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"New law targets problem properties," Burlington County Times, 8-19-14

LAW/KR

P.L.2014, CHAPTER 35, *approved August 15, 2014*
Senate, No. 1229 (*Third Reprint*)

1 AN ACT concerning the maintenance of certain residential
2 properties, supplementing chapter 48 of Title 40 of the Revised
3 Statutes, and amending P.L.2008, c.127 ¹and amending P.L.2012,
4 c.70¹.

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

8
9 1. (New section) a. The governing body of any municipality
10 may ¹**[make, amend, repeal and enforce]** adopt¹ ordinances to
11 regulate the care, maintenance, ¹security,¹ and upkeep of ¹the
12 exterior of¹ vacant ¹and abandoned¹ residential properties on which
13 a summons and complaint in an action to foreclose has been filed.

14 b. ¹(1)¹ An ordinance adopted pursuant to subsection a. of this
15 section shall provide that the ¹**[person or entity]** creditor¹ filing the
16 summons and complaint in an action to foreclose shall be
17 responsible for the ¹care,¹ maintenance ¹, security,¹ and upkeep of
18 ¹the exterior of¹ the vacant ¹and abandoned¹ residential property,
19 and if located out-of-State, shall be responsible for appointing an
20 in-State representative ¹or agent¹ to act for the foreclosing ¹**[person**
21 **or entity]** creditor.

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

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:

¹Senate floor amendments adopted March 27, 2014.

²Assembly AHO committee amendments adopted June 5, 2014.

³Assembly floor amendments adopted June 16, 2014.

1 (3) An ordinance adopted pursuant to subsection a. of this
2 section shall provide that an out-of-State creditor include the full
3 name and contact information of the in-State representative or agent
4 in the notice required to be provided pursuant to paragraph (1) of
5 subsection a. of section 17 of P.L.2008, c.127 (C.46:10B-51)¹.

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

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

35 d. No less than 20 percent of any money collected pursuant to
36 subsection a. of this section shall be utilized by the municipality for
37 municipal code enforcement purposes.

38
39 2. Section 17 of P.L.2008, c.127 (C.46:10B-51) is amended to
40 read as follows:

41 17. a. (1) A creditor serving a summons and complaint in an
42 action to foreclose on a mortgage on residential property in this
43 State shall, within 10 days of serving the summons and complaint,
44 notify the municipal clerk of the municipality in which the property
45 is located that a summons and complaint in an action to foreclose
46 on a mortgage has been filed against the subject property. The
47 notice shall contain the name and contact information for the
48 representative of the creditor who is responsible for receiving

1 complaints of property maintenance and code violations, may
2 contain information about more than one property, and shall be
3 provided by mail or electronic communication, at the discretion of
4 the municipal clerk. ¹In the event the creditor that has served a
5 summons and complaint in an action to foreclose on a residential
6 property is located out-of-State, the notice shall also contain the full
7 name and contact information of an in-State representative or agent
8 who shall be responsible for the care, maintenance, security, and
9 upkeep of the exterior of the property if it becomes vacant and
10 abandoned.¹ If the municipality has appointed a public officer
11 pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal
12 clerk shall forward a copy of the notice to the public officer or shall
13 otherwise provide it to any other local official responsible for
14 administration of any property maintenance or public nuisance
15 code.

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

20 The notice shall also include the street address, lot and block
21 number of the property, and the full name and contact information
22 of an individual located within the State who is authorized to accept
23 service on behalf of the creditor. The notice shall be provided to
24 the municipal clerk within 10 days of service of a summons and
25 complaint in an action to foreclose on a mortgage against the
26 subject property.

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

39 b. If the owner of a residential property vacates or abandons
40 any property on which a foreclosure proceeding has been initiated
41 or if a residential property becomes vacant at any point subsequent
42 to the creditor's filing the summons and complaint in an action to
43 foreclose on a mortgage against the subject property, but prior to
44 vesting of title in the creditor or any other third party, and the
45 ¹exterior of the¹ property is found to be a nuisance or in violation of
46 any applicable State or local code, the local public officer,
47 municipal clerk, or other authorized municipal official shall notify
48 the creditor ¹or the representative or agent of an out-of-State

