

Legislation Modernizing Foreclosure Laws to Protect Consumers and Reduce Blight

New Jersey Housing and Mortgage Finance Agency
Legislative Advocacy: State Advocacy

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New Jersey Foreclosure Assistance Legislative Package
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On April 29, 2019, New Jersey Governor Phil Murphy signed into law a package of nine bills that will modernize and reform the foreclosure process in our state, making it more homeowner-friendly and creating new revenue streams to cover mediation counseling for borrowers. The New Jersey Housing and Mortgage Finance Agency (NJHMFA) played an integral role in furthering these bills and providing advocacy support to state legislators.

Background

New Jersey has among the highest foreclosure filing and foreclosure rates in the entire country. While the homeownership market has shown signs of recovery since the peak of the Great Recession, our foreclosure statistics perpetually remain much higher than those of our peers. In 2018, there were over 25,000 foreclosure filings statewide, while two New Jersey metropolitan areas, Atlantic City and Trenton, remain the hardest hit areas in the United States.

NJHMFA serves as a critical government agent in reducing foreclosure filings and preventing foreclosure evictions. We administer the state's housing counseling program, which assists homeowners in foreclosure proceedings to achieve loan modifications and pursue other options in order to stay in their homes and remain in good financial health. Historically, we have served as the administrative agent for foreclosure mitigation programs (e.g., the National Foreclosure Mitigation Counseling Program), which provided upstream interventions to allow delinquent or at-risk homeowners to avoid foreclosure.

State legislators in New Jersey have long been interested in streamlining the foreclosure process to reduce uncertainty for at-risk homeowners; expanding access to counseling to help homeowners retain their homes; and reducing bad-faith activity in the mortgage service industry. In the previous gubernatorial administration, foreclosure legislation aiming to achieve these goals had been vetoed several times, leaving the package at a standstill.

Developing the Foreclosure Package

The inauguration of a new governor at the beginning of 2018, provided a window of opportunity in which to modernize New Jersey's foreclosure processes and better serve to at-risk homeowners. In the summer of 2018, New Jersey Chief Justice Stuart Rabner released a report created by a Special Committee on Residential Foreclosures, which reviewed current practices and policies embedded within the judicial foreclosure process. The Special Committee's recommendations were incorporated into state legislators' agenda in a package of bills by the fall of 2018.

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New Jersey Foreclosure Assistance Legislative Package
Legislative Advocacy- State Advocacy

Given that our Agency's mission revolves around the promotion of affordable and stable housing, especially for low- and middle-income households, the package offered an important opportunity to advance our internal policy goals. The development of this bill package occurred at a pivotal time for NJHMFA because the Hardest Hit Funds, which our state relied on post-Recession to stem the tide of foreclosures, expired at end of 2018.

The legislative package had three major focuses: to modernize and streamline the foreclosure process and create more certainty for borrowers in an uncertain situation, to provide for better oversight on private lenders, and to create tools for state and local governments to better combat foreclosure and blight crises.

Though involved in the development of all of the proposed bills, we were especially invested in A664/S1244. The legislation, when initial proposed, codified the existing mediation procedure into statute and ensured funding for mediators. In its final form, the bill codified the mediation program, mandates that homeowners in foreclosure utilize the services of a pro bono foreclosure counselor when entering into mediation with their lender and includes a foreclosure filing fee for lenders which is intended to generate the necessary revenue to support the counseling program in perpetuity.

Due to NJHMFA's responsibility for and experience in housing counseling program administration, we were able to demonstrate the increased efficacy of achieving positive results in mediation with the use of counselors to members of the legislature and other stakeholders. The arguments in favor of including foreclosure counselors in the larger mediation program codification were persuasive enough that the Legislature, the Governor's office, the Courts and housing advocates all agreed to not only ensure that families could utilize their services in mediation for no cost, but that every family entering mediation would utilize the counselor's services.

