

# New Jersey Foreclosure Mediation Assistance Program

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

## **HFA Staff Contact**

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On April 29, 2019, New Jersey Governor Phil Murphy signed Assembly Bill 664, codifying the New Jersey Judiciary's Foreclosure Mediation Assistance Program (FMAP) as a permanent program with the New Jersey Housing and Mortgage Finance Agency (NJHMFA) to provide free housing counseling assistance to homeowners at risk of housing instability to take effect on November 1, 2019, and further dedicating a funding stream to fund the program in perpetuity. NJHMFA played an integral role in designing, drafting, and advocating for, and ultimately implementing this legislation on behalf of New Jersey homeowners whom would directly benefit from this critical program. At the time of the legislation's advancement and implementation, there was no indication that a pandemic and the ensuing economic impact would create such a widespread risk of housing instability. However, NJHMFA's attempt to prepare for a potential smaller economic contraction and to address the looming impacts of the Great Recession has provided an additional tool to help homeowners impacted by the pandemic-induced recession.

### **Background**

New Jersey has among the highest foreclosure filing and foreclosure rates in the entire country. While the homeownership market had shown signs of recovery since the peak of the Great Recession, New Jersey's foreclosure statistics remained perpetually higher than many nearby states. In fact, 2019 was the first year since the Great Recession that foreclosures dipped back to pre-recession numbers. However, New Jersey overall has remained among one of the hardest hit states in the country, while two of the state's primary metropolitan areas, Atlantic City and Trenton, represent some of the hardest hit metro areas in the United States.

NJHMFA serves as a critical government agent in reducing foreclosure filings and preventing foreclosure evictions. As the administrator of the state's housing counseling program, NJHMFA 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. In doing so, we worked with the New Jersey Judiciary to operate our program within the judicial mediation system. Prior to this legislation, state legislators in New Jersey had 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.

### **Developing the Legislation and Building the Program**

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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Given that NJHMFA's mission revolves around the promotion of affordable and stable housing, especially for low- and middle-income households, Assembly Bill 664 (A664) offered an important opportunity to advance internal policy goals. The development of this bill occurred at a pivotal time for NJHMFA as the Hardest Hit Funds, which New Jersey relied on post-Recession to stem the tide of foreclosures, expired at end of 2018.

The legislation, when initially proposed, codified the existing mediation procedure into statute and ensured funding for mediators. In its final form, A664 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 administering the state's housing counseling program, it was 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 argument in favor of including foreclosure counselors in the larger mediation program codification was 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 must utilize the counselor's services.

In developing the amendments, staff members from the 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. The 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.

Over the summer and fall of 2019, NJHMFA worked with the Department of Community Affairs (DCA) and the Administrative Office of the Courts to implement this program and build a partnership that would confirm the Judiciary's delegation of authority over the counselors to NJHMFA, and use DCA's accounts with the Department of the Treasury to transfer the collected funds to NJHMFA to reimburse the counselors for services rendered under this act.

This legislation is innovative in that while other state housing agencies run similar counseling programs, few states require counseling as part of the foreclosure mediation process. Given this, and the strong evidence around the efficacy of counselors in helping homeowners to stay in their homes, integrating both policies into a singular intervention will bring much needed stability to our homeownership market. Furthermore, the nature of the funding source and the mandate for participation makes this is a replicable policy across the country. Considering the impact of Covid-19 and the housing instability created by the ensuing economic contraction across the country, using a fee to generate revenue to pay for housing counselors to provide early intervention by outlining a roadmap to recovery may be one of the few tools states will have to stabilize communities at risk.

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### Recent Results

When first introducing this program, NJHMFA believed that the availability of housing counselors would make the mediation process more successful and transparent for New Jersey homeowners. In the following months, this has been found largely to be the case. Since introducing the program in November 2019, the FMAP program has been quite successful. Within the known collection of program outcomes, 78% of FMAP participants have kept their homes post-counseling. Given these strong results, proactive and preventative policies regarding foreclosure is demonstrated to be a successful policy prescription for state housing agencies across the country. Additionally, since the onset of Covid-19, NJHMFA has seen participation in the housing counselor program expand by nearly eight times its pre-pandemic volume. While the current moratoriums have frozen foreclosure proceedings, we believe it is likely to show that this intervention was able to help families stabilize their living situations before the risk of foreclosure and eviction become too overwhelming.