1 creditor, as applicable¹, which shall have the responsibility to abate
 2 the nuisance or correct the violation in the same manner and to the
 3 same extent as the title owner of the property, to such standard or
 4 specification as may be required by State law or municipal
 5 ordinance. ²The municipality shall include a description of the
 6 conditions that gave rise to the violation with the notice of violation
 7 and shall provide a period of not less than 30 days from the
 8 creditor's receipt of the notice for the creditor to remedy the
 9 violation. If the creditor fails to remedy the violation within that
 10 time period, the municipality may impose penalties allowed for the
 11 violation of municipal ordinances pursuant to R.S.40:49-5.²

12 c. ¹~~[(1)]~~¹ If the municipality expends public funds in order to
 13 abate a nuisance or correct a violation on a residential property in
 14 situations in which the creditor was given notice pursuant to the
 15 provisions of subsection b. of this section but failed to abate the
 16 nuisance or correct the violation as directed, the municipality shall
 17 have the same recourse against the creditor as it would have against
 18 the title owner of the property, including but not limited to the
 19 recourse provided under section 23 of P.L.2003, c.210 (C.55:19-
 20 100).

21 ¹~~[(2)]~~¹ Any out-of-State creditor that has served a summons and
 22 complaint in an action to foreclose on a residential property, that
 23 subsequently becomes vacant, shall designate an in-State
 24 representative who shall be responsible for the care, maintenance,
 25 and upkeep of the vacant property. The out-of-State creditor shall
 26 inform the public officer of the municipality in which the property
 27 is located, or, if the municipality has not designated a public officer
 28 pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal
 29 clerk, of the in-State representative responsible for maintenance of
 30 the property.]¹

31 (cf: P.L.2009, c.296, s.5)

32
 33 ¹3. Section 1 of P.L.2012, c.70 (C.2A:50-73) is amended to read
 34 as follows:

35 1. a. For the purposes of this section, "vacant and abandoned"
 36 residential property means residential real estate with respect to
 37 which the mortgagee proves, by clear and convincing evidence, that
 38 the mortgaged real estate is vacant and has been abandoned ²or
 39 where a notice of violation has been issued pursuant to subsection
 40 b. of section 1 of P.L. _____, c. _____ (C. _____) (pending before the
 41 Legislature as this bill)². ²~~Real~~ ²Where a notice of violation has
 42 not been issued pursuant to subsection b. of section 1 of P.L. _____,
 43 c. _____ (C. _____) (pending before the Legislature as this bill), real²
 44 property shall be deemed "vacant and abandoned" if the court finds
 45 that the mortgaged property is not occupied by a mortgagor or
 46 tenant as evidenced by a lease agreement entered into prior to the
 47 service of a notice of intention to commence foreclosure according

1 to section 4 of the "Fair Foreclosure Act," P.L.1995, c.244
2 (C.2A:50-56), and ³either a notice of violation has been issued
3 pursuant to subsection b. of section 1 of P.L.,
4 c. (C.) (pending before the Legislature as this bill)
5 or³ at least two of the following conditions exist:

- 6 (1) overgrown or neglected vegetation;
- 7 (2) the accumulation of newspapers, circulars, flyers or mail on
8 the property;
- 9 (3) disconnected gas, electric, or water utility services to the
10 property;
- 11 (4) the accumulation of hazardous, noxious, or unhealthy
12 substances or materials on the property;
- 13 (5) the accumulation of junk, litter, trash or debris on the
14 property;
- 15 (6) the absence of window treatments such as blinds, curtains or
16 shutters;
- 17 (7) the absence of furnishings and personal items;
- 18 (8) statements of neighbors, delivery persons, or government
19 employees indicating that the residence is vacant and abandoned;
- 20 (9) windows or entrances to the property that are boarded up or
21 closed off or multiple window panes that are damaged, broken and
22 unrepaired;
- 23 (10) doors to the property that are smashed through, broken off,
24 unhinged, or continuously unlocked;
- 25 (11) a risk to the health, safety or welfare of the public, or any
26 adjoining or adjacent property owners, exists due to acts of
27 vandalism, loitering, criminal conduct, or the physical destruction
28 or deterioration of the property;
- 29 (12) an uncorrected violation of a municipal building, housing,
30 or similar code during the preceding year, or an order by municipal
31 authorities declaring the property to be unfit for occupancy and to
32 remain vacant and unoccupied;
- 33 (13) the mortgagee or other authorized party has secured or
34 winterized the property due to the property being deemed vacant
35 and unprotected or in danger of freezing;
- 36 (14) a written statement issued by any mortgagor expressing the
37 clear intent of all mortgagors to abandon the property;
- 38 (15) any other reasonable indicia of abandonment.

