

**46:10B-49.1 TO 46:10B-49.3
LEGISLATIVE HISTORY CHECKLIST**

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LAWS OF: 2019 **CHAPTER:** 134

NJSA: 46:10B-49.1 TO 46:10B-49.3 (Requires DCA to produce and maintain database concerning residential properties under foreclosure.)

BILL NO: A5000 (Substituted for S3412)

SPONSOR(S) Gabriela M. Mosquera and others

DATE INTRODUCED: 2/7/2019

COMMITTEE: **ASSEMBLY:** Housing & Community Development
Financial Institutions & Insurance
Appropriations

SENATE: Community & Urban Affairs
Budget & Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 6/10/2019

SENATE: 6/20/2019

DATE OF APPROVAL: 6/24/2019

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Third Reprint enacted) Yes

A5000

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Housing & Community Devel.
Financial Institutions and Insurance
Appropriations

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes 3/29/2019
6/11/2019

S3412

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes Community & Urban Affairs
Budget & Appropriations

(continued)

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: Yes (Conditional)

GOVERNOR'S PRESS RELEASE ON VETO: Yes

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: Yes

Public hearing before Assembly Housing and Community Development Committee : the Committee will receive testimony from invited guests and the public concerning the affordable housing needs of the state [July 25, 2018, Trenton, New Jersey]

Call number 974.90 H842, 2018a

Available online at <http://hdl.handle.net/10929/48739>

Public hearing before Assembly Housing and Community Development Committee: the Committee will receive testimony from invited guests and the public concerning foreclosures and vacant properties in the State [September 20, 2018, Union, New Jersey]

Call number 974.90 H842, 2018b

Available online at <http://hdl.handle.net/10929/49433>

NEWSPAPER ARTICLES: No

RWH/CL

(CORRECTED COPY)

P.L. 2019, CHAPTER 134, *approved June 24, 2019*
Assembly, No. 5000 (*Third Reprint*)

1 AN ACT concerning residential properties under foreclosure,
2 supplementing P.L.2008, c.127 (C.55:14K-82 et al.) ³, and
3 amending P.L.1995, c.244³.

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

7
8 1. ³(New section)³ a. The Department of ¹**[Banking and**
9 **Insurance]** Community Affairs¹ shall produce a database ³**[with an**
10 **interactive mapping component which]** that³ details ³**[, and**
11 **provides a graphic representation to allow the department to**
12 **visualize,]**³ the extent to which residential properties in this State
13 are under foreclosure pursuant to the “Fair Foreclosure Act,”
14 P.L.1995, c.244 (C.2A:50-53 et seq.). The department shall
15 develop, maintain, and update the database ¹**[in real time]**¹ based
16 upon information submitted to the department by ³**[, and in**
17 **cooperation with,]** the county clerks, the county registers of deeds
18 and mortgages, the county sheriffs, and¹ the Administrative Office
19 of the Courts] residential mortgage lenders³ pursuant to section 2 of
20 ¹**[this act]** P.L. , c. (C.) (pending before the Legislature as
21 this bill)¹, and information obtained from any other public sources.

22 b. The database shall contain ³**[, and the map shall represent]**³:

23 (1) The ³**[location]** address³ of each residential property under
24 foreclosure ³**[by]** and the³ county, municipality, lot and block
25 number;

26 (2) the current owner of record; ³and³

27 (3) the date ¹**[that]**¹ the ¹**[notice of intention to foreclose]** ³**[lis**
28 **pendens**¹ is filed;] notice of intention to foreclose was sent to the
29 residential mortgage debtor by registered or certified mail, return
30 receipt requested.³

31 ³**[(4) the date the foreclosure complaint is filed;**

32 (5) the date of judgment of foreclosure; ²**[and]**²

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 AHO committee amendments adopted March 7, 2019.

²Assembly AAP committee amendments adopted March 18, 2019.

³Assembly amendments adopted in accordance with Governor's recommendations May 16, 2019.

1 (6) the date of any deed transfer pursuant to a sheriff's sale and
2 the name of the purchaser²;

3 (7) any person responsible for maintenance of the property and
4 that person's contact information; and

5 (8) secondary lien holders and their contact information.³

6 c. The database shall be considered confidential and shall be
7 used only by the department, the county clerks, the county registers
8 of deeds and mortgages, the county sheriffs, the Administrative
9 Office of the Courts and such other agencies as the Commissioner
10 of Community Affairs designates, except that a municipality shall
11 have access to the database only with respect to information
12 pertaining to the geographical area within the municipality's
13 jurisdiction. The database shall not be subject to public access,
14 inspection or copying pursuant to P.L.1963, c.73 (C.47:1A-
15 1 et seq.) or the common law concerning access to public records².

16 ²[¹c.] d.² The Commissioner of Community Affairs may adopt
17 rules and regulations, pursuant to the "Administrative Procedure
18 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the
19 provisions of P.L. , c. (C.) (pending before the Legislature
20 as this bill).¹

21
22 ³[2. The ¹county clerks, the county registers of deeds and
23 mortgages, the county sheriffs, and the¹ Administrative Office of the
24 Courts shall ¹, as appropriate,¹ provide the Department of ¹[Banking
25 and Insurance] Community Affairs¹ with as much of the information
26 listed in subsection b. of section 1 of ¹[this act] P.L. , c. (C.)
27 (pending before the Legislature as this bill)¹ with respect to ¹[the]
28 residential¹ property ¹under foreclosure¹ as is reasonably available
29 from records maintained by, or accessible to, the ¹[office] offices¹.
30 The information shall be provided ¹[in real time] daily¹ in ¹[a] an
31 electronic¹ format ¹[, electronic or otherwise,]¹ as is useful to the
32 department to develop, maintain ¹,¹ and update the database and map
33 required by section 1 of ¹[this act] P.L. , c. (C.) (pending
34 before the Legislature as this bill)¹.³

35
36 ³[3. As of the effective date of ¹[this act] P.L. , c. (C.)
37 (pending before the Legislature as this bill)¹, the revenue from
38 additional fees for recording deeds and lis pendens fees collected by
39 county clerks and registers of deeds and mortgages and received by the
40 Department of ¹[Banking and Insurance] Community Affairs¹,
41 pursuant to section 4 of ¹[this act] P.L. , c. (C.) (pending
42 before the Legislature as this bill)¹, shall be deposited into a separate
43 fund within the department and shall only be used by the department
44 for the purpose of developing, maintaining, and updating the database

1 and map¹ created pursuant to section 1 of 1 **[this act]**
 2 P.L. , c. (C.) (pending before the Legislature as this bill)¹.³

3
 4 ³**[4.** In addition to each fee for the recording of a deed or a lis
 5 pendens collected by county clerks and registers of deeds and
 6 mortgages pursuant to section 2 of P.L.1965, c.123 (C.22A:4-4.1) and
 7 any other rule, regulation, or law, an amount of \$30 shall be collected
 8 by the county clerks and registers of deeds and mortgages on the
 9 recording of each deed or lis pendens. The revenues obtained from
 10 these increased amounts, after deduction of any actual administrative
 11 costs incurred by county clerks **1****[and] , county**¹ registers of deeds and
 12 mortgages ¹, and county sheriffs¹ in carrying out the provisions of
 13 **1****[this subsection]** P.L. , c. (C.) (pending before the
 14 Legislature as this bill)¹, shall be transmitted quarterly by the **1****[office**
 15 **of the]**¹ county **1****[clerk or register of deeds and mortgages, as**
 16 **appropriate,]**¹ to the Department of **1****[Banking and Insurance]**
 17 **Community Affairs**¹, for the purposes set forth in sections 1 through 3
 18 of **1****[this act]** P.L. , c. (C.) (pending before the Legislature as
 19 this bill)¹.³

20
 21 ³2. (New section) a. A residential mortgage lender shall
 22 provide to the Department of Community Affairs the notice of
 23 intention to foreclose required pursuant to section 4 of P.L.1995,
 24 c.244 (C.2A:50-56) and a description of the subject property by
 25 street address, block, and lot as shown on the municipal tax map at
 26 the time the notice is given to the residential mortgage debtor. Upon
 27 receipt of the notice of intention to foreclose pursuant to this
 28 section, the Department of Community Affairs shall provide the
 29 residential mortgage lender with a written acknowledgement of the
 30 department's receipt of the notice of intention to foreclose.
 31 Compliance with this section shall be set forth in the pleadings of
 32 any legal action referred to in section 4 of P.L.1995, c.244
 33 (C.2A:50-56).