## Supporting Visual Aids (Total of 2)

### 1. Foreclosure Mediation Assistance Program - Fact Sheet for Consumers

# NJHMFA

## Free Foreclosure Counseling



### PROGRAM DESCRIPTION

If you are going through foreclosure, **free housing counseling is available through NJHMFA's Foreclosure Mediation Assistance Program**. Mediation can save a home from foreclosure, yet too many homeowners enter the foreclosure process with their mortgage lender without professional guidance or an understanding of the type of relief that may be available to them.

#### HOW CAN HOUSING COUNSELING HELP?

Housing counseling can offer you hope. A housing counselor acts as an advocate, providing valuable assistance in helping you to explore all options as you work through the state's court mediation program. Counselors will create an action plan and help you complete the necessary paperwork to try and save your home. Counselors can also offer other services such as:

- negotiating with the lender if necessary
- providing post-mediation counseling
- and/or transition assistance

#### Research has shown that homeowners who participated in counseling:

- Were nearly three times as likely to receive a loan modification;
- 70 percent more likely to remain current on their mortgage after receiving the loan modification;
- Achieved on average a reduction of \$5,000 annually on their mortgage payment.

#### To qualify for mediation:

- The property must be the subject of an active residential mortgage foreclosure action.
- Mediation must be requested within 60 days after service of the foreclosure summons and complaint unless a court order is entered directing the parties to mediation.
- The homeowner must be living in the property that is in foreclosure, and all borrowers listed on the note must agree to participate in mediation.
- The homeowner will not qualify if they are in bankruptcy.

**This is the best opportunity for us to help you save your home and lifestyle. We only have 60 days after you've been served to start the process.**



### GET A LIST OF HUD-CERTIFIED HOUSING COUNSELING AGENCIES AT [NJHOUSING.GOV/FORECLOSURE](http://NJHOUSING.GOV/FORECLOSURE)



NJHMFA, which receives no state funding, is a self-sufficient agency of state government dedicated to offering New Jersey residents affordable and accessible housing.

1-800-NJ-HOUSE • [njhousing.gov](http://njhousing.gov)



## 2. Press

<https://www.nj.gov/dca/hmfa/media/news/2019/approved/20190429.html>

April 29, 2019

### **Governor Murphy Signs Legislative Package to Address New Jersey’s Foreclosure Crisis**

**ATLANTIC CITY** – Governor Phil Murphy today signed a bipartisan legislative package into law that will help New Jerseyans struggling with the state’s highest-in-the-nation foreclosure rate. The new laws will assist homeowners facing the prospect of foreclosure and pave the way for community revival by addressing blight. Many of the measures were recommended in a September 2018 report by the Special Committee on Residential Foreclosures, which was created by Chief Justice Stuart Rabner.

“The foreclosure crisis has hurt our economy and jeopardized economic security of too many New Jersey families,” said Governor Murphy. “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.”

Among the bills, Governor Murphy signed A664, which codifies the Judiciary’s Foreclosure Mediation Program into law, creating a long-term, permanent program that will not only increase the number of people entering mediation, but also ensure that homeowners receive housing counseling assistance to help provide them with the best possible outcomes in the foreclosure process.

“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 Special Counsel Jim Johnson. “It’s a vital and important step forward.”

"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," said New Jersey Housing and Mortgage Finance Agency (NJHMFA) Executive Director Charles A. Richman. "We know housing counseling works. Counseled homeowners are nearly three times as likely to have their loans modified, and 70 percent more likely to remain current after modification. That's why we have heavily invested our efforts on working to get families the counseling help they need."

