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TURNING THE TIDE: A HISTORICAL ANALYSIS OF NEW JERSEY FORECLOSURES, AND THE IMPACT OF 2019 NEW JERSEY RECOVERY LEGISLATION.

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I. INTRODUCTION

New Jersey is known for a lot of wonderful things; the Jersey Shore, its strong public education system, its rich national history and the debate on whether "Central Jersey" exists (subjectively, a "Central Jersey" does exist as that is where the author was born).[2] Unfortunately, New Jersey is known to consistently rank in the top two states annually with the greatest ratio of residential home foreclosures (trading periodically with Delaware).[3] As of August 2019, one in every 1,192 New Jersey residential homes foreclosed.[4] Compared nationally, in October 2019, the nationwide foreclosure rate was one in every 2,453 housing units, with New Jersey leading the way with a foreclosure of

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[2] Brent Johnson, *Does Central Jersey exist? Gov. Murphy settled the argument!*, NJ.COM (Dec. 10, 2019), https://www.nj.com/politics/2019/12/does-central-jersey-exist-gov-murphy-just-settled-the-argument.html.

[3] *U.S. Real Estate Trends & Market Info*, REALTY TRAC, http://www.realtytrac.com/statsandtrends/foreclosuretrends/ (last visited Sept. 19, 2020). This academic note was written between 2019-2021 and is using historical home foreclosure data for the years of 2019 and 2020. Some of the websites in which the data has been sourced has recently been updated, and may not appear from these citations. This note analyzes the data solely from 2019-2020 and interprets this data and the Legislative impact on New Jersey forclosure rates from 2019 moving forward. The Author can be contacted directly with any additional questions.

[4] *Foreclosure Rates For New Jersey December 2019*, REALTY TRAC, https://www.realtytrac.com/statsandtrends/foreclosuretrends/nj/ (last visited Sept. 19, 2020).

one in every 1,316 homes.[5] However, the recent national foreclosure trend is in stark contrast with New Jersey.

Foreclosure filings across the United States dropped 21% from 2018 to the end of 2019 and overall have dropped 83% from their peak in 2010 of nearly 2.9 million national foreclosure filings.[6] Yet, while the number of New Jersey foreclosure filings also dropped 21% over this same period,[7] New Jersey still posted the highest state foreclosure rate at 0.82% of housing units filing for foreclosure.[8] This rate was driven by two New Jersey cities (population at least 200,000): Atlantic City at 1.33% and Trenton at 0.91%.[9] This statistical data illustrates how other states have tackled this issue differently and continue to lower their foreclosure rate, while this has continued to be a thorn in New Jersey's side. Coupled with

[5] *U.S. Foreclosure Activity in October 2019 Climbs upward from Previous Month*, ATTOM DATA SOLUTIONS, https://www.attomdata.com/news/market-trends/foreclosures/attom-data-solutions-october-2019-u-s-foreclosure-activity-report/ (last visited Sept. 19, 2020).

[6] *U.S. Foreclosure Activity Drops to 15-Year Low in 2019,* ATTOM DATA SOLUTIONS*,* https://www.attomdata.com/news/market-trends/foreclosures/attom-data-solutions-2019-year-end-u-s-foreclosure-market-report/ (last updated on Jan. 16, 2020).

[7] *Id.*

[8] *Id.*

[9] *Id.*

Foreclosure Rates in the United States of America- January 2020 [10]

United States

1 Foreclosed Home in every 2,253 Homes

Top 5 States for Foreclosed Homes

(1) New Jersey	**1 in every 1,043**
(2) Delaware	1 in every 1,086
(3) Illinois	1 in every 1,136
(4) Maryland	1 in every 1,500
(5) Ohio	1 in every 1,513

[11]

The ongoing COVID-19 Pandemic, this shows why the topic of foreclosure is timely and should continue to be studied and discussed.

But all is not lost. The New Jersey government has responded, which this note will focus on. This note focuses on the potential impact of the bipartisan nine-Bill legislative package signed by Governor Phil Murphy in April 2019, to directly address the state's continuing reign as king of the highest foreclosure rate in the nation.[12] The strongest Bill in the package is Bill A664,

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[10] *U.S. Real Estate Trends & Market Info*, *supra* note 3.

[11] *Foreclosure Rates for the U.S.*, REALTY TRAC (Jan. 2020), https://www.realtytrac.com/statsandtrends/foreclosuretrends/ (last visited Sept. 19, 2020)

[12] *Governor Murphy Signs Legislative Package to Address New Jersey's Foreclosure Crisis*, OFF. SITE OF THE STATE OF NJ: GOVERNOR PHIL MURPHY (Apr. 29, 2019),

which formally codifies the New Jersey Judiciary's foreclosure mediation program into law, creating "a long-term, permanent mediation program that will not only increase the number of people entering mediation, but also ensures that homeowners receive housing counseling assistance to help provide them with the best possible outcomes in the foreclosure process."[13]

This note begins with an anecdotal story that shows how residential foreclosures can have detrimental effects on both individuals and the community. Next, this note defines the residential home foreclosure process, and the underlying causes that make it so prevalent in New Jersey. Then, this note examines the lingering effects of the 2007-2008 recession, and New Jersey's legislative history and response to mortgage foreclosures. Later, this note looks into the specific language of all nine Bills passed, provides a legal analysis of the Bills, and assesses which Bills will have the greatest impact in reversing the foreclosure tide in New Jersey. To close, this note will examine what future changes should be recommended.