34 b. The Department of Community Affairs shall create a
 35 centralized portal allowing for electronic submittal of the notice of
 36 intention to foreclose as required pursuant to subsection a. of this
 37 section.³

38
 39 ³**[25.]** ³3. (New section)³ A residential mortgage lender that
 40 serves a summons and complaint in an action to foreclose on a
 41 mortgage on a residential property in this State pursuant to the "Fair
 42 Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et seq.), shall,
 43 within 10 days of serving the summons and complaint, notify³the
 44 Department of Community Affairs,³ the municipal clerk, the
 45 municipal tax collector, and the chief of police in the municipality
 46 in which the property is located, and all public utilities as defined in

1 R.S.48:2-13 which provide services in the municipality in which the
2 property is located, and the county executive in the county in which
3 the property is located, that a summons and complaint in an action
4 to foreclose on a mortgage has been filed against the property.²

5
6 ³4. Section 4 of P.L.1995, c.244 (C.2A:50-56) is amended to
7 read as follows:

8 4. a. Upon failure to perform any obligation of a residential
9 mortgage by the residential mortgage debtor and before any
10 residential mortgage lender may accelerate the maturity of any
11 residential mortgage obligation and commence any foreclosure or
12 other legal action to take possession of the residential property
13 which is the subject of the mortgage, the residential mortgage
14 lender shall give the residential mortgage debtor notice of such
15 intention, which shall include a notice of the right to cure the
16 default as provided in section 5 of P.L.1995, c.244 (C.2A:50-57),
17 at least 30 days, but not more than 180 days, in advance of such action
18 as provided in this section.

19 b. Notice of intention to take action as specified in subsection
20 a. of this section shall be in writing, provided to the Department of
21 Community Affairs in accordance with subsection a. of section 2 of
22 P.L. , c. (C.) (pending before the Legislature as this bill),
23 sent to the debtor by registered or certified mail, return receipt
24 requested, at the debtor's last known address, and, if different, to the
25 address of the property which is the subject of the residential
26 mortgage. The notice is deemed to have been effectuated on the
27 date the notice is delivered in person or mailed to the party.

28 c. The written notice shall clearly and conspicuously state in a
29 manner calculated to make the debtor aware of the situation:

30 (1) the particular obligation or real estate security interest;

31 (2) the nature of the default claimed;

32 (3) the right of the debtor to cure the default as provided in
33 section 5 of P.L.1995, c.244 (C.2A:50-57);

34 (4) what performance, including what sum of money, if any, and
35 interest, shall be tendered to cure the default as of the date specified
36 under paragraph (5) of this subsection c.;

37 (5) the date by which the debtor shall cure the default to avoid
38 initiation of foreclosure proceedings, which date shall not be less
39 than 30 days after the date the notice is effective, and the name and
40 address and phone number of a person to whom the payment or
41 tender shall be made;

42 (6) that if the debtor does not cure the default by the date
43 specified under paragraph (5) of this subsection c., the lender may
44 take steps to terminate the debtor's ownership in the property by
45 commencing a foreclosure suit in a court of competent jurisdiction;

46 (7) that if the lender takes the steps indicated pursuant to
47 paragraph (6) of this subsection c., a debtor shall still have the right
48 to cure the default pursuant to section 5 of P.L.1995, c.244

1 (C.2A:50-57), but that the debtor shall be responsible for the
2 lender's court costs and attorneys' fees in an amount not to exceed
3 that amount permitted pursuant to the Rules Governing the Courts
4 of the State of New Jersey;

5 (8) the right, if any, of the debtor to transfer the real estate to
6 another person subject to the security interest and that the transferee
7 may have the right to cure the default as provided in P.L.1995,
8 c.244 (C.2A:50-53 et seq.), subject to the mortgage documents;

9 (9) that the debtor is advised to seek counsel from an attorney of
10 the debtor's own choosing concerning the debtor's residential
11 mortgage default situation, and that, if the debtor is unable to obtain
12 an attorney, the debtor may communicate with the New Jersey Bar
13 Association or Lawyer Referral Service in the county in which the
14 residential property securing the mortgage loan is located; and that,
15 if the debtor is unable to afford an attorney, the debtor may
16 communicate with the Legal Services Office in the county in which
17 the property is located;

18 (10) the possible availability of financial assistance for curing a
19 default from programs operated by the State or federal government
20 or nonprofit organizations, if any, as identified by the
21 Commissioner of Banking and Insurance. This requirement shall be
22 satisfied by attaching a list of such programs promulgated by the
23 commissioner;

24 (11) the name and address of the lender and the telephone
25 number of a representative of the lender whom the debtor may
26 contact if the debtor disagrees with the lender's assertion that a
27 default has occurred or the correctness of the mortgage lender's
28 calculation of the amount required to cure the default;

29 (12) that if the lender takes the steps indicated pursuant to
30 paragraph (6) of this subsection, the debtor has the option to
31 participate in the Foreclosure Mediation Program following the
32 filing of a mortgage foreclosure complaint by initiating mediation
33 pursuant to paragraph (2) of subsection a. of section 4 of P.L.2019,
34 c.64 (C.2A:50-77). Notice of the option to participate in the
35 Foreclosure Mediation Program shall adhere to the requirements of
36 section 3 of P.L.2019, c.64 (C.2A:50-76) and any court rules,
37 procedures, or guidelines adopted by the Supreme Court;

38 (13) that the debtor is entitled to housing counseling, at no cost
39 to the debtor, through the Foreclosure Mediation Program
40 established by the New Jersey Judiciary, including information on
41 how to contact the program;

42 (14) that if the property which is the subject of the mortgage has
43 more than one dwelling unit but less than five, one of which is
44 occupied by the debtor or a member of the debtor's immediate
45 family as the debtor's or member's residence at the time the loan is
46 originated, and is not properly maintained and meets the necessary
47 conditions for receivership eligibility, established pursuant to
48 section 4 of the "Multifamily Housing Preservation and

1 Receivership Act," P.L.2003, c.295 (C.2A:42-117), the residential
2 mortgage lender shall file an order to show cause to appoint a
3 receiver; and

4 (15) that the lender is either licensed in accordance with the
5 "New Jersey Residential Mortgage Lending Act," sections 1
6 through 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89)
7 or exempt from licensure under the act in accordance with
8 applicable law.

9 d. The notice of intention to foreclose required to be provided
10 pursuant to this section shall not be required if the debtor has
11 voluntarily surrendered the property which is the subject of the
12 residential mortgage.

13 e. The duty of the lender under this section to serve notice of
14 intention to foreclose is independent of any other duty to give
15 notice under the common law, principles of equity, State or federal
16 statute, or rule of court and of any other right or remedy the debtor
17 may have as a result of the failure to give such notice.

18 f. Compliance with this section and subsection a. of section 2
19 of P.L. , c. (C.) (pending before the Legislature as this bill)
20 shall be set forth in the pleadings of any legal action referred to in
21 this section. If the plaintiff in any complaint seeking foreclosure of
22 a residential mortgage alleges that the property subject to the
23 residential mortgage has been abandoned or voluntarily
24 surrendered, the plaintiff shall plead the specific facts upon which
25 this allegation is based.

26 g. If more than 180 days have elapsed since the date the notice
27 required pursuant to this section is sent, and any foreclosure or
28 other legal action to take possession of the residential property
29 which is the subject of the mortgage has not yet been commenced,
30 the lender shall send a new written notice at least 30 days, but not
31 more than 180 days, in advance of that action.

32 h. If the property which is the subject of the notice of intention
33 to foreclose has more than one dwelling unit but less than five, one
34 of which is occupied by the debtor or a member of the debtor's
35 immediate family as the debtor's or member's residence at the time
36 the loan is originated, and is not properly maintained and meets the
37 necessary conditions for receivership eligibility, established
38 pursuant to section 4 of the "Multifamily Housing Preservation and
39 Receivership Act," P.L.2003, c.295 (C.2A:42-117), the residential
40 mortgage lender shall file an order to show cause to appoint a
41 receiver.³

42 (cf: P.L.2019, c.70, s.2)

43
44 ²[5.] ³[6.2] 5.³ This act shall take effect on the first day of the
45 ³[seventh] tenth³ month next following the date of enactment ¹, but
46 the Commissioner of Community Affairs may take such
47 anticipatory administrative action in advance thereof as shall be
48 necessary for the implementation of this act¹.

A5000 [3R]

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3

4

Requires DCA to produce and maintain database concerning residential properties under foreclosure.

