2A:50-56.1
LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

LAWS OF: 2009  CHAPTER: 105
NJSA: 2A:50-56.1  (Provides statute of limitations for residential mortgage foreclosures)
BILL NO: S250  (Substituted for A3269)
SPONSOR(S): Adler and others
DATE INTRODUCED: January 8, 2008
COMMITTEE: ASSEMBLY: Financial Institutions and Insurance
SENATE: Commerce
AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: ASSEMBLY: May 21, 2009
SENATE: May 22, 2008
DATE OF APPROVAL: August 6, 2009
FOLLOWING ARE ATTACHED IF AVAILABLE:
FINAL TEXT OF BILL (First Reprint enacted)
S250

SPONSOR'S STATEMENT (Begins on page 2 of original bill) Yes
COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

(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: No

A3269

SPONSOR'S STATEMENT: (Begins on page 2 of original bill) Yes
COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: No

FLOOR AMENDMENT STATEMENT: No

(continued)
LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:
To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or mailto:refdesk@njstatelib.org

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/IS 6/10/10
STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:
Senator JOHN H. ADLER
District 6 (Camden)
Assemblyman JOHN S. WISNIEWSKI
District 19 (Middlesex)
Assemblyman GARY S. SCHAER
District 36 (Bergen, Essex and Passaic)
Assemblywoman L. GRACE SPENCER
District 29 (Essex and Union)

Co-Sponsored by:
Assemblywoman Greenstein and Assemblyman Diegnan

SYNOPSIS
Provides statute of limitations for residential mortgage foreclosures.

CURRENT VERSION OF TEXT
As reported by the Senate Commerce Committee on May 8, 2008, with amendments.

(Sponsorship Updated As Of: 5/22/2009)
AN ACT concerning certain mortgage foreclosures and
supplementing P.L.1995, c.244 (C.2A:50-53 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey

1. An action to foreclose a residential mortgage shall not be
commenced following the earliest of:
   a. \[Five\] Six years from the date fixed for the making of the
      last payment or the maturity date set forth in the mortgage or the
      note, bond, or other obligation \[executed contemporaneously
      with\] secured by the mortgage, whether the date is itself set forth
      or may be calculated from information contained in the mortgage or
      note, bond, or other obligation, except that if the date fixed for the
      making of the last payment or the maturity date has been extended
      by a \[recorded\] written instrument, the action to foreclose shall
      not be commenced after \[five\] six years from the extended date
      under the terms of the \[recorded\] written instrument;
   b. \[Twenty-five\] Thirty-six years from the date of recording of
      the mortgage, or, if the mortgage is not recorded, \[25\] 36 years
      from the date of execution, so long as the mortgage itself does not
      provide for a period of repayment in excess of \[20\] 30 years; or
   c. Twenty years from the date on which the debtor defaulted,
      which default has not been cured, as to any of the obligations or
      covenants contained in the mortgage or in the note, bond, or other
      obligation \[executed contemporaneously with\] secured by the
      mortgage, except that if the date to perform any of the obligations
      or covenants has been extended by a \[recorded\] written
      instrument \[or payment on account has been made\], the action to
      foreclose shall not be commenced after 20 years from the date on
      which the default \[or payment on account thereof\] occurred under
      the terms of the \[recorded\] written instrument.

2. This act shall take effect immediately.

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 SCM committee amendments adopted May 8, 2008.
SENATE, No. 250

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:
Senator JOHN H. ADLER
District 6 (Camden)

SYNOPSIS
Provides statute of limitations for residential mortgage foreclosures.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel
AN ACT concerning certain mortgage foreclosures and
supplementing P.L.1995, c.244 (C.2A:50-53 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey

1. An action to foreclose a residential mortgage shall not be
commenced following the earliest of:
   a. Five years from the date fixed for the making of the last
      payment or the maturity date set forth in the mortgage or the note,
      bond, or other obligation executed contemporaneously with the
      mortgage, whether the date is itself set forth or may be calculated
      from information contained in the mortgage or note, bond, or other
      obligation, except that if the date fixed for the making of the last
      payment or the maturity date has been extended by a recorded
      instrument, the action to foreclose shall not be commenced after
      five years from the extended date under the terms of the recorded
      instrument;
   b. Twenty-five years from the date of recording of the mortgage,
      or, if the mortgage is not recorded, 25 years from the date of
      execution, so long as the mortgage itself does not provide for a
      period of repayment in excess of 20 years; or
   c. Twenty years from the date on which the debtor defaulted,
      which default has not been cured, as to any of the obligations or
      covenants contained in the mortgage or in the note, bond, or other
      obligation executed contemporaneously with the mortgage, except
      that if the date to perform any of the obligations or covenants has
      been extended by a recorded instrument, the action to foreclose
      shall not be commenced after 20 years from the date on which the
      default occurred under the terms of the recorded instrument.

2. This act shall take effect immediately.

STATEMENT

This bill supplements the "Fair Foreclosure Act," P.L.1995,
c.244 (C.2A:50-53 et seq.) by applying a statute of limitations to
residential mortgage foreclosure actions. The bill is intended to
address some of the problems caused by the presence on the record
of residential mortgages which have been paid or which are
otherwise unenforceable. These mortgages constitute clouds on title
which may render real property titles unmarketable and delay real
estate transactions.

The bill provides that a foreclosure action must be commenced
by the earliest of: (1) five years from the date of maturity; (2) 25
years from the date of recording or execution, provided that the
mortgage itself does not provide for a period of repayment in excess
of 20 years; or (3) 20 years from the date of default by the debtor.
Thus, the bill allows title examiners to determine that a mortgage
which on its face has matured more than five years ago or which
was recorded more than 25 years ago is not a cloud on title because
an action can no longer be brought to foreclose it.
The bill also codifies the holding in Security National Partners
2000), which applied a 20-year statute of limitations to a residential
mortgage foreclosure action based on a default due to nonpayment.
In its decision, the court noted that since there is no statute of
limitations expressly applicable to mortgage foreclosures in these
situations, courts have resorted to drawing analogies to adverse
possession statutes which bar rights of entry onto land after 20
years. This bill would resolve the uncertainties surrounding this
area of law by providing a specific statute of limitations of 20 years
from the date of the default by the debtor.
The Assembly Financial Institutions and Insurance Committee reports favorably Senate Bill 250 (1R).

This bill supplements the “Fair Foreclosure Act,” P.L.1995, c.244 (C.2A:50-53 et seq.) by applying a statute of limitations to residential mortgage foreclosure actions. The bill is intended to address some of the problems caused by the presence on the record of residential mortgages which have been paid or which are otherwise unenforceable. These mortgages constitute clouds on title which may render real property titles unmarketable and delay real estate transactions.

The bill provides that a foreclosure action must be commenced by the earliest of: (1) six years from the date of maturity on the mortgage or other obligation secured by the mortgage, matching the six-year statute of limitations on actions based on contract law; (2) 36 years from the date of recording or execution of the mortgage, provided the mortgage itself does not provide for a period of repayment in excess of 30 years, again relying upon the six-year statute of limitations for contract law; or (3) 20 years from the date of default by the debtor on the mortgage or other obligation secured by the mortgage, matching the 20-year statute of limitations on adverse possession actions. Thus, the bill allows a determination that certain mortgages are not clouds on title because a party can no longer bring an action to foreclose them beyond the bill’s expressly stated statute of limitations, as borrowed from actions in contract law or adverse possession, as applicable.

The bill, in part, codifies the holding in Security National Partners Limited Partnership v. Mahler, 336 N.J. Super, 101 (App. Div. 2000), which applied a 20-year statute of limitations to a residential mortgage foreclosure action based on a default due to nonpayment. In its decision, the court noted that since there is currently no statute of limitations expressly applicable to mortgage foreclosures in these situations, courts have resorted to drawing analogies to adverse possession statutes which bar rights of entry onto land after 20 years. This bill would resolve the uncertainties surrounding this area of law.
by providing a specific statute of limitations of 20 years from the date of the default by the debtor.
The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 250.