In developing the amendments, staff members from our Single-Family division were integral in generating cost and impact analyses in order to ensure that the filing fee was set at an appropriate level to cover the cost of counseling and mediation services. Our Policy division utilized said information in their collaboration with the legislators and worked closely with the remaining stakeholders to ensure that the bill would provide both the flexibility and funding that we need to build a robust, sustainable counseling program capable of handling the increased caseload that would result from the legislative mandate.

We are especially excited about the innovative nature of this legislation. While other state HFAs run similar counseling programs, only a few states require counseling as part of the foreclosure mediation process. Given the strong evidence base around the efficacy of counselors in helping homeowners to stay in their homes, we feel that this intervention will bring much-needed stability to our homeownership market and see it as a replicable policy in a favorable legislative environment, especially in the context of a recovering housing market.

New Jersey Housing and Mortgage Finance Agency
New Jersey Foreclosure Assistance Legislative Package
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With regard to the other bills in the package, which serve to streamline our foreclosure process and regulate the mortgage service industry in a more pro-consumer fashion, our Executive Staff and Policy team collaborated closely with the Governor's Office, the Department of Community Affairs, the Department of Banking and Insurance and the New Jersey Administrative Office of the Courts in order to arrive at language that would provide the most support and guarantee the most stability for at-risk homeowners.

Expected Results

We believe that this comprehensive restructuring of how foreclosures unfold in New Jersey will bolster the rights and opportunities of homeowners in our state, especially the low- and moderate-income households who constitute our target population. The Office of Legislative Services estimates, for instance, that the counseling bill will generate between \$3 and \$6 million per year, of which \$1.9-3.8 million would be dedicated for foreclosure counselors and \$1.2-\$2.4 million would be dedicated to mediators. As previously mentioned, this funding will be necessary to reinvigorate our counseling program as federal foreclosure prevention funding has long since expired. We expect that the availability of housing counselors will make the mediation process more successful and home-preserving loan modifications more likely. We also expect that a more streamlined foreclosure process will leave homeowners less uncertain about the foreclosure timeline and more able to find appropriate housing options if modification is deemed impossible. Finally, we anticipate that a better-regulated mortgage service industry will ensure that the mortgage market operates in a pro-consumer fashion.

Even as the housing market recovers from the Great Recession, proactive and preventive policies that keep people in their homes are the only strategy for reducing the exorbitant number of foreclosure filings and evictions in our state. We believe this package of bills represents sound, evidence-policymaking and are immensely proud to have been part of the advocacy coalition that helped to get it signed into law.



Governor Philip D. Murphy signs into law nine bills to alleviate New Jersey's foreclosure crisis. With Governor Murphy (seated), are Atlantic City Special Counsel Jim Johnson, Assemblywoman Mila Jasey, Senator Troy Singleton, Atlantic City Mayor Frank Gilliam, NJHMFA Executive Director Charles Richman, Assemblyman William Spearman, local advocate Linda Steele, Assemblyman John Armato and Atlantic County Freeholder Ernest Coursey (standing from left to right).

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Murphy Signs Bills Targeting State's Foreclosure Crisis

The new laws—nine in all—are meant to assist homeowners facing the prospect of foreclosure and pave the way for community revival by addressing blight.

By Suzette Parmley | April 30, 2019

Rate of foreclosures is one area in which the Garden State would rather not be ranked No. 1.

So a bipartisan bill package was signed into law by Gov. Phil Murphy intended to help New Jerseyans stay in their homes.

The new laws—nine in all—are meant to assist homeowners facing the prospect of foreclosure and pave the way for community revival by addressing blight.



Photo: Shutterstock

"The foreclosure crisis has hurt our economy and jeopardized the economic security of too many New Jersey families," said Murphy Monday at the bill signing in Atlantic City, which has been at the epicenter of the crisis. "Our communities cannot succeed while vacant or foreclosed homes sit empty or while families live in limbo. I am proud to sign these bills into law today and get New Jersey closer to ending the foreclosure crisis."