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

- 41 (1) there is an unoccupied building which is undergoing
42 construction, renovation, or rehabilitation that is proceeding
43 diligently to completion, and the building is in compliance with all
44 applicable ordinances, codes, regulations, and statutes;
- 45 (2) there is a building occupied on a seasonal basis, but
46 otherwise secure; or
- 47 (3) there is a building that is secure, but is the subject of a
48 probate action, action to quiet title, or other ownership dispute.

1 c. In addition to the residential mortgage foreclosure
2 procedures set out in the "Fair Foreclosure Act," P.L.1995, c.244
3 (C.2A:50-53 et seq.), a summary action to foreclose a mortgage
4 debt secured by residential property that is vacant and abandoned
5 may be brought by a lender in the Superior Court. In addition, a
6 lender may, at any time after filing a foreclosure action, file with
7 the court, in accordance with the Rules Governing the Courts of the
8 State of New Jersey, an application to proceed in a summary
9 manner because the residential property that is the subject of the
10 foreclosure action is believed to be "vacant and abandoned";
11 provided, however, that this section shall not apply to a foreclosure
12 of a timeshare interest secured by a mortgage.

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

20 (2) In addition to any notices required to be served by law or the
21 Rules of Court, a lender shall, with any order to show cause served
22 as original service of process or a motion to proceed summarily,
23 serve a notice that the lender is seeking, on the return date of the
24 order to show cause, or on the date fixed by the court, to proceed
25 summarily for entry of a residential foreclosure judgment because
26 the property is vacant and abandoned.

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

31 e. (1) The court may enter a final residential mortgage
32 foreclosure judgment under this section upon a finding, (a) by clear
33 and convincing evidence, that the residential property is vacant and
34 abandoned as defined under subsection a. of this section, and (b)
35 that a review of the pleadings and documents filed with the court, as
36 required by the Rules of Court, supports the entry of a final
37 residential mortgage foreclosure judgment.

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

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

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

45 f. If a final residential mortgage foreclosure judgment under
46 this section is not entered on the original or adjourned return date of
47 an order to show cause or the date fixed by the court to proceed
48 summarily, the court may direct that the foreclosure action continue

1 on the normal track for residential mortgage foreclosure actions for
2 properties that are not vacant and abandoned and the notice to cure
3 served with the order to show cause or the order fixing that date for
4 the matter to proceed summarily shall be of no effect.

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

7 h. Nothing in this section is intended to supersede or limit other
8 procedures adopted by the Court to resolve residential mortgage
9 foreclosure actions, including, but not limited to, foreclosure
10 mediation.

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

16 j. Notwithstanding paragraph (3) of subsection a. of section 12
17 of P.L.1995, c.244 (C.2A:50-64) to the contrary, if the court makes
18 a finding in the foreclosure judgment that the property is vacant and
19 abandoned, the sheriff shall sell the property within 60 days of the
20 sheriff's receipt of any writ of execution issued by the court. If it
21 becomes apparent that the sheriff cannot comply with the provisions
22 of this subsection, the foreclosing plaintiff may apply to the court
23 for an order appointing a Special Master or judicial agent to hold
24 the foreclosure sale.¹

25 (cf: P.L.2012, c.70, s.1)

26

27 ¹**[3.]** 4.¹ This act shall take effect immediately.

28

29

30

31

32 Authorizes fine for failure to maintain certain vacant properties;
33 requires out-of-state creditors to designate in-State representative.

SENATE, No. 1229

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JANUARY 30, 2014

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator CHRISTOPHER J. CONNORS

District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

Authorizes fine for failure to maintain certain vacant properties; requires out-of-state creditors to designate in-State representative.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/18/2014)

1 AN ACT concerning the maintenance of certain residential
2 properties, supplementing chapter 48 of Title 40 of the Revised
3 Statutes, and amending P.L.2008, c.127.

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

7
8 1. (New section) a. The governing body of any municipality
9 may make, amend, repeal and enforce ordinances to regulate the
10 care, maintenance, and upkeep of vacant residential properties on
11 which a summons and complaint in an action to foreclose has been
12 filed.

