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P.L. 2021, CHAPTER 34, *approved March 9, 2021*

Assembly, No. 5130 (*First Reprint*)

1 **AN ACT** concerning the mitigation of loss on distressed and
2 foreclosed properties, supplementing and amending Title 55 of
3 the Revised Statutes, and amending Title 2A of the New Jersey
4 Statutes.

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

8
9 1. (New section) This act shall be known and may be cited as
10 the "New Jersey Foreclosure Prevention Act."

11
12 2. (New section) The Legislature finds and declares that:

13 a. New Jersey experienced heightened foreclosure rates during
14 the Great Recession beginning in 2008 and continuing for the
15 ensuing decade, only returning to pre-recession rates of foreclosure
16 in 2019.

17 b. New Jersey is currently suffering through the COVID-19
18 pandemic, with more than 1.6 million New Jersey residents seeking
19 unemployment benefits due to job loss, furlough, or hour
20 reductions.

21 c. Homeowners in New Jersey have suffered enormous negative
22 economic impacts due to the COVID-19 pandemic, resulting in
23 increased housing insecurity. During each month from April 2020
24 through August 2020, the number of New Jersey households that
25 deferred or did not pay their mortgages exceeded 160,000;

26 d. Given New Jersey's susceptibility to prolonged periods of
27 elevated rates of foreclosure, as evidenced by the long-term impact
28 of the Great Recession, the Legislature hereby determines and
29 declares that there is a need to provide alternative foreclosure
30 mitigation measures.

31
32 3. (New section) As used in P.L. , c. (C.) (pending
33 before the Legislature as this bill):

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

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted January 7, 2021.

1 “Community development corporation” means a nonprofit
2 community development corporation established pursuant to Title
3 15 or 15A of the Revised Statutes of New Jersey, or other law of
4 this State, with a focus on producing and operating affordable
5 housing or housing with on-site social services for individuals with
6 special needs.

7 “Community development financial institution” means an entity
8 designated and certified by the United States Department of the
9 Treasury as a Community Development Financial Institution
10 pursuant to 12 CFR Part 1805.

11 “Contractor” means a qualified community development
12 financial institution that enters into a contract or loan with the
13 agency pursuant to section 5 of P.L.1983, c.530 (C.55:14K-5).

14 “Eligible property” means any residential property or mortgage
15 note that is owned by an institutional lender as the result of a
16 mortgage foreclosure judgment or a deed in lieu of foreclosure, is
17 by a municipality as the result of a tax foreclosure judgment or is
18 subject to a nonperforming loan from an institutional lender.

19 “Fund” means the Foreclosure Intervention Fund, established
20 pursuant to section 4 of P.L. , c. (C.) (pending before the
21 Legislature as this bill).

22 “Institutional lender” or “lender” means any lawfully constituted
23 mortgage lender, mortgage investor, or mortgage loan servicer that
24 owns an eligible property, including, but not limited to, any agency
25 or instrumentality of the United States or the State, including, but
26 not limited to, the Government National Mortgage Association, the
27 Federal Home Loan Mortgage Corporation, the Federal National
28 Mortgage Association, the Federal Housing Administration, the
29 Small Business Administration, the Resolution Funding
30 Corporation, and the Federal Deposit Insurance Corporation.

31 “Intercreditor agreement” means an agreement among creditors
32 that sets forth the various lien positions and the rights and liabilities
33 of each creditor and its impacts on the other creditors.

34 “Program” means the “New Jersey Residential Foreclosure
35 Prevention Program” established pursuant to section 4 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill).

37 “Qualified community development financial institution” means
38 a community development financial institution that has a minimum
39 of \$50,000,000 in assets and a minimum of two years' experience in
40 the financing and acquisition of real estate for affordable housing.

41

42 4. (New section) a. There is established in the agency the “New
43 Jersey Residential Foreclosure Prevention Program,” which shall be
44 subject to the powers of the agency, as designated pursuant to
45 section 5 of P.L.1983, c.530 (C.55:14K-5). The goal of the
46 program is to ensure that loss mitigation and foreclosure prevention
47 measures are taken on eligible properties. Either directly, or
48 through its contractors, the agency may purchase eligible properties

1 and mortgage assets in furtherance of this goal, pursuant to section
2 5 of P.L. , c. (C.) (pending before the Legislature as this
3 bill).

4 b. The agency in furtherance of the program may enter into
5 contracts with any person, corporation, or entity which the agency
6 determines to be necessary or appropriate to carry out its
7 responsibilities under P.L. , c. (C.) (pending before the
8 Legislature as this bill). Such contracts shall be subject to the
9 procedures adopted pursuant to section 5 of P.L. , c. (C.)
10 (pending before the Legislature as this bill). All contracts entered
11 into in furtherance of the program shall be governed by the laws of
12 the State and shall provide for indemnification of the agency.

13 c. In carrying out the agency's duties under P.L. ,
14 c. (C.) (pending before the Legislature as this bill), the
15 agency may employ the consulting services of real estate and loan
16 portfolio asset management firms, property management firms,
17 auction marketing firms, brokerage services firms, appraisers, and
18 such other consultants and employees required in the judgment of
19 the agency, notwithstanding the provisions of Title 11A of the New
20 Jersey Statutes.

21 d. Within 180 days following the enactment of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), the
23 agency shall adopt a funding plan for the program utilizing the
24 "Foreclosure Intervention Fund" established pursuant to section 6
25 of P.L. , c. (C.) (pending before the Legislature as this bill).
26 The agency may directly fund the program through revenue
27 generated by the fund. The agency shall have the authority to alter
28 its funding plan as the Executive Director of the agency deems
29 necessary. The funding plan shall include, but not be limited to,
30 program revenue, expected expenditures and projections for the
31 acquisition of foreclosed residential properties or mortgage assets.
32

33 5. (New section) a. (1) The agency may enter into contracts
34 or loans, or both, with no more than two qualified community
35 development financial institutions to negotiate, bid for, and
36 purchase eligible properties and mortgage assets for the purpose
37 facilitating the program. In selecting contractors from among
38 qualified community development financial institutions, the agency
39 shall accord a strong preference to qualified community
40 development financial institutions that have substantial experience
41 in lending in the State and substantial knowledge of the State's real
42 estate markets. The agency may enter into contracts or loans, or
43 both, with a partnership or consortia of organizations, as long as a
44 qualified community development financial institution is the lead
45 entity, or a partnership or consortia of multiple qualified community
46 development financial institutions.

47 (2) Should the agency contract with a community development
48 financial institution for the purposes of P.L. , c. (C.)

1 (pending before the Legislature as this bill), the contract shall
2 specify the amounts, schedules, and types of funding to be provided
3 by the agency to the qualified community development financial
4 institution, the repayment schedule for the portion of that funding to
5 be repaid, and targeted goals for homeowner interventions. The
6 agency may condition funding and goals upon the availability of
7 funds to the program. The contract shall specify reasonable
8 administrative costs sufficient to enable the qualified community
9 development financial institution to exercise its obligations
10 pursuant to P.L. , c. (C.) (pending before the Legislature as
11 this bill). The contract shall set forth criteria for instances when the
12 purchase, sale, lease, and conveyance of properties furthers the
13 purposes of P.L. , c. (C.) (pending before the Legislature as
14 this bill).

15 b. All purchases, sales, leases, and conveyances of property by
16 qualified community development financial institutions exercised
17 pursuant to this section shall be deemed to lessen the burdens of
18 government in furthering the purposes of P.L. , c. (C.)
19 (pending before the Legislature as this bill).

20

21 6. (New section) a. There is established within the agency a
22 Foreclosure Intervention Fund, which shall be a non-lapsing,
23 revolving fund and which shall be the repository for funds
24 appropriated or otherwise made available for the purposes of
25 P.L. , c. (C.) (pending before the Legislature as this bill),
26 and any interest earned thereon. The fund shall be administered by
27 the agency, in accordance with its authority under section 5 of
28 P.L.1983, c.530 (C.55:14K-5) to manage funds for housing
29 programs.

30 b. The agency may transfer into the fund any amounts held or
31 received by the agency that are needed by the agency or its
32 contractors for the purchase of eligible property.

33 c. The agency may use annually up to five percent of the monies
34 available in the fund for the payment of any necessary
35 administrative costs related to the administration of the program.

36 d. Revenue generated through the mechanisms established
37 pursuant to N.J.S.2A:17-38 exceeding the funding plan developed
38 pursuant to subsection d. of section 4 of P.L. , c. (C.)
39 (pending before the Legislature as this bill) may be appropriated by
40 the agency for additional foreclosure prevention programs.

41

42 7. (New Section) a. The agency may make grants to eligible
43 applicants, including, but not limited to, non-profit housing
44 sponsors, municipalities or other governmental entities utilizing
45 funds provided by P.L. , c. (C.) (pending before the
46 Legislature as this bill) or otherwise made available to the agency.
47 Grants issued pursuant to this section shall be used to advance the

1 goals of the program, as established pursuant to section 4 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill).

3 b. The agency shall establish regulations, procedures or
4 guidelines governing the qualifications of applicants, the
5 application procedures and the criteria for awarding grants to such
6 eligible applicants and the standards for establishing the amount,
7 terms and conditions of each grant.

8
9 8. (New section) a. The agency is authorized to defend and
10 indemnify the federal government, any department, board, body,
11 agency or other entity thereof, the Government National Mortgage
12 Association and its successors and assigns, the Federal National
13 Mortgage Association and its successors and assigns, and the
14 Federal Home Loan Mortgage Corporation and its successors and
15 assigns, against claims, causes of action, demands, costs or
16 judgments against that entity arising as a direct result of that
17 entity's agreement with the agency, upon the terms and limitations
18 the agency deems reasonable and appropriate. An agreement to
19 defend and indemnify pursuant to this subsection shall not bar,
20 reduce, limit or affect any remedies the agency may have to enforce
21 the agency's agreement or to assert a claim for damages to which
22 the agency may be entitled arising out of the entity's failure to
23 perform the agreement, or for the recovery of funds expended for
24 the defense of an entity if the defense was undertaken in response to
25 a claim or cause of action brought against the entity which arose
26 from gross negligence, willful misconduct, fraud, intentional tort,
27 bad faith, or criminal conduct of the entity or one or more of its
28 officials or employees. No one other than an entity which is a party
29 to the agreement with the agency may enforce any agreement for
30 defense or indemnification between that entity and the agency.

31 b. The agency may create a reserve fund, procure insurance or
32 take other such appropriate action in order to meet its future
33 obligations, if any, created by such indemnification obligations.
34 Any agreement to indemnify pursuant to subsection a. may be made
35 only as necessary or appropriate to the exercise of any power herein
36 granted or reasonably implied, provided that: (1) such
37 indemnification shall be payable solely from the funds of the
38 agency on deposit in its General Fund or placed in a reserve fund
39 for that purpose; and (2) such indemnification shall not constitute a
40 debt, obligation or liability of the State, and the State shall not be
41 liable for any obligation as a result of the agency's indemnification
42 obligation.

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

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

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

6 b. (1) When calculating the amount due thereon, as described in
7 subsection a. of this section, the sheriff or officer shall additionally
8 '[consider] collect' \$350 per sale to be utilized by the fund within
9 the New Jersey Housing and Mortgage Finance Agency established
10 in section 6 of P.L. , c. (C.) (pending before the Legislature
11 as this bill).

12 (2) The revenues obtained from these increased amounts, after
13 deduction of any actual administrative costs incurred by the sheriff
14 or officer in carrying out the provisions of this subsection, shall be
15 transmitted no later than the first day of each quarter by the sheriff
16 or officer to the fund with an accounting of collections and
17 foreclosure actions during the corresponding quarter.

18 c. The statement shall be certified under the hand of the officer
19 making and filing it, and shall be conclusive against the officer
20 only. If there be more sales than **[1] one**, the statement shall be
21 made and filed within 30 days after the final sale.

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

23
24 10. Section 7 of P.L.1983, c.530 (C.55:14K-7) is amended to
25 read as follows:

26 7. a. Loans made by the agency to finance housing projects
27 shall be subject to the following terms and conditions:

28 (1) The loan shall be for a period of time not in excess of 50
29 years as determined by the agency;

30 (2) The amount of the loan shall not exceed 90% of the total
31 project cost as determined by the agency, except that as to projects
32 to be owned, constructed, improved, rehabilitated, operated,
33 managed and maintained as mutual housing or by any corporation
34 or association organized not for profit which has as one of its
35 purposes the construction, improvement or rehabilitation of housing
36 projects, the amount of the loan shall not exceed 100% of the total
37 project cost as determined by the agency; but the agency may
38 make additional loans to a housing sponsor to which a loan by the
39 agency for the cost of a project is outstanding if and to the extent
40 that the agency finds that such additional loan is required to more
41 adequately secure and protect the project or to avoid a default by
42 the sponsor on the original loan for the cost of the project and is in
43 the best interest of the agency and the holders of its bonds issued to
44 finance the original loan for the cost of the project;

45 (3) The interest rate on the loan shall be established by the
46 agency at the lowest level consistent with the agency's cost of
47 operation and its responsibilities to the holders of its bonds;

1 (4) The loan shall be evidenced by a mortgage note or bond and
2 by a mortgage which shall be a first lien on the project and which
3 shall contain such terms and provisions and be in a form approved
4 by the agency. The agency shall require the qualified housing
5 sponsor receiving a loan or its contractor to post security in
6 amounts related to the project cost as established by regulation and
7 to execute such other assurances and guarantees as the agency may
8 deem necessary and may require its principals or stockholders to
9 also execute such other assurances and guarantees as the agency
10 may deem necessary;

11 (5) The loan shall be subject to an agreement between the
12 agency and the housing sponsor which will subject the housing
13 sponsor and its principals or stockholders to limitations established
14 by the agency as to rentals and other charges, builders' and
15 developers' profits and fees, and the disposition of its property and
16 franchises to the extent more restrictive limitations are not
17 provided by the law under which the borrower is incorporated or
18 organized;

19 (6) The loan shall be subject to an agreement between the
20 agency and the housing sponsor limiting the housing sponsor and its
21 principals or stockholders to such rate of return on its investment in
22 the housing project to be assisted with a loan from the agency as
23 shall be fixed from time to time by the agency in its regulations
24 which shall take into account the prevailing rates of return available
25 for similar investments and the risks associated with the
26 development of the project, together with factors designed to
27 promote the objectives of providing affordable housing,
28 encouraging investment in urban development areas, maintaining
29 and improving the existing housing stock, and other objectives of
30 this act; but agreements entered into by the predecessors of the
31 agency prior to the effective date of this act shall continue to be
32 subject to any restrictions on rate of return imposed by prior law
33 unless those restrictions are expressly modified pursuant to
34 regulations of the agency. No housing sponsor which is permitted
35 by the provisions of the law under which it is organized or
36 incorporated to earn a return on its investment, nor any of the
37 principals or stockholders of that housing sponsor, shall earn,
38 accept or receive a return on investment greater than the rate of
39 return fixed by the agency in any housing project assisted with a
40 loan from the agency, whether upon the completion of the
41 construction, improvement or rehabilitation of the project, or upon
42 the operation thereof, or upon the sale, assignment or lease of the
43 project to any other person, association or corporation. Any person,
44 association or corporation who violates the provisions of this
45 subsection is guilty of a crime of the fourth degree;

46 (7) No loan shall be executed except a loan made to a
47 corporation or association organized not for profit which has as one
48 of its purposes the development, construction, improvement or

1 rehabilitation of housing projects or for mutual housing unless the
2 housing sponsor agrees (a) to certify upon completion of project
3 construction, improvement or rehabilitation, subject to audit by the
4 agency, either that the actual project cost as defined herein
5 exceeded the amount of the loan proceeds by 10% or more, or the
6 amount by which the loan proceeds exceed 90% of the total project
7 cost, and (b) to pay forthwith to the agency, for application to
8 reduction of the principal of the loan, the amount, if any, of such
9 excess loan proceeds, subject to audit and determination by the
10 agency. No loan shall be made to a corporation or association
11 organized not for profit or for mutual housing unless the
12 corporation or association organized not for profit or for mutual
13 housing agrees to certify the actual project cost upon completion of
14 the project, subject to audit and determination by the agency, and
15 further agrees to pay forthwith to the agency, for application to
16 reduction of the principal of the loan, the amount, if any, by which
17 the proceeds of the loan exceed the certified project cost subject to
18 audit and determination by the agency. Notwithstanding the
19 provisions of this paragraph, the agency may accept, in lieu of any
20 certification of project cost as provided herein, such other
21 assurances of the project cost in any form or manner whatsoever, as
22 will enable the agency to determine with reasonable accuracy the
23 amount of the project cost;

24 (8) No loan shall be made for the construction, improvement or
25 rehabilitation of a housing project for which tax exemption is
26 granted by a municipality unless the tax exemption remains in
27 effect during the entire term of the loan, unless a lesser period of
28 tax exemption is approved by the agency; and

29 (9) The loan shall be subject to an agreement between the
30 agency and the qualified housing sponsor which contains a
31 provision stating the prevailing wage rate, as determined by either
32 the Commissioner of Labor and Industry or the Secretary of the
33 United States Department of Labor in accordance with the
34 provisions of section 42 of this act, which can be paid to the
35 workmen employed in the performance of any contract for the
36 construction or rehabilitation of any housing project, and which
37 stipulates that the qualified housing sponsor, or any builder,
38 contractor or subcontractor thereof, shall pay to such workmen not
39 less than the applicable prevailing wage rate pursuant to that
40 section.