The Governor signed the following nine bills into law:

- A664 - Codifies the Judiciary's Foreclosure Mediation Program; dedicates monies from foreclosure filing fees and fines.
- A4997 - "Mortgage Servicers Licensing Act."
- A4999 - Requires filing of certain creditor contact information with residential mortgage foreclosure complaint and lis pendens.
- A5001 - Revises statute of limitations for residential mortgage foreclosures.
- A5002 - Permits certain planned real estate developments to file certain liens; concerns limited priority of certain liens.
- S3411 - Requires receivership appointment application prior to certain foreclosure actions; requires notice of intention to foreclosure on residential mortgage to be filed within 180 days prior to commencing foreclosure; limits reinstatements of dismissed mortgage foreclosure actions.
- S3413 - Makes certain changes to summary action foreclosure process under "Fair Foreclosure Act."
- S3416 - Clarifies that "New Jersey Residential Mortgage Lending Act" applies to certain out-of-state persons and involved in residential mortgage lending in the State.
- S3464 - Revises certain procedures for real estate foreclosure sales; alters 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 Senator Steve Oroho, sponsor 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. I am proud Governor Murphy signed our bipartisan bill package into law. Stable homes will lead to happier households and better neighborhoods throughout our state."

"We are all aware that the surge in foreclosed properties is a significant factor that hinders more sustained economic growth in our state," said Senator Troy Singleton. "Solving the foreclosure issue by preventing homeowners from initially falling into this process will help to increase property values and stabilize our communities, while improving our state's overall economic outlook. 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. This is a reflection of the work undertaken by every branch of our state government."

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“Sadly, for too long our state has led the nation in foreclosures, with 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 non-profit sectors to craft solutions, both legislative and regulatory, that were both fair and responsible to our state's residents and housing economy. I was privileged to serve and be a part of the solution,” said Assembly Speaker Craig Coughlin. “The nine bills signed into law today are the first of many steps we’ll take to address foreclosure process concerns in the state. More efficiency and ensuring fairness in the current system protects the interests of our homeowners, our neighborhoods and communities.”

“These new laws will help us take a comprehensive approach in dealing with foreclosed homes in New Jersey,” said Assemblyman Benjie Wimberly. “Foreclosed properties that sit in neighborhoods for years without being maintained are also a major problem, because these homes become eyesores to the community and drive property values down. As chair of the Assembly Housing and Community Development Committee, I will continue to work with Speaker Coughlin and our caucus to help solve the foreclosure crisis in New Jersey.”

Advocates also expressed support for the measures.

“We thank Governor Murphy and the Legislature for providing valuable tools to address our state’s relentless foreclosure crisis,” said Staci Berger, President and Chief Executive Officer of the Housing and Community Development Network of NJ. “Residents and neighborhoods have suffered needlessly because the prior Administration failed to take important steps like these. During that time, residents and communities of color were disproportionately impacted by the crisis, losing so much of their housing equity. As NJ’s largest HUD housing counseling intermediary, the Network is thrilled that New Jersey’s leaders are now working with us and our members to keep people in their homes and helping to protect the single largest investment working families can make.”

“Thanks to the leadership of both Governor Murphy and the legislators who sponsored this bill package, New Jersey is one step close to putting the foreclosure crisis behind us,” said Winn Khuong, Executive Director of Action Together New Jersey. “Governor Murphy’s action today puts New Jersey on a path to renewing our communities, something that will change the lives of so many. We are pleased to see New Jersey’s leaders moving the state in the right direction.”

“We applaud Governor Murphy and all of the legislators on the passage of this package of bills,” said Renee Koubiadis, Executive Director of the Anti-Poverty Network of New Jersey. “Taken together, these



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bills 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 receive to counseling and mediation to find a resolution to be able to stay in their homes.”

"A decade after the financial crisis, New Jersey continues to lead the nation in foreclosures," said Kevin Walsh, Executive Director of Fair Share Housing Center. "This legislative package will provide needed relief by increasing protections for homeowners and holding lenders accountable. We'd like to thank Governor Murphy and legislative leaders, including Senator Singleton, for pushing through proposals designed to protect working families."