13 b. An ordinance adopted pursuant to subsection a. of this
14 section shall provide that the person or entity filing the summons
15 and complaint in an action to foreclose shall be responsible for the
16 maintenance and upkeep of the vacant residential property, and if
17 located out-of-State, shall be responsible for appointing an in-State
18 representative to act for the foreclosing person or entity.

19 c. A creditor found by the municipal court of the municipality
20 in which the property is located, or any other court of competent
21 jurisdiction, to be in violation of any ordinance, rule, or regulation
22 adopted pursuant this section shall be subject to a fine of \$2,500,
23 payable by the creditor, for each day of the violation.

24 d. No less than 20 percent of any money collected pursuant to
25 subsection a. of this section shall be utilized by the municipality for
26 municipal code enforcement purposes.

27
28 2. Section 17 of P.L.2008, c.127 (C.46:10B-51) is amended to
29 read as follows:

30 17. a. (1) A creditor serving a summons and complaint in an
31 action to foreclose on a mortgage on residential property in this
32 State shall, within 10 days of serving the summons and complaint,
33 notify the municipal clerk of the municipality in which the property
34 is located that a summons and complaint in an action to foreclose
35 on a mortgage has been filed against the subject property. The
36 notice shall contain the name and contact information for the
37 representative of the creditor who is responsible for receiving
38 complaints of property maintenance and code violations, may
39 contain information about more than one property, and shall be
40 provided by mail or electronic communication, at the discretion of
41 the municipal clerk. If the municipality has appointed a public
42 officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the
43 municipal clerk shall forward a copy of the notice to the public
44 officer or shall otherwise provide it to any other local official

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 responsible for administration of any property maintenance or
2 public nuisance code.

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

7 The notice shall also include the street address, lot and block
8 number of the property, and the full name and contact information
9 of an individual located within the State who is authorized to accept
10 service on behalf of the creditor. The notice shall be provided to the
11 municipal clerk within 10 days of service of a summons and
12 complaint in an action to foreclose on a mortgage against the
13 subject property.

14 (2) Within 30 days following the effective date of P.L.2009,
15 c.296 (C.2A:50-69 et al.), any creditor that has initiated a
16 foreclosure proceeding on any residential property which is pending
17 in Superior Court shall provide to the municipal clerk of the
18 municipality in which the property is located, a listing of all
19 residential properties in the municipality for which the creditor has
20 foreclosure actions pending by street address and lot and block
21 number. If the municipality has appointed a public officer pursuant
22 to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal clerk shall
23 forward a copy of the notice to the public officer, or shall otherwise
24 provide it to any other local official responsible for administration
25 of any property maintenance or public nuisance code.

26 b. If the owner of a residential property vacates or abandons
27 any property on which a foreclosure proceeding has been initiated
28 or if a residential property becomes vacant at any point subsequent
29 to the creditor's filing the summons and complaint in an action to
30 foreclose on a mortgage against the subject property, but prior to
31 vesting of title in the creditor or any other third party, and the
32 property is found to be a nuisance or in violation of any applicable
33 State or local code, the local public officer, municipal clerk, or
34 other authorized municipal official shall notify the creditor, which
35 shall have the responsibility to abate the nuisance or correct the
36 violation in the same manner and to the same extent as the title
37 owner of the property, to such standard or specification as may be
38 required by State law or municipal ordinance.

39 c. (1) If the municipality expends public funds in order to abate
40 a nuisance or correct a violation on a residential property in
41 situations in which the creditor was given notice pursuant to the
42 provisions of subsection b. of this section but failed to abate the
43 nuisance or correct the violation as directed, the municipality shall
44 have the same recourse against the creditor as it would have against
45 the title owner of the property, including but not limited to the
46 recourse provided under section 23 of P.L.2003, c.210 (C.55:19-
47 100).

1 (2) Any out-of-State creditor that has served a summons and
2 complaint in an action to foreclose on a residential property, that
3 subsequently becomes vacant, shall designate an in-State
4 representative who shall be responsible for the care, maintenance,
5 and upkeep of the vacant property. The out-of-State creditor shall
6 inform the public officer of the municipality in which the property
7 is located, or, if the municipality has not designated a public officer
8 pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal
9 clerk, of the in-State representative responsible for maintenance of
10 the property.