This bill, as amended, supplements the “Fair Foreclosure Act,” P.L.1995, c.244 (C.2A:50-53 et seq.), by applying a statute of limitations to residential mortgage foreclosure actions. The bill is intended to address some of the problems caused by the presence on the record of residential mortgages which have been paid or which are otherwise unenforceable. These mortgages constitute clouds on title which may render real property titles unmarketable and delay real estate transactions.

The bill provides that a foreclosure action must be commenced by the earliest of: (1) six years from the date of maturity on the mortgage or other obligation secured by the mortgage, matching the six-year statute of limitations on actions based on contract law; (2) 36 years from the date of recording or execution of the mortgage, provided the mortgage itself does not provide for a period of repayment in excess of 30 years, again relying upon the six-year statute of limitations for contract law; or (3) 20 years from the date of default by the debtor on the mortgage or other obligation secured by the mortgage, matching the 20-year statute of limitations on adverse possession actions. Thus, the bill allows a determination that certain mortgages are not clouds on title because a party can no longer bring an action to foreclose them beyond the bill’s expressly stated statute of limitations, as borrowed from actions in contract law or adverse possession, as applicable.

The bill, in part, codifies the holding in Security National Partners Limited Partnership v. Mahler, 336 N.J. Super, 101 (App. Div. 2000), which applied a 20-year statute of limitations to a residential mortgage foreclosure action based on a default due to nonpayment. In its decision, the court noted that since there is currently no statute of limitations expressly applicable to mortgage foreclosures in these situations, courts have resorted to drawing analogies to adverse possession statutes which bar rights of entry onto land after 20 years. This bill would resolve the uncertainties surrounding this area of law by providing a specific statute of limitations of 20 years from the date of the default by the debtor.
The committee amendments to the bill:
- Provide that a residential mortgage foreclosure shall commence by the earliest of three events: 1) six years from the date of maturity of the mortgage or other obligation secured by the mortgage (up from five years); 2) 36 years from the date of recording or execution of the mortgage (up from 25 years); or 3) 20 years from the date of default by the debtor on the mortgage or other obligation secured by the mortgage; and
- Permit the measuring of the statute of limitations from the terms of a written instrument, whether or not recorded.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.
ASSEMBLY, No. 3269

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED OCTOBER 6, 2008

Sponsored by:
Assemblyman JOHN S. WISNIEWSKI
District 19 (Middlesex)
Assemblyman GARY S. SCHAER
District 36 (Bergen, Essex and Passaic)
Assemblywoman L. GRACE SPENCER
District 29 (Essex and Union)

Co-Sponsored by:
Assemblywoman Greenstein and Assemblyman Diegnan

SYNOPSIS

Provides statute of limitations for residential mortgage foreclosures.

CURRENT VERSION OF TEXT

As introduced.
AN ACT concerning certain mortgage foreclosures and
supplementing P.L.1995, c.244 (C.2A:50-53 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey

1. An action to foreclose a residential mortgage shall not be
commenced following the earliest of:
   a. Six years from the date fixed for the making of the last
      payment or the maturity date set forth in the mortgage or the note,
      bond, or other obligation secured by the mortgage, whether the date
      is itself set forth or may be calculated from information contained
      in the mortgage or note, bond, or other obligation, except that if the
      date fixed for the making of the last payment or the maturity date
      has been extended by a written instrument, the action to foreclose
      shall not be commenced after six years from the extended date
      under the terms of the written instrument;
   b. Thirty-six years from the date of recording of the mortgage,
      or, if the mortgage is not recorded, 36 years from the date of
      execution, so long as the mortgage itself does not provide for a
      period of repayment in excess of 30 years; or
   c. Twenty years from the date on which the debtor defaulted,
      which default has not been cured, as to any of the obligations or
      covenants contained in the mortgage or in the note, bond, or other
      obligation secured by the mortgage, except that if the date to
      perform any of the obligations or covenants has been extended by a
      written instrument or payment on account has been made, the action
      to foreclose shall not be commenced after 20 years from the date on
      which the default or payment on account thereof occurred under the
      terms of the written instrument.