ASSEMBLY, No. 5000

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 7, 2019

Sponsored by:

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

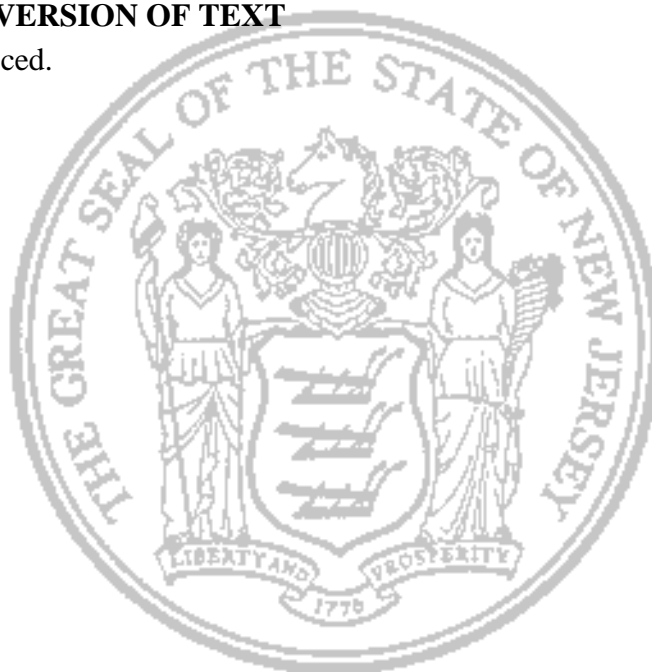
Assemblywoman Murphy

SYNOPSIS

Requires DOBI to produce and maintain database and interactive map concerning residential properties under foreclosure; increases certain recording fees as funding mechanism.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/6/2019)

A5000 MOSQUERA, REYNOLDS-JACKSON

2

1 AN ACT concerning residential properties under foreclosure,
2 supplementing P.L.2008, c.127 (C.55:14K-82 et al.).

3

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

6

7 1. a. The Department of Banking and Insurance shall produce
8 a database with an interactive mapping component which details,
9 and provides a graphic representation to allow the department to
10 visualize, the extent to which residential properties in this State are
11 under foreclosure pursuant to the "Fair Foreclosure Act," P.L.1995,
12 c.244 (C.2A:50-53 et seq.). The department shall develop, maintain,
13 and update the database in real time based upon information
14 submitted to the department by, and in cooperation with, the
15 Administrative Office of the Courts pursuant to section 2 of this act,
16 and information obtained from any other public sources.

17 b. The database shall contain, and the map shall represent:

18 (1) The location of each residential property under foreclosure
19 by county, municipality, lot and block number;

20 (2) the current owner of record;

21 (3) the date that the notice of intention to foreclose is filed;

22 (4) the date the foreclosure complaint is filed;

23 (5) the date of judgment of foreclosure; and

24 (6) the date of any deed transfer pursuant to a sheriff's sale and
25 the name of the purchaser.

26

27 2. The Administrative Office of the Courts shall provide the
28 Department of Banking and Insurance with as much of the
29 information listed in subsection b. of section 1 of this act with
30 respect to the property as is reasonably available from records
31 maintained by, or accessible to, the office. The information shall be
32 provided in real time in a format, electronic or otherwise, as is
33 useful to the department to develop, maintain and update the
34 database and map required by section 1 of this act.

35

36 3. As of the effective date of this act, the revenue from
37 additional fees for recording deeds and lis pendens fees collected by
38 county clerks and registers of deeds and mortgages and received by
39 the Department of Banking and Insurance, pursuant to section 4 of
40 this act, shall be deposited into a separate fund within the
41 department and shall only be used by the department for the
42 purpose of developing, maintaining, and updating the database
43 created pursuant to section 1 of this act.

44

45 4. In addition to each fee for the recording of a deed or a lis
46 pendens collected by county clerks and registers of deeds and
47 mortgages pursuant to section 2 of P.L.1965, c.123 (C.22A:4-4.1)
48 and any other rule, regulation, or law, an amount of \$30 shall be

1 collected by the county clerks and registers of deeds and mortgages
2 on the recording of each deed or lis pendens. The revenues obtained
3 from these increased amounts, after deduction of any actual
4 administrative costs incurred by county clerks and registers of
5 deeds and mortgages in carrying out the provisions of this
6 subsection, shall be transmitted quarterly by the office of the county
7 clerk or register of deeds and mortgages, as appropriate, to the
8 Department of Banking and Insurance for the purposes set forth in
9 sections 1 through 3 of this act.

10
11 5. This act shall take effect on the first day of the seventh
12 month next following the date of enactment.

13
14
15 STATEMENT

16
17 This bill requires the Department of Banking and Insurance to
18 produce a database with an interactive mapping component which
19 details, and provides a graphic representation to allow the
20 department to visualize, the extent of foreclosed properties in the
21 State. The database shall be developed, maintained and updated in
22 real time based upon information submitted to the department by
23 the Administrative Office of the Courts, and information obtained
24 from any other public sources.

25 The database shall contain, and the map shall represent:

- 26 (1) the location of each residential property under foreclosure by
27 county, municipality, lot and block number;
28 (2) the current owner of record;
29 (3) the date that the notice of intention to foreclose is filed;
30 (4) the date the foreclosure complaint is filed;
31 (5) the date of judgment of foreclosure; and
32 (6) the date of any deed transfer pursuant to a sheriff's sale and
33 the name of the purchaser.

34 The Administrative Office of the Courts shall provide the
35 Department of Banking and Insurance with as much of the
36 information required by this bill with respect to the property as is
37 reasonably available from records maintained by, or accessible to,
38 the office. The information shall be provided in real time in a
39 format, electronic or otherwise, as is useful to the department to
40 develop, maintain and update the database and map required by this
41 bill.

42 To pay for the database, the bill establishes a \$30 fee to be
43 collected for the recording of deeds and lis pendens by county
44 clerks and registers of deeds and mortgages on the recording of
45 each deed and lis pendens. The increased fee will be in addition to
46 fees already collected pursuant to current law. This bill provides
47 that the county clerk or registrar shall deduct any actual
48 administrative costs incurred in collecting and transmitting these

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1 increased amounts, and then transmit the remainder of the revenue,
2 each quarter, to the Department of Banking and Insurance for the
3 purposes of developing, maintaining, and updating the database of
4 foreclosed properties established by the bill. The deduction of
5 incurred expenses would avoid claims that the collection and
6 disbursement of the additional fees constitute an unfunded State
7 mandate.

ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 5000

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 6, 2019

The Assembly Housing and Community Development Committee reports favorably Assembly Bill No. 5000, with committee amendments.

As amended, this bill requires the Department of Community Affairs (DCA) to produce a database with an interactive mapping component which details, and provides a graphic representation to allow the department to visualize, the extent of foreclosed properties in the State. The database would be developed, maintained, and updated based upon information submitted to the department by the county clerks, the county registers of deeds and mortgages, the county sheriffs, and the Administrative Office of the Courts, and information obtained from any other public sources.

The database would have to contain and the map would have to represent:

- (1) the location of each residential property under foreclosure by county, municipality, lot and block number;
- (2) the current owner of record;
- (3) the date the lis pendens is filed;
- (4) the date the foreclosure complaint is filed;
- (5) the date of judgment of foreclosure; and
- (6) the date of any deed transfer pursuant to a sheriff's sale and the name of the purchaser.

The county clerks, the county registers of deeds and mortgages, the county sheriffs, and the Administrative Office of the Courts would, as appropriate, have to provide DCA with as much of the information required by this bill with respect to residential property under foreclosure as is reasonably available from records maintained by, or accessible to, each office. The information would have to be provided daily in an electronic format as is useful to the department to develop, maintain, and update the database and map required by this bill.

To pay for the database and map, the bill establishes a \$30 fee to be collected for the recording of deeds and lis pendens by county clerks and registers of deeds and mortgages on the recording of each deed and lis pendens. The increased fee will be in addition to fees

already collected pursuant to current law. The bill provides that the county clerks, county registers of deeds and mortgages, and county sheriffs will deduct any actual administrative costs incurred in carrying out the provisions of the bill, and then transmit the remainder of the revenue, each quarter, to DCA for the purposes of developing, maintaining, and updating the database and map of foreclosed properties established by the bill.

As amended and reported by the committee, the bill is identical to Senate Bill No. 3412(1R), as reported by the Senate Community and Urban Affairs Committee on February 7, 2019.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- provide that the Department of Community Affairs shall produce and maintain the database, instead of the Department of Banking and Insurance;
- require the county clerks, the county registers of deeds and mortgages, and the county sheriffs, as appropriate, to supply DCA with the information required to be included in the database required by the bill;
- require the database to contain the date that the lis pendens is filed. The bill originally required the database to contain the date the notice of intention to foreclose is filed instead;
- authorize DCA to adopt rules and regulations to implement the bill;
- require that the information needed for the database be provided to DCA in an electronic format on a daily basis. The bill originally required this data to be provided in real time and permitted the information to be submitted in an electronic or any other format; and
- clarify that the county clerks, the county registers of deeds and mortgages, and the county sheriffs may deduct any actual administrative costs incurred in carrying out the provisions of the bill from the new fees collected under the bill.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5000

STATE OF NEW JERSEY

DATED: MARCH 6, 2019

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 5000 (1R).

