purposes of this section, a residential property shall  
12 not be considered "vacant and abandoned" if, on the property:

13 (1) there is an unoccupied building which is undergoing  
14 construction, renovation, or rehabilitation that is proceeding  
15 diligently to completion, and the building is in compliance with all  
16 applicable ordinances, codes, regulations, and statutes;

17 (2) there is a building occupied on a seasonal basis, but  
18 otherwise secure; or

19 (3) there is a building that is secure, but is the subject of a  
20 probate action, action to quiet title, or other ownership dispute.

21 c. In addition to the residential mortgage foreclosure  
22 procedures set out in the "Fair Foreclosure Act," P.L.1995, c.244  
23 (C.2A:50-53 et seq.), a summary action to foreclose a mortgage  
24 debt secured by residential property that is vacant and abandoned  
25 may be brought by a lender in the Superior Court. In addition, a  
26 lender may, at any time after filing a foreclosure action, file with  
27 the court, in accordance with the Rules Governing the Courts of the  
28 State of New Jersey, an application to proceed in a summary  
29 manner because the residential property that is the subject of the  
30 foreclosure action is believed to be "vacant and abandoned";  
31 provided, however, that this section shall not apply to a foreclosure  
32 of a timeshare interest secured by a mortgage.

33 d. (1) In addition to the service of process required by the  
34 Rules of Court, a lender shall establish, for the entry of a residential  
35 foreclosure judgment under this section, that a process server has  
36 made two unsuccessful attempts to serve the mortgagor or occupant  
37 at the residential property, which attempts must be at least 72 hours  
38 apart, and during different times of the day, either before noon,  
39 between noon and 6 P.M., or between 6 P.M. and 10 P.M.

40 (2) In addition to any notices required to be served by law or the  
41 Rules of Court, a lender shall, with any order to show cause served  
42 as original service of process or a motion to proceed summarily,  
43 serve a notice that the lender is seeking, on the return date of the  
44 order to show cause, or on the date fixed by the court, to proceed  
45 summarily for entry of a residential foreclosure judgment because  
46 the property is vacant and abandoned.

47 (3) When a property is deemed vacant and abandoned as herein  
48 defined, a lender shall not be required to serve the debtor with the

1 notice to cure required by section 6 of the "Fair Foreclosure Act,"  
2 P.L.1995, c.244 (C.2A:50-58).

3 e. (1) The court may enter a final residential mortgage  
4 foreclosure judgment under this section upon a finding, (a) by clear  
5 and convincing evidence, that the residential property is vacant and  
6 abandoned as defined under subsection a. of this section, and (b)  
7 that a review of the pleadings and documents filed with the court, as  
8 required by the Rules of Court, supports the entry of a final  
9 residential mortgage foreclosure judgment.

10 (2) A final residential mortgage foreclosure judgment under this  
11 section shall not be entered if the court finds that:

12 (a) the property is not vacant or abandoned; or

13 (b) the mortgagor or any other defendant has filed an answer,  
14 appearance, or other written objection that is not withdrawn and the  
15 defenses or objection asserted provide cause to preclude the entry of  
16 a final residential mortgage foreclosure judgment.

17 f. If a final residential mortgage foreclosure judgment under  
18 this section is not entered on the original or adjourned return date of  
19 an order to show cause or the date fixed by the court to proceed  
20 summarily, the court may direct that the foreclosure action continue  
21 on the normal track for residential mortgage foreclosure actions for  
22 properties that are not vacant and abandoned and the notice to cure  
23 served with the order to show cause or the order fixing that date for  
24 the matter to proceed summarily shall be of no effect.

25 g. All actions brought to foreclose on real property pursuant to  
26 this section shall proceed in accordance with the Rules of Court.

27 h. Nothing in this section is intended to supersede or limit other  
28 procedures adopted by the Court to resolve residential mortgage  
29 foreclosure actions, including, but not limited to, foreclosure  
30 mediation.

31 i. Nothing in this section shall be construed to affect the rights  
32 of a tenant to possession of a leasehold interest under the Anti-  
33 Eviction Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.), the "New  
34 Jersey Foreclosure Fairness Act," P.L.2009, c.296 (C.2A:50-69 et  
35 seq.), or any other applicable law.

36 j. Notwithstanding paragraph (3) of subsection a. of section 12  
37 of P.L.1995, c.244 (C.2A:50-64) to the contrary, if the court makes  
38 a finding in the foreclosure judgment that the property is vacant and  
39 abandoned, the sheriff shall sell the property within 60 days of the  
40 sheriff's receipt of any writ of execution issued by the court. If it  
41 becomes apparent that the sheriff cannot comply with the provisions  
42 of this subsection, the foreclosing plaintiff **【may】** shall apply to the  
43 court for an order appointing a Special Master or judicial agent to  
44 hold the foreclosure sale , within 60 days of the date of application.