11 (cf: P.L.2009, c.296, s.5)

12

13 3. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill authorizes a fine against creditors who are in the
19 process of foreclosing on a residential property that is vacant if the
20 property falls into disrepair. In the event a property with regard to
21 which a summons and complaint in an action to foreclose has been
22 filed and the resident has vacated the property, the appropriate
23 municipal code enforcement official may issue a citation against the
24 creditor if the condition of the property is found to be in violation of
25 a municipal ordinance, rule, or regulation. The court may impose a
26 fine on the creditor of up to \$2,500 for each day the property is
27 deemed to have been in violation. The bill provides that at least 20
28 percent of any money collected through this provision be allocated
29 for municipal code enforcement purposes.

30 The bill requires out-of-state creditors who have served a notice
31 of intention to foreclose on a residential property to designate an in-
32 state person or entity responsible for the care, maintenance, and
33 upkeep of the property.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1229

STATE OF NEW JERSEY

DATED: MARCH 17, 2014

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 1229.

This bill would authorize municipalities to adopt ordinances to regulate the maintenance of vacant residential properties that are under foreclosure. In the event a property with regard to which a summons and complaint in an action to foreclose has been filed and the resident has vacated the property, the appropriate municipal code enforcement official may issue a citation against the creditor if the condition of the property is found to be in violation of a municipal ordinance, rule, or regulation adopted pursuant to the bill. The court may impose a fine on the creditor of up to \$2,500 for each day the property is deemed to have been in violation of any ordinance, rule, or regulation adopted pursuant to the bill. The bill provides that at least 20 percent of such fines collected be allocated for municipal code enforcement purposes.

The bill requires out-of-state creditors who have served a summons and complaint in an action to foreclose on a residential property to designate an in-state person or entity responsible for the care, maintenance, and upkeep of the property.

STATEMENT TO
SENATE, No. 1229

with Senate Floor Amendments
(Proposed by Senator RICE)

ADOPTED: MARCH 27, 2014

These floor amendments:

Amend section 1 of the bill to

- provide that municipal ordinances to regulate vacant and abandoned properties must limit the responsibility of a creditor serving a summons and complaint to foreclose to care, maintain, secure and keep up a vacant and abandoned property on which a summons and complaint in an action to foreclose, to issues of the property's exterior;
- require that the full name and contact information for the in-State representative or agent responsible for the care, maintenance, security, and upkeep of a property for an out-of-State creditor be included in the notice required pursuant to paragraph (1) of subsection a. of section 17 of P.L.2008, c.127 (C.46:10B-51). That notice requires a creditor who has filed a summons and complaint in an action to foreclose on a mortgage to advise the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been filed against a property within 10 days of the service of those documents, and also requires the creditor to provide the municipal clerk with the name and contact information for the creditor's representative responsible for receiving complaints of property maintenance and code violations;
- authorize a public officer or other authorized municipal official to issue a notice of violation to the creditor filing the summons and complaint in an action to foreclose, if the public officer or other official determines that the creditor has violated the ordinance by failing to provide for the care, maintenance, security, and upkeep of the exterior of the property;
- provide that an out-of-State creditor subject to such a municipal ordinance who is found to be in violation of the ordinance by a municipal court, or by any other court of competent jurisdiction, because the creditor did not appoint an in-State representative or agent, shall be subject to a fine of \$2,500 for each day of the violation; and
- provide that a creditor subject to such a municipal ordinance who is found to be in violation of the ordinance by a municipal court or by any other court of competent jurisdiction, because the creditor did not correct a care, maintenance, security, or

upkeep violation, shall be subject to a fine of \$1,500 for each day of the violation.

Amend section 2 of the bill to make the language consistent with section 1 of the bill; and

Add a new section 3 of the bill to revise the definition of “vacant and abandoned” residential property in section 1 of P.L.2012, c.70 (C.2A:50-73) to provide that a property may be deemed vacant and abandoned by a court if either a notice of violation has been issued pursuant to subsection b. of section 1 of the bill or at least two of the conditions in section 1 of P.L.2012, c.70 (C.2A:50-73) exist.

STATEMENT TO
[Second Reprint]
SENATE, No. 1229

with Assembly Floor Amendments
(Proposed by Assemblyman PRIETO)

ADOPTED: JUNE 16, 2014

This floor amendment removes an internal inconsistency in section 3 of the bill. The bill currently provides that a property shall be deemed “vacant and abandoned” if the court finds that the mortgaged property is not occupied by a mortgagor or tenant, as evidenced by a lease agreement entered into prior to the service of a notice of intention to commence foreclosure according to section 4 of the “Fair Foreclosure Act,” P.L.1995, c.244 (C.2A:50-56), and either (1) a notice of violation has been issued public officer or other authorized municipal official to the creditor filing the summons and complaint in an action to foreclose or (2) two of the conditions listed in section 1 of P.L.2012, c.70 (C.2A:50-73) exist.