This bill requires the Department of Community Affairs (DCA) to produce a database with an interactive mapping component which details, and provides a graphic representation to allow the department to visualize, the extent of foreclosed properties in the State. The database would be developed, maintained, and updated based upon information submitted to the department by the county clerks, the county registers of deeds and mortgages, the county sheriffs, and the Administrative Office of the Courts, and information obtained from any other public sources.

The database would have to contain and the map would have to represent:

- (1) the location of each residential property under foreclosure by county, municipality, lot and block number;
- (2) the current owner of record;
- (3) the date the lis pendens is filed;
- (4) the date the foreclosure complaint is filed;
- (5) the date of judgment of foreclosure; and
- (6) the date of any deed transfer pursuant to a sheriff's sale and the name of the purchaser.

The county clerks, the county registers of deeds and mortgages, the county sheriffs, and the Administrative Office of the Courts would, as appropriate, have to provide DCA with as much of the information required by this bill with respect to residential property under foreclosure as is reasonably available from records maintained by, or accessible to, each office. The information would have to be provided daily in an electronic format as is useful to the department to develop, maintain, and update the database and map required by this bill.

To pay for the database and map, the bill establishes a \$30 fee to be collected for the recording of deeds and lis pendens by county clerks and registers of deeds and mortgages on the recording of each deed and lis pendens. The increased fee will be in addition to fees already collected pursuant to current law. The bill provides that the county clerks, county registers of deeds and mortgages, and county

sheriffs will deduct any actual administrative costs incurred in carrying out the provisions of the bill, and then transmit the remainder of the revenue, each quarter, to DCA for the purposes of developing, maintaining, and updating the database and map of foreclosed properties established by the bill.

As reported by the committee, this bill is identical to Senate Bill No. 3412 (1R), as reported by the Senate Community and Urban Affairs Committee on February 7, 2019.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5000

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5000 (1R), with committee amendments.

Assembly Bill No. 5000(1R), as amended, requires the Department of Community Affairs (DCA) to produce a database with an interactive mapping component which details, and provides a graphic representation to allow the department to visualize, the extent of foreclosed properties in the State. The database would be developed, maintained, and updated based upon information submitted to the department by the county clerks, the county registers of deeds and mortgages, the county sheriffs, and the Administrative Office of the Courts (AOC), and information obtained from any other public sources.

The database would have to contain and the map would have to represent:

- (1) the location of each residential property under foreclosure by county, municipality, lot and block number;
- (2) the current owner of record;
- (3) the date the lis pendens is filed;
- (4) the date the foreclosure complaint is filed;
- (5) the date of judgment of foreclosure;
- (6) the date of any deed transfer pursuant to a sheriff's sale and the name of the purchaser;
- (7) any person responsible for maintenance of the property and that person's contact information; and
- (8) secondary lien holders and their contact information.

The bill provides that the database shall be considered confidential and shall be used only by the department, the county clerks, the county registers of deeds and mortgages, the county sheriffs, the AOC, and such other agencies as the Commissioner of Community Affairs designates, except that a municipality shall have access to the database only with respect to information pertaining to the geographical area within the municipality's jurisdiction. The database shall not be subject to public access, inspection or copying pursuant to P.L. 1963,

c.73 (C.47:1A-1 et seq.) or common law concerning access to public records.

The county clerks, the county registers of deeds and mortgages, the county sheriffs, and the AOC would, as appropriate, have to provide DCA with as much of the information required by this bill with respect to residential property under foreclosure as is reasonably available from records maintained by, or accessible to, each office. The information would have to be provided daily in an electronic format as is useful to the department to develop, maintain, and update the database and map required by this bill.

To pay for the database and map, the bill establishes a \$30 fee to be collected for the recording of deeds and lis pendens by county clerks and registers of deeds and mortgages on the recording of each deed and lis pendens. The increased fee will be in addition to fees already collected pursuant to current law. The bill provides that the county clerks, county registers of deeds and mortgages, and county sheriffs will deduct any actual administrative costs incurred in carrying out the provisions of the bill, and then transmit the remainder of the revenue, each quarter, to DCA for the purposes of developing, maintaining, and updating the database and map of foreclosed properties established by the bill.

The bill also provides that a residential mortgage lender that serves a summons and complaint in an action to foreclose on a mortgage on a residential property in this State pursuant to the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et seq.), shall, within 10 days of serving the summons and complaint, notify the municipal clerk, the municipal tax collector, and the chief of police in the municipality in which the property is located, and all public utilities as defined in R.S.48:2-13 which provide services in the municipality in which the property is located, and the county executive in the county in which the property is located, that a summons and complaint in an action to foreclose on a mortgage has been filed against the property.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- add entities that the database would have to reflect;
- require that the database shall be considered confidential and shall not be subject to public access;
- specify parties that are permitted to use the database; and
- require residential mortgage lenders to notify certain municipal and county offices as to foreclosure actions on property within their jurisdiction.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the enactment of the bill will result in indeterminate increases in annual State expenditures and revenues as well as increases of at

least \$4 million in annual county government expenditures and revenues.

The bill requires the DCA to develop a database, with a mapping component, which details the foreclosed properties in the State. The Judiciary and county governments are to regularly provide information to the DCA for inclusion in the database. The OLS expects the DCA, Judiciary, and counties to experience an indeterminate increase in expenditures associated with these added responsibilities.

The OLS estimates that the bill will increase annual county revenue by at least \$4 million from the additional \$30 fee on the recording of deeds and lis pendens. Of that total, counties will be allowed to retain an amount equal to their indeterminate cost of complying with the provisions of the bill. Thereafter, counties will remit the remaining proceeds to the DCA to support database operations. The amount transferred will represent an indeterminate expenditure increase to counties and an indeterminate revenue gain to the State.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 5000

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MARCH 29, 2019

SUMMARY

- Synopsis:** Requires DCA to produce and maintain database and interactive map concerning residential properties under foreclosure; increases certain recording fees as funding mechanism.
- Type of Impact:** Annual increases in State and county expenditures and revenues.
- Agencies Affected:** Department of Community Affairs, the Judiciary, and counties.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
County Expenditure Increase	At least \$4,000,000
County Revenue Increase	At least \$4,000,000

- The Office of Legislative Services (OLS) estimates that the enactment of the bill would result in indeterminate increases in annual State expenditures and revenues as well as annual increases of at least \$4 million in county government expenditures and revenues.
- The bill requires the Department of Community Affairs (DCA) to develop a database with a mapping component, which details the foreclosed properties in the State. The Administrative Office of the Courts (AOC) within the Judiciary and county governments are to regularly provide information to the DCA for inclusion in the database. The OLS expects the DCA, AOC, and counties to experience an indeterminate increase in expenditures associated with these added responsibilities.
- The OLS estimates that the bill would increase annual county revenues by at least \$4 million due to the additional \$30 fee on the recording of deeds and lis pendens. Of that total, counties would be allowed to retain an indeterminate amount necessary to support the costs of complying with the bill, and then remit the remaining proceeds to the DCA to support the

operations of the database. The amounts transferred to the DCA would represent an indeterminate increase in county expenditures and an indeterminate increase in State revenue.

BILL DESCRIPTION

The bill requires the DCA to develop, maintain, and update a database with an interactive mapping component that details certain required information on foreclosed residential properties in the State. The county clerks, the county registers of deeds and mortgages, the county sheriffs, and the AOC would be required to provide DCA with certain information, as is reasonably available. The information would have to be submitted daily in an electronic format. In addition, the DCA may incorporate into the database information obtained from any other public sources. Under the bill, the database would be considered confidential and used only by authorized public entities.

To defray the costs associated with the database, the bill imposes an additional fee of \$30 on the recording of deeds and lis pendens by county clerks and registers of deeds and mortgages. After deducting any administrative costs counties incurred in carrying out the provisions of the bill, counties would transmit the remainder of the fee collections, each quarter, to the DCA for the purposes of developing, maintaining, and updating the residential foreclosure database.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the enactment of the bill would result in indeterminate annual increases in State expenditures and revenues as well as annual increases of at least \$4 million in county government expenditures and revenues.

Initially, the DCA would incur start-up costs associated with developing the residential foreclosure database required by the bill. The OLS, however, cannot quantify this cost increase, given an absence of information concerning the technical specifications of the database and the extent to which the database would interface with the current information technology systems of the DCA, the AOC, and county governments. Additionally, the complexity of the database design may influence whether the DCA outsources the development of the database to a contracted service provider or performs the work in-house. The two approaches would likely entail different costs, and it is unclear which approach the DCA would implement.

