

CHAPTER 296

AN ACT concerning foreclosure on residential properties, supplementing and amending various sections of the statutory law.

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

C.2A:50-69 Short title.

1. This act shall be known and may be cited as the “New Jersey Foreclosure Fairness Act.”

C.2A:50-70 Notice to tenants, protection from eviction.

2. a. A person who takes title, as a result of a sheriff’s sale or deed in lieu of foreclosure, to a residential property containing one or more dwelling units occupied by residential tenants, shall provide notice to the tenants, in both English and Spanish, no later than 10 business days after the transfer of title, in accordance with the provisions of subsection c. of this section. The notice shall be in the following form:

NOTICE TO TENANTS

THE FORMER OWNER OF (insert property address) HAS LOST THE PROPERTY AS A RESULT OF A FORECLOSURE. FROM THE TIME YOU RECEIVE THIS AND UNTIL FURTHER NOTICE, YOU SHOULD PAY RENT TO(insert name and address of person to whom rent is due). PLEASE SEND RENT BY(insert method of transmission) ON THE(insert day) OF EACH MONTH.

WITH LIMITED EXCEPTIONS, THE NEW JERSEY ANTI-EVICTION ACT, N.J.S.A.2A:18-61.1 ET SEQ., PROTECTS YOUR RIGHT TO REMAIN IN YOUR HOME. FORECLOSURE ALONE IS NOT GROUNDS FOR EVICTION OF A TENANT. YOU ARE PROTECTED BY THIS LAW EVEN IF YOU DO NOT HAVE A WRITTEN LEASE.

THE NEW OWNER CANNOT EVICT YOU WITHOUT "GOOD CAUSE," AS DETERMINED BY A COURT. EXAMPLES OF "GOOD CAUSE" ARE FAILURE TO PAY RENT, WILLFULLY DAMAGING THE PREMISES, OR PERSONAL OCCUPANCY BY THE NEW OWNER OF THE HOUSE OR APARTMENT THAT YOU NOW LIVE IN.

A RESIDENTIAL TENANT IN NEW JERSEY CAN BE EVICTED ONLY THROUGH A COURT PROCESS. ONLY A COURT OFFICER WITH A COURT ORDER MAY REMOVE YOU FROM THE PREMISES, AND ONLY AFTER YOU HAVE BEEN GIVEN THE OPPORTUNITY TO DEFEND YOURSELF IN COURT.

INDIVIDUALS CAN BE SUBJECT TO BOTH CIVIL AND CRIMINAL PENALTIES FOR TRYING TO FORCE YOU TO LEAVE YOUR HOME IN ANY OTHER MANNER, INCLUDING SHUTTING OFF UTILITIES OR OTHER VITAL SERVICE OR FAILING TO MAINTAIN THE PREMISES. YOU MAY, HOWEVER, ACCEPT FINANCIAL COMPENSATION FOR LEAVING VOLUNTARILY IF THE NEW OWNER OFFERS SUCH COMPENSATION.

IF SOMEONE IS PRESSURING YOU TO LEAVE, CONSULT WITH AN ATTORNEY.

b. (1) The notice required pursuant to subsection a. of this section shall be printed in no less than 14 point bold point type, on paper at least eight and one-half inches by 11 inches in size, and shall contain contact information, including the name, mailing address, e-mail address, and telephone number of the new owner or a person authorized to act on behalf of the new owner.

(2) The Department of Community Affairs shall prepare and make available for distribution, both in print and in an easily printable format on the department’s Internet website, a notice in English with a Spanish translation that may be used by the new owner or

person authorized to act on behalf of the new owner to satisfy the notice requirements of this section.

c. (1) In buildings containing 10 or fewer dwelling units, the new owner shall make a good faith effort to obtain the names of all tenants occupying the property for which a notice is required pursuant to subsection a. of this section. The notice shall be addressed to tenants by name; provided, however, that in the event a good faith search fails to identify the tenant by name, the new owner shall address the notice required pursuant to subsection a. of this section to "Tenant." The new owner shall post the notice prominently on the front door of each tenant's unit and send the notice to each tenant via certified and regular mail.