45 (cf: P.L.2014, c.35, s.3)

46

47 2. This act shall take effect immediately.

STATEMENT

1

2

3       This bill amends the summary action foreclosure process under  
4 the “Fair Foreclosure Act,” to ensure that foreclosure sales of  
5 vacant and abandoned properties are conducted within 60 days of a  
6 foreclosure judgment. Under current law, if the court makes a  
7 finding in a foreclosure judgment that the property is vacant and  
8 abandoned, the sheriff is required to sell the property within 60 days  
9 of the sheriff's receipt of any writ of execution issued by the court.  
10 The law further provides that if it becomes apparent the sheriff  
11 cannot comply with that provision, the foreclosing plaintiff may  
12 apply to the court for an order appointing a Special Master or  
13 judicial agent to hold the foreclosure sale.

14       This bill amends current law to provide that when a sheriff  
15 cannot conduct a sale within 60 days, the foreclosing plaintiff will  
16 be required to apply to the court for an order appointing a Special  
17 Master or judicial agent to hold the foreclosure sale. The bill  
18 provides that the foreclosure sale would be held within 60 days of  
19 the date of application to the court.

ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 5005**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 6, 2019

The Assembly Housing and Community Development Committee reports favorably Assembly Bill No. 5005, with committee amendments.

As amended, this bill revises the summary action foreclosure process under the “Fair Foreclosure Act” to expand the definition of “vacant and abandoned” and ensure that foreclosure sales of vacant and abandoned properties are conducted within 60 days of a foreclosure judgment.

The current definition of “vacant and abandoned” residential properties provides that statements of neighbors, delivery persons, or government employees may be used to indicate that a residence is vacant and abandoned. The bill amends the definition to include statements of representatives of a common interest community association.

Current law provides that if the court makes a finding in a foreclosure judgment that the property is vacant and abandoned, the sheriff is required to sell the property within 60 days of the sheriff’s receipt of any writ of execution issued by the court. If it becomes apparent the sheriff cannot comply with that provision, the foreclosing plaintiff is currently permitted to apply to the court for an order appointing a Special Master or judicial agent to hold the foreclosure sale. In this situation, the bill instead requires the foreclosing plaintiff to apply for appointment of a Special master or judicial agent.

Finally, the bill provides that if a finding was not made in the foreclosing judgment that a property was vacant and abandoned, the foreclosing plaintiff may apply to the court to order an expedited sale of the property, if the application includes a certification that the property is vacant and abandoned.

As amended and reported by the committee, the bill is identical to Senate Bill 3413 (1R), which was amended by the Senate on February 21, 2019.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) revise the definition of “vacant and abandoned” residential properties to include properties in which statements from the

representatives of a common interest community indicate that the residence is vacant and abandoned;

(2) provide that if a foreclosure judgment does not find a property to be vacant and abandoned, the foreclosing plaintiff may apply to the court to order an expedited sale of the property so long as the application includes a certification that the property is vacant and abandoned. Upon application, the court would be required to issue an order directing the sheriff to sell the property within 60 days, in accordance with the expedited sale provisions in current law. A hearing would not be required unless the foreclosing plaintiff's application is contested; and

(3) provide technical changes to the bill.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 5005**

**STATE OF NEW JERSEY**

DATED: MARCH 6, 2019

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 5005 (1R).

This bill revises the summary action foreclosure process under the “Fair Foreclosure Act” to expand the definition of “vacant and abandoned” and ensure that foreclosure sales of vacant and abandoned properties are conducted within 60 days of a foreclosure judgment.

The current definition of “vacant and abandoned” residential properties provides that statements of neighbors, delivery persons, or government employees may be used to indicate that a residence is vacant and abandoned. The bill amends the definition to include statements of representatives of a common interest community association.

Current law provides that if the court makes a finding in a foreclosure judgment that the property is vacant and abandoned, the sheriff is required to sell the property within 60 days of the sheriff's receipt of any writ of execution issued by the court. If it becomes apparent the sheriff cannot comply with that provision, the foreclosing plaintiff is currently permitted to apply to the court for an order appointing a Special Master or judicial agent to hold the foreclosure sale. In this situation, the bill instead requires the foreclosing plaintiff to apply for appointment of a Special master or judicial agent.

Finally, the bill provides that if a finding was not made in the foreclosing judgment that a property was vacant and abandoned, the foreclosing plaintiff may apply to the court to order an expedited sale of the property, if the application includes a certification that the property is vacant and abandoned.

As reported by the committee, the bill is identical to Senate Bill 3413 (1R), which was amended by the Senate on February 21, 2019.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 5005

with committee amendments

# STATE OF NEW JERSEY

DATED: MARCH 18, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5005 (1R), with committee amendments.