The impetus for the laws stems from the May 2017 report released by Chief Justice Stuart Rabner and the Special Committee on Residential Foreclosures that Rabner created.

The report was the culmination of work from key stakeholders in the process, including the Administrative Office of the Courts.

Among the bills Murphy signed was A-664, which codifies the judiciary's Foreclosure Mediation Program, creating a long-term, permanent program to increase the number of people entering mediation and ensure that homeowners receive housing counseling assistance to provide them with the best possible outcomes.

At a Senate Budget Committee appearance on April 9, Judge Glenn Grant, the acting administrative director of the New Jersey courts, praised the mediation program for developing a more equitable system for both homeowners and lenders to resolve their disputes, thus helping to reduce the state's foreclosure rate.

A-664 provides that money from foreclosure filing fees and fines are to fund the Foreclosure Mediation Program.

"The foreclosure crisis hit the families of Atlantic County harder than almost any county in the nation. These bills offer a better path for the region and hope for families in despair," said Jim Johnson, special counsel to Murphy, in a statement Monday.

New Jersey Housing and Mortgage Finance Agency Executive Director Charles A. Richman added: "Foreclosure can take an emotional and financial toll on homeowners and their families. These bills bolster our efforts to help keep families in their homes and neighborhoods intact."

The eight other foreclosure bills signed Monday by the governor are:

- **A-4997:** The Mortgage Servicers Licensing Act will require any person acting as a mortgage servicer to obtain a license from the commissioner of banking and insurance for each main office and each branch office where business is conducted.
- **A-4999** requires filing of certain creditor contact information with a residential mortgage foreclosure complaint and pending legal action.
- **A-5001** revises the statute of limitations for certain residential mortgage foreclosure actions from 20 years to six years from the date on which the debtor defaulted, and in situations in which the date of default is used as the method to determine when the statute of limitations has expired.
- **A-5002** permits all common-interest community associations to record a lien for unpaid assessments, and provide limited priority over prior recorded mortgages and other liens for nine months' worth of unpaid customary assessments.
- **S-3411** requires a receivership appointment application before certain foreclosure actions, requires a notice of intention to foreclose on a residential mortgage to be filed within 180 days before commencing foreclosure, and limits reinstatements of dismissed mortgage foreclosure actions.
- **S-3413** makes certain changes to the summary action foreclosure process under the Fair Foreclosure Act by clarifying the method by which foreclosed properties can be sold on an expedited timeline.
- **S-3416** clarifies that the New Jersey Residential Mortgage Lending Act applies to certain out-of-state persons involved in residential mortgage lending in state.

- **S-3464** revises certain procedures for real estate foreclosure sales, and alters the adjournment of sale process.

“Foreclosures are tragic situations for New Jersey families that can also create public safety as well as quality-of-life issues for surrounding communities,” said Sen. Steve Oroho, R-Sussex, one of the sponsors of the bill package. “Doing our part to reduce the foreclosure rate statewide will protect families, make neighborhoods safer, and provide children the stability they need both at home and at school.”

Another sponsor, Sen. Troy Singleton, D-Burlington, added: “This issue is not new. However, the comprehensive approach outlined in these bipartisan laws is unprecedented in our state. They will build upon the continued reduction in pending foreclosure cases and shorten the timeline to adjudicate these cases.”

Assembly Speaker Craig Coughlin, D-Middlesex, said New Jersey led the nation in foreclosures, with about 70,000 properties going through the process in 2017 alone.

“Recognizing this problem, Chief Justice Rabner impaneled a blue-ribbon committee encompassing the public, private and nonprofit sectors to craft solutions, both legislative and regulatory, that were both fair and responsible to our state’s residents and housing economy,” Coughlin said.

“These new laws will strengthen the mediation program in New Jersey by promoting remedy options for those homeowners in the initial stages of the foreclosure process,” said another sponsor, Sen. Ronald Rice, D-Essex.