41 b. As a condition of any loan to finance a housing project, the
42 agency shall have the power at all times during the construction,
43 improvement or rehabilitation of a housing project and the
44 operation thereof:

45 (1) To enter upon and inspect without prior notice any project,
46 including all parts thereof, for the purpose of investigating the
47 physical and financial condition thereof, and its construction,
48 improvement, rehabilitation, operation, management and

1 maintenance, and to examine all books and records with respect to
2 capitalization, income and other matters relating thereto and to
3 make such charges as may be required to cover the cost of such
4 inspections and examinations;

5 (2) To order such alterations, changes or repairs as may be
6 necessary to protect the security of its investment in a housing
7 project or the health, safety, and welfare of the occupants thereof;

8 (3) To order any managing agent, project manager or owner of a
9 housing project to do such acts as may be necessary to comply with
10 the provisions of all applicable laws or ordinances or any rule or
11 regulation of the agency or the terms of any agreement concerning
12 the project or to refrain from doing any acts in violation thereof and
13 in this regard the agency shall be a proper party to file a complaint
14 and to prosecute thereon for any violations of law or ordinances as
15 set forth herein;

16 (4) To require the adoption and continuous use of uniform
17 systems of accounts and records for a project and to require all
18 owners or managers of a project to file annual reports containing
19 that information and verified in such manner as the agency shall
20 require, and to file at the times and on the forms as it may
21 prescribe, reports and answers to specific inquiries required by the
22 agency to determine the extent of compliance with any agreement,
23 the terms of the loan, the provisions of this act and any other
24 applicable law;

25 (5) To enforce, by court action if necessary, the terms and
26 provisions of any agreement between the agency and the housing
27 sponsor and the terms of any agreement between the housing
28 sponsor and any municipality granting tax exemption, as to
29 schedules of rental or carrying charges, income limits as applied to
30 tenants or occupants, or any other limitation imposed upon the
31 housing sponsor as to financial structure, construction or operation
32 of the project;

33 (6) (a) Subject to the provisions of paragraph (7) of subsection
34 b. of this section, in the event of a violation by the housing sponsor
35 of the terms of any agreement between the agency and the housing
36 sponsor, or between the municipality granting tax exemption and
37 the housing sponsor, or in the event of a violation by the housing
38 sponsor of this act or of the terms of the loan agreement or of any
39 rules and regulations of the agency duly promulgated pursuant to
40 this act, or in the event that the agency shall determine that any loan
41 or advance from the Housing Development Fund pursuant to section
42 30 of this act is in jeopardy of not being repaid, the agency may,
43 without resort to any judicial process, assume all of the powers and
44 duties of the housing sponsor in the management and operation of
45 the project, including but not limited to the power to receive all
46 revenues and pay all expenses of the project and the power to
47 control all property, including bank accounts and cash, owned by
48 the housing sponsor. The agency may appoint such person or

1 persons whom the agency in its sole discretion deems advisable,
2 including officers or employees of the agency, to perform the
3 functions of the officers or other controlling persons of the housing
4 sponsor. Persons so appointed need not be stockholders or meet
5 other qualifications which may be prescribed by the certificate of
6 incorporation, bylaws or partnership agreement of the housing
7 sponsor. In the absence of fraud or bad faith, persons so appointed
8 shall not be personally liable for debts, obligations or liabilities of
9 the housing sponsor. Persons so appointed shall serve only for a
10 period coexistent with the duration of the violation or until the
11 agency is assured in a manner satisfactory to it that the violation, or
12 violations of a similar nature, will not recur. Persons so appointed
13 shall serve in such capacity without compensation, but shall be
14 entitled to be reimbursed, if and as the certificate of incorporation,
15 bylaws or partnership agreement of the housing sponsor may
16 provide, for all necessary expenses incurred in the discharge of their
17 duties as determined by the agency; and

18 (b) the provisions of section 18 of P.L. 1991, c. 431 (C.40A:20-
19 18) concerning housing projects in financial difficulty shall not
20 apply to housing projects financed by the agency; and

21 (7) The provisions of this subsection and this act pertaining to
22 the regulation of housing sponsors shall be for purposes of
23 protecting the collateral for any loan or loans; implementing or
24 enforcing any condition, requirement or criterion for loans as
25 provided in this act or other applicable law; and securing the rights
26 and remedies of lenders and bond holders to the extent of the
27 undertakings of the agency. Subject to the foregoing, the agency
28 shall permit, provide for and encourage the right of local housing
29 sponsors to exercise their own initiative and competence in the
30 administration of their assets and the conduct and operation of
31 housing projects and exercise their rights and responsibilities to the
32 fullest extent permitted by law. Therefore, the agency shall
33 exercise its remedies and powers under paragraph (6) of this
34 subsection only with regard to material violations and only after
35 reasonable notice and reasonable opportunity to correct the
36 violation is provided to the housing sponsor in accordance with
37 regulations adopted by the agency.

38 c. Notwithstanding any law, rule or regulation to the contrary,
39 the provisions of paragraphs (5) and (6) of subsection a. of this
40 section shall not be applicable to market rate units.

41 d. As used in this section, "market rate unit" means a housing
42 unit for which occupancy is not subject to limitations based on
43 tenant income.

44 (cf: P.L.1983, c.530, s.7)

45

46 11. This act shall take effect immediately.

47

48

- 1 Establishes “New Jersey Foreclosure Prevention Act.”

ASSEMBLY, No. 5130

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

SYNOPSIS

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CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/7/2021)

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24 through August 2020, the number of New Jersey households that
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28 “Qualified community development financial institution” means
29 a community development financial institution that has a minimum
30 of \$50,000,000 in assets and a minimum of two years' experience in
31 the financing and acquisition of real estate for affordable housing.

32

33 4. (New section) a. There is established in the agency the “New
34 Jersey Residential Foreclosure Prevention Program,” which shall be
35 subject to the powers of the agency, as designated pursuant to
36 section 5 of P.L.1983, c.530 (C.55:14K-5). The goal of the
37 program is to ensure that loss mitigation and foreclosure prevention
38 measures are taken on eligible properties. Either directly, or
39 through its contractors, the agency may purchase eligible properties
40 and mortgage assets in furtherance of this goal, pursuant to section
41 5 of P.L. , c. (C.) (pending before the Legislature as this
42 bill).

43 b. The agency in furtherance of the program may enter into
44 contracts with any person, corporation, or entity which the agency
45 determines to be necessary or appropriate to carry out its
46 responsibilities under P.L. , c. (C.) (pending before the
47 Legislature as this bill). Such contracts shall be subject to the
48 procedures adopted pursuant to section 5 of P.L. , c. (C.)

1 (pending before the Legislature as this bill). All contracts entered
2 into in furtherance of the program shall be governed by the laws of
3 the State and shall provide for indemnification of the agency.

4 c. In carrying out the agency's duties under P.L. , c. (C.)
5 (pending before the Legislature as this bill), the agency may employ
6 the consulting services of real estate and loan portfolio asset
7 management firms, property management firms, auction marketing
8 firms, brokerage services firms, appraisers, and such other
9 consultants and employees required in the judgment of the agency,
10 notwithstanding the provisions of Title 11A of the New Jersey
11 Statutes.

12 d. Within 180 days following the enactment of P.L. , c.
13 (C.) (pending before the Legislature as this bill), the agency
14 shall adopt a funding plan for the program utilizing the
15 "Foreclosure Intervention Fund" established pursuant to section 6
16 of P.L. , c. (C.) (pending before the Legislature as this bill).
17 The agency may directly fund the program through revenue
18 generated by the fund. The agency shall have the authority to alter
19 its funding plan as the Executive Director of the agency deems
20 necessary. The funding plan shall include, but not be limited to,
21 program revenue, expected expenditures and projections for the
22 acquisition of foreclosed residential properties or mortgage assets.

23
24 5. (New section) a. (1) The agency may enter into contracts
25 or loans, or both, with no more than two qualified community
26 development financial institutions to negotiate, bid for, and
27 purchase eligible properties and mortgage assets for the purpose
28 facilitating the program. In selecting contractors from among
29 qualified community development financial institutions, the agency
30 shall accord a strong preference to qualified community
31 development financial institutions that have substantial experience
32 in lending in the State and substantial knowledge of the State's real
33 estate markets. The agency may enter into contracts or loans, or
34 both, with a partnership or consortia of organizations, as long as a
35 qualified community development financial institution is the lead
36 entity, or a partnership or consortia of multiple qualified community
37 development financial institutions.

38 (2) Should the agency contract with a community development
39 financial institution for the purposes of P.L. , c. (C.)
40 (pending before the Legislature as this bill), the contract shall
41 specify the amounts, schedules, and types of funding to be provided
42 by the agency to the qualified community development financial
43 institution, the repayment schedule for the portion of that funding to
44 be repaid, and targeted goals for homeowner interventions. The
45 agency may condition funding and goals upon the availability of
46 funds to the program. The contract shall specify reasonable
47 administrative costs sufficient to enable the qualified community
48 development financial institution to exercise its obligations

1 pursuant to P.L. , c. (C.) (pending before the Legislature as
2 this bill). The contract shall set forth criteria for instances when the
3 purchase, sale, lease, and conveyance of properties furthers the
4 purposes of P.L. , c. (C.) (pending before the Legislature as
5 this bill).

6 b. All purchases, sales, leases, and conveyances of property by
7 qualified community development financial institutions exercised
8 pursuant to this section shall be deemed to lessen the burdens of
9 government in furthering the purposes of P.L. , c. (C.)
10 (pending before the Legislature as this bill).

11
12 6. (New section) a. There is established within the agency a
13 Foreclosure Intervention Fund, which shall be a non-lapsing,
14 revolving fund and which shall be the repository for funds
15 appropriated or otherwise made available for the purposes of
16 P.L. , c. (C.) (pending before the Legislature as this bill),
17 and any interest earned thereon. The fund shall be administered by
18 the agency, in accordance with its authority under section 5 of
19 P.L.1983, c.530 (C.55:14K-5) to manage funds for housing
20 programs.

21 b. The agency may transfer into the fund any amounts held or
22 received by the agency that are needed by the agency or its
23 contractors for the purchase of eligible property.

24 c. The agency may use annually up to five percent of the monies
25 available in the fund for the payment of any necessary
26 administrative costs related to the administration of the program.

27 d. Revenue generated through the mechanisms established
28 pursuant to N.J.S.2A:17-38 exceeding the funding plan developed
29 pursuant to subsection d. of section 4 of P.L. , c. (C.)
30 (pending before the Legislature as this bill) may be appropriated by
31 the agency for additional foreclosure prevention programs.

32
33 7. (New Section) a. The agency may make grants to eligible
34 applicants, including, but not limited to, non-profit housing
35 sponsors, municipalities or other governmental entities utilizing
36 funds provided by P.L. , c. (C.) (pending before the
37 Legislature as this bill) or otherwise made available to the agency.
38 Grants issued pursuant to this section shall be used to advance the
39 goals of the program, as established pursuant to section 4 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill).

41 b. The agency shall establish regulations, procedures or
42 guidelines governing the qualifications of applicants, the
43 application procedures and the criteria for awarding grants to such
44 eligible applicants and the standards for establishing the amount,
45 terms and conditions of each grant.

46
47 8. (New section) a. The agency is authorized to defend and
48 indemnify the federal government, any department, board, body,

1 agency or other entity thereof, the Government National Mortgage
2 Association and its successors and assigns, the Federal National
3 Mortgage Association and its successors and assigns, and the
4 Federal Home Loan Mortgage Corporation and its successors and
5 assigns, against claims, causes of action, demands, costs or
6 judgments against that entity arising as a direct result of that
7 entity's agreement with the agency, upon the terms and limitations
8 the agency deems reasonable and appropriate. An agreement to
9 defend and indemnify pursuant to this subsection shall not bar,
10 reduce, limit or affect any remedies the agency may have to enforce
11 the agency's agreement or to assert a claim for damages to which
12 the agency may be entitled arising out of the entity's failure to
13 perform the agreement, or for the recovery of funds expended for
14 the defense of an entity if the defense was undertaken in response to
15 a claim or cause of action brought against the entity which arose
16 from gross negligence, willful misconduct, fraud, intentional tort,
17 bad faith, or criminal conduct of the entity or one or more of its
18 officials or employees. No one other than an entity which is a party
19 to the agreement with the agency may enforce any agreement for
20 defense or indemnification between that entity and the agency.

21 b. The agency may create a reserve fund, procure insurance or
22 take other such appropriate action in order to meet its future
23 obligations, if any, created by such indemnification obligations.
24 Any agreement to indemnify pursuant to subsection a. may be made
25 only as necessary or appropriate to the exercise of any power herein
26 granted or reasonably implied, provided that: (1) such
27 indemnification shall be payable solely from the funds of the
28 agency on deposit in its General Fund or placed in a reserve fund
29 for that purpose; and (2) such indemnification shall not constitute a
30 debt, obligation or liability of the State, and the State shall not be
31 liable for any obligation as a result of the agency's indemnification
32 obligation.