(2) In a residential property containing more than 10 dwelling units, the new owner shall provide notice to tenants occupying the property for which notice is required pursuant to subsection a. of this section by causing a copy of the notice to be conspicuously displayed in a prominent place in a common area of each residential building or structure on the property. If there is no common area, the notice shall be posted in a conspicuous location in each building or structure on the premises, including, but not limited to the walls of the front vestibule or any foyer or hallway near the main entrance of the building or structure.

d. Any person taking title to the residential property as a result of a sheriff's sale or deed in lieu of foreclosure, or that person's agent or employee, shall provide a copy of the notice as set forth in subsection a. of this section with the initial and final written or verbal communication to a tenant for the purposes of inducing a tenant to vacate the property in accordance with the provisions of section 3 of P.L.2009, c.296 (C.2A:50-71).

e. Service on any tenant of a summons and complaint in an action to foreclose a mortgage on any residential property by any person, or the initial written or verbal communication by a foreclosing creditor to a tenant in a residential property subject to ongoing foreclosure proceedings, or any written or verbal communication that seeks to induce the tenant to vacate the property prior to the transfer of the property through sheriff's sale or a deed in lieu of foreclosure, shall include a copy of the notice regarding residential tenant rights during foreclosure as required by the Rules Governing the Courts of the State of New Jersey, as adopted by the Supreme Court of New Jersey.

f. Any person, or that person's agent or employee, who violates the provisions of this section shall be subject to the same civil remedies as are provided for in subsection a. of section 3 of P.L.1975, c.311 (C.2A:18-61.6), or, at the tenant's sole discretion, damages in the amount of \$2,000 per violation, plus attorney's fees and costs. Nothing in this subsection shall limit the liability, either civil or criminal, of a person, or a person's agent or employee, who violates any other law or regulation.

C.2A:50-71 Inducing tenant to vacate property prohibited.

3. a. No person, or the person's agent or employee, who has filed a complaint in an action to foreclose a mortgage on a residential property, as described in section 2 of P.L.2009, c.296 (C.2A:50-70), or who takes title to a residential property as a result of a sheriff's sale or other transaction following the filing of a complaint in an action to foreclose a mortgage on the property shall make any communication to induce the tenant to vacate the property except through a bona fide monetary offer, which shall be made in accordance with the provisions of subsections d. and e. of section 2 of P.L.2009, c.296 (C.2A:50-70). A tenant shall have five business days from the date of receipt of any bona fide monetary offer to vacate the property in order to accept or reject the offer. An acceptance of an offer by a tenant shall be in writing, and include an affirmative acknowledgement of the date of receipt

of the offer, and an understanding that the tenant had a five-day review period as required by this subsection to accept or reject the offer presented.

b. No person, or the person's agent or employee, who has filed a complaint in an action to foreclose a mortgage on a residential property, as described in section 2 of P.L.2009, c.296 (C.2A:50-70), or who takes title to a residential property as a result of a sheriff's sale or other transaction following the filing of a complaint in an action to foreclose a mortgage on the property shall, during the pendency of the foreclosure proceeding or within one year of the transfer of title following such proceeding, take any action placing pressure on a tenant to accept any offer to vacate the property, including, but not limited to:

(1) Mischaracterizing or misrepresenting the rights of the tenant under the Anti-Eviction Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.), or any other State law or municipal ordinance;

(2) Implying the tenant is obligated to accept an offer or implying consequences against the tenant for failing to accept an offer;

(3) Any form of tenant harassment, including, but not limited to, discontinuance of electricity, heat, or other utilities, failure to maintain the common areas or facilities of the property, or any other failure to maintain the premises in a habitable condition;

(4) Implementing an increase in rent in excess of any governing municipal rent control or rent leveling ordinance, or in the event the property is not subject to rent control, an increase in rent exceeding the limitation imposed by the Anti-Eviction Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.) or any other State or federal law or municipal ordinance.

c. Any person, their agent or employee, who violates the provisions of this section shall be subject to the civil remedies provided for in subsection a. of section 3 of P.L.1975, c.311 (C.2A:18-61.6), or, at the tenant's sole discretion, damages in the amount of \$2,000 per violation, plus attorney's fees and costs. Nothing in this subsection shall limit the liability, either civil or criminal, of a person, or a person's agent or employee, who violates any other law or regulation.