In addition to these start-up costs, the DCA would experience increased annual operating expenditures associated with the requirement to maintain the database, manage its constituent data, and control the quality of the data provided by counties and the AOC. Without input from the Executive Branch, the OLS cannot quantify the anticipated increase in these ongoing expenditures.

Moreover, the OLS expects the AOC and counties to incur increased annual expenditures as a result of the requirement to regularly provide information to the DCA for inclusion in the database. Due to insufficient information, the OLS is unable to quantify this potential cost increase. However, depending on the operating decisions of the AOC and county governments,

it is possible that the added responsibilities would not automatically increase the annual operating expenditures of an affected reporting agency.

The OLS also estimates that the bill would increase annual county revenue by at least \$4 million due to the additional \$30 fee on the recording of deeds and lis pendens by county clerks and registers of deeds and mortgages. Of that total, counties are authorized to retain an amount equal to their indeterminate cost of complying with the provisions of this bill. Thereafter, counties would remit the remaining proceeds to the DCA to support the operations of the database. For the purposes of this fiscal estimate, the OLS characterizes the transfer of the remaining fee receipts to the DCA as an indeterminate increase in county expenditures and an indeterminate increase in State revenue.

The OLS notes that deeds are generally recorded upon the sale and transfer of real property, whereas lis pendens are generally filed upon the foreclosure of a residential property. According to the New Jersey Realtors Association, residential real property sales, including single-family homes, townhouses, condominiums, and adult community homes, totaled 106,217, 115,991, and 117,004 in 2016, 2017, and 2018, respectively. Additionally, the AOC has informed the OLS that annual foreclosure filings approximated 22,000 annually during this three-year period. Accordingly, the additional \$30 fee established by the bill would have generated about \$3.8 million in 2016, \$4.1 million in 2017, and \$4.2 million in 2018. Fee revenue generated from commercial property deed filings also would have been added to those totals; however, data on such filings is not readily available. The OLS notes that annual fee collections may vary depending on the condition of the State's real estate market.

Section: Local Government
Analyst: Joseph A. Pezzulo
Assistant Research Analyst
Approved: Frank W. Haines III
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.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

ASSEMBLY, No. 5000

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JUNE 11, 2019

SUMMARY

- Synopsis:** Requires DCA to produce and maintain database concerning residential properties under foreclosure.
- Type of Impact:** Annual increase in State expenditures.
- Agencies Affected:** Department of Community Affairs.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the enactment of the bill would result in indeterminate annual increases in State expenditures associated with implementing the foreclosed property database required by the bill.
- Specifically, the bill requires the Department of Community Affairs (DCA) to develop and update a database that details the foreclosed residential properties in the State. In addition, the DCA would be required to create a centralized electronic portal through which residential mortgage lenders could submit information to support the database. The DCA is expected to incur indeterminate start-up and annual operational costs associated with these activities, but the OLS lacks sufficient information to quantify the anticipated increase in expenditures.

BILL DESCRIPTION

The bill requires the DCA to develop, maintain, and update a database concerning the residential properties subject to foreclosure throughout the State. The database would contain certain information for these properties, including the address of the property, the owner of the property, and the date on which the notice of intention to foreclose was sent. The database would be supported by information provided to the DCA by residential mortgage lenders.

Additionally, the bill requires the DCA to create a centralized electronic portal through which residential mortgage lenders can provide the required information. Under the bill, the database would be considered confidential and used only by authorized public entities.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the enactment of the bill would result in indeterminate annual increases in State expenditures associated with implementing the foreclosed property database required by the bill. Specifically, the bill requires the DCA to develop and update a database that details the residential properties subject to foreclosure throughout the State. In addition, the DCA would be required to create a centralized electronic portal through which residential mortgage lenders could submit information to support the database.

Consequently, the DCA is expected to incur start-up costs associated with developing the residential foreclosure database and centralized electronic portal. The OLS, however, cannot quantify this cost increase, given an absence of information concerning the technical specifications of the respective platforms. Additionally, the design complexity of the database and centralized portal may influence whether the DCA outsources development to a contracted service provider or performs the work in-house. The two approaches would likely entail different costs, and it is unclear which approach the DCA would implement.

In addition to these start-up costs, the DCA would experience increased annual operating expenditures associated with the responsibility to maintain the database, manage its constituent data, and update the centralized portal, as needed. Without input from the Executive Branch, the OLS cannot quantify the anticipated increase in these ongoing expenditures.

Section: Local Government
Analyst: Joseph A. Pezzulo
Associate Research Analyst
Approved: Frank W. Haines III
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. 3412

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JANUARY 31, 2019

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

SYNOPSIS

Requires DCA to produce and maintain database and interactive map concerning residential properties under foreclosure; increases certain recording fees as funding mechanism.

CURRENT VERSION OF TEXT

As introduced.



S3412 SINGLETON, OROHO

2

1 AN ACT concerning residential properties under foreclosure,
2 supplementing P.L.2008, c.127 (C.55:14K-82 et al.).

3

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

6

7 1. a. The Department of Community Affairs shall produce a
8 database with an interactive mapping component which details, and
9 provides a graphic representation to allow the department to
10 visualize, the extent to which residential properties in this State are
11 under foreclosure pursuant to the "Fair Foreclosure Act," P.L.1995,
12 c.244 (C.2A:50-53 et seq.). The department shall develop, maintain,
13 and update the database in real time based upon information
14 submitted to the department by, and in cooperation with, the
15 Administrative Office of the Courts pursuant to section 2 of this act,
16 and information obtained from any other public sources.

17 b. The database shall contain, and the map shall represent:

18 (1) The location of each residential property under foreclosure
19 by county, municipality, lot and block number;

20 (2) the current owner of record;

21 (3) the date that the notice of intention to foreclose is filed;

22 (4) the date the foreclosure complaint is filed;

23 (5) the date of judgment of foreclosure; and

24 (6) the date of any deed transfer pursuant to a sheriff's sale and
25 the name of the purchaser.

26

27 2. The Administrative Office of the Courts shall provide the
28 Department of Community Affairs with as much of the information
29 listed in subsection b. of section 1 of this act with respect to the
30 property as is reasonably available from records maintained by, or
31 accessible to, the office. The information shall be provided in real
32 time in a format, electronic or otherwise, as is useful to the
33 department to develop, maintain and update the database and map
34 required by section 1 of this act.

35

36 3. As of the effective date of this act, the revenue from
37 additional fees for recording deeds and lis pendens fees collected by
38 county clerks and registers of deeds and mortgages and received by
39 the Department of Community Affairs, pursuant to subsection b. of
40 section 2 of P.L.1965, c.123 (C.22A:4-4.1), shall be deposited into
41 a separate fund within the department and shall only be used by the
42 department for the purpose of developing, maintaining, and
43 updating the database created pursuant to section 1 of this act.

44

45 4. In addition to each fee for the recording of a deed or a lis
46 pendens collected by county clerks and registers of deeds and
47 mortgages pursuant to section 2 of P.L.1965, c.123 (C.22A:4-4.1)
48 and any other rule, regulation, or law, an amount of \$30 shall be

1 collected by the county clerks and registers of deeds and mortgages
2 on the recording of each deed or lis pendens. The revenues obtained
3 from these increased amounts, after deduction of any actual
4 administrative costs incurred by county clerks and registers of
5 deeds and mortgages in carrying out the provisions of this
6 subsection, shall be transmitted quarterly by the office of the county
7 clerk or register of deeds and mortgages, as appropriate, to the
8 Department of Community Affairs for the purposes set forth in
9 sections 1 through 3 of this act.

10

11 5. This act shall take effect on the first day of the seventh
12 month next following the date of enactment.

13

14

15

STATEMENT

16

17 This bill requires the Department of Community Affairs to
18 produce a database with an interactive mapping component which
19 details, and provides a graphic representation to allow the
20 department to visualize, the extent of foreclosed properties in the
21 State. The database shall be developed, maintained and updated in
22 real time based upon information submitted to the department by
23 the Administrative Office of the Courts, and information obtained
24 from any other public sources.

25 The database shall contain, and the map shall represent:

26 (1) the location of each residential property under foreclosure by
27 county, municipality, lot and block number;

28 (2) the current owner of record;

29 (3) the date that the notice of intention to foreclose is filed;

30 (4) the date the foreclosure complaint is filed;

31 (5) the date of judgment of foreclosure; and

32 (6) the date of any deed transfer pursuant to a sheriff's sale and
33 the name of the purchaser.