33

34 9. N.J.S.2A:17-38 is amended to read as follows:

35 2A:17-38. a. When a sheriff or other officer makes a sale by
36 virtue of an execution or executions to **[him]** the sheriff or officer
37 directed, **[he]** the sheriff or officer shall, within 30 days thereafter,
38 make and file, with his bill of costs or execution fees, in the office
39 of the clerk of the court out of which the execution or executions
40 issued, a true statement and calculation, in order of time, of the
41 execution or executions by virtue of which the sale was made, the
42 amount or amounts due thereon, respectively, at the time of the
43 sale, the time or times of sale and the amount of the sales.

44 b. (1) When calculating the amount due thereon, as described in
45 subsection a. of this section, the sheriff or officer shall additionally
46 consider \$350 per sale to be utilized by the fund within the New
47 Jersey Housing and Mortgage Finance Agency established in

1 section 6 of P.L. , c. (C.) (pending before the Legislature as
2 this bill).

3 (2) The revenues obtained from these increased amounts, after
4 deduction of any actual administrative costs incurred by the sheriff
5 or officer in carrying out the provisions of this subsection, shall be
6 transmitted no later than the first day of each quarter by the sheriff
7 or officer to the fund with an accounting of collections and
8 foreclosure actions during the corresponding quarter.

9 c. The statement shall be certified under the hand of the officer
10 making and filing it, and shall be conclusive against the officer
11 only. If there be more sales than **[1] one**, the statement shall be
12 made and filed within 30 days after the final sale.

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

14

15 10. Section 7 of P.L.1983, c.530 (C.55:14K-7) is amended to
16 read as follows:

17 7. a. Loans made by the agency to finance housing projects
18 shall be subject to the following terms and conditions:

19 (1) The loan shall be for a period of time not in excess of 50
20 years as determined by the agency;

21 (2) The amount of the loan shall not exceed 90% of the total
22 project cost as determined by the agency, except that as to projects
23 to be owned, constructed, improved, rehabilitated, operated,
24 managed and maintained as mutual housing or by any corporation
25 or association organized not for profit which has as one of its
26 purposes the construction, improvement or rehabilitation of housing
27 projects, the amount of the loan shall not exceed 100% of the total
28 project cost as determined by the agency; but the agency may
29 make additional loans to a housing sponsor to which a loan by the
30 agency for the cost of a project is outstanding if and to the extent
31 that the agency finds that such additional loan is required to more
32 adequately secure and protect the project or to avoid a default by
33 the sponsor on the original loan for the cost of the project and is in
34 the best interest of the agency and the holders of its bonds issued to
35 finance the original loan for the cost of the project;

36 (3) The interest rate on the loan shall be established by the
37 agency at the lowest level consistent with the agency's cost of
38 operation and its responsibilities to the holders of its bonds;

39 (4) The loan shall be evidenced by a mortgage note or bond and
40 by a mortgage which shall be a first lien on the project and which
41 shall contain such terms and provisions and be in a form approved
42 by the agency. The agency shall require the qualified housing
43 sponsor receiving a loan or its contractor to post security in
44 amounts related to the project cost as established by regulation and
45 to execute such other assurances and guarantees as the agency may
46 deem necessary and may require its principals or stockholders to
47 also execute such other assurances and guarantees as the agency
48 may deem necessary;

1 (5) The loan shall be subject to an agreement between the
2 agency and the housing sponsor which will subject the housing
3 sponsor and its principals or stockholders to limitations established
4 by the agency as to rentals and other charges, builders' and
5 developers' profits and fees, and the disposition of its property and
6 franchises to the extent more restrictive limitations are not
7 provided by the law under which the borrower is incorporated or
8 organized;

9 (6) The loan shall be subject to an agreement between the
10 agency and the housing sponsor limiting the housing sponsor and its
11 principals or stockholders to such rate of return on its investment in
12 the housing project to be assisted with a loan from the agency as
13 shall be fixed from time to time by the agency in its regulations
14 which shall take into account the prevailing rates of return available
15 for similar investments and the risks associated with the
16 development of the project, together with factors designed to
17 promote the objectives of providing affordable housing,
18 encouraging investment in urban development areas, maintaining
19 and improving the existing housing stock, and other objectives of
20 this act; but agreements entered into by the predecessors of the
21 agency prior to the effective date of this act shall continue to be
22 subject to any restrictions on rate of return imposed by prior law
23 unless those restrictions are expressly modified pursuant to
24 regulations of the agency. No housing sponsor which is permitted
25 by the provisions of the law under which it is organized or
26 incorporated to earn a return on its investment, nor any of the
27 principals or stockholders of that housing sponsor, shall earn,
28 accept or receive a return on investment greater than the rate of
29 return fixed by the agency in any housing project assisted with a
30 loan from the agency, whether upon the completion of the
31 construction, improvement or rehabilitation of the project, or upon
32 the operation thereof, or upon the sale, assignment or lease of the
33 project to any other person, association or corporation. Any person,
34 association or corporation who violates the provisions of this
35 subsection is guilty of a crime of the fourth degree;

36 (7) No loan shall be executed except a loan made to a
37 corporation or association organized not for profit which has as one
38 of its purposes the development, construction, improvement or
39 rehabilitation of housing projects or for mutual housing unless the
40 housing sponsor agrees (a) to certify upon completion of project
41 construction, improvement or rehabilitation, subject to audit by the
42 agency, either that the actual project cost as defined herein
43 exceeded the amount of the loan proceeds by 10% or more, or the
44 amount by which the loan proceeds exceed 90% of the total project
45 cost, and (b) to pay forthwith to the agency, for application to
46 reduction of the principal of the loan, the amount, if any, of such
47 excess loan proceeds, subject to audit and determination by the
48 agency. No loan shall be made to a corporation or association

1 organized not for profit or for mutual housing unless the
2 corporation or association organized not for profit or for mutual
3 housing agrees to certify the actual project cost upon completion of
4 the project, subject to audit and determination by the agency, and
5 further agrees to pay forthwith to the agency, for application to
6 reduction of the principal of the loan, the amount, if any, by which
7 the proceeds of the loan exceed the certified project cost subject to
8 audit and determination by the agency. Notwithstanding the
9 provisions of this paragraph, the agency may accept, in lieu of any
10 certification of project cost as provided herein, such other
11 assurances of the project cost in any form or manner whatsoever, as
12 will enable the agency to determine with reasonable accuracy the
13 amount of the project cost;

14 (8) No loan shall be made for the construction, improvement or
15 rehabilitation of a housing project for which tax exemption is
16 granted by a municipality unless the tax exemption remains in
17 effect during the entire term of the loan, unless a lesser period of
18 tax exemption is approved by the agency; and

19 (9) The loan shall be subject to an agreement between the
20 agency and the qualified housing sponsor which contains a
21 provision stating the prevailing wage rate, as determined by either
22 the Commissioner of Labor and Industry or the Secretary of the
23 United States Department of Labor in accordance with the
24 provisions of section 42 of this act, which can be paid to the
25 workmen employed in the performance of any contract for the
26 construction or rehabilitation of any housing project, and which
27 stipulates that the qualified housing sponsor, or any builder,
28 contractor or subcontractor thereof, shall pay to such workmen not
29 less than the applicable prevailing wage rate pursuant to that
30 section.

31 b. As a condition of any loan to finance a housing project, the
32 agency shall have the power at all times during the construction,
33 improvement or rehabilitation of a housing project and the
34 operation thereof:

35 (1) To enter upon and inspect without prior notice any project,
36 including all parts thereof, for the purpose of investigating the
37 physical and financial condition thereof, and its construction,
38 improvement, rehabilitation, operation, management and
39 maintenance, and to examine all books and records with respect to
40 capitalization, income and other matters relating thereto and to
41 make such charges as may be required to cover the cost of such
42 inspections and examinations;

43 (2) To order such alterations, changes or repairs as may be
44 necessary to protect the security of its investment in a housing
45 project or the health, safety, and welfare of the occupants thereof;

46 (3) To order any managing agent, project manager or owner of a
47 housing project to do such acts as may be necessary to comply with
48 the provisions of all applicable laws or ordinances or any rule or

1 regulation of the agency or the terms of any agreement concerning
2 the project or to refrain from doing any acts in violation thereof and
3 in this regard the agency shall be a proper party to file a complaint
4 and to prosecute thereon for any violations of law or ordinances as
5 set forth herein;

6 (4) To require the adoption and continuous use of uniform
7 systems of accounts and records for a project and to require all
8 owners or managers of a project to file annual reports containing
9 that information and verified in such manner as the agency shall
10 require, and to file at the times and on the forms as it may
11 prescribe, reports and answers to specific inquiries required by the
12 agency to determine the extent of compliance with any agreement,
13 the terms of the loan, the provisions of this act and any other
14 applicable law;

15 (5) To enforce, by court action if necessary, the terms and
16 provisions of any agreement between the agency and the housing
17 sponsor and the terms of any agreement between the housing
18 sponsor and any municipality granting tax exemption, as to
19 schedules of rental or carrying charges, income limits as applied to
20 tenants or occupants, or any other limitation imposed upon the
21 housing sponsor as to financial structure, construction or operation
22 of the project;

23 (6) (a) Subject to the provisions of paragraph (7) of subsection
24 b. of this section, in the event of a violation by the housing sponsor
25 of the terms of any agreement between the agency and the housing
26 sponsor, or between the municipality granting tax exemption and
27 the housing sponsor, or in the event of a violation by the housing
28 sponsor of this act or of the terms of the loan agreement or of any
29 rules and regulations of the agency duly promulgated pursuant to
30 this act, or in the event that the agency shall determine that any loan
31 or advance from the Housing Development Fund pursuant to section
32 30 of this act is in jeopardy of not being repaid, the agency may,
33 without resort to any judicial process, assume all of the powers and
34 duties of the housing sponsor in the management and operation of
35 the project, including but not limited to the power to receive all
36 revenues and pay all expenses of the project and the power to
37 control all property, including bank accounts and cash, owned by
38 the housing sponsor. The agency may appoint such person or
39 persons whom the agency in its sole discretion deems advisable,
40 including officers or employees of the agency, to perform the
41 functions of the officers or other controlling persons of the housing
42 sponsor. Persons so appointed need not be stockholders or meet
43 other qualifications which may be prescribed by the certificate of
44 incorporation, bylaws or partnership agreement of the housing
45 sponsor. In the absence of fraud or bad faith, persons so appointed
46 shall not be personally liable for debts, obligations or liabilities of
47 the housing sponsor. Persons so appointed shall serve only for a
48 period coexistent with the duration of the violation or until the

1 agency is assured in a manner satisfactory to it that the violation, or
2 violations of a similar nature, will not recur. Persons so appointed
3 shall serve in such capacity without compensation, but shall be
4 entitled to be reimbursed, if and as the certificate of incorporation,
5 bylaws or partnership agreement of the housing sponsor may
6 provide, for all necessary expenses incurred in the discharge of their
7 duties as determined by the agency; and

8 (b) the provisions of section 18 of P.L. 1991, c. 431 (C.40A:20-
9 18) concerning housing projects in financial difficulty shall not
10 apply to housing projects financed by the agency; and

11 (7) The provisions of this subsection and this act pertaining to
12 the regulation of housing sponsors shall be for purposes of
13 protecting the collateral for any loan or loans; implementing or
14 enforcing any condition, requirement or criterion for loans as
15 provided in this act or other applicable law; and securing the rights
16 and remedies of lenders and bond holders to the extent of the
17 undertakings of the agency. Subject to the foregoing, the agency
18 shall permit, provide for and encourage the right of local housing
19 sponsors to exercise their own initiative and competence in the
20 administration of their assets and the conduct and operation of
21 housing projects and exercise their rights and responsibilities to the
22 fullest extent permitted by law. Therefore, the agency shall
23 exercise its remedies and powers under paragraph (6) of this
24 subsection only with regard to material violations and only after
25 reasonable notice and reasonable opportunity to correct the
26 violation is provided to the housing sponsor in accordance with
27 regulations adopted by the agency.

28 c. Notwithstanding any law, rule or regulation to the contrary,
29 the provisions of paragraphs (5) and (6) of subsection a. of this
30 section shall not be applicable to market rate units.

31 d. As used in this section, "market rate unit" means a housing
32 unit for which occupancy is not subject to limitations based on
33 tenant income.

34 (cf: P.L.1983, c. 530, s. 7)

35

36 11. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 This bill, to be known as the cited as the "New Jersey
42 Foreclosure Prevention Act," would establish the "New Jersey
43 Residential Foreclosure Prevention Program," within the New
44 Jersey Housing and Mortgage Finance Agency ("HMFA"). The
45 goal of the program would be to ensure that loss mitigation and
46 foreclosure prevention measures are taken on eligible properties.
47 Either directly, or through its contractors, the bill authorizes the
48 agency to purchase "eligible properties" and mortgage assets in

1 furtherance of this goal. The bill defines an “eligible property” as a
2 residential property or mortgage note owned by an institutional
3 lender as the result of a mortgage foreclosure judgment or a deed in
4 lieu of foreclosure, owned by a municipality as the result of a tax
5 foreclosure judgment, or that is subject to a nonperforming loan
6 from an institutional lender.

7 The bill authorizes HMFA to enter into contracts with any
8 person, corporation, or entity which the agency determines to be
9 necessary or appropriate to carry out its responsibilities under the
10 bill. In carrying out its duties, HMFA would be authorized to
11 employ the consulting services of real estate and loan portfolio asset
12 management firms, property management firms, auction marketing
13 firms, brokerage services firms, appraisers, and such other
14 consultants and employees required in HMFA’s judgment.

15 Within 180 days following the enactment of the bill, HMFA
16 would be required to adopt a funding plan for the program utilizing
17 the “Foreclosure Intervention Fund” established under the bill. The
18 agency would be authorized to directly fund the program through
19 revenue generated by the fund. The agency would have the
20 authority to alter its funding plan as the Executive Director of the
21 agency deems necessary. The funding plan would include, but not
22 be limited to, program revenue, expected expenditures and
23 projections for the acquisition of foreclosed residential properties or
24 mortgage assets.

25 The bill would authorize HMFA to enter into contracts or loans,
26 or both, with no more than two qualified community development
27 financial institutions to negotiate, bid for, and purchase eligible
28 properties and mortgage assets for the purpose facilitating the
29 program. In selecting contractors from among qualified community
30 development financial institutions, the bill would authorize HMFA
31 to accord a strong preference to qualified community development
32 financial institutions that have substantial experience in lending in
33 the State and substantial knowledge of the State’s real estate
34 markets. HMFA may enter into contracts or loans, or both, with a
35 partnership or consortia of organizations, as long as a qualified
36 community development financial institution is the lead entity, or a
37 partnership or consortia of multiple qualified community
38 development financial institutions.

39 Should HMFA contract with a community development financial
40 institution for the purposes of the bill, the contract would be
41 required to specify the amounts, schedules, and types of funding to
42 be provided to the qualified community development financial
43 institution, the repayment schedule for the portion of that funding to
44 be repaid, and targeted goals for homeowner interventions. HMFA
45 would be permitted to condition funding and goals upon the
46 availability of funds to the program. The contract would specify
47 reasonable administrative costs sufficient to enable the qualified
48 community development financial institution to exercise its

1 obligations under the bill. The contract would set forth criteria for
2 instances when the purchase, sale, lease, and conveyance of
3 properties furthers the purposes of the bill.