II. SETTING THE STAGE

A. Case Study

As of February 2019, a Southern Jersey single father of three was battling to keep his home after his wife had passed away.[14] Without knowing what steps or rights the homeowner has, this process is extremely daunting and frightening for the homeowner. This

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https://www.nj.gov/governor/news/news/562019/20190429b.shtml.

[13] *Id.*

[14] E-mail from Donna Tagliaferro, HUD Certified Senior Credit, Hous. & Reverse Mortg. Couns., Clarifi (Feb. 24, 2020, 06:03 EST) (on file with author).

homeowner thankfully had met with a U.S. Department of Housing and Urban Development (HUD) certified Senior Credit, Housing and Reverse Mortgage counselor on his options to keep his home.[15] With her help, he submitted a mortgage assistance packet to his bank and was fighting back.[16] Unfortunately, the mortgage lender had already sold the loan to a new mortgage servicer, thus forcing the homeowner having to re-submit his documentation all over again (a far too common occurrence in New Jersey).[17] When he first filed this packet, he was only two months behind on his mortgage.[18] After months and months of calls for weekly updates, and completed documentation, the new lender still would not provide an honest answer for the homeowner.[19]

Due to the continuing run-around and ignorance of the mortgage servicer, the homeowner was served with a mortgage complaint, thus beginning the foreclosure process.[20] In November 2019, this case was referred to Rutgers Law School's Mortgage Foreclosure Clinic to see if the situation could be rectified.[21] The clinical students and supervising attorney were able to attend this homeowner's formal mediation hearing and explain to both the mortgage lender's attorney and the foreclosure mediator what had occurred over the preceding eight months.[22] This

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[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] E-mail from Donna Tagliaferro, HUD Certified Senior Credit, Hous. & Reverse Mortg. Couns., Clarifi (Feb. 24, 2020, 06:03 EST) (on file with author).
[21] *Id.*
[22] *Id.*

proper explanation resulted in the foreclosure mediator issuing an order for the lender's attorney to reach out to the homeowner; ultimately resulting in a trial modification being awarded to the homeowner and his family.[23] Subsequently, the homeowner was able to arrange for a loan modification with the mortgage servicing company, allowing the single dad to become current on his mortgage payments and to keep his family in their home for the Thanksgiving holiday.[24] It was the perfect gift to help a struggling family in need.[25]

The foreclosure story above happens every day in New Jersey, but far too often does not end with a happy resolution.[26] Many homeowners do not know their rights when defaulting on their mortgage or are subject to the demands of the loan servicing companies, without proper compliance. However, thanks to the new legislation discussed *infra*, it looks as though more loan modifications and other options will be provided to homeowners and that foreclosure mediation is taking a more proactive role in New Jersey. Hope is not lost yet.

III. DEFINING THE RESIDENTIAL FORECLOSURE PROCESS

Foreclosure is defined as "[a] procedure by which the holder of a mortgage … sells the property upon the failure of the debtor to pay the mortgage debt and, thereby, terminates his or her rights in the

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[23] *Id.*
[24] *Id.*
[25] *Id.*
[26] *See generally* Caroline M. Petrilla-Sagnip, *Primer on New Jersey's Foreclosure Mediation Program*, NEW JERSEY LAWYER, Oct. 2010, at 19, https://www.connellfoley.com/assets/htmldocuments/NJL%20Banking%20&%20Financial%20Transactions_TScuderi.pdf.

property."[27] A mortgage is defined as "a conveyance of or lien against property (as for securing a loan) that becomes void upon payment or performance according to stipulated terms."[28] In New Jersey, "all proceedings to collect debt secured as real property are processed by: first, the foreclosure on the mortgage, and second, an action on the bond or note for any deficiency in the balance of the debt, interests and costs."[29] There are two types of mortgage foreclosures: Judicial Foreclosure, and Non-Judicial Foreclosure, which is dictated by state law.[30] New Jersey is a judicial foreclosure state, which means that a mortgage lender attempting to foreclose on a property must go through the court system in order to successfully foreclose on the property.[31] In New Jersey, after the set period of default on the mortgage loan has passed due to non-payment, the mortgage lender can file a legal intent of foreclosure, or a notice of *lis pendens*.[32] Thereafter, most lenders

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[27] *Legal Dictionary Definition of Foreclosure*, THE FREE DICTIONARY BY FARLEX, https://legal-dictionary.thefreedictionary.com/Mortgage+foreclosure (last visited Sept. 19, 2020).

[28] *Mortgage*, Merriam-Webster, https://www.merriam-webster.com/dictionary/mortgage (last visited April 6, 2021).

[29] N.J. STAT. ANN. § 2A:50-2.