34 The Administrative Office of the Courts shall provide the
35 Department of Community Affairs with as much of the information
36 required by this bill with respect to the property as is reasonably
37 available from records maintained by, or accessible to, the office.
38 The information shall be provided in real time in a format,
39 electronic or otherwise, as is useful to the department to develop,
40 maintain and update the database and map required by this bill.

41 To pay for the database, the bill establishes a \$30 fee to be
42 collected for the recording of deeds and lis pendens by county
43 clerks and registers of deeds and mortgages on the recording of
44 each deed and lis pendens. The increased fee will be in addition to
45 fees already collected pursuant to current law. This bill provides
46 that the county clerk or registrar shall deduct any actual
47 administrative costs incurred in collecting and transmitting these
48 increased amounts, and then transmit the remainder of the revenue,

S3412 SINGLETON, OROHO

4

1 each quarter, to the Department of Community Affairs for the
2 purposes of developing, maintaining, and updating the database of
3 foreclosed properties established by the bill. The deduction of
4 incurred expenses would avoid claims that the collection and
5 disbursement of the additional fees constitute an unfunded State
6 mandate.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 3412

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2019

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 3412, with committee amendments.

As amended, this bill requires the Department of Community Affairs (DCA) to produce a database with an interactive mapping component which details, and provides a graphic representation to allow the department to visualize, the extent of foreclosed properties in the State. The database would be developed, maintained, and updated based upon information submitted to the department by the county clerks, the county registers of deeds and mortgages, the county sheriffs, and the Administrative Office of the Courts, and information obtained from any other public sources.

The database would have to contain and the map would have to represent:

- (1) the location of each residential property under foreclosure by county, municipality, lot and block number;
- (2) the current owner of record;
- (3) the date the lis pendens is filed;
- (4) the date the foreclosure complaint is filed;
- (5) the date of judgment of foreclosure; and
- (6) the date of any deed transfer pursuant to a sheriff's sale and the name of the purchaser.

The county clerks, the county registers of deeds and mortgages, the county sheriffs, and the Administrative Office of the Courts would, as appropriate, have to provide DCA with as much of the information required by this bill with respect to residential property under foreclosure as is reasonably available from records maintained by, or accessible to, each office. The information would have to be provided daily in an electronic format as is useful to the department to develop, maintain, and update the database and map required by this bill.

To pay for the database and map, the bill establishes a \$30 fee to be collected for the recording of deeds and lis pendens by county clerks and registers of deeds and mortgages on the recording of each deed and lis pendens. The increased fee will be in addition to fees already collected pursuant to current law. The bill provides that the county clerks, county registers of deeds and mortgages, and county sheriffs will deduct any actual administrative costs incurred in carrying

out the provisions of the bill, and then transmit the remainder of the revenue, each quarter, to DCA for the purposes of developing, maintaining, and updating the database and map of foreclosed properties established by the bill.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- require the county clerks, the county registers of deeds and mortgages, and the county sheriffs, as appropriate, to supply DCA with the information required to be included in the database required by the bill;
- require the database to contain the date that the lis pendens is filed. The bill originally required the database to contain the date the notice of intention to foreclose is filed instead;
- authorize DCA to adopt rules and regulations to implement the bill;
- require that the information needed for the database be provided to DCA in an electronic format on a daily basis. The bill originally required this data to be provided in real time and permitted the information to be submitted in an electronic or any other format; and
- clarify that the county clerks, the county registers of deeds and mortgages, and the county sheriffs may deduct any actual administrative costs incurred in carrying out the provisions of the bill from the new fees collected under the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3412

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 2019

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3421 (1R), with committee amendments.

Senate Bill No. 3412(1R), as amended, requires the Department of Community Affairs (DCA) to produce a database with an interactive mapping component which details, and provides a graphic representation to allow the department to visualize, the extent of foreclosed properties in the State. The database would be developed, maintained, and updated based upon information submitted to the department by the county clerks, the county registers of deeds and mortgages, the county sheriffs, and the Administrative Office of the Courts, and information obtained from any other public sources.

The database would have to contain and the map would have to represent:

- (1) the location of each residential property under foreclosure by county, municipality, lot and block number;
- (2) the current owner of record;
- (3) the date the lis pendens is filed;
- (4) the date the foreclosure complaint is filed;
- (5) the date of judgment of foreclosure;
- (6) the date of any deed transfer pursuant to a sheriff's sale and the name of the purchaser;
- (7) any person responsible for maintenance of the property and that person's contact information; and
- (8) secondary lien holders and their contact information.

The bill provides that the database shall be considered confidential and shall be used only by the department, the county clerks, the county registers of deeds and mortgages, the county sheriffs, the Administrative Office of the Courts and such other agencies as the Commissioner of Community Affairs designates, except that a municipality shall have access to the database only with respect to information pertaining to the geographical area within the municipality's jurisdiction. The database shall not be subject to public access, inspection or copying pursuant to P.L. 1963, c.73 (C.47:1A-1 et seq.) or common law concerning access to public records.

The county clerks, the county registers of deeds and mortgages, the county sheriffs, and the Administrative Office of the Courts would, as appropriate, have to provide DCA with as much of the information required by this bill with respect to residential property under foreclosure as is reasonably available from records maintained by, or accessible to, each office. The information would have to be provided daily in an electronic format as is useful to the department to develop, maintain, and update the database and map required by this bill.

To pay for the database and map, the bill establishes a \$30 fee to be collected for the recording of deeds and lis pendens by county clerks and registers of deeds and mortgages on the recording of each deed and lis pendens. The increased fee will be in addition to fees already collected pursuant to current law. The bill provides that the county clerks, county registers of deeds and mortgages, and county sheriffs will deduct any actual administrative costs incurred in carrying out the provisions of the bill, and then transmit the remainder of the revenue, each quarter, to DCA for the purposes of developing, maintaining, and updating the database and map of foreclosed properties established by the bill.

The bill also provides that a residential mortgage lender that serves a summons and complaint in an action to foreclose on a mortgage on a residential property in this State pursuant to the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et seq.), shall, within 10 days of serving the summons and complaint, notify the municipal clerk, the municipal tax collector, and the chief of police in the municipality in which the property is located, and all public utilities as defined in R.S.48:2-13 which provide services in the municipality in which the property is located, and the county executive in the county in which the property is located, that a summons and complaint in an action to foreclose on a mortgage has been filed against the property.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- add entities that the database would have to reflect.
- require that the database shall be considered confidential and shall not be subject to public access.
- specify parties that are permitted to use the database.
- require residential mortgage lenders to notify certain municipal and county offices as to foreclosure actions on property within their jurisdiction.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the enactment of the bill will result in indeterminate increases in annual State expenditures and revenues as well as increases of at least \$4 million in annual county government expenditures and revenues.

The bill requires the Department of Community Affairs (DCA) to develop a database, with a mapping component, which details the foreclosed properties in the State. The Judiciary and county governments are to regularly provide information to the DCA for inclusion in the database. The OLS expects the DCA, Judiciary, and counties to experience an indeterminate increase in expenditures associated with these added responsibilities.

The OLS estimates that the bill will increase annual county revenue by at least \$4 million from the additional \$30 fee on the recording of deeds and lis pendens. Of that total, counties will be allowed to retain an amount equal to their indeterminate cost of complying with the provisions of this bill. Thereafter, counties will remit the remaining proceeds to the DCA to support database operations. The amount transferred will represent an indeterminate expenditure increase to counties and an indeterminate revenue gain to the State.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 3412

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MARCH 29, 2019

SUMMARY

- Synopsis:** Requires DCA to produce and maintain database and interactive map concerning residential properties under foreclosure; increases certain recording fees as funding mechanism.
- Type of Impact:** Annual increases in State and county expenditures and revenues.
- Agencies Affected:** Department of Community Affairs, the Judiciary, and counties.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
County Expenditure Increase	At least \$4,000,000
County Revenue Increase	At least \$4,000,000

- The Office of Legislative Services (OLS) estimates that the enactment of the bill would result in indeterminate increases in annual State expenditures and revenues as well as annual increases of at least \$4 million in county government expenditures and revenues.
- The bill requires the Department of Community Affairs (DCA) to develop a database with a mapping component, which details the foreclosed properties in the State. The Administrative Office of the Courts (AOC) within the Judiciary and county governments are to regularly provide information to the DCA for inclusion in the database. The OLS expects the DCA, AOC, and counties to experience an indeterminate increase in expenditures associated with these added responsibilities.
- The OLS estimates that the bill would increase annual county revenues by at least \$4 million due to the additional \$30 fee on the recording of deeds and lis pendens. Of that total, counties would be allowed to retain an indeterminate amount necessary to support the costs of complying with the bill, and then remit the remaining proceeds to the DCA to support the

operations of the database. The amounts transferred to the DCA would represent an indeterminate increase in county expenditures and an indeterminate increase in State revenue.