The amendment clarifies that a property may be deemed vacant and abandoned if the court finds that the mortgaged property is not occupied by a mortgagor or tenant, as evidenced by a lease agreement entered into prior to the service of a notice of intention to commence foreclosure according to section 4 of the “Fair Foreclosure Act,” P.L.1995, c.244 (C.2A:50-56), and two of the conditions listed in section 1 of P.L.2012, c.70 (C.2A:50-73) exist. The amendment would establish two separate foreclosure processes, one for when the municipal official has issued a notice of violation and another for when a municipal official has not issued a notice of violation.

ASSEMBLY, No. 1257

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblyman VINCENT PRIETO
District 32 (Bergen and Hudson)
Assemblyman DANIEL R. BENSON
District 14 (Mercer and Middlesex)
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)
Assemblyman PAUL D. MORIARTY
District 4 (Camden and Gloucester)

Co-Sponsored by:

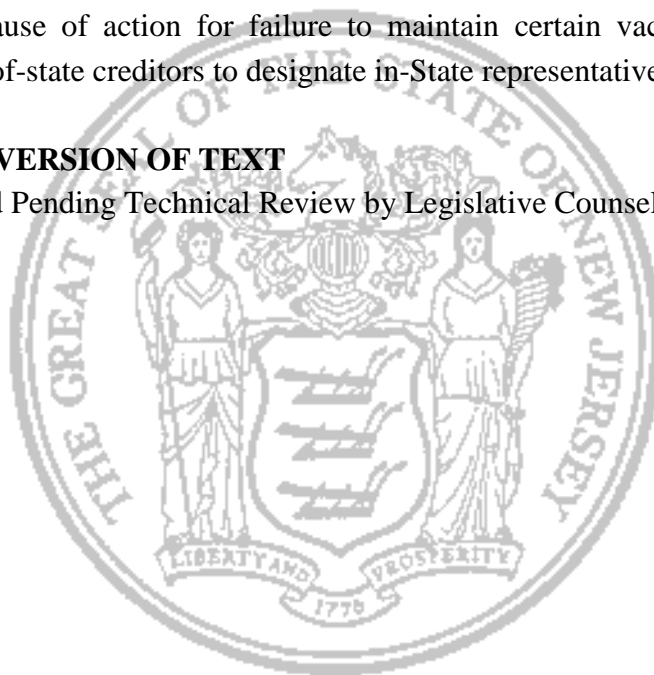
Assemblyman Caputo, Assemblywomen Oliver, Mosquera, Assemblymen Gusciora, Wolfe, McGuckin, Assemblywoman Gove, Assemblyman Rumpf and Assemblywoman Jimenez

SYNOPSIS

Creates cause of action for failure to maintain certain vacant properties; requires out-of-state creditors to designate in-State representative.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 6/6/2014)

1 AN ACT concerning the maintenance of certain residential
2 properties, supplementing chapter 48 of Title 40 of the Revised
3 Statutes and amending P.L.2008, c.127.

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

7
8 1. (New section) a. The governing body of any municipality
9 may make, amend, repeal and enforce ordinances to regulate the
10 care, maintenance, and upkeep of vacant residential properties on
11 which a summons and complaint in an action to foreclose has been
12 filed.

13 b. An ordinance adopted pursuant to subsection a. of this
14 section shall provide that the person or entity filing the summons
15 and complaint in an action to foreclose shall be responsible for the
16 maintenance and upkeep of the vacant residential property, and if
17 located out-of-State, shall be responsible for appointing an in-State
18 agent to act for the foreclosing person or entity.

19 c. A creditor found by the municipal court of the municipality
20 in which the property is located, or any other court of competent
21 jurisdiction, to be in violation of any ordinance, rule, or regulation
22 adopted pursuant this section shall be subject to a fine of \$2,500,
23 payable by the creditor, for each day of the violation.

24 d. No less than 20 percent of any money collected pursuant to
25 subsection a. of this section shall be utilized by the municipality for
26 municipal code enforcement purposes.

