SENATE, No. 2545 STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED OCTOBER 27, 2014

Sponsored by: Senator RONALD L. RICE District 28 (Essex)

SYNOPSIS

Provides expedited process for foreclosing vacant and abandoned residential properties in uncontested actions.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning foreclosure of residential properties and 2 supplementing P.L.1995, c. 244 (C.2A:50-53 et seq.). 3 4 **BE IT ENACTED** by the Senate and General Assembly of the State 5 of New Jersey: 6 7 1. Notwithstanding any other law or rule to the contrary, if a 8 residential mortgage lender's action to foreclose a mortgage on real 9 property pursuant to the "Fair Foreclosure Act," P.L.1995, c.244 10 (C.2A:50-53 et seq.), is uncontested as defined pursuant to R.4:64-11 1(c) of the Rules Governing the Courts of the State of New Jersey, 12 and vacant and abandoned pursuant to the criteria set forth in 13 section 1 of P.L.2012, c.70 (C.2A:50-73), the lender may file a Motion for Expedited Judgment and Sale. The motion shall be 14 15 accompanied by an affidavit from a person having personal 16 knowledge of the contents and shall plead the specific facts to 17 establish that the action is uncontested and that the property is 18 vacant and abandoned. 19 20 2. If the motion and affidavit filed pursuant to section 1 of this act are found to be in compliance with the provisions of that 21 22 section, have been served on the debtor and other appropriate 23 parties in accordance with the Rules Governing the Courts of the 24 State of New Jersey, and are otherwise satisfactory, the Superior 25 Court shall: 26 a. enter final judgment in foreclosure; 27 direct issuance of a writ of execution to the Sheriff of the b. 28 county in which the real property is situate that provides for the 29 public sale of the property within 90 days of the filing of the service 30 of the notice of intention that commenced the foreclosure action 31 pursuant to the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-32 53 et seq.); and 33 c. order payment by the lender of \$1,000 as a fee for the costs 34 associated with the use of the process for expedited judgment and 35 sale of the property as provided for in this act. 36 37 3. In a manner consistent with the Rules Governing the Courts of the State of New Jersey, the debtor or any interested party may 38 39 present a defense in response to the Motion for Expedited Judgment 40 and Sale. The defense shall be accompanied by an affidavit stating 41 that the defense is not made solely for the purpose of delaying the 42 relief requested pursuant to the Motion for Expedited Judgment and 43 Sale. The defense shall be presented within 90 days of the filing of 44 the service of the notice of intention that commenced the 45 foreclosure action. Any defense that is presented without the 46 affidavit, or that is not presented within the 90 day time period, 47 shall not be considered by the court.

S2545 RICE

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

6

7 5. This act shall take effect on the 90th day next following
8 enactment.

- 9
- 10 11

12

STATEMENT

This bill supplements New Jersey's "Fair Foreclosure Act" P.L.1995, c.244 (C.2A:50-53 et seq.), by providing an expedited process for mortgage lenders to use to foreclose residential properties and proceed to a public sale in actions that are uncontested and that involve vacant and abandoned property.

18 The bill provides that, notwithstanding any other law or rule to 19 the contrary, if a residential mortgage lender's action to foreclose a 20 mortgage on real property is uncontested as defined pursuant to 21 R.4:64-1(c) of the Rules Governing the Courts of the State of New 22 Jersey, and the property is vacant and abandoned pursuant to the 23 criteria set forth in section 1 of P.L.2012, c.70 (C.2A:50-73), the 24 lender may file a Motion for Expedited Judgment and Sale. The 25 motion shall be accompanied by an affidavit from a person having 26 personal knowledge of the contents and shall plead the specific 27 facts to establish that the action is uncontested and that the property 28 is vacant and abandoned.

29 If the Motion for Expedited Judgment and Sale and affidavit are 30 found to be in compliance with the provisions of the bill, have been 31 served on the debtor and other appropriate parties in accordance 32 with the Rules Governing the Courts of the State of New Jersey, 33 and are otherwise satisfactory, the Superior Court shall: (1) enter 34 final judgment in foreclosure; (2) direct issuance of a writ of 35 execution to the Sheriff of the county in which the real property is 36 situate that provides for the public sale of the property within 90 37 days of the filing of the service of the notice of intention that 38 commenced the foreclosure action pursuant to the "Fair Foreclosure 39 Act"; and (3) order payment by the lender of \$1,000 as a fee for 40 costs associated with the use of the process for expedited judgment 41 and sale of the property as provided for in this bill.

In a manner consistent with the Rules Governing the Courts of the State of New Jersey, any debtor or interested party may present a defense in response to the Motion for Expedited Judgment and Sale. The bill also requires that the defense shall be accompanied by an affidavit stating that the defense is not made solely for the purpose of delaying the relief requested pursuant to the Motion for Expedited Judgment and Sale. The bill also requires the defense to

S2545 RICE 4

be presented within 90 days of the filing of the service of the notice
 of intention that commenced the foreclosure action. Finally, any
 defense that is presented without the affidavit, or that is not
 presented within the 90 day time period, shall not be considered by
 the court.
 The bill further provides that nothing in the bill shall be

construed to affect the rights of a tenant to possession of a leaseholdinterest under the Anti-Eviction Act, P.L.1974, c. 49 (C.2A:18-61.1

9 et seq.), the "New Jersey Foreclosure Fairness Act," P.L.2009,

10 c.296 (C.2A:50-69 et seq.), or any other applicable law.