2. This act shall take effect immediately.

Sponsor's STATEMENT

This bill supplements the “Fair Foreclosure Act,” P.L.1995,
c.244 (C.2A:50-53 et seq.) by applying a statute of limitations to
residential mortgage foreclosure actions. The bill is intended to
address some of the problems caused by the presence on the record
of residential mortgages which have been paid or which are
otherwise unenforceable. These mortgages constitute clouds on title
which may render real property titles unmarketable and delay real
estate transactions.

The bill provides that a foreclosure action must be commenced
by the earliest of: (1) six years from the date of maturity on the
mortgage or other obligation secured by the mortgage, matching the
six-year statute of limitations on actions based on contract law; (2)
36 years from the date of recording or execution of the mortgage, provided the mortgage itself does not provide for a period of repayment in excess of 30 years, again relying upon the six-year statute of limitations for contract law; or (3) 20 years from the date of default by the debtor on the mortgage or other obligation secured by the mortgage, matching the 20-year statute of limitations on adverse possession actions. Thus, the bill allows a determination that certain mortgages are not clouds on title because a party can no longer bring an action to foreclose them beyond the bill’s expressly stated statute of limitations, as borrowed from actions in contract law or adverse possession, as applicable.

The bill, in part, codifies the holding in Security National Partners Limited Partnership v. Mahler, 336 N.J. Super. 101 (App. Div. 2000), which applied a 20-year statute of limitations to a residential mortgage foreclosure action based on a default due to nonpayment. In its decision, the court noted that since there is currently no statute of limitations expressly applicable to mortgage foreclosures in these situations, courts have resorted to drawing analogies to adverse possession statutes which bar rights of entry onto land after 20 years. This bill would resolve the uncertainties surrounding this area of law by providing a specific statute of limitations of 20 years from the date of the default by the debtor.
The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 3269.

This bill supplements the “Fair Foreclosure Act,” P.L.1995, c.244 (C.2A:50-53 et seq.) by applying a statute of limitations to residential mortgage foreclosure actions. The bill is intended to address some of the problems caused by the presence on the record of residential mortgages which have been paid or which are otherwise unenforceable. These mortgages constitute clouds on title which may render real property titles unmarketable and delay real estate transactions.

The bill provides that a foreclosure action must be commenced by the earliest of: (1) six years from the date of maturity on the mortgage or other obligation secured by the mortgage, matching the six-year statute of limitations on actions based on contract law; (2) 36 years from the date of recording or execution of the mortgage, provided the mortgage itself does not provide for a period of repayment in excess of 30 years, again relying upon the six-year statute of limitations for contract law; or (3) 20 years from the date of default by the debtor on the mortgage or other obligation secured by the mortgage, matching the 20-year statute of limitations on adverse possession actions. Thus, the bill allows a determination that certain mortgages are not clouds on title because a party can no longer bring an action to foreclose them beyond the bill’s expressly stated statute of limitations, as borrowed.

The bill, in part, codifies the holding in Security National Partners Limited Partnership v. Mahler, 336 N.J. Super. 101 (App. Div. 2000), which applied a 20-year statute of limitations to a residential mortgage foreclosure action based on a default due to nonpayment. In its decision, the court noted that since there is currently no statute of limitations expressly applicable to mortgage foreclosures in these situations, courts have resorted to drawing analogies to adverse possession statutes which bar rights of entry onto land after 20 years. This bill would resolve the uncertainties surrounding this area of law by providing a specific statute of limitations of 20 years from the date of the default by the debtor.