Advocates also expressed support for the measures.

Renee Koubiadis, executive director of the Anti-Poverty Network of New Jersey, said the nine bills taken together “will allow for a more transparent and fairer process for people facing default and will help alleviate New Jersey’s persistent foreclosure crisis.”

“Particularly, the codification and funding of the Foreclosure Mediation Program will allow families receiving counseling and mediation to find a resolution to be able to stay in their homes,” she said.

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This script is being included to help demonstrate outreach efforts from the highest level of government in getting resident participation in the free housing counseling programs.

Foreclosure Assistance PSA – 60 second

Have you or someone you know received a foreclosure notice and are in danger of losing their home?

This is Lt. Governor Sheila Oliver and I'm reaching out to let you know the state is offering **free help** to homeowners facing foreclosure.

If you've already received a foreclosure notice, it's **essential** that you seek help as soon as possible.

Free housing counselors are available to guide you through the process, but you must act within 60 days of notice to take advantage of this help.

We understand it can be difficult to admit you need help or even know where to find it, and this means that too many homeowners will enter the foreclosure process without help and unnecessarily lose their homes.

Governor Murphy and I know that housing counseling saves homeowners from foreclosure, which is why we are offering this free service to help New Jersey residents.

The sooner you act, the more options you will have to save you or your loved one's home.

To find a free foreclosure housing counselor, **call 1-800-NJHOUSE or visit njhousing.gov.**

Foreclosure Assistance PSA - 24-secs

Have you or someone you know received a foreclosure notice?

This is Lt. Governor Sheila Oliver, and I am reaching out to let you know the state is offering **free help** to homeowners in danger of losing their homes.

We understand it can be difficult to admit you need help or even know where to find it. But if you've already received a notice from the courts, it's **essential** that you seek help as soon as possible.

Free housing counselor services are available to guide you through the process.

To find a counselor, **call 1-800-NJHOUSE or visit njhousing.gov.**

This script is being included to help demonstrate outreach efforts from the highest level of government in getting resident participation in the free housing counseling programs.

(Adapted scripts for translation)

Foreclosure Assistance PSA – 60 second (Anuncio de servicio público sobre ayuda en ejecuciones hipotecarias – 60 segundos)

¿Usted, o alguien que conoce, ha recibido una notificación de ejecución hipotecaria y está en peligro de perder su casa?

El Estado brinda **ayuda gratuita** a propietarios que enfrentan ejecuciones hipotecarias.

Si usted ya ha recibido una notificación de ejecución hipotecaria, es **imprescindible** que busque ayuda tan pronto como sea posible.

Hay consejeros de vivienda que brindan orientación en forma gratuita a través de ese proceso, pero usted debe conseguir esta ayuda en un plazo de 60 días a partir de la fecha de la notificación.

A veces no es fácil admitir que se necesita ayuda; pero existe un servicio gratuito de consejería en vivienda que libra a los propietarios de la ejecución hipotecaria, y que está disponible para los residentes de Nueva Jersey.

Cuanto antes actúe más opciones tendrá de salvar su casa o a la de un familiar.

Para comunicarse con un consejero de vivienda de ejecución hipotecaria que brinda ayuda sin costo, **llame al 1-800-NJHOUSE o visite** el sitio web **njhousing.gov**.

Foreclosure Assistance PSA - 24-secs (Anuncio de servicio público sobre ayuda en ejecuciones hipotecarias – 24 segundos)

¿Usted, o alguien que conoce, ha recibido una notificación de ejecución hipotecaria?

El Estado brinda **ayuda gratuita** a propietarios en riesgo de perder sus casas.

A veces no es fácil admitir que se necesita ayuda, pero hay consejeros de vivienda que brindan orientación en forma gratuita a través de ese proceso.

Para comunicarse con un consejero de vivienda, **llame al 1-800-NJHOUSE o visite** **njhousing.gov**.