4 All purchases, sales, leases, and conveyances of property by
5 qualified community development financial institutions exercised
6 pursuant to this section would be deemed to lessen the burdens of
7 government in furthering the purposes of the bill.

8 The bill would establish a Foreclosure Intervention Fund
9 (“fund”) within HMFA, which would be a non-lapsing, revolving
10 fund and which would be the repository for funds appropriated or
11 otherwise made available for the purposes of the bill. HMFA would
12 be permitted to transfer into the fund any amounts held or received
13 that are needed for the purchase of eligible property. HMFA would
14 be permitted to use annually up to five percent of the monies
15 available in the fund for the payment of any necessary
16 administrative costs related to the program.

17 The bill would authorize a new \$350 fee to be collected at
18 sheriff’s sale. Revenue generated through the fee exceeding the
19 funding plan developed under the bill could be appropriated by
20 HMFA for additional foreclosure prevention programs.

21 The bill would authorize the agency to make grants to eligible
22 applicants, including, but not limited to, non-profit housing
23 sponsors, municipalities or other governmental entities utilizing
24 funds provided by the bill, or otherwise made available to HMFA.
25 HMFA would establish regulations, procedures or guidelines
26 governing the qualifications of applicants, the application
27 procedures and the criteria for awarding grants to such eligible
28 applicants and the standards for establishing the amount, terms and
29 conditions of each grant.

30 Under the bill, HMFA would be authorized to defend and
31 indemnify the federal government, any department, board, body,
32 agency or other entity thereof, and its successors and assigns,
33 against claims, causes of action, demands, costs or judgments
34 against that entity arising as a direct result of that entity’s
35 agreement with the agency, upon the terms and limitations the
36 agency deems reasonable and appropriate. The bill would authorize
37 HMFA to create a reserve fund, procure insurance or take other
38 such appropriate action in order to meet its future obligations, if
39 any, created by such indemnification obligations. Any agreement to
40 indemnify pursuant to the bill could be made only as necessary or
41 appropriate to the exercise of any power herein granted or
42 reasonably implied, provided that (1) such indemnification shall be
43 payable solely from the funds of the agency on deposit in its general
44 fund or placed in a reserve fund for that purpose; and (2) such
45 indemnification shall not constitute a debt, obligation or liability of
46 the State, and the State shall not be liable for any obligation as a
47 result of the agency’s indemnification obligation.

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14

1 Finally, the bill would limit the application of an existing law
2 that restricts the investment returns of housing sponsors that receive
3 loans from HMFA, such that the restriction would not apply to
4 loans issued with regard to market rate housing units.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5130

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 7, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5130, with committee amendments.

As amended, this bill, to be known and cited as the “New Jersey Foreclosure Prevention Act,” would establish the “New Jersey Residential Foreclosure Prevention Program,” within the New Jersey Housing and Mortgage Finance Agency (“HMFA”). The goal of the program would be to ensure that loss mitigation and foreclosure prevention measures are taken on eligible properties. Either directly, or through its contractors, the bill authorizes the agency to purchase “eligible properties” and mortgage assets in furtherance of this goal. The bill defines an “eligible property” as a residential property or mortgage note owned by an institutional lender as the result of a mortgage foreclosure judgment or a deed in lieu of foreclosure, owned by a municipality as the result of a tax foreclosure judgment, or that is subject to a nonperforming loan from an institutional lender.

The bill authorizes HMFA to enter into contracts with any person, corporation, or entity which the agency determines to be necessary or appropriate to carry out its responsibilities under the bill. In carrying out its duties, HMFA would be authorized to employ the consulting services of real estate and loan portfolio asset management firms, property management firms, auction marketing firms, brokerage services firms, appraisers, and such other consultants and employees required in HMFA’s judgment.

Within 180 days following the enactment of the bill, HMFA would be required to adopt a funding plan for the program utilizing the “Foreclosure Intervention Fund” established under the bill. The agency would be authorized to directly fund the program through revenue generated by the fund. The agency would have the authority to alter its funding plan as the Executive Director of the agency deems necessary. The funding plan would include, but not be limited to, program revenue, expected expenditures and projections for the acquisition of foreclosed residential properties or mortgage assets.

The bill would authorize HMFA to enter into contracts or loans, or both, with no more than two qualified community development financial institutions to negotiate, bid for, and purchase eligible properties and mortgage assets for the purpose facilitating the

program. In selecting contractors from among qualified community development financial institutions, the bill would authorize HMFA to accord a strong preference to qualified community development financial institutions that have substantial experience in lending in the State and substantial knowledge of the State's real estate markets. HMFA may enter into contracts or loans, or both, with a partnership or consortia of organizations, as long as a qualified community development financial institution is the lead entity, or a partnership or consortia of multiple qualified community development financial institutions.

Should HMFA contract with a community development financial institution for the purposes of the bill, the contract would be required to specify the amounts, schedules, and types of funding to be provided to the qualified community development financial institution, the repayment schedule for the portion of that funding to be repaid, and targeted goals for homeowner interventions. HMFA would be permitted to condition funding and goals upon the availability of funds to the program. The contract would specify reasonable administrative costs sufficient to enable the qualified community development financial institution to exercise its obligations under the bill. The contract would set forth criteria for instances when the purchase, sale, lease, and conveyance of properties furthers the purposes of the bill.

All purchases, sales, leases, and conveyances of property by qualified community development financial institutions exercised pursuant to this section would be deemed to lessen the burdens of government in furthering the purposes of the bill.

The bill would establish a Foreclosure Intervention Fund ("fund") within HMFA, which would be a non-lapsing, revolving fund and which would be the repository for funds appropriated or otherwise made available for the purposes of the bill. HMFA would be permitted to transfer into the fund any amounts held or received that are needed for the purchase of eligible property. HMFA would be permitted to use annually up to five percent of the monies available in the fund for the payment of any necessary administrative costs related to the program.

The bill would require a sheriff to collect a new \$350 fee to be collected at sheriff's sales. Revenue generated through the fee exceeding the funding plan developed under the bill could be appropriated by HMFA for additional foreclosure prevention programs.

The bill would authorize the agency to make grants to eligible applicants, including, but not limited to, non-profit housing sponsors, municipalities or other governmental entities utilizing funds provided by the bill, or otherwise made available to HMFA. HMFA would establish regulations, procedures or guidelines governing the qualifications of applicants, the application procedures and the criteria

for awarding grants to such eligible applicants and the standards for establishing the amount, terms and conditions of each grant.

Under the bill, HMFA would be authorized to defend and indemnify the federal government, any department, board, body, agency or other entity thereof, and its successors and assigns, against claims, causes of action, demands, costs or judgments against that entity arising as a direct result of that entity's agreement with the agency, upon the terms and limitations the agency deems reasonable and appropriate. The bill would authorize HMFA to create a reserve fund, procure insurance or take other such appropriate action in order to meet its future obligations, if any, created by such indemnification obligations. Any agreement to indemnify pursuant to the bill could be made only as necessary or appropriate to the exercise of any power herein granted or reasonably implied, provided that (1) such indemnification shall be payable solely from the funds of the agency on deposit in its general fund or placed in a reserve fund for that purpose; and (2) such indemnification shall not constitute a debt, obligation or liability of the State, and the State shall not be liable for any obligation as a result of the agency's indemnification obligation.

Finally, the bill would limit the application of an existing law that restricts the investment returns of housing sponsors that receive loans from HMFA, such that the restriction would not apply to loans issued with regard to market rate housing units.

COMMITTEE AMENDMENTS:

The committee amendments would clarify that the sheriff is required to collect a \$350 fee to be collected at sheriff's sales to fund the program.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate annual increases to New Jersey Housing and Mortgage Finance Agency (HMFA) expenditures and revenues, and a minimal impact on county finances.

The OLS estimates that the establishment of the New Jersey Residential Foreclosure Prevention Program will lead to an indeterminate increase in annual expenditures due to increased administrative costs for the HMFA.

The bill also requires a county sheriff or officer conducting sheriff's sale to charge a \$350 per sale amount to be directed to the "Foreclosure Intervention Fund" established under the bill. The OLS believes the \$350 fee will lead to an indeterminate increase in State revenues. The OLS is unable to locate precise data on how many sheriff's sales this would impact. Additional revenues for the HMFA could result from the repayment of loans to the agency by community development financial institutions.

The county sheriff or officer carrying out the sale would be responsible for collecting the \$350 fee and would deduct any actual administrative costs incurred prior to transmitting the monies collected to the fund. The OLS believes the annual impact to county finances would be minimal.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5130

STATE OF NEW JERSEY

DATED: JANUARY 14, 2021

The Senate Community and Urban Affairs Committee reports favorably Assembly Bill No. 5130 (1R).

This bill, to be known and cited as the “New Jersey Foreclosure Prevention Act,” would establish the “New Jersey Residential Foreclosure Prevention Program,” within the New Jersey Housing and Mortgage Finance Agency (“HMFA”). The goal of the program would be to ensure that loss mitigation and foreclosure prevention measures are taken on eligible properties. Either directly, or through its contractors, the bill authorizes the agency to purchase “eligible properties” and mortgage assets in furtherance of this goal. The bill defines an “eligible property” as a residential property or mortgage note owned by an institutional lender as the result of a mortgage foreclosure judgment or a deed in lieu of foreclosure, owned by a municipality as the result of a tax foreclosure judgment, or that is subject to a nonperforming loan from an institutional lender.

The bill authorizes HMFA to enter into contracts with any person, corporation, or entity which the agency determines to be necessary or appropriate to carry out its responsibilities under the bill. In carrying out its duties, HMFA would be authorized to employ the consulting services of real estate and loan portfolio asset management firms, property management firms, auction marketing firms, brokerage services firms, appraisers, and such other consultants and employees required in HMFA’s judgment.

Within 180 days following the enactment of the bill, HMFA would be required to adopt a funding plan for the program utilizing the “Foreclosure Intervention Fund” established under the bill. The agency would be authorized to directly fund the program through revenue generated by the fund. The agency would have the authority to alter its funding plan as the Executive Director of HMFA deems necessary. The funding plan would include, but not be limited to, program revenue, expected expenditures, and projections for the acquisition of foreclosed residential properties or mortgage assets.

The bill would authorize HMFA to enter into contracts or loans, or both, with no more than two qualified community development financial institutions to negotiate, bid for, and purchase eligible properties and mortgage assets for the purpose facilitating the

program. In selecting contractors from among qualified community development financial institutions, the bill would authorize HMFA to accord a strong preference to qualified community development financial institutions that have substantial experience in lending in the State and substantial knowledge of the State's real estate markets. HMFA may enter into contracts or loans, or both, with a partnership or consortia of organizations, as long as a qualified community development financial institution is the lead entity, or a partnership or consortia of multiple qualified community development financial institutions.

Should HMFA contract with a community development financial institution for the purposes of the bill, the contract would be required to specify the amounts, schedules, and types of funding to be provided to the qualified community development financial institution, the repayment schedule for the portion of that funding to be repaid, and targeted goals for homeowner interventions. HMFA would be permitted to condition funding and goals upon the availability of funds to the program. The contract would specify reasonable administrative costs sufficient to enable the qualified community development financial institution to exercise its obligations under the bill. The contract would set forth criteria for instances when the purchase, sale, lease, and conveyance of properties furthers the purposes of the bill.

All purchases, sales, leases, and conveyances of property by qualified community development financial institutions exercised pursuant to this bill would be deemed to lessen the burdens of government in furthering the purposes of the bill.

The bill would establish a Foreclosure Intervention Fund ("fund") within HMFA, which would be a non-lapsing, revolving fund and which would be the repository for funds appropriated or otherwise made available for the purposes of the bill. HMFA would be permitted to transfer into the fund any amounts held or received that are needed for the purchase of eligible property. HMFA would be permitted to use annually up to five percent of the monies available in the fund for the payment of any necessary administrative costs related to the program.

The bill would require a sheriff to collect a new \$350 fee to be collected at sheriff's sales. Revenue generated through the fee exceeding the funding plan developed under the bill could be appropriated by HMFA for additional foreclosure prevention programs.

The bill would authorize the agency to make grants to eligible applicants, including, but not limited to, non-profit housing sponsors, municipalities or other governmental entities utilizing funds provided by the bill, or otherwise made available to HMFA. HMFA would establish regulations, procedures or guidelines governing the qualifications of applicants, the application procedures and the criteria

for awarding grants to such eligible applicants and the standards for establishing the amount, terms and conditions of each grant.

Under the bill, HMFA would be authorized to defend and indemnify the federal government, any department, board, body, agency or other entity thereof, and its successors and assigns, against claims, causes of action, demands, costs or judgments against that entity arising as a direct result of that entity's agreement with the agency, upon the terms and limitations the agency deems reasonable and appropriate. The bill would authorize HMFA to create a reserve fund, procure insurance or take other such appropriate action in order to meet its future obligations, if any, created by such indemnification obligations. Any agreement to indemnify pursuant to the bill could be made only as necessary or appropriate to the exercise of any power herein granted or reasonably implied, provided that (1) such indemnification is payable solely from the funds of the agency on deposit in its general fund or placed in a reserve fund for that purpose; and (2) such indemnification does not constitute a debt, obligation or liability of the State, and the State is not be liable for any obligation as a result of the agency's indemnification obligation.

Finally, the bill would limit the application of an existing law that restricts the investment returns of housing sponsors that receive loans from HMFA, such that the restriction would not apply to loans issued with regard to market rate housing units.

As reported by the committee, this bill is identical to Senate Bill No. 3244, as amended, which was also reported by the committee on this date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5130

STATE OF NEW JERSEY

DATED: FEBRUARY 11, 2021

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 5130 (1R).

This bill, to be known and cited as the “New Jersey Foreclosure Prevention Act,” would establish the “New Jersey Residential Foreclosure Prevention Program,” within the New Jersey Housing and Mortgage Finance Agency (“HMFA”). The goal of the program would be to ensure that loss mitigation and foreclosure prevention measures are taken on eligible properties. Either directly, or through its contractors, the bill authorizes the agency to purchase “eligible properties” and mortgage assets in furtherance of this goal. The bill defines an “eligible property” as a residential property or mortgage note owned by an institutional lender as the result of a mortgage foreclosure judgment or a deed in lieu of foreclosure, owned by a municipality as the result of a tax foreclosure judgment, or that is subject to a nonperforming loan from an institutional lender.

The bill authorizes HMFA to enter into contracts with any person, corporation, or entity which the agency determines to be necessary or appropriate to carry out its responsibilities under the bill. In carrying out its duties, HMFA would be authorized to employ the consulting services of real estate and loan portfolio asset management firms, property management firms, auction marketing firms, brokerage services firms, appraisers, and such other consultants and employees required in HMFA’s judgment.

Within 180 days following the enactment of the bill, HMFA would be required to adopt a funding plan for the program utilizing the “Foreclosure Intervention Fund” established under the bill. The agency would be authorized to directly fund the program through revenue generated by the fund. The agency would have the authority to alter its funding plan as the Executive Director of the agency deems necessary. The funding plan would include, but not be limited to, program revenue, expected expenditures and projections for the acquisition of foreclosed residential properties or mortgage assets.