BILL DESCRIPTION

The bill requires the DCA to develop, maintain, and update a database with an interactive mapping component that details certain required information on foreclosed residential properties in the State. The county clerks, the county registers of deeds and mortgages, the county sheriffs, and the AOC would be required to provide DCA with certain information, as is reasonably available. The information would have to be submitted daily in an electronic format. In addition, the DCA may incorporate into the database information obtained from any other public sources. Under the bill, the database would be considered confidential and used only by authorized public entities.

To defray the costs associated with the database, the bill imposes an additional fee of \$30 on the recording of deeds and lis pendens by county clerks and registers of deeds and mortgages. After deducting any administrative costs counties incurred in carrying out the provisions of the bill, counties would transmit the remainder of the fee collections, each quarter, to the DCA for the purposes of developing, maintaining, and updating the residential foreclosure database.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the enactment of the bill would result in indeterminate annual increases in State expenditures and revenues as well as annual increases of at least \$4 million in county government expenditures and revenues.

Initially, the DCA would incur start-up costs associated with developing the residential foreclosure database required by the bill. The OLS, however, cannot quantify this cost increase, given an absence of information concerning the technical specifications of the database and the extent to which the database would interface with the current information technology systems of the DCA, the AOC, and county governments. Additionally, the complexity of the database design may influence whether the DCA outsources the development of the database to a contracted service provider or performs the work in-house. The two approaches would likely entail different costs, and it is unclear which approach the DCA would implement.

In addition to these start-up costs, the DCA would experience increased annual operating expenditures associated with the requirement to maintain the database, manage its constituent data, and control the quality of the data provided by counties and the AOC. Without input from the Executive Branch, the OLS cannot quantify the anticipated increase in these ongoing expenditures.

Moreover, the OLS expects the AOC and counties to incur increased annual expenditures as a result of the requirement to regularly provide information to the DCA for inclusion in the database. Due to insufficient information, the OLS is unable to quantify this potential cost

increase. However, depending on the operating decisions of the AOC and county governments, it is possible that the added responsibilities would not automatically increase the annual operating expenditures of an affected reporting agency.

The OLS also estimates that the bill would increase annual county revenue by at least \$4 million due to the additional \$30 fee on the recording of deeds and lis pendens by county clerks and registers of deeds and mortgages. Of that total, counties are authorized to retain an amount equal to their indeterminate cost of complying with the provisions of this bill. Thereafter, counties would remit the remaining proceeds to the DCA to support the operations of the database. For the purposes of this fiscal estimate, the OLS characterizes the transfer of the remaining fee receipts to the DCA as an indeterminate increase in county expenditures and an indeterminate increase in State revenue.

The OLS notes that deeds are generally recorded upon the sale and transfer of real property, whereas lis pendens are generally filed upon the foreclosure of a residential property. According to the New Jersey Realtors Association, residential real property sales, including single-family homes, townhouses, condominiums, and adult community homes, totaled 106,217, 115,991, and 117,004 in 2016, 2017, and 2018, respectively. Additionally, the AOC has informed the OLS that annual foreclosure filings approximated 22,000 annually during this three-year period. Accordingly, the additional \$30 fee established by the bill would have generated about \$3.8 million in 2016, \$4.1 million in 2017, and \$4.2 million in 2018. Fee revenue generated from commercial property deed filings also would have been added to those totals; however, data on such filings is not readily available. The OLS notes that annual fee collections may vary depending on the condition of the State's real estate market.

Section: Local Government
Analyst: Joseph A. Pezzulo
Assistant Research Analyst
Approved: Frank W. Haines III
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.).

May 13, 2019

ASSEMBLY BILL NO. 5000
(Second Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 5000 (Second Reprint) with my recommendations for reconsideration.

Since 2008, New Jersey has been among the states hit hardest by foreclosure. We have made progress, but recent statistics reveal more work needs to be done. The latest foreclosure data released in March of 2019 ranked New Jersey second in the nation in open foreclosure filings. New Jersey municipalities remain some of the most impacted in the country. In Willingboro, for example, the foreclosure rate is over ten times the national rate. The persistently high level of foreclosures remains unacceptable.

Late last month, alongside several legislative sponsors whose commitment, compassion and vision drew them to this issue, I proudly signed into law nine bills aimed at tackling New Jersey's foreclosure crisis. These bills, many of which came at the recommendation of Chief Justice Rabner's Special Committee on Residential Foreclosure, codify and dedicate funding to the Judiciary's foreclosure mediation process, enable more properties to qualify for expedited foreclosure proceedings, make lenders more accountable for maintaining vacant and abandoned properties, and enhance homeowner notice requirements, among other things. Collectively, these newly enacted laws will have a real and immediate impact on struggling homeowners and communities.

Assembly Bill No. 5000 (Second Reprint) would require the Department of Community Affairs ("DCA") to develop, maintain and update a database on foreclosed residential properties in the State. To assist in these efforts, the Administrative Office of the Courts, the county clerks, the county registers of deeds and

mortgages and the county sheriffs would be required to provide relevant data on properties under foreclosure, including the location of each residential property, the current owner of record, the date the foreclosure complaint is filed and the data of the judgment of foreclosure, to DCA on a daily basis. The database would include an interactive mapping component, effectively creating a heat map of foreclosures across the State, which would be accessible only to authorized public entities. To defray the costs associated with gathering the information and developing and maintaining the database, the bill would impose an additional fee of \$30 on the recording of deeds and lis pendens.

I commend the bill's sponsors for seeking to centralize information on residential foreclosures throughout the State. Centralizing available data will help public officials refine the focus of existing foreclosure programs and inform the creation and implementation of new ones. I am concerned, however, that some of the information required to be included in the database may not be readily available and could impose an administrative burden on the county officials charged with providing it daily to DCA. And while I understand that some may view a real-time foreclosure database map as a useful tool that would in theory help illustrate the extent of the mortgage foreclosures throughout the State, the bill does come with a high price tag. The Office of Legislative Services ("OLS") estimates that the cost will be at least \$4 million, which will be borne almost entirely by New Jersey homeowners. Candidly, I am not convinced that the benefit of interactive mapping will justify the cost burden imposed on homeowners needed to implement that requirement.

Rather than expending millions of dollars on the creation of a database that will map properties that have already been subject to judgments of foreclosure, my suggested changes revise the legislation to require notice to DCA much earlier in the process. Specifically, my proposed revisions require lenders to provide DCA with the notice of intention to foreclose, along with a detailed description of the property, at the time the lender mails the notice to the homeowner. This avoids much of the technical and administrative costs associated with the bill, while still ensuring the compilation of valuable information.

A notice of intention to foreclose is the first indicator that a borrower is struggling to keep up with mortgage payments. The optimal time to attempt to reverse the foreclosure process is generally after the lender has sent the notice of intention to foreclose and before the lender has filed the foreclosure complaint. At this stage of the process, the amount of fees and missed payments are still manageable, and foreclosure intervention programs have the greatest likelihood of successfully keeping borrowers in their homes. Importantly, my recommended changes will enable DCA to coordinate with the Housing and Mortgage Finance Agency ("HMFA") to more effectively connect homeowners with the housing counseling offered under HMFA's Foreclosure Mediation Assistance Program.

Therefore, I herewith return Assembly Bill No. 5000 (Second Reprint) and recommend that it be amended as follows:

<u>Page 2, Title, Line 2:</u>	After "(C.55:14K-82 et al.)" insert ", and amending P.L.1995, c.244"
<u>Page 2, Section 1, Line 8:</u>	Delete "with an interactive mapping"
<u>Page 2, Section 1, Line 9:</u>	Delete "component which" and insert "that"

<u>Page 2, Section 1, Line 9:</u>	Delete ", and provides a graphic representation to"
<u>Page 2, Section 1, Line 10:</u>	Delete "allow the department to visualize,"
<u>Page 2, Section 1, Line 14:</u>	Delete ", and in"
<u>Page 2, Section 1, Lines 15-16:</u>	Delete in their entirety
<u>Page 2, Section 1, Line 17:</u>	Delete "Courts" and insert "residential mortgage lenders"
<u>Page 2, Section 1, Line 20:</u>	Delete ", and the map shall represent"
<u>Page 2, Section 1, Line 21:</u>	Delete "location" and insert "address"
<u>Page 2, Section 1, Line 21:</u>	Delete "by" and insert "and the"
<u>Page 2, Section 1, Line 23:</u>	After "record;" insert "and"
<u>Page 2, Section 1, Line 24:</u>	Delete "lis"
<u>Page 2, Section 1, Line 25:</u>	Delete "pendens is filed;" and insert "notice of intention to foreclose was sent to the residential mortgage debtor by registered or certified mail, return receipt requested."
<u>Page 2, Section 1, Lines 26-32:</u>	Delete in their entirety
<u>Page 3, Section 2, Lines 6-18:</u>	Delete in their entirety
<u>Page 3, Section 3, Lines 20-30:</u>	Delete in their entirety
<u>Page 3, Section 4, Lines 32-45:</u>	Delete in their entirety
<u>Page 4, Section 4, Lines 1-2:</u>	Delete in their entirety
<u>Page 4, Line 3:</u>	Insert new section: "2. a. A residential mortgage lender shall provide to the Department of Community Affairs the notice of intention to foreclose required pursuant to section 4 of P.L.1995, c.244 (C.2A:50-56) and a description of the subject property by street address, block, and lot as shown on the municipal tax map at the time the notice is given to the residential mortgage debtor. Upon receipt of the notice of intention to foreclose pursuant to this section, the Department of Community Affairs shall provide the residential mortgage lender with a written acknowledgement of the department's receipt of the

notice of intention to foreclose. Compliance with this section shall be set forth in the pleadings of any legal action referred to in section 4 of P.L.1995, c.244 (C.2A:50-56).

b. The Department of Community Affairs shall create a centralized portal allowing for electronic submittal of the notice of intention to foreclose as required pursuant to subsection a. of this section."