27
28 2. Section 17 of P.L.2008, c.127 (C.46:10B-51) is amended to
29 read as follows:

30 17. a. (1) A creditor serving a summons and complaint in an
31 action to foreclose on a mortgage on residential property in this
32 State shall, within 10 days of serving the summons and complaint,
33 notify the municipal clerk of the municipality in which the property
34 is located that a summons and complaint in an action to foreclose
35 on a mortgage has been filed against the subject property. The
36 notice shall contain the name and contact information for the
37 representative of the creditor who is responsible for receiving
38 complaints of property maintenance and code violations, may
39 contain information about more than one property, and shall be
40 provided by mail or electronic communication, at the discretion of
41 the municipal clerk. If the municipality has appointed a public
42 officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the
43 municipal clerk shall forward a copy of the notice to the public
44 officer or shall otherwise provide it to any other local official

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 responsible for administration of any property maintenance or
2 public nuisance code.

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

7 The notice shall also include the street address, lot and block
8 number of the property, and the full name and contact information
9 of an individual located within the State who is authorized to accept
10 service on behalf of the creditor. The notice shall be provided to the
11 municipal clerk within 10 days of service of a summons and
12 complaint in an action to foreclose on a mortgage against the
13 subject property.

14 (2) Within 30 days following the effective date of P.L.2009,
15 c.296 (C.2A:50-69 et al.), any creditor that has initiated a
16 foreclosure proceeding on any residential property which is pending
17 in Superior Court shall provide to the municipal clerk of the
18 municipality in which the property is located, a listing of all
19 residential properties in the municipality for which the creditor has
20 foreclosure actions pending by street address and lot and block
21 number. If the municipality has appointed a public officer pursuant
22 to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal clerk shall
23 forward a copy of the notice to the public officer, or shall otherwise
24 provide it to any other local official responsible for administration
25 of any property maintenance or public nuisance code.

26 b. If the owner of a residential property vacates or abandons
27 any property on which a foreclosure proceeding has been initiated
28 or if a residential property becomes vacant at any point subsequent
29 to the creditor's filing the summons and complaint in an action to
30 foreclose on a mortgage against the subject property, but prior to
31 vesting of title in the creditor or any other third party, and the
32 property is found to be a nuisance or in violation of any applicable
33 State or local code, the local public officer, municipal clerk, or
34 other authorized municipal official shall notify the creditor, which
35 shall have the responsibility to abate the nuisance or correct the
36 violation in the same manner and to the same extent as the title
37 owner of the property, to such standard or specification as may be
38 required by State law or municipal ordinance.

39 c. (1) If the municipality expends public funds in order to abate
40 a nuisance or correct a violation on a residential property in
41 situations in which the creditor was given notice pursuant to the
42 provisions of subsection b. of this section but failed to abate the
43 nuisance or correct the violation as directed, the municipality shall
44 have the same recourse against the creditor as it would have against
45 the title owner of the property, including but not limited to the
46 recourse provided under section 23 of P.L.2003, c.210 (C.55:19-
47 100).

1 (2) Any out-of-State creditor that has served a summons and
2 complaint in an action to foreclose on a residential property, that
3 subsequently becomes vacant, shall designate an in-State
4 representative who shall be responsible for the care, maintenance,
5 and up-keep of the vacant property. The out-of-State creditor shall
6 inform the public officer of the municipality in which the property
7 is located, or, if the municipality has not designated a public officer
8 pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal
9 clerk of the in-State representative responsible for maintenance of
10 the property.

11 (cf: P.L.2009, c.296, s.5)

12

13 3. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill permits a governing body of any municipality to make,
19 amend, repeal, and enforce ordinances to regulate the care,
20 maintenance, and upkeep of vacant residential properties on which a
21 summons and complaint in an action to foreclose has been filed.

22 The bill provides that when a creditor is found by the municipal
23 court of the municipality in which the property is located, or any
24 other court of competent jurisdiction, to be in violation of any
25 ordinance, rule, or regulation adopted pursuant the bill's provisions,
26 they shall be subject to a fine of \$2,500 for each day of the
27 violation. The bill requires that no less than 20 percent of any
28 money collected from these fines shall be utilized by the
29 municipality for municipal code enforcement purposes.

30 The bill also requires out-of-State creditors, who have served a
31 summons and complaint in an action to foreclose on a residential
32 property, to designate an in-State person or entity to be responsible
33 for the care, maintenance, and up-keep of the property.

ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1257

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 5, 2014

The Assembly Housing and Community Development Committee reports favorably Assembly Bill No. 1257 with committee amendments.

As amended by the committee, this bill permits a governing body of any municipality to adopt ordinances to regulate the care, maintenance, security, and upkeep of vacant residential properties on which a summons and complaint in an action to foreclose has been filed. The bill also requires out-of-State creditors, who have served a summons and complaint in an action to foreclose on a residential property, to designate an in-State person or entity to be responsible for the care, maintenance, and up-keep of the property.

The full name and contact information for the in-State representative or agent responsible for the care, maintenance, security, and upkeep of the property must be included on the notice required to be provided to the municipal clerk that a summons and complaint in an action to foreclose has been filed. That notice requires, creditor who has filed a summons and complaint in an action to foreclose on a mortgage to advise the municipal clerk, within 10 days of the service of those documents, that a summons and complaint in an action to foreclose on a mortgage has been filed against a property, and requires the creditor to provide the municipal clerk with the name and contact information for the creditor's representative responsible for receiving complaints of property maintenance and code violations.

The amended bill authorizes a public officer or other municipal official to issued a notice of violation to the creditor filing the summons and complaint in an action to foreclose, if the public officer or other official determines that the creditor has violated the ordinance by failing to provide for the care, maintenance, security, and upkeep of the exterior of the property.

The amended bill provides that when a creditor is found by the municipal court of the municipality in which the property is located, or any other court of competent jurisdiction, to be in violation of any ordinance, rule, or regulation adopted pursuant the bill's provisions,

they shall be subject to a fine of \$2,500 for each day of the violation. The bill requires that no less than 20 percent of any money collected from these fines shall be utilized by the municipality for municipal code enforcement purposes. The amended bill also provides that if a creditor subject to the municipal ordinance is found to be in violation of the ordinance by a municipal court or by any other court of competent jurisdiction, because the creditor did not correct a care, maintenance, security, or upkeep violation, it shall be subject to a fine of \$1,500 for each day of the violation.

The amended bill also revises the definition of “vacant and abandoned” residential property in section 1 of P.L.2012. c.70 (C.2A:50-73) to clarify that a property may be deemed “vacant and abandoned” either when a notice of violation is served on the creditor pursuant to subsection b. of section 1 of the bill or when at least two of the conditions listed in section 1 of P.L.2012, c.70 (C.2A:50-73) exist.

These amendments make this bill identical to Senate Bill No. 1229 (1R) (Rice/Connors), also amended and released by the committee on this date.

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) provide that municipal ordinances to regulate vacant and abandoned properties must limit the responsibility of a creditor serving a summons and complaint for foreclosure to care, maintain, secure, and keep up the exterior of a vacant and abandoned property;

(2) require that the full name and contact information for the in-State representative or agent responsible for the care, maintenance, security, and upkeep of a property for an out-of-state creditor be included in the notice required pursuant to paragraph (1) of subsection a. of section 17 of P.L.2008, c.127 (C.46:10B-51);

(3) authorize a public officer or other authorized municipal official to issue a notice of violation to the creditor filing the summons and complaint in an action to foreclose, if the public officer or other official determines that the creditor has violated the ordinance by failing to provide for the care, maintenance, security, and upkeep of the exterior of the property;

(4) provide that an out-of-State creditor subject to such a municipal ordinance who is found to be in violation of the ordinance by a municipal court, or by any other court of competent jurisdiction, because the creditor did not appoint an in-State representative or agent, shall be subject to fine of \$2,500 for each day of the violation;

(5) provide that a creditor subject to such a municipal ordinance who is found to be in violation of the ordinance by a municipal court or by any other court of competent jurisdiction, because the creditor

did not correct a care, maintenance, security, or upkeep violation, shall be subject to a fine of \$1,500 for each day of the violation;

(6) make the language in sections 1 and 2 consistent; and

(7) add a new section 3 of the bill to revise the definition of “vacant and abandoned” residential property in section 1 of P.L.2012, c.70 (C.2A:50-73) to provide that a property may be deemed vacant and abandoned either when a notice of violation is served on the creditor pursuant to subsection b. of section 1 of the bill or at least two of the conditions listed in section 1 of P.L.2012, c.70 (C.2A:50-73) exist.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 1257

with Assembly Floor Amendments
(Proposed by Assemblyman PRIETO)

ADOPTED: JUNE 16, 2014

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