The bill would authorize HMFA to enter into contracts or loans, or both, with no more than two qualified community development financial institutions to negotiate, bid for, and purchase eligible properties and mortgage assets for the purpose facilitating the

program. In selecting contractors from among qualified community development financial institutions, the bill would authorize HMFA to accord a strong preference to qualified community development financial institutions that have substantial experience in lending in the State and substantial knowledge of the State's real estate markets. HMFA may enter into contracts or loans, or both, with a partnership or consortia of organizations, as long as a qualified community development financial institution is the lead entity, or a partnership or consortia of multiple qualified community development financial institutions.

Should HMFA contract with a community development financial institution for the purposes of the bill, the contract would be required to specify the amounts, schedules, and types of funding to be provided to the qualified community development financial institution, the repayment schedule for the portion of that funding to be repaid, and targeted goals for homeowner interventions. HMFA would be permitted to condition funding and goals upon the availability of funds to the program. The contract would specify reasonable administrative costs sufficient to enable the qualified community development financial institution to exercise its obligations under the bill. The contract would set forth criteria for instances when the purchase, sale, lease, and conveyance of properties furthers the purposes of the bill.

All purchases, sales, leases, and conveyances of property by qualified community development financial institutions exercised pursuant to this section would be deemed to lessen the burdens of government in furthering the purposes of the bill.

The bill would establish a Foreclosure Intervention Fund ("fund") within HMFA, which would be a non-lapsing, revolving fund and which would be the repository for funds appropriated or otherwise made available for the purposes of the bill. HMFA would be permitted to transfer into the fund any amounts held or received that are needed for the purchase of eligible property. HMFA would be permitted to use annually up to five percent of the monies available in the fund for the payment of any necessary administrative costs related to the program.

The bill would require a sheriff to collect a new \$350 fee to be collected at sheriff's sales. Revenue generated through the fee exceeding the funding plan developed under the bill could be appropriated by HMFA for additional foreclosure prevention programs.

The bill would authorize the agency to make grants to eligible applicants, including, but not limited to, non-profit housing sponsors, municipalities or other governmental entities utilizing funds provided by the bill, or otherwise made available to HMFA. HMFA would establish regulations, procedures or guidelines governing the qualifications of applicants, the application procedures and the criteria

for awarding grants to such eligible applicants and the standards for establishing the amount, terms and conditions of each grant.

Under the bill, HMFA would be authorized to defend and indemnify the federal government, any department, board, body, agency or other entity thereof, and its successors and assigns, against claims, causes of action, demands, costs or judgments against that entity arising as a direct result of that entity's agreement with the agency, upon the terms and limitations the agency deems reasonable and appropriate. The bill would authorize HMFA to create a reserve fund, procure insurance or take other such appropriate action in order to meet its future obligations, if any, created by such indemnification obligations. Any agreement to indemnify pursuant to the bill could be made only as necessary or appropriate to the exercise of any power herein granted or reasonably implied, provided that (1) such indemnification shall be payable solely from the funds of the agency on deposit in its general fund or placed in a reserve fund for that purpose; and (2) such indemnification shall not constitute a debt, obligation or liability of the State, and the State shall not be liable for any obligation as a result of the agency's indemnification obligation.

Finally, the bill would limit the application of an existing law that restricts the investment returns of housing sponsors that receive loans from HMFA, such that the restriction would not apply to loans issued with regard to market rate housing units.

As reported, this bill is identical to Senate Bill No. 3244 (1R), as also reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate annual increases to New Jersey Housing and Mortgage Finance Agency (HMFA) expenditures and revenues, and a minimal impact on county finances.

The OLS estimates that the establishment of the New Jersey Residential Foreclosure Prevention Program will lead to an indeterminate increase in annual expenditures due to increased administrative costs for the HMFA. The HMFA could incur additional expenditures from potentially defending and indemnifying the federal government for financial impacts arising as a direct result of a community development financial institution's agreements with the HMFA.

The bill also requires a county sheriff or officer conducting a sheriff's sale to charge a \$350 per sale amount to be directed to the Foreclosure Intervention Fund established under the bill. The OLS believes the \$350 fee will lead to an indeterminate increase in State revenues. The OLS is unable to locate precise data on how many sheriff's sales this would impact. The HMFA could realize additional revenues from the repayment of loans to the agency by community development financial institutions.

The county sheriff or officer carrying out the sale would be responsible for collecting the \$350 fee and would deduct any actual administrative costs incurred prior to transmitting the monies collected to the fund. The OLS believes the annual impact to county finances would be minimal.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5130

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JANUARY 13, 2021

SUMMARY

- Synopsis:** Establishes "New Jersey Foreclosure Prevention Act."
- Type of Impact:** Annual New Jersey Housing and Mortgage Finance Agency expenditure and revenue increases; minimal impact to counties.
- Agencies Affected:** New Jersey Housing and Mortgage Finance Agency, counties.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
NJ Housing and Mortgage Finance Agency Expenditure Increase	Indeterminate
NJ Housing and Mortgage Finance Agency Revenue Increase	Indeterminate
County Finances Impact	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate annual increases to New Jersey Housing and Mortgage Finance Agency (HMFA) expenditures and revenues, and a minimal impact on county finances.
- The OLS estimates that the establishment of the New Jersey Residential Foreclosure Prevention Program will lead to an indeterminate increase in annual expenditures due to increased administrative costs for the HMFA. The HMFA could incur additional expenditures from potentially defending and indemnifying the federal government for financial impacts arising as a direct result of a community development financial institution's agreements with the HMFA.
- The bill also requires a county sheriff or officer conducting a sheriff's sale to charge a \$350 per sale amount to be directed to the Foreclosure Intervention Fund established under the bill. The OLS believes the \$350 fee will lead to an indeterminate increase in State revenues. The OLS is unable to locate precise data on how many sheriff's sales this would impact. The HMFA could realize additional revenues from the repayment of loans to the agency by community development financial institutions.

- The county sheriff or officer carrying out the sale would be responsible for collecting the \$350 fee and would deduct any actual administrative costs incurred prior to transmitting the monies collected to the fund. The OLS believes the annual impact to county finances would be minimal.

BILL DESCRIPTION

This bill would establish the New Jersey Residential Foreclosure Prevention Program within the HMFA. The goal of the program would be to ensure that loss mitigation and foreclosure prevention measures are taken on eligible properties. Either directly, or through its contractors, the bill authorizes the agency to purchase eligible properties and mortgage assets in furtherance of this goal.

The bill authorizes HMFA to enter into contracts with any person, corporation, or entity which the agency determines to be necessary or appropriate to carry out its responsibilities under the bill. In carrying out its duties, HMFA would be authorized to employ the consulting services of real estate and loan portfolio asset management firms, property management firms, auction marketing firms, brokerage services firms, appraisers, and such other consultants and employees required in HMFA's judgment.

Within 180 days following the enactment of the bill, HMFA would be required to adopt a funding plan for the program utilizing the "Foreclosure Intervention Fund" established under the bill. The agency would be authorized to directly fund the program through revenue generated by the fund. The agency would have the authority to alter its funding plan as the Executive Director of the agency deems necessary. The funding plan would include, but not be limited to, program revenue, expected expenditures and projections for the acquisition of foreclosed residential properties or mortgage assets.

The bill would authorize HMFA to enter into contracts or loans, or both, with no more than two qualified community development financial institutions to negotiate, bid for, and purchase eligible properties and mortgage assets for the purpose facilitating the program. In selecting contractors from among qualified community development financial institutions, the bill would authorize HMFA to accord a strong preference to qualified community development financial institutions that have substantial experience in lending in the State and substantial knowledge of the State's real estate markets.

Should HMFA contract with a community development financial institution for the purposes of the bill, the contract would be required to specify the amounts, schedules, and types of funding to be provided to the qualified community development financial institution, the repayment schedule for the portion of that funding to be repaid, and targeted goals for homeowner interventions. The HMFA would be permitted to condition funding and goals upon the availability of funds to the program. The contract would specify reasonable administrative costs sufficient to enable the qualified community development financial institution to exercise its obligations under the bill.

The bill would establish a Foreclosure Intervention Fund within HMFA, which would be a non-lapsing, revolving fund and which would be the repository for funds appropriated or otherwise made available for the purposes of the bill. The HMFA would be permitted to transfer into the fund any amounts held or received that are needed for the purchase of eligible property. The HMFA would be permitted to use annually up to five percent of the monies available in the fund for the payment of any necessary administrative costs related to the program.

The bill would require a new \$350 fee to be collected at sheriff's sale. Revenue generated through the fee exceeding the funding plan developed under the bill could be appropriated by HMFA for additional foreclosure prevention programs.

The bill would authorize the agency to make grants to eligible applicants, including, but not limited to, non-profit housing sponsors, municipalities or other governmental entities utilizing funds provided by the bill, or otherwise made available to HMFA. The HMFA would establish regulations, procedures or guidelines governing the qualifications of applicants, the application procedures and the criteria for awarding grants to such eligible applicants and the standards for establishing the amount, terms and conditions of each grant.

Under the bill, HMFA would be authorized to defend and indemnify the federal government, any department, board, body, agency or other entity thereof, and its successors and assigns, against claims, causes of action, demands, costs or judgments against that entity arising as a direct result of that entity's agreement with the agency, upon the terms and limitations the agency deems reasonable and appropriate. The bill would authorize HMFA to create a reserve fund, procure insurance or take other such appropriate action in order to meet its future obligations, if any, created by such indemnification obligations. Any agreement to indemnify pursuant to the bill could be made only as necessary or appropriate to the exercise of any power granted in the bill or reasonably implied, provided that (1) such indemnification shall be payable solely from the funds of the agency on deposit in its general fund or placed in a reserve fund for that purpose; and (2) such indemnification shall not constitute a debt, obligation or liability of the State, and the State shall not be liable for any obligation as a result of the agency's indemnification obligation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in indeterminate annual increases to HMFA expenditures and revenues, and a minimal impact on county finances.

The OLS estimates that the establishment of the New Jersey Residential Foreclosure Prevention Program will lead to an indeterminate increase in annual expenditures due to increased administrative costs for the HMFA. The HMFA could incur additional expenditures from potentially defending and indemnifying the federal government for financial impacts arising as a direct result of a community development financial institution's agreements with the HMFA.

The bill also requires a county sheriff or officer conducting a sheriff's sale to charge a \$350 per sale amount to be directed to the Foreclosure Intervention Fund established under the bill. The OLS believes the \$350 fee will lead to an indeterminate increase in State revenues. The OLS is unable to locate precise data on how many sheriff's sales this would impact.

Furthermore, Executive Order No. 106 (2020) instituted a moratorium on removing individuals from residential properties through the eviction and foreclosure processes. This moratorium remains in effect for no longer than two months following the end of the Public Health Emergency or State of Emergency established by Executive Order No. 103 (2020), whichever ends later. The OLS projects revenues from the \$350 per sheriff's sale fee to not develop until the expiration of Executive Order No. 106.

The HMFA could realize additional revenues from the repayment of loans to the agency by community development financial institutions.

If authorized, the county sheriff or officer carrying out the sale would be responsible for collecting the \$350 fee and would deduct any actual administrative costs incurred prior to transmitting the monies collected to the fund. The OLS believes the annual impact to county finances would be minimal.

Section: Local Government

*Analyst: Benjamin A. Levy
Assistant Fiscal Analyst*

*Approved: Thomas Koenig
Assistant Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 3244

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Establishes “New Jersey Foreclosure Prevention Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the mitigation of loss on distressed and
2 foreclosed properties, supplementing and amending Title 55 of
3 the Revised Statutes, and amending Title 2A of the New Jersey
4 Statutes.

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

8
9 1. (New section) This act shall be known and may be cited as
10 the "New Jersey Foreclosure Prevention Act."

11
12 2. (New section) The Legislature finds and declares that:

13 a. New Jersey experienced heightened foreclosure rates during
14 the Great Recession beginning in 2008 and continuing for the
15 ensuing decade, only returning to pre-recession rates of foreclosure
16 in 2019.

17 b. New Jersey is currently suffering through the COVID-19
18 pandemic, with more than 1.6 million New Jersey residents seeking
19 unemployment benefits due to job loss, furlough, or hour
20 reductions.

21 c. Homeowners in New Jersey have suffered enormous
22 negative economic impacts due to the COVID-19 pandemic,
23 resulting in increased housing insecurity. During each month from
24 April 2020 through August 2020, the number of New Jersey
25 households that deferred or did not pay their mortgages exceeded
26 160,000;

27 d. Given New Jersey's susceptibility to prolonged periods of
28 elevated rates of foreclosure, as evidenced by the long-term impact
29 of the Great Recession, the Legislature hereby determines and
30 declares that there is a need to provide alternative foreclosure
31 mitigation measures.

32
33 3. (New section) As used in P.L. , c. (C.) (pending
34 before the Legislature as this bill):

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

38 "Community development corporation" means a nonprofit
39 community development corporation established pursuant to Title
40 15 or 15A of the Revised Statutes of New Jersey, or other law of
41 this State, with a focus on producing and operating affordable
42 housing or housing with on-site social services for individuals with
43 special needs.

44 "Community development financial institution" means an entity
45 designated and certified by the United States Department of the

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 Treasury as a Community Development Financial Institution
2 pursuant to 12 CFR Part 1805.

3 “Contractor” means a qualified community development
4 financial institution that enters into a contract or loan with the
5 agency pursuant to section 5 of P.L.1983, c.530 (C.55:14K-5).

6 “Eligible property” means any residential property or mortgage
7 note that is owned by an institutional lender as the result of a
8 mortgage foreclosure judgment or a deed in lieu of foreclosure, is
9 by a municipality as the result of a tax foreclosure judgment or is
10 subject to a nonperforming loan from an institutional lender.

11 “Fund” means the Foreclosure Intervention Fund, established
12 pursuant to section 4 of P.L. , c. (C.) (pending before the
13 Legislature as this bill).

14 “Institutional lender” or “lender” means any lawfully constituted
15 mortgage lender, mortgage investor, or mortgage loan servicer that
16 owns an eligible property, including, but not limited to, any agency
17 or instrumentality of the United States or the State, including, but
18 not limited to, the Government National Mortgage Association, the
19 Federal Home Loan Mortgage Corporation, the Federal National
20 Mortgage Association, the Federal Housing Administration, the
21 Small Business Administration, the Resolution Funding
22 Corporation, and the Federal Deposit Insurance Corporation.

23 “Intercreditor agreement” means an agreement among creditors
24 that sets forth the various lien positions and the rights and liabilities
25 of each creditor and its impacts on the other creditors.

26 “Program” means the “New Jersey Residential Foreclosure
27 Prevention Program” established pursuant to section 4 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill).

29 “Qualified community development financial institution” means
30 a community development financial institution that has a minimum
31 of \$50,000,000 in assets and a minimum of two years' experience in
32 the financing and acquisition of real estate for affordable housing.

33

34 4. (New section) a. There is established in the agency the
35 “New Jersey Residential Foreclosure Prevention Program,” which
36 shall be subject to the powers of the agency, as designated pursuant
37 to section 5 of P.L.1983, c.530 (C.55:14K-5). The goal of the
38 program is to ensure that loss mitigation and foreclosure prevention
39 measures are taken on eligible properties. Either directly, or
40 through its contractors, the agency may purchase eligible properties
41 and mortgage assets in furtherance of this goal, pursuant to section
42 5 of P.L. , c. (C.) (pending before the Legislature as this
43 bill).