Page 4, Section 5, Line 4:

Delete "5." and insert "3."

Page 4, Section 5, Line 8:

After "notify" insert "the Department of Community Affairs,"

Page 4, Line 15:

Insert new section:

"4. Section 4 of P.L.1995, c.244 (C.2A:50-56) is amended to read as follows:

4. a. Upon failure to perform any obligation of a residential mortgage by the residential mortgage debtor and before any residential mortgage lender may accelerate the maturity of any residential mortgage obligation and commence any foreclosure or other legal action to take possession of the residential property which is the subject of the mortgage, the residential mortgage lender shall give the residential mortgage debtor notice of such intention at least 30 days in advance of such action as provided in this section.

b. Notice of intention to take action as specified in subsection a. of this section shall be in writing, provided to the Department of Community Affairs in accordance with subsection a. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), sent to the debtor by registered or certified mail, return receipt requested, at the debtor's last known address, and, if different, to the address of the property which is the subject of the residential mortgage. The

notice is deemed to have been effectuated on the date the notice is delivered in person or mailed to the party.

c. The written notice shall clearly and conspicuously state in a manner calculated to make the debtor aware of the situation:

(1) the particular obligation or real estate security interest;

(2) the nature of the default claimed;

(3) the right of the debtor to cure the default as provided in section 5 of this act;

(4) what performance, including what sum of money, if any, and interest, shall be tendered to cure the default as of the date specified under paragraph (5) of this subsection c.;

(5) the date by which the debtor shall cure the default to avoid initiation of foreclosure proceedings, which date shall not be less than 30 days after the date the notice is effective, and the name and address and phone number of a person to whom the payment or tender shall be made;

(6) that if the debtor does not cure the default by the date specified under paragraph (5) of this subsection c., the lender may take steps to terminate the debtor's ownership in the property by commencing a foreclosure suit in a court of competent jurisdiction;

(7) that if the lender takes the steps indicated pursuant to paragraph (6) of this subsection c., a debtor shall still have the right to cure the default pursuant to section 5 of this act, but that the debtor shall be responsible for the lender's court costs and attorneys' fees in an amount not to exceed that amount permitted pursuant to the Rules Governing the Courts of the State of New Jersey;

(8) the right, if any, of the debtor to transfer the real estate to another person subject to the security interest and that the transferee may have the right to cure the default as provided in this act, subject to the mortgage documents;

(9) that the debtor is advised to seek counsel from an attorney of the debtor's own choosing concerning the debtor's residential mortgage default situation, and that, if the debtor is unable to obtain an attorney, the debtor may communicate with the New Jersey Bar Association or Lawyer Referral Service in the county in which the residential property securing the mortgage loan is located; and that, if the debtor is unable to afford an attorney, the debtor may communicate with the Legal Services Office in the county in which the property is located;

(10) the possible availability of financial assistance for curing a default from programs operated by the State or federal government or nonprofit organizations, if any, as identified by the Commissioner of Banking and Insurance. This requirement shall be satisfied by attaching a list of such programs promulgated by the commissioner; and

(11) the name and address of the lender and the telephone number of a representative of the lender whom the debtor may contact if the debtor disagrees with the lender's assertion that a default has occurred or the correctness of the mortgage lender's calculation of the amount required to cure the default.

d. The notice of intention to foreclose required to be provided pursuant to this section shall not be required if the debtor has voluntarily surrendered the property which is the subject of the residential mortgage.

e. The duty of the lender under this section to serve notice of intention to foreclose is independent of any other duty to give notice under the common law, principles of equity, State or federal statute, or rule of court and of any other right or remedy the debtor may have as a result of the failure to give such notice.

f. Compliance with this section and subsection a. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be set forth in the pleadings of any legal action referred to in this section. If the plaintiff in any complaint seeking foreclosure of a residential mortgage alleges that the property subject to the residential mortgage has been abandoned or voluntarily surrendered, the plaintiff shall plead the specific facts upon which this allegation is based.

(cf: P.L.2003, c.298, s.1)"

Page 4, Section 6, Line 16:

Delete "6." and insert "5."

Page 4, Section 6, Line 16:

Delete "seventh" and insert "tenth"

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor



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Newark, N.J.

Governor Murphy Takes Action on Legislation

05/13/2019

A809 (Andrzejczak, Houghtaling, Taliaferro, Mazzeo, Space/Van Drew, Cruz-Perez) – Revises law concerning alternate members for farmers on State Agriculture Development Committee.

[Copy of Statement on A809](#)

A5000 (Mosquera, Reynolds-Jackson, Wimberly/Singleton, Oroho, Addiego) – Requires DCA to produce and maintain database and interactive map concerning residential properties under foreclosure; increases certain recording fees as funding mechanism.

[Copy of Statement on A5000](#)

S362 (Rice/Sumter, Jasey, Reynolds-Jackson) – Provides that deed restrictions on affordable housing units are not extinguished by foreclosure proceedings.

[Copy of Statement on S362](#)

S1758 (Weinberg, Ruiz/Murphy, Benson, Zwicker) – Codifies donated leave program for State employees in career, senior executive, and unclassified service.

[Copy of Statement on S1758](#)

S1967 (Sweeney, Madden/Jasey, Taliaferro, Benson) – Concerns certain workers' compensation supplemental benefits.

[Copy of Statement on S1967](#)

S2475 (Sweeney, Pou/Coughlin, McKeon, DeCroce, Murphy) – Prohibits application of fiduciary standard to insurance producers; specifies qualifications of persons providing affidavit of merit in lawsuits against insurance producers.

[Copy of Statement on S2475](#)

S3240 (Singer, Scutari/Armato, Mukherji, Murphy, Kean, Calabrese, Thomson) – “Charlie's Law”; requires pharmacy practice sites and hospice programs to furnish patients with information and products to safely dispose of unused prescription drugs and medications.

[Copy of Statement on S3240](#)

S3369 (Scutari/Munoz, Webber, Holley) – Prohibits all locally elected officials from receiving retroactive salary increases.

[Copy of Statement on S3369](#)

S3375 (Ruiz, Greenstein/Carter, Chaparro, Vainieri Huttle) – Establishes maternal health care pilot program to evaluate shared decision-making tool developed by DOH and used by hospitals providing maternity services, and by birthing centers.

[Copy of Statement on S3375](#)

S3465 (Pou, Kean/Bramnick, Jimenez, Carter) – Revises requirements for examination and license to practice mortuary science.

[Copy of Statement on S3465](#)

Governor Murphy absolute vetoed the following bill:

S1246 (Rice, Cunningham/Sumter, Murphy, Downey) – Requires NJTA to implement certain roadside maintenance safety policies.

[Copy of Statement on S1246](#)

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Governor Murphy Takes Action on Legislation

06/24/2019

TRENTON – Today, Governor Phil Murphy signed the following bills into law:

A5000 w/GR (Mosquera, Reynolds-Jackson, Wimberly/Singleton, Oroho, Addiego) - Requires DCA to produce and maintain database concerning residential properties under foreclosure.

S362 w/GR (Rice/Sumter, Jasey, Reynolds-Jackson) - Provides that deed restrictions on affordable housing units are not extinguished by foreclosure proceedings.

S3375 w/GR (Ruiz, Greenstein/Carter, Chaparro, Vainieri Huttie) - Establishes maternal health care pilot program to evaluate shared decision-making tool developed by DOH and used by hospitals providing maternity services, and by birthing centers.



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