As amended, this bill revises the summary action foreclosure process under the “Fair Foreclosure Act” to expand the definition of “vacant and abandoned” and ensure that foreclosure sales of vacant and abandoned properties are conducted within 90 days of a foreclosure judgment.

The current definition of “vacant and abandoned” residential properties provides that statements of neighbors, delivery persons, or government employees may be used to indicate that a residence is vacant and abandoned. The bill amends the definition to include statements of representatives of a common interest community association.

Current law provides that if the court makes a finding in a foreclosure judgment that the property is vacant and abandoned, the sheriff is required to sell the property within 90 days of the sheriff's receipt of any writ of execution issued by the court. If it becomes apparent the sheriff cannot comply with that provision, the foreclosing plaintiff is currently permitted to apply to the court for an order appointing a Special Master or judicial agent to hold the foreclosure sale within 90 days of the application. In this situation, the bill instead requires the foreclosing plaintiff to apply for appointment of a Special master or judicial agent.

Finally, the bill provides that if a finding was not made in the foreclosing judgment that a property was vacant and abandoned, the foreclosing plaintiff may apply to the court to order an expedited sale of the property, if the application includes a certification that the property is vacant and abandoned.

The bill would take effect on the 30th day after the date of enactment.

### COMMITTEE AMENDMENTS:

The committee amended the bill to:



(1) increase the time period in which a sheriff, Special Master, or judicial agent is required to sell a vacant and abandoned property from 60 days to 90 days; and

(2) provide that the bill would take effect on the 30th day after the date of enactment.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.



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Newark, N.J.

# Governor Murphy Signs Legislative Package to Address New Jersey's Foreclosure Crisis

04/29/2019

## Governor Murphy Signs Legislative Package to Address New Jersey's Foreclosure Crisis

**ATLANTIC CITY** – Governor Phil Murphy today signed a bipartisan legislative package into law that will help New Jerseyans struggling with the state's highest-in-the-nation foreclosure rate. The new laws will assist homeowners facing the prospect of foreclosure and pave the way for community revival by addressing blight. Many of the measures were recommended in a September 2018 report by the Special Committee on Residential Foreclosures, which was created by Chief Justice Stuart Rabner.

"The foreclosure crisis has hurt our economy and jeopardized economic security of too many New Jersey families," **said Governor Murphy**. "Our communities cannot succeed while vacant or foreclosed homes sit empty or while families live in limbo. I am proud to sign these bills into law today and get New Jersey closer to ending the foreclosure crisis."

Among the bills, Governor Murphy signed A664, which codifies the Judiciary's Foreclosure Mediation Program into law, creating a long-term, permanent program that will not only increase the number of people entering mediation, but also ensure that homeowners receive housing counseling assistance to help provide them with the best possible outcomes in the foreclosure process.

"The foreclosure crisis hit the families of Atlantic County harder than almost any county in the nation. These bills offer a better path for the region and hope for families in despair," **said Special Counsel Jim Johnson**. "It's a vital and important step forward."

"Foreclosure can take an emotional and financial toll on homeowners and their families. These bills bolster our efforts to help keep families in their homes and neighborhoods intact," **said New Jersey Housing and Mortgage Finance Agency (NJHMFA) Executive Director Charles A. Richman**. "We know housing counseling works. Counseled homeowners are nearly three times as likely to have their loans modified, and 70 percent more likely to remain current after modification. That's why we have heavily invested our efforts on working to get families the counseling help they need."

The Governor signed the following nine bills into law:

- **A664** - Codifies the Judiciary's Foreclosure Mediation Program; dedicates monies from foreclosure filing fees and fines.
- **A4997** - "Mortgage Servicers Licensing Act."
- **A4999** - Requires filing of certain creditor contact information with residential mortgage foreclosure complaint and lis pendens.
- **A5001** - Revises statute of limitations for residential mortgage foreclosures.

- **A5002** - Permits certain planned real estate developments to file certain liens; concerns limited priority of certain liens.
- **S3411** - Requires receivership appointment application prior to certain foreclosure actions; requires notice of intention to foreclosure on residential mortgage to be filed within 180 days prior to commencing foreclosure; limits reinstatements of dismissed mortgage foreclosure actions.
- **S3413** - Makes certain changes to summary action foreclosure process under "Fair Foreclosure Act."
- **S3416** - Clarifies that "New Jersey Residential Mortgage Lending Act" applies to certain out-of-state persons and involved in residential mortgage lending in the State.
- **S3464** - Revises certain procedures for real estate foreclosure sales; alters adjournment of sale process.