44 b. The agency in furtherance of the program may enter into
45 contracts with any person, corporation, or entity which the agency
46 determines to be necessary or appropriate to carry out its
47 responsibilities under P.L. , c. (C.) (pending before the
48 Legislature as this bill). Such contracts shall be subject to the

1 procedures adopted pursuant to section 5 of P.L. , c. (C.)
2 (pending before the Legislature as this bill). All contracts entered
3 into in furtherance of the program shall be governed by the laws of
4 the State and shall provide for indemnification of the agency.

5 c. In carrying out the agency's duties under P.L. ,
6 c. (C.) (pending before the Legislature as this bill), the
7 agency may employ the consulting services of real estate and loan
8 portfolio asset management firms, property management firms,
9 auction marketing firms, brokerage services firms, appraisers, and
10 such other consultants and employees required in the judgment of
11 the agency, notwithstanding the provisions of Title 11A of the New
12 Jersey Statutes.

13 d. Within 180 days following the enactment of P.L. ,
14 c. (C.) (pending before the Legislature as this bill), the
15 agency shall adopt a funding plan for the program utilizing the
16 "Foreclosure Intervention Fund" established pursuant to section 6
17 of P.L. , c. (C.) (pending before the Legislature as this bill).
18 The agency may directly fund the program through revenue
19 generated by the fund. The agency shall have the authority to alter
20 its funding plan as the Executive Director of the agency deems
21 necessary. The funding plan shall include, but not be limited to,
22 program revenue, expected expenditures and projections for the
23 acquisition of foreclosed residential properties or mortgage assets.
24

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

39 (2) Should the agency contract with a community development
40 financial institution for the purposes of P.L. , c. (C.)
41 (pending before the Legislature as this bill), the contract shall
42 specify the amounts, schedules, and types of funding to be provided
43 by the agency to the qualified community development financial
44 institution, the repayment schedule for the portion of that funding to
45 be repaid, and targeted goals for homeowner interventions. The
46 agency may condition funding and goals upon the availability of
47 funds to the program. The contract shall specify reasonable
48 administrative costs sufficient to enable the qualified community

1 development financial institution to exercise its obligations
2 pursuant to P.L. , c. (C.) (pending before the Legislature as
3 this bill). The contract shall set forth criteria for instances when the
4 purchase, sale, lease, and conveyance of properties furthers the
5 purposes of P.L. , c. (C.) (pending before the Legislature as
6 this bill).

7 b. All purchases, sales, leases, and conveyances of property by
8 qualified community development financial institutions exercised
9 pursuant to this section shall be deemed to lessen the burdens of
10 government in furthering the purposes of P.L. , c. (C.)
11 (pending before the Legislature as this bill).

12

13 6. (New section) a. There is established within the agency a
14 Foreclosure Intervention Fund, which shall be a non-lapsing,
15 revolving fund and which shall be the repository for funds
16 appropriated or otherwise made available for the purposes of
17 P.L. , c. (C.) (pending before the Legislature as this bill),
18 and any interest earned thereon. The fund shall be administered by
19 the agency, in accordance with its authority under section 5 of
20 P.L.1983, c.530 (C.55:14K-5) to manage funds for housing
21 programs.

22 b. The agency may transfer into the fund any amounts held or
23 received by the agency that are needed by the agency or its
24 contractors for the purchase of eligible property.

25 c. The agency may use annually up to five percent of the
26 monies available in the fund for the payment of any necessary
27 administrative costs related to the administration of the program.

28 d. Revenue generated through the mechanisms established
29 pursuant to N.J.S.2A:17-38 exceeding the funding plan developed
30 pursuant to subsection d. of section 4 of P.L. , c. (C.)
31 (pending before the Legislature as this bill) may be appropriated by
32 the agency for additional foreclosure prevention programs.

33

34 7. (New Section) a. The agency may make grants to eligible
35 applicants, including, but not limited to, non-profit housing
36 sponsors, municipalities or other governmental entities utilizing
37 funds provided by P.L. , c. (C.) (pending before the
38 Legislature as this bill) or otherwise made available to the agency.
39 Grants issued pursuant to this section shall be used to advance the
40 goals of the program, as established pursuant to section 4 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill).

42 b. The agency shall establish regulations, procedures or
43 guidelines governing the qualifications of applicants, the
44 application procedures and the criteria for awarding grants to such
45 eligible applicants and the standards for establishing the amount,
46 terms and conditions of each grant.

1 8. (New section) a. The agency is authorized to defend and
2 indemnify the federal government, any department, board, body,
3 agency or other entity thereof, the Government National Mortgage
4 Association and its successors and assigns, the Federal National
5 Mortgage Association and its successors and assigns, and the
6 Federal Home Loan Mortgage Corporation and its successors and
7 assigns, against claims, causes of action, demands, costs or
8 judgments against that entity arising as a direct result of that
9 entity's agreement with the agency, upon the terms and limitations
10 the agency deems reasonable and appropriate. An agreement to
11 defend and indemnify pursuant to this subsection shall not bar,
12 reduce, limit or affect any remedies the agency may have to enforce
13 the agency's agreement or to assert a claim for damages to which
14 the agency may be entitled arising out of the entity's failure to
15 perform the agreement, or for the recovery of funds expended for
16 the defense of an entity if the defense was undertaken in response to
17 a claim or cause of action brought against the entity which arose
18 from gross negligence, willful misconduct, fraud, intentional tort,
19 bad faith, or criminal conduct of the entity or one or more of its
20 officials or employees. No one other than an entity which is a party
21 to the agreement with the agency may enforce any agreement for
22 defense or indemnification between that entity and the agency.

23 b. The agency may create a reserve fund, procure insurance or
24 take other such appropriate action in order to meet its future
25 obligations, if any, created by such indemnification obligations.
26 Any agreement to indemnify pursuant to subsection a. may be made
27 only as necessary or appropriate to the exercise of any power herein
28 granted or reasonably implied, provided that: (1) such
29 indemnification shall be payable solely from the funds of the
30 agency on deposit in its General Fund or placed in a reserve fund
31 for that purpose; and (2) such indemnification shall not constitute a
32 debt, obligation or liability of the State, and the State shall not be
33 liable for any obligation as a result of the agency's indemnification
34 obligation.

35
36 9. N.J.S.2A:17-38 is amended to read as follows:

37 2A:17-38. a. When a sheriff or other officer makes a sale by
38 virtue of an execution or executions to **【him】** the sheriff or officer
39 directed, **【he】** the sheriff or officer shall, within 30 days thereafter,
40 make and file, with his bill of costs or execution fees, in the office
41 of the clerk of the court out of which the execution or executions
42 issued, a true statement and calculation, in order of time, of the
43 execution or executions by virtue of which the sale was made, the
44 amount or amounts due thereon, respectively, at the time of the
45 sale, the time or times of sale and the amount of the sales.

46 b. (1) When calculating the amount due thereon, as described in
47 subsection a. of this section, the sheriff or officer shall additionally
48 consider \$350 per sale to be utilized by the fund within the New

1 Jersey Housing and Mortgage Finance Agency established in
2 section 6 of P.L. , c. (C.) (pending before the Legislature as
3 this bill).

4 (2) The revenues obtained from these increased amounts, after
5 deduction of any actual administrative costs incurred by the sheriff
6 or officer in carrying out the provisions of this subsection, shall be
7 transmitted no later than the first day of each quarter by the sheriff
8 or officer to the fund with an accounting of collections and
9 foreclosure actions during the corresponding quarter.

10 c. The statement shall be certified under the hand of the officer
11 making and filing it, and shall be conclusive against the officer
12 only. If there be more sales than **[1]** one, the statement shall be
13 made and filed within 30 days after the final sale.

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

15

16 10. Section 7 of P.L.1983, c.530 (C.55:14K-7) is amended to
17 read as follows:

18 7. a. Loans made by the agency to finance housing projects
19 shall be subject to the following terms and conditions:

20 (1) The loan shall be for a period of time not in excess of 50
21 years as determined by the agency;

22 (2) The amount of the loan shall not exceed 90% of the total
23 project cost as determined by the agency, except that as to projects
24 to be owned, constructed, improved, rehabilitated, operated,
25 managed and maintained as mutual housing or by any corporation
26 or association organized not for profit which has as one of its
27 purposes the construction, improvement or rehabilitation of housing
28 projects, the amount of the loan shall not exceed 100% of the total
29 project cost as determined by the agency; but the agency may
30 make additional loans to a housing sponsor to which a loan by the
31 agency for the cost of a project is outstanding if and to the extent
32 that the agency finds that such additional loan is required to more
33 adequately secure and protect the project or to avoid a default by
34 the sponsor on the original loan for the cost of the project and is in
35 the best interest of the agency and the holders of its bonds issued to
36 finance the original loan for the cost of the project;

37 (3) The interest rate on the loan shall be established by the
38 agency at the lowest level consistent with the agency's cost of
39 operation and its responsibilities to the holders of its bonds;

40 (4) The loan shall be evidenced by a mortgage note or bond and
41 by a mortgage which shall be a first lien on the project and which
42 shall contain such terms and provisions and be in a form approved
43 by the agency. The agency shall require the qualified housing
44 sponsor receiving a loan or its contractor to post security in
45 amounts related to the project cost as established by regulation and
46 to execute such other assurances and guarantees as the agency may
47 deem necessary and may require its principals or stockholders to

1 also execute such other assurances and guarantees as the agency
2 may deem necessary;

3 (5) The loan shall be subject to an agreement between the agency
4 and the housing sponsor which will subject the housing sponsor and
5 its principals or stockholders to limitations established by the
6 agency as to rentals and other charges, builders' and developers'
7 profits and fees, and the disposition of its property and franchises
8 to the extent more restrictive limitations are not provided by the
9 law under which the borrower is incorporated or organized;

10 (6) The loan shall be subject to an agreement between the agency
11 and the housing sponsor limiting the housing sponsor and its
12 principals or stockholders to such rate of return on its investment in
13 the housing project to be assisted with a loan from the agency as
14 shall be fixed from time to time by the agency in its regulations
15 which shall take into account the prevailing rates of return available
16 for similar investments and the risks associated with the
17 development of the project, together with factors designed to
18 promote the objectives of providing affordable housing,
19 encouraging investment in urban development areas, maintaining
20 and improving the existing housing stock, and other objectives of
21 this act; but agreements entered into by the predecessors of the
22 agency prior to the effective date of this act shall continue to be
23 subject to any restrictions on rate of return imposed by prior law
24 unless those restrictions are expressly modified pursuant to
25 regulations of the agency. No housing sponsor which is permitted
26 by the provisions of the law under which it is organized or
27 incorporated to earn a return on its investment, nor any of the
28 principals or stockholders of that housing sponsor, shall earn,
29 accept or receive a return on investment greater than the rate of
30 return fixed by the agency in any housing project assisted with a
31 loan from the agency, whether upon the completion of the
32 construction, improvement or rehabilitation of the project, or upon
33 the operation thereof, or upon the sale, assignment or lease of the
34 project to any other person, association or corporation. Any person,
35 association or corporation who violates the provisions of this
36 subsection is guilty of a crime of the fourth degree;

37 (7) No loan shall be executed except a loan made to a
38 corporation or association organized not for profit which has as one
39 of its purposes the development, construction, improvement or
40 rehabilitation of housing projects or for mutual housing unless the
41 housing sponsor agrees (a) to certify upon completion of project
42 construction, improvement or rehabilitation, subject to audit by the
43 agency, either that the actual project cost as defined herein
44 exceeded the amount of the loan proceeds by 10% or more, or the
45 amount by which the loan proceeds exceed 90% of the total project
46 cost, and (b) to pay forthwith to the agency, for application to
47 reduction of the principal of the loan, the amount, if any, of such
48 excess loan proceeds, subject to audit and determination by the

1 agency. No loan shall be made to a corporation or association
2 organized not for profit or for mutual housing unless the
3 corporation or association organized not for profit or for mutual
4 housing agrees to certify the actual project cost upon completion of
5 the project, subject to audit and determination by the agency, and
6 further agrees to pay forthwith to the agency, for application to
7 reduction of the principal of the loan, the amount, if any, by which
8 the proceeds of the loan exceed the certified project cost subject to
9 audit and determination by the agency. Notwithstanding the
10 provisions of this paragraph, the agency may accept, in lieu of any
11 certification of project cost as provided herein, such other
12 assurances of the project cost in any form or manner whatsoever, as
13 will enable the agency to determine with reasonable accuracy the
14 amount of the project cost;

15 (8) No loan shall be made for the construction, improvement or
16 rehabilitation of a housing project for which tax exemption is
17 granted by a municipality unless the tax exemption remains in
18 effect during the entire term of the loan, unless a lesser period of
19 tax exemption is approved by the agency; and

20 (9) The loan shall be subject to an agreement between the agency
21 and the qualified housing sponsor which contains a provision
22 stating the prevailing wage rate, as determined by either the
23 Commissioner of Labor and Industry or the Secretary of the United
24 States Department of Labor in accordance with the provisions of
25 section 42 of this act, which can be paid to the workmen employed
26 in the performance of any contract for the construction or
27 rehabilitation of any housing project, and which stipulates that the
28 qualified housing sponsor, or any builder, contractor or
29 subcontractor thereof, shall pay to such workmen not less than the
30 applicable prevailing wage rate pursuant to that section.

