

Community Trends®



LEGISLATIVE UPDATE

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In the September 2016 issue of *Community Trends*® I reported on **“zombie foreclosures”** and the ongoing efforts to reform New Jersey’s foreclosure laws and practices. I commented that if you were to ask any board member of any of the roughly 6,700 community associations in New Jersey what the top three issues are that dog them in their efforts to govern their communities, you might hear about claims against their insurance coverage that result in rising insurance premiums, or collecting overdue assessments from owners who drive shiny new cars, or maybe even complaints about owners who fail to scoop up after their pets. But it’s safe to say that more often than not, the issue of **vacant and abandoned homes in foreclosure** in their communities ranks near the top of their list. They are unsightly, unsafe, unsanitary, and worst of all, the owners of such properties rarely pay their association assessments, withholding valuable resources from their association and increasing the financial burden on those responsible members who do pay their assessments. These vacant and abandoned properties in foreclosure (affectionately known as “zombie” foreclosures) surely challenge the *financial fitness* of the many community associations across our state and nation we proudly serve.

I also commented that it is safe to say that anyone who initiates, supports and works to advance a piece of legislation through the legislative process learns early on that to be successful in that endeavor, one must be persistent... and patient. The NJLAC has been diligent in proposing

and advancing laws that ease the burdens on community associations across New Jersey caused by such properties. In 2014 a law was passed that authorizes, but doesn’t require, a foreclosing lender to expedite the foreclosure process when the property is “vacant and abandoned” (NJSA 2A: 50-73 et. seq.). However, in practice it has

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been seen that foreclosing lenders, in general, are choosing not to expedite the process, resulting in vacant and abandoned homes languishing as a drain on the financial fitness of community associations all across New Jersey, sometimes for years at a time.

In response to requests for help from associations across our state dealing with zombie foreclosures, the NJ LAC has proposed and supported legislation to amend this law, providing that if the foreclosing lender chooses not to expedite the process, the lender would be required to pay to the association the assessments imposed against the unit

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until title is transferred to a new owner, or the lender would be required to agree to the appointment of a fiscal agent (also known as a “rent receiver”) so that the association could recover the past due and ongoing assessments from the rents received from the unit until the foreclosure process concludes and the property is sold to a new owner. To date, the results of attempts to judicially encourage lenders to expedite their foreclosure actions, or to appoint rent receivers, have been mixed, meaning that Superior Court judges in some counties have agreed to do so, while others have not, hence the need for statewide legislation. In December of 2015 the Senate version of this bill was voted out of committee with strong bipartisan support and moved to the full Senate chamber where it was voted on and *unanimously* approved shortly before the end of the previous legislative session in early January 2016. Unfortunately, the Assembly failed to call its version of the bill for a vote before the end of the session. The NJ-LAC was instrumental in having both bills reintroduced in the new 2016-2018 legislative session (now **Senate bill 1832/Assembly bill 3823**).

The good news is that the momentum in favor of these bills has continued into this current legislative session. The Senate version has already successfully cleared the Community and Urban Affairs Committee, and has been referred to the Budget and Appropriations Committee (a necessary step in the process). While the mortgage bankers association and the Administrative Office of the

Courts have expressed some minor concerns with particular language in the bills, the NJ LAC has been in discussions with those groups and we are hopeful of an agreement on the final language soon. It is anticipated that these bills will be finalized and voted on by the full chambers of the New Jersey Legislature, then sent to the Governor’s desk, before the summer recess. This needed reform in the foreclosure process can’t come soon enough for most community associations across our state.

Another item of good news: in 2014 a law was passed that authorizes New Jersey municipalities to adopt ordinances that require foreclosing lenders to maintain up to local codes the exterior of vacant homes subject to foreclosure proceedings, or face stiff fines (NJSA 40: 48-2.12s). Many municipalities across New Jersey have adopted such ordinances and have been requiring foreclosing lenders to maintain the exterior of those homes. If your town has not yet adopted such an ordinance, we encourage you to contact your town’s governing body and strongly suggest they do so. Amendatory language to this law was introduced last year which would require lenders foreclosing on vacant and abandoned properties to likewise maintain the interior of such units, but it was not approved before the end of the last legislative session. It has not yet been introduced in the current legislative session. ■

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