"Foreclosures are tragic situations for New Jersey families that can also create public safety as well as quality of life issues for surrounding communities," **said Senator Steve Oroho**, sponsor of the bill package. "Doing our part to reduce the foreclosure rate statewide will protect families, make neighborhoods safer, and provide children the stability they need both at home and at school. I am proud Governor Murphy signed our bipartisan bill package into law. Stable homes will lead to happier households and better neighborhoods throughout our state."

"We are all aware that the surge in foreclosed properties is a significant factor that hinders more sustained economic growth in our state," **said Senator Troy Singleton**. "Solving the foreclosure issue by preventing homeowners from initially falling into this process will help to increase property values and stabilize our communities, while improving our state's overall economic outlook. This issue is not new. However, the comprehensive approach outlined in these bipartisan laws is unprecedented in our state. They will build upon the continued reduction in pending foreclosure cases and shorten the timeline to adjudicate these cases. This is a reflection of the work undertaken by every branch of our state government."

"Sadly, for too long our state has led the nation in foreclosures, with 70,000 properties going through the process in 2017 alone. Recognizing this problem, Chief Justice Rabner impaneled a blue ribbon committee encompassing the public, private and non-profit sectors to craft solutions, both legislative and regulatory, that were both fair and responsible to our state's residents and housing economy. I was privileged to serve and be a part of the solution," **said Assembly Speaker Craig Coughlin**. "The nine bills signed into law today are the first of many steps we'll take to address foreclosure process concerns in the state. More efficiency and ensuring fairness in the current system protects the interests of our homeowners, our neighborhoods and communities."

"These new laws will help us take a comprehensive approach in dealing with foreclosed homes in New Jersey," **said Assemblyman Benjie Wimberly**. "Foreclosed properties that sit in neighborhoods for years without being maintained are also a major problem, because these homes become eyesores to the community and drive property values down. As chair of the Assembly Housing and Community Development Committee, I will continue to work with Speaker Coughlin and our caucus to help solve the foreclosure crisis in New Jersey."

Advocates also expressed support for the measures.

"We thank Governor Murphy and the Legislature for providing valuable tools to address our state's relentless foreclosure crisis," **said Staci Berger, President and Chief Executive Officer of the Housing and Community Development Network of NJ**. "Residents and neighborhoods have suffered needlessly because the prior Administration failed to take important steps like these. During that time, residents and communities of color were disproportionately impacted by the crisis, losing so much of their housing equity. As NJ's largest HUD housing counseling intermediary, the Network is thrilled that New Jersey's leaders are now working with us and our members to keep people in their homes and helping to protect the single largest investment working families can make."

"Thanks to the leadership of both Governor Murphy and the legislators who sponsored this bill package, New Jersey is one step close to putting the foreclosure crisis behind us," **said Winn Khuong, Executive Director of Action Together New Jersey**. "Governor Murphy's action today puts New Jersey on a path to renewing our communities, something that will change the lives of so many. We are pleased to see New Jersey's leaders moving the state in the right direction."

"We applaud Governor Murphy and all of the legislators on the passage of this package of bills," **said Renee Koubiadis, Executive Director of the Anti-Poverty Network of New Jersey**. "Taken together, these bills will allow for a more transparent and fairer process for people facing default and will help alleviate New Jersey's persistent foreclosure crisis. Particularly, the codification and funding of the Foreclosure Mediation Program will allow families receive to counseling and mediation to find a resolution to be able to stay in their homes."

"A decade after the financial crisis, New Jersey continues to lead the nation in foreclosures," **said Kevin Walsh, Executive Director of Fair Share Housing Center.** "This legislative package will provide needed relief by increasing protections for homeowners and holding lenders accountable. We'd like to thank Governor Murphy and legislative leaders, including Senator Singleton, for pushing through proposals designed to protect working families."

[Back to Top](#)

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## Governor Phil Murphy

### Home

### Administration

- [Governor Phil Murphy](#)
- [Lt. Governor Sheila Oliver](#)
- [First Lady Tammy Snyder Murphy](#)
- [Cabinet](#)
- [Boards, Commissions & Authorities](#)
- [Internship](#)
- [Opportunities](#)
- [Governor's Residence - Drumthwacket](#)

### Key Initiatives

- [Economy & Jobs](#)
- [Education](#)
- [Environment](#)
- [Health](#)
- [Law & Justice](#)
- [Transportation](#)

### News & Events

- [Press Releases](#)
- [Public Addresses](#)
- [Executive Orders](#)
- [Statements on Legislation](#)
- [Administration Reports](#)
- [Transition Reports](#)
- [Press Kits](#)

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- [Facebook](#)
- [Twitter](#)
- [Instagram](#)
- [Snapchat](#)
- [YouTube](#)

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- [Scheduling Requests](#)
- [Contact Us](#)

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- [NJ Home](#)
- [Services A to Z](#)
- [Departments/Agencies](#)
- [FAQs](#)
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