31 b. As a condition of any loan to finance a housing project, the
32 agency shall have the power at all times during the construction,
33 improvement or rehabilitation of a housing project and the
34 operation thereof:

35 (1) To enter upon and inspect without prior notice any project,
36 including all parts thereof, for the purpose of investigating the
37 physical and financial condition thereof, and its construction,
38 improvement, rehabilitation, operation, management and
39 maintenance, and to examine all books and records with respect to
40 capitalization, income and other matters relating thereto and to
41 make such charges as may be required to cover the cost of such
42 inspections and examinations;

43 (2) To order such alterations, changes or repairs as may be
44 necessary to protect the security of its investment in a housing
45 project or the health, safety, and welfare of the occupants thereof;

46 (3) To order any managing agent, project manager or owner of a
47 housing project to do such acts as may be necessary to comply with
48 the provisions of all applicable laws or ordinances or any rule or

1 regulation of the agency or the terms of any agreement concerning
2 the project or to refrain from doing any acts in violation thereof and
3 in this regard the agency shall be a proper party to file a complaint
4 and to prosecute thereon for any violations of law or ordinances as
5 set forth herein;

6 (4) To require the adoption and continuous use of uniform
7 systems of accounts and records for a project and to require all
8 owners or managers of a project to file annual reports containing
9 that information and verified in such manner as the agency shall
10 require, and to file at the times and on the forms as it may
11 prescribe, reports and answers to specific inquiries required by the
12 agency to determine the extent of compliance with any agreement,
13 the terms of the loan, the provisions of this act and any other
14 applicable law;

15 (5) To enforce, by court action if necessary, the terms and
16 provisions of any agreement between the agency and the housing
17 sponsor and the terms of any agreement between the housing
18 sponsor and any municipality granting tax exemption, as to
19 schedules of rental or carrying charges, income limits as applied to
20 tenants or occupants, or any other limitation imposed upon the
21 housing sponsor as to financial structure, construction or operation
22 of the project;

23 (6) (a) Subject to the provisions of paragraph (7) of subsection
24 b. of this section, in the event of a violation by the housing sponsor
25 of the terms of any agreement between the agency and the housing
26 sponsor, or between the municipality granting tax exemption and
27 the housing sponsor, or in the event of a violation by the housing
28 sponsor of this act or of the terms of the loan agreement or of any
29 rules and regulations of the agency duly promulgated pursuant to
30 this act, or in the event that the agency shall determine that any loan
31 or advance from the Housing Development Fund pursuant to section
32 30 of this act is in jeopardy of not being repaid, the agency may,
33 without resort to any judicial process, assume all of the powers and
34 duties of the housing sponsor in the management and operation of
35 the project, including but not limited to the power to receive all
36 revenues and pay all expenses of the project and the power to
37 control all property, including bank accounts and cash, owned by
38 the housing sponsor. The agency may appoint such person or
39 persons whom the agency in its sole discretion deems advisable,
40 including officers or employees of the agency, to perform the
41 functions of the officers or other controlling persons of the housing
42 sponsor. Persons so appointed need not be stockholders or meet
43 other qualifications which may be prescribed by the certificate of
44 incorporation, bylaws or partnership agreement of the housing
45 sponsor. In the absence of fraud or bad faith, persons so appointed
46 shall not be personally liable for debts, obligations or liabilities of
47 the housing sponsor. Persons so appointed shall serve only for a
48 period coexistent with the duration of the violation or until the

1 agency is assured in a manner satisfactory to it that the violation, or
2 violations of a similar nature, will not recur. Persons so appointed
3 shall serve in such capacity without compensation, but shall be
4 entitled to be reimbursed, if and as the certificate of incorporation,
5 bylaws or partnership agreement of the housing sponsor may
6 provide, for all necessary expenses incurred in the discharge of their
7 duties as determined by the agency; and

8 (b) the provisions of section 18 of P.L. 1991, c. 431 (C.40A:20-
9 18) concerning housing projects in financial difficulty shall not
10 apply to housing projects financed by the agency; and

11 (7) The provisions of this subsection and this act pertaining to
12 the regulation of housing sponsors shall be for purposes of
13 protecting the collateral for any loan or loans; implementing or
14 enforcing any condition, requirement or criterion for loans as
15 provided in this act or other applicable law; and securing the rights
16 and remedies of lenders and bond holders to the extent of the
17 undertakings of the agency. Subject to the foregoing, the agency
18 shall permit, provide for and encourage the right of local housing
19 sponsors to exercise their own initiative and competence in the
20 administration of their assets and the conduct and operation of
21 housing projects and exercise their rights and responsibilities to the
22 fullest extent permitted by law. Therefore, the agency shall
23 exercise its remedies and powers under paragraph (6) of this
24 subsection only with regard to material violations and only after
25 reasonable notice and reasonable opportunity to correct the
26 violation is provided to the housing sponsor in accordance with
27 regulations adopted by the agency.

28 c. Notwithstanding any law, rule or regulation to the contrary,
29 the provisions of paragraphs (5) and (6) of subsection a. of this
30 section shall not be applicable to market rate units.

31 d. As used in this section, "market rate unit" means a housing
32 unit for which occupancy is not subject to limitations based on
33 tenant income.

34 (cf: P.L.1983, c. 530, s. 7)

35

36 11. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 This bill, to be known as the cited as the "New Jersey
42 Foreclosure Prevention Act," would establish the "New Jersey
43 Residential Foreclosure Prevention Program," within the New
44 Jersey Housing and Mortgage Finance Agency ("HMFA"). The
45 goal of the program would be to ensure that loss mitigation and
46 foreclosure prevention measures are taken on eligible properties.
47 Either directly, or through its contractors, the bill authorizes the
48 agency to purchase "eligible properties" and mortgage assets in

1 furtherance of this goal. The bill defines an “eligible property” as a
2 residential property or mortgage note owned by an institutional
3 lender as the result of a mortgage foreclosure judgment or a deed in
4 lieu of foreclosure, owned by a municipality as the result of a tax
5 foreclosure judgment, or that is subject to a nonperforming loan
6 from an institutional lender.

7 The bill authorizes HMFA to enter into contracts with any
8 person, corporation, or entity which the agency determines to be
9 necessary or appropriate to carry out its responsibilities under the
10 bill. In carrying out its duties, HMFA would be authorized to
11 employ the consulting services of real estate and loan portfolio asset
12 management firms, property management firms, auction marketing
13 firms, brokerage services firms, appraisers, and such other
14 consultants and employees required in HMFA’s judgment.

15 Within 180 days following the enactment of the bill, HMFA
16 would be required to adopt a funding plan for the program utilizing
17 the “Foreclosure Intervention Fund” established under the bill. The
18 agency would be authorized to directly fund the program through
19 revenue generated by the fund. The agency would have the
20 authority to alter its funding plan as the Executive Director of the
21 agency deems necessary. The funding plan would include, but not
22 be limited to, program revenue, expected expenditures and
23 projections for the acquisition of foreclosed residential properties or
24 mortgage assets.

25 The bill would authorize HMFA to enter into contracts or loans,
26 or both, with no more than two qualified community development
27 financial institutions to negotiate, bid for, and purchase eligible
28 properties and mortgage assets for the purpose facilitating the
29 program. In selecting contractors from among qualified community
30 development financial institutions, the bill would authorize HMFA
31 to accord a strong preference to qualified community development
32 financial institutions that have substantial experience in lending in
33 the State and substantial knowledge of the State’s real estate
34 markets. HMFA may enter into contracts or loans, or both, with a
35 partnership or consortia of organizations, as long as a qualified
36 community development financial institution is the lead entity, or a
37 partnership or consortia of multiple qualified community
38 development financial institutions.

39 Should HMFA contract with a community development financial
40 institution for the purposes of the bill, the contract would be
41 required to specify the amounts, schedules, and types of funding to
42 be provided to the qualified community development financial
43 institution, the repayment schedule for the portion of that funding to
44 be repaid, and targeted goals for homeowner interventions. HMFA
45 would be permitted to condition funding and goals upon the
46 availability of funds to the program. The contract would specify
47 reasonable administrative costs sufficient to enable the qualified
48 community development financial institution to exercise its

1 obligations under the bill. The contract would set forth criteria for
2 instances when the purchase, sale, lease, and conveyance of
3 properties furthers the purposes of the bill.

4 All purchases, sales, leases, and conveyances of property by
5 qualified community development financial institutions exercised
6 pursuant to this section would be deemed to lessen the burdens of
7 government in furthering the purposes of the bill.

8 The bill would establish a Foreclosure Intervention Fund
9 (“fund”) within HMFA, which would be a non-lapsing, revolving
10 fund and which would be the repository for funds appropriated or
11 otherwise made available for the purposes of the bill. HMFA would
12 be permitted to transfer into the fund any amounts held or received
13 that are needed for the purchase of eligible property. HMFA would
14 be permitted to use annually up to five percent of the monies
15 available in the fund for the payment of any necessary
16 administrative costs related to the program.

17 The bill would authorize a new \$350 fee to be collected at
18 sheriff’s sale. Revenue generated through the fee exceeding the
19 funding plan developed under the bill could be appropriated by
20 HMFA for additional foreclosure prevention programs.

21 The bill would authorize the agency to make grants to eligible
22 applicants, including, but not limited to, non-profit housing
23 sponsors, municipalities or other governmental entities utilizing
24 funds provided by the bill, or otherwise made available to HMFA.
25 HMFA would establish regulations, procedures or guidelines
26 governing the qualifications of applicants, the application
27 procedures and the criteria for awarding grants to such eligible
28 applicants and the standards for establishing the amount, terms and
29 conditions of each grant.

30 Under the bill, HMFA would be authorized to defend and
31 indemnify the federal government, any department, board, body,
32 agency or other entity thereof, and its successors and assigns,
33 against claims, causes of action, demands, costs or judgments
34 against that entity arising as a direct result of that entity’s
35 agreement with the agency, upon the terms and limitations the
36 agency deems reasonable and appropriate. The bill would authorize
37 HMFA to create a reserve fund, procure insurance or take other
38 such appropriate action in order to meet its future obligations, if
39 any, created by such indemnification obligations. Any agreement to
40 indemnify pursuant to the bill could be made only as necessary or
41 appropriate to the exercise of any power herein granted or
42 reasonably implied, provided that (1) such indemnification shall be
43 payable solely from the funds of the agency on deposit in its general
44 fund or placed in a reserve fund for that purpose; and (2) such
45 indemnification shall not constitute a debt, obligation or liability of
46 the State, and the State shall not be liable for any obligation as a
47 result of the agency’s indemnification obligation.

S3244 SINGLETON

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1 Finally, the bill would limit the application of an existing law
2 that restricts the investment returns of housing sponsors that receive
3 loans from HMFA, such that the restriction would not apply to
4 loans issued with regard to market rate housing units.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 3244

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 14, 2021

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 3244.

As amended, this bill, to be known and cited as the “New Jersey Foreclosure Prevention Act,” would establish the “New Jersey Residential Foreclosure Prevention Program,” within the New Jersey Housing and Mortgage Finance Agency (“HMFA”). The goal of the program would be to ensure that loss mitigation and foreclosure prevention measures are taken on eligible properties. Either directly, or through its contractors, the bill authorizes the agency to purchase “eligible properties” and mortgage assets in furtherance of this goal. The bill defines an “eligible property” as a residential property or mortgage note owned by an institutional lender as the result of a mortgage foreclosure judgment or a deed in lieu of foreclosure, owned by a municipality as the result of a tax foreclosure judgment, or that is subject to a nonperforming loan from an institutional lender.

The bill authorizes HMFA to enter into contracts with any person, corporation, or entity which the agency determines to be necessary or appropriate to carry out its responsibilities under the bill. In carrying out its duties, HMFA would be authorized to employ the consulting services of real estate and loan portfolio asset management firms, property management firms, auction marketing firms, brokerage services firms, appraisers, and such other consultants and employees required in HMFA’s judgment.

Within 180 days following the enactment of the bill, HMFA would be required to adopt a funding plan for the program utilizing the “Foreclosure Intervention Fund” established under the bill. The agency would be authorized to directly fund the program through revenue generated by the fund. The agency would have the authority to alter its funding plan as the Executive Director of HMFA deems necessary. The funding plan would include, but not be limited to, program revenue, expected expenditures, and projections for the acquisition of foreclosed residential properties or mortgage assets.

The bill would authorize HMFA to enter into contracts or loans, or both, with no more than two qualified community development financial institutions to negotiate, bid for, and purchase eligible properties and mortgage assets for the purpose facilitating the

program. In selecting contractors from among qualified community development financial institutions, the bill would authorize HMFA to accord a strong preference to qualified community development financial institutions that have substantial experience in lending in the State and substantial knowledge of the State's real estate markets. HMFA may enter into contracts or loans, or both, with a partnership or consortia of organizations, as long as a qualified community development financial institution is the lead entity, or a partnership or consortia of multiple qualified community development financial institutions.

Should HMFA contract with a community development financial institution for the purposes of the bill, the contract would be required to specify the amounts, schedules, and types of funding to be provided to the qualified community development financial institution, the repayment schedule for the portion of that funding to be repaid, and targeted goals for homeowner interventions. HMFA would be permitted to condition funding and goals upon the availability of funds to the program. The contract would specify reasonable administrative costs sufficient to enable the qualified community development financial institution to exercise its obligations under the bill. The contract would set forth criteria for instances when the purchase, sale, lease, and conveyance of properties furthers the purposes of the bill.

All purchases, sales, leases, and conveyances of property by qualified community development financial institutions exercised pursuant to this bill would be deemed to lessen the burdens of government in furthering the purposes of the bill.

The bill would establish a Foreclosure Intervention Fund ("fund") within HMFA, which would be a non-lapsing, revolving fund and which would be the repository for funds appropriated or otherwise made available for the purposes of the bill. HMFA would be permitted to transfer into the fund any amounts held or received that are needed for the purchase of eligible property. HMFA would be permitted to use annually up to five percent of the monies available in the fund for the payment of any necessary administrative costs related to the program.

The bill would require a sheriff to collect a new \$350 fee to be collected at sheriff's sales. Revenue generated through the fee exceeding the funding plan developed under the bill could be appropriated by HMFA for additional foreclosure prevention programs.

The bill would authorize the agency to make grants to eligible applicants, including, but not limited to, non-profit housing sponsors, municipalities or other governmental entities utilizing funds provided by the bill, or otherwise made available to HMFA. HMFA would establish regulations, procedures or guidelines governing the qualifications of applicants, the application procedures and the criteria

for awarding grants to such eligible applicants and the standards for establishing the amount, terms and conditions of each grant.

Under the bill, HMFA would be authorized to defend and indemnify the federal government, any department, board, body, agency or other entity thereof, and its successors and assigns, against claims, causes of action, demands, costs or judgments against that entity arising as a direct result of that entity's agreement with the agency, upon the terms and limitations the agency deems reasonable and appropriate. The bill would authorize HMFA to create a reserve fund, procure insurance or take other such appropriate action in order to meet its future obligations, if any, created by such indemnification obligations. Any agreement to indemnify pursuant to the bill could be made only as necessary or appropriate to the exercise of any power herein granted or reasonably implied, provided that (1) such indemnification is payable solely from the funds of the agency on deposit in its general fund or placed in a reserve fund for that purpose; and (2) such indemnification does not constitute a debt, obligation or liability of the State, and the State is not be liable for any obligation as a result of the agency's indemnification obligation.

Finally, the bill would limit the application of an existing law that restricts the investment returns of housing sponsors that receive loans from HMFA, such that the restriction would not apply to loans issued with regard to market rate housing units.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 5130 (1R), which was also reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments would clarify that the sheriff is required to collect a \$350 fee to be collected at sheriff's sales to fund the program.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3244

STATE OF NEW JERSEY

DATED: FEBRUARY 11, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3244 (1R).

This bill, to be known and cited as the “New Jersey Foreclosure Prevention Act,” would establish the “New Jersey Residential Foreclosure Prevention Program,” within the New Jersey Housing and Mortgage Finance Agency (“HMFA”). The goal of the program would be to ensure that loss mitigation and foreclosure prevention measures are taken on eligible properties. Either directly, or through its contractors, the bill authorizes the agency to purchase “eligible properties” and mortgage assets in furtherance of this goal. The bill defines an “eligible property” as a residential property or mortgage note owned by an institutional lender as the result of a mortgage foreclosure judgment or a deed in lieu of foreclosure, owned by a municipality as the result of a tax foreclosure judgment, or that is subject to a nonperforming loan from an institutional lender.

The bill authorizes HMFA to enter into contracts with any person, corporation, or entity which the agency determines to be necessary or appropriate to carry out its responsibilities under the bill. In carrying out its duties, HMFA would be authorized to employ the consulting services of real estate and loan portfolio asset management firms, property management firms, auction marketing firms, brokerage services firms, appraisers, and such other consultants and employees required in HMFA’s judgment.

Within 180 days following the enactment of the bill, HMFA would be required to adopt a funding plan for the program utilizing the “Foreclosure Intervention Fund” established under the bill. The agency would be authorized to directly fund the program through revenue generated by the fund. The agency would have the authority to alter its funding plan as the Executive Director of HMFA deems necessary. The funding plan would include, but not be limited to, program revenue, expected expenditures, and projections for the acquisition of foreclosed residential properties or mortgage assets.