4. Section 15 of P.L.2008, c.127 (C.46:10B-49) is amended to read as follows:

C.46:10B-49 Report of mortgage foreclosure actions.

15. a. (1) Except as provided in paragraph (2) of this subsection, a creditor that institutes a mortgage foreclosure action in the Superior Court of New Jersey shall report to the Department of Banking and Insurance, on a quarterly basis and on a form promulgated by the department, information about the number of mortgage foreclosure actions filed by the creditor in the State.

(2) When a creditor or other person is required by any Rule of Court or otherwise by law to file electronically with the Superior Court of New Jersey pleadings in an action to foreclose on a mortgage, and the Administrative Office of the Courts is capable of collecting and transmitting the data set forth in paragraphs (1) through (8) of subsection b. of this section in electronic form, the creditor or other person shall transmit the data to the Superior Court, in a manner prescribed by the Superior Court, as part of the pleadings in an action to foreclose a mortgage. The Administrative Office of the Courts shall collect the electronically submitted data and transmit it to the Department of Banking and Insurance, which shall produce and make available on its website quarterly reports, as set forth in subsection b. of this section.

b. The Department of Banking and Insurance shall produce a report, on a quarterly basis, detailing information about mortgage foreclosures filed by creditors in each county of the

State, and shall make the report available to the public on its website. The report shall describe the type of mortgage being foreclosed on based on the following categories:

- (1) prime rate mortgages foreclosed upon;
- (2) subprime rate mortgages foreclosed upon;
- (3) fixed rate mortgages foreclosed upon;
- (4) adjustable rate mortgages foreclosed upon;
- (5) nonconforming mortgages, as defined by Fannie Mae, Freddie Mac, or their successors;
- (6) mortgages insured by the Federal Housing Administration foreclosed upon;
- (7) mortgages insured by the Veteran's Administration foreclosed upon; and
- (8) any other category of classification the department deems appropriate to effectuate the purpose of this section.

c. The Department of Banking and Insurance, pursuant to the "Administrative Procedure Act," P.L.1986, c.410 (C.52:14B-1 et seq.) shall adopt regulations necessary to effectuate the purpose of this section. Following the enactment of P.L.2009, c.296 (C.2A:50-69 et al.), the department, in consultation with the Administrative Office of the Courts, shall adopt regulations necessary to effectuate the purpose of this section.

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

C.46:10B-51 Procedure for serving summons and complaint in an action to foreclose on a mortgage.

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

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

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

(2) Within 30 days following the effective date of P.L.2009, c.296 (C.2A:50-69 et al.), any creditor that has initiated a foreclosure proceeding on any residential property which is pending in Superior Court shall provide to the municipal clerk of the municipality in which the property is located, a listing of all residential properties in the municipality for which the creditor has foreclosure actions pending by street address and lot and block number. If the municipality has appointed a public officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.),

the municipal clerk shall forward a copy of the notice to the public officer, or shall otherwise provide it to any other local official responsible for administration of any property maintenance or public nuisance code.

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

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

C.2A:50-72 Supersedure.

6. The provisions of any regulation, ordinance, rule, or resolution of any municipality, county or other subdivision of the State, or any agency or instrumentality of that municipality, county or other subdivision, relating to foreclosure practices, or the extension, delay, forbearance or imposition of moratorium periods concerning foreclosures, are superseded by the provisions of the "Save New Jersey Homes Act of 2008," P.L.2008, c.86 (C.46:10B-36 et seq.) and the forbearance and nuisance abatement provisions of the "Mortgage Stabilization and Relief Act," P.L.2008, c.127 (C.55:14K-82 et al.).

7. Section 5 of this act shall take effect on the 10th day after the date of enactment, and the remainder of the act shall take effect on the 30th day after the date of enactment.

Approved January 17, 2010.