The bill would authorize HMFA to enter into contracts or loans, or both, with no more than two qualified community development financial institutions to negotiate, bid for, and purchase eligible properties and mortgage assets for the purpose facilitating the

program. In selecting contractors from among qualified community development financial institutions, the bill would authorize HMFA to accord a strong preference to qualified community development financial institutions that have substantial experience in lending in the State and substantial knowledge of the State's real estate markets. HMFA may enter into contracts or loans, or both, with a partnership or consortia of organizations, as long as a qualified community development financial institution is the lead entity, or a partnership or consortia of multiple qualified community development financial institutions.

Should HMFA contract with a community development financial institution for the purposes of the bill, the contract would be required to specify the amounts, schedules, and types of funding to be provided to the qualified community development financial institution, the repayment schedule for the portion of that funding to be repaid, and targeted goals for homeowner interventions. HMFA would be permitted to condition funding and goals upon the availability of funds to the program. The contract would specify reasonable administrative costs sufficient to enable the qualified community development financial institution to exercise its obligations under the bill. The contract would set forth criteria for instances when the purchase, sale, lease, and conveyance of properties furthers the purposes of the bill.

All purchases, sales, leases, and conveyances of property by qualified community development financial institutions exercised pursuant to this bill would be deemed to lessen the burdens of government in furthering the purposes of the bill.

The bill would establish a Foreclosure Intervention Fund ("fund") within HMFA, which would be a non-lapsing, revolving fund and which would be the repository for funds appropriated or otherwise made available for the purposes of the bill. HMFA would be permitted to transfer into the fund any amounts held or received that are needed for the purchase of eligible property. HMFA would be permitted to use annually up to five percent of the monies available in the fund for the payment of any necessary administrative costs related to the program.

The bill would require a sheriff to collect a new \$350 fee to be collected at sheriff's sales. Revenue generated through the fee exceeding the funding plan developed under the bill could be appropriated by HMFA for additional foreclosure prevention programs.

The bill would authorize the agency to make grants to eligible applicants, including, but not limited to, non-profit housing sponsors, municipalities or other governmental entities utilizing funds provided by the bill, or otherwise made available to HMFA. HMFA would establish regulations, procedures or guidelines governing the qualifications of applicants, the application procedures and the criteria

for awarding grants to such eligible applicants and the standards for establishing the amount, terms and conditions of each grant.

Under the bill, HMFA would be authorized to defend and indemnify the federal government, any department, board, body, agency or other entity thereof, and its successors and assigns, against claims, causes of action, demands, costs or judgments against that entity arising as a direct result of that entity's agreement with the agency, upon the terms and limitations the agency deems reasonable and appropriate. The bill would authorize HMFA to create a reserve fund, procure insurance or take other such appropriate action in order to meet its future obligations, if any, created by such indemnification obligations. Any agreement to indemnify pursuant to the bill could be made only as necessary or appropriate to the exercise of any power herein granted or reasonably implied, provided that (1) such indemnification is payable solely from the funds of the agency on deposit in its general fund or placed in a reserve fund for that purpose; and (2) such indemnification does not constitute a debt, obligation or liability of the State, and the State is not be liable for any obligation as a result of the agency's indemnification obligation.

Finally, the bill would limit the application of an existing law that restricts the investment returns of housing sponsors that receive loans from HMFA, such that the restriction would not apply to loans issued with regard to market rate housing units.

As reported, this bill is identical to Assembly Bill No. 5130 (1R), as also reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate annual increases to New Jersey Housing and Mortgage Finance Agency (HMFA) expenditures and revenues, and a minimal impact on county finances.

The OLS estimates that the establishment of the New Jersey Residential Foreclosure Prevention Program will lead to an indeterminate increase in annual expenditures due to increased administrative costs for the HMFA. The HMFA could incur additional expenditures from potentially defending and indemnifying the federal government for financial impacts arising as a direct result of a community development financial institution's agreements with the HMFA.

The bill also requires a county sheriff or officer conducting a sheriff's sale to charge a \$350 per sale amount to be directed to the Foreclosure Intervention Fund established under the bill. The OLS believes the \$350 fee will lead to an indeterminate increase in State revenues. The OLS is unable to locate precise data on how many sheriff's sales this would impact. The HMFA could realize additional revenues from the repayment of loans to the agency by community development financial institutions.

The county sheriff or officer carrying out the sale would be responsible for collecting the \$350 fee and would deduct any actual administrative costs incurred prior to transmitting the monies collected to the fund. The OLS believes the annual impact to county finances would be minimal.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3244

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: FEBRUARY 8, 2021

SUMMARY

- Synopsis:** Establishes "New Jersey Foreclosure Prevention Act."
- Type of Impact:** Annual New Jersey Housing and Mortgage Finance Agency expenditure and revenue increases; minimal impact to counties.
- Agencies Affected:** New Jersey Housing and Mortgage Finance Agency, counties.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
NJ Housing and Mortgage Finance Agency Expenditure Increase	Indeterminate
NJ Housing and Mortgage Finance Agency Revenue Increase	Indeterminate
County Finances Impact	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate annual increases to New Jersey Housing and Mortgage Finance Agency (HMFA) expenditures and revenues, and a minimal impact on county finances.
- The OLS estimates that the establishment of the New Jersey Residential Foreclosure Prevention Program will lead to an indeterminate increase in annual expenditures due to increased administrative costs for the HMFA. The HMFA could incur additional expenditures from potentially defending and indemnifying the federal government for financial impacts arising as a direct result of a community development financial institution's agreements with the HMFA.
- The bill also requires a county sheriff or officer conducting a sheriff's sale to charge a \$350 per sale amount to be directed to the Foreclosure Intervention Fund established under the bill. The OLS believes the \$350 fee will lead to an indeterminate increase in State revenues. The OLS is unable to locate precise data on how many sheriff's sales this would impact. The

HMFA could realize additional revenues from the repayment of loans to the agency by community development financial institutions.

- The county sheriff or officer carrying out the sale would be responsible for collecting the \$350 fee and would deduct any actual administrative costs incurred prior to transmitting the monies collected to the fund. The OLS believes the annual impact to county finances would be minimal.

BILL DESCRIPTION

This bill would establish the New Jersey Residential Foreclosure Prevention Program within the HMFA. The goal of the program would be to ensure that loss mitigation and foreclosure prevention measures are taken on eligible properties. Either directly, or through its contractors, the bill authorizes the agency to purchase eligible properties and mortgage assets in furtherance of this goal.

The bill authorizes HMFA to enter into contracts with any person, corporation, or entity which the agency determines to be necessary or appropriate to carry out its responsibilities under the bill. In carrying out its duties, HMFA would be authorized to employ the consulting services of real estate and loan portfolio asset management firms, property management firms, auction marketing firms, brokerage services firms, appraisers, and such other consultants and employees required in HMFA's judgment.

Within 180 days following the enactment of the bill, HMFA would be required to adopt a funding plan for the program utilizing the "Foreclosure Intervention Fund" established under the bill. The agency would be authorized to directly fund the program through revenue generated by the fund. The agency would have the authority to alter its funding plan as the Executive Director of the agency deems necessary. The funding plan would include, but not be limited to, program revenue, expected expenditures and projections for the acquisition of foreclosed residential properties or mortgage assets.

The bill would authorize HMFA to enter into contracts or loans, or both, with no more than two qualified community development financial institutions to negotiate, bid for, and purchase eligible properties and mortgage assets for the purpose facilitating the program. In selecting contractors from among qualified community development financial institutions, the bill would authorize HMFA to accord a strong preference to qualified community development financial institutions that have substantial experience in lending in the State and substantial knowledge of the State's real estate markets.

Should HMFA contract with a community development financial institution for the purposes of the bill, the contract would be required to specify the amounts, schedules, and types of funding to be provided to the qualified community development financial institution, the repayment schedule for the portion of that funding to be repaid, and targeted goals for homeowner interventions. The HMFA would be permitted to condition funding and goals upon the availability of funds to the program. The contract would specify reasonable administrative costs sufficient to enable the qualified community development financial institution to exercise its obligations under the bill.

The bill would establish a Foreclosure Intervention Fund within HMFA, which would be a non-lapsing, revolving fund and which would be the repository for funds appropriated or otherwise made available for the purposes of the bill. The HMFA would be permitted to transfer into the fund any amounts held or received that are needed for the purchase of eligible property. The

HMFA would be permitted to use annually up to five percent of the monies available in the fund for the payment of any necessary administrative costs related to the program.

The bill would require a new \$350 fee to be collected at sheriff's sale. Revenue generated through the fee exceeding the funding plan developed under the bill could be appropriated by HMFA for additional foreclosure prevention programs.

The bill would authorize the agency to make grants to eligible applicants, including, but not limited to, non-profit housing sponsors, municipalities or other governmental entities utilizing funds provided by the bill, or otherwise made available to HMFA. The HMFA would establish regulations, procedures or guidelines governing the qualifications of applicants, the application procedures and the criteria for awarding grants to such eligible applicants and the standards for establishing the amount, terms and conditions of each grant.

Under the bill, HMFA would be authorized to defend and indemnify the federal government, any department, board, body, agency or other entity thereof, and its successors and assigns, against claims, causes of action, demands, costs or judgments against that entity arising as a direct result of that entity's agreement with the agency, upon the terms and limitations the agency deems reasonable and appropriate. The bill would authorize HMFA to create a reserve fund, procure insurance or take other such appropriate action in order to meet its future obligations, if any, created by such indemnification obligations. Any agreement to indemnify pursuant to the bill could be made only as necessary or appropriate to the exercise of any power granted in the bill or reasonably implied, provided that (1) such indemnification shall be payable solely from the funds of the agency on deposit in its general fund or placed in a reserve fund for that purpose; and (2) such indemnification shall not constitute a debt, obligation or liability of the State, and the State shall not be liable for any obligation as a result of the agency's indemnification obligation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in indeterminate annual increases to HMFA expenditures and revenues, and a minimal impact on county finances.

The OLS estimates that the establishment of the New Jersey Residential Foreclosure Prevention Program will lead to an indeterminate increase in annual expenditures due to increased administrative costs for the HMFA. The HMFA could incur additional expenditures from potentially defending and indemnifying the federal government for financial impacts arising as a direct result of a community development financial institution's agreements with the HMFA.

The bill also requires a county sheriff or officer conducting a sheriff's sale to charge a \$350 per sale amount to be directed to the Foreclosure Intervention Fund established under the bill. The OLS believes the \$350 fee will lead to an indeterminate increase in State revenues. The OLS is unable to locate precise data on how many sheriff's sales this would impact.

Furthermore, Executive Order No. 106 (2020) instituted a moratorium on removing individuals from residential properties through the eviction and foreclosure processes. This moratorium remains in effect for no longer than two months following the end of the Public Health Emergency or State of Emergency established by Executive Order No. 103 (2020), whichever ends later. The

OLS projects revenues from the \$350 per sheriff's sale fee to not develop until the expiration of Executive Order No. 106.

The HMFA could realize additional revenues from the repayment of loans to the agency by community development financial institutions.

If authorized, the county sheriff or officer carrying out the sale would be responsible for collecting the \$350 fee and would deduct any actual administrative costs incurred prior to transmitting the monies collected to the fund. The OLS believes the annual impact to county finances would be minimal.

Section: Local Government

*Analyst: Benjamin A. Levy
Assistant Fiscal Analyst*

*Approved: Thomas Koenig
Assistant Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Legislation Authorizing Comprehensive Programs to Address Mortgage Distress In New Jersey

03/9/2021

Legislation Authorizes Foreclosure Mitigation Interventions, Including the Bulk-Purchase of Non-Performing Mortgages through HMFA

TRENTON – Governor Phil Murphy today signed the New Jersey Foreclosure Prevention Act (A5130).

The New Jersey Foreclosure Prevention Act creates the ‘New Jersey Residential Foreclosure Prevention Program’, implementation of which will be led by the New Jersey Housing and Mortgage Finance Agency (NJHMFA) in furtherance of the agency’s commitment to affordable housing ownership and foreclosure mediation. This program empowers NJHMFA to address the rising number of foreclosures in New Jersey, not only helping to stabilize families’ home ownership, but their neighborhood as well. By establishing public-private partnerships with nonprofits, NJHMFA will be able to undertake supportive interventions including bulk purchases of non-performing loans from institutional lenders, advancing recommendations set forth in the 2018 [Report of the Housing Transition Advisory Committee](#).

“Combatting housing insecurity in New Jersey is essential during these extraordinarily trying times. We have an obligation to identify new and innovative ways to aid our state’s residents in this time of stress,” **said Governor Murphy**. “This bill provides pathways to help more New Jersey homeowners remain in their homes.”

Stable housing for New Jersey residents is a focal point of this administration. Prior to this legislation’s enactment, Governor Murphy directed NJHMFA in March of 2020 to expand its Foreclosure Mediation Assistance Program (FMAP) to include pre-foreclosure counseling to help homeowners avoid potential foreclosure, and to begin offering counseling assistance to renters. This expanded program has assisted approximately 2,163 families, comprising roughly 1,430 rental households and approximately 500 owner-occupied households.

Stable housing is an economic, health, and community imperative. The New Jersey Foreclosure Prevention Act is designed to help address the impacts of growing housing insecurity, from homeowners in need to communities confronting vacant and abandoned properties. By addressing these intersecting challenges, this legislation is a crucial step toward housing stability for families and communities across our state.

“The New Jersey Foreclosure Act acknowledges and seeks to assist struggling homeowners in New Jersey. It has proven prescient as that need has grown exponentially within the last year.” **said Lt. Governor Oliver, who serves as New Jersey Department of Community Affairs (DCA) Commissioner and NJHMFA board chair**. “This Act and its ensuing programs will work in tandem with the State’s existing programs to help prevent our most vulnerable residents from losing their homes.”

“This legislation will help New Jersey families keep their homes and ensure that foreclosed properties reenter the homeownership market, stabilizing neighborhoods and helping families become homeowners”, **said Melanie R. Walter, Executive Director, New Jersey Housing and Mortgage Finance Agency**. “It facilitates crucial interventions including expansion of NJHMFA’s partnerships with Community Development Financial Institutions, creation of new mortgage products, and establishment of a revenue stream to support housing stabilization in our state.”

“New Jersey has made great strides in addressing the previous foreclosure crisis, and we do not want to see history repeat itself when the foreclosure moratorium is eventually lifted,” **said Senator Singleton.** “With the pandemic decimating the economy, countless people around the state are on the brink of losing their homes. Now law, the New Jersey Foreclosure Prevention Act will help to stave off a wave of foreclosures, and more importantly, keep families in their homes.”

“New Jersey is in a housing crisis and has been for many years. There are many foreclosed vacant residential properties throughout the state that are undermining the health, safety, and economic vitality of neighborhoods. They depress neighboring property values, reducing revenues for municipalities,” **said Assembly sponsors Mila Jasey, Verlina Reynolds-Jackson, and Benjie Wimberly.** “The New Jersey Residential Foreclosure Prevention Program will assist struggling homeowners facing foreclosure and also help with the redevelopment of currently vacant properties due to foreclosures.”