[30] *Mortgage Law: Judicial vs. Non-Judicial Foreclosure*, THE LAW DICTIONARY, https://thelawdictionary.org/article/mortgage-law-judicial-vs-non-judicial-foreclosure/ (last visited April 6, 2021).

[31] *Id.; see also New Jersey Foreclosure Law Summary*, U.S. FORECLOSURE LAWS, http://www.foreclosurelaw.org/New_Jersey_Foreclosure_Law.htm (last visited April 6, 2021).

[32] Robert W. Wassmer, *The Recent Pervasive External Effects of Residential Home Foreclosure*, 21:2 HOUSING POLICY DEB. 247–65, at 255 (2011).

attempt to work with the homeowner in either restructuring the loan through loan modification (to make the monthly payment easier for the homeowner) or collaborating with the homeowner in selling the property in the form of a short sale (defined *infra* below*)*.[33] This period of restructuring is key and was directly addressed by the New Jersey Judiciary, when they created the Foreclosure Mediation Program (FMP) in 2009, updating it in 2012, and formally codifying the New Jersey FMP in 2019 with New Jersey Assembly Bill 664.[34] If the homeowner does not satisfy their payment obligation in time or agree to a separate loan modification with the bank, the bank will then foreclose on the property, resulting in a sheriff sale auction of the home, where the mortgage lender sets a minimum reserve price.[35] If the price is too high (which it usually is), then no homeowners or investors purchase the home, and the mortgage company obtains clear title possession of the home and puts the home on the real estate market as a foreclosure or real estate owned (REO) property.[36]

Brian D. Feinstein, in his article *State Foreclosure Law: A neglected Element of the Housing Finance Debate*, found numerous advantages for homeowners and mortgage borrowers to live in a judicial foreclosure state, instead of a non-judicial foreclosure state. They include: (1) providing a legal forum for the borrowers to make their arguments in court,[37] (2) placing the burden of proof of borrower

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[33] *Id.* at 255.

[34] Foreclosure Mediation Act, 2019 N.J. Sess. Law Serv. Ch. 64 (Assemb. 664).

[35] Wassmer, *supra* note 32, at 255.

[36] *Id.*

[37] Brian D. Feinstein, *State Foreclosure Law: A Neglected Element of the Housing Finance Debate*, 6 PENN WHARTON PUB. POL'Y INITIATIVE ISSUE BRIEFS 1, 4 (2018).

default on the mortgage lender,[38] (3) forcing the mortgage lender to bring the judicial foreclosure lawsuit against the borrower and meeting the necessary requirements,[39] (4) extending the amount of time the default borrower can live in the home while the judicial foreclosure proceedings proceed,[40] and (5) due to the lengthy foreclosure process, incentivizing the mortgage companies to approach their borrowers with a lenient "loan modification" plan (discussed below *infra*).[41]

Aside from the above benefits that the judicial foreclosure process provides, another helpful technique available to a distressed homeowner is a short sale: "Short sale" means the sale of real property in which the lender or servicer agrees to release the lien that is secured by a residential mortgage on the property upon receipt of a lesser amount than is owed on the mortgage.[42] Essentially, a short sale is when a homeowner agrees to sell their property (out of necessity), even though the sale price is less than what is owed on the total amount of the mortgage, with the final approval of the mortgage company.[43] It is a remedy that occurs before the official foreclosure of the property and can sometimes benefit both homeowner and mortgage lender.[44]

The other method of residential home foreclosure occurs when the property is located in a non-judicial foreclosure state. What

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[38] *Id.* at 2.
[39] *Id.*
[40] *Id.*
[41] *Id.* at 4.
[42] 30 N.J. PRAC., LAW OF MORTGAGES § 24.11C (2d ed.).
[43] *What is a short sale?*, CONSUMER FIN. PROT. BUREAU, https://www.consumerfinance.gov/ask-cfpb/what-is-a-short-sale-en-290/ (last updated Sep. 25, 2017).
[44] Wassmer, *supra* note 32, at 249.

determines if a state is governed by the judicial or non-judicial sale process is an individual state matter.[45] As of November 2018, there are at least twenty-five non-judicial foreclosure states, essentially dividing the country in half between judicial foreclosure and non-judicial foreclosure process.[46]

The non-judicial foreclosure process is based off of the deeds of trust between the homeowner and the mortgage lender, which contains a power of sale clause.[47] If the homeowner defaults, and fails to pay the mortgage, this clause enables the trustee to foreclose on the home without having to go to court or file a lawsuit against the homeowner.[48] By avoiding the judicial foreclosure process, the bank can also avoid a minimum bid auction, thus allowing the bank to regain control of the property more quickly.[49] The bank is only required to mail a Notice of Foreclosure to the homeowner (also called a Notice of Default).[50]

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[45] Feinstein, *supra* note 37, at 1–3 (discussing state control over whether a state's foreclosure process is judicial or non-judicial).

[46] *Id.* at 3*; see also U.S. Foreclosure Laws by State*, REALTYTRAC, https://www.realtytrac.com/real-estate-guides/foreclosure-laws/ (last visited Sept. 19, 2020) (providing a supplemental list of foreclosure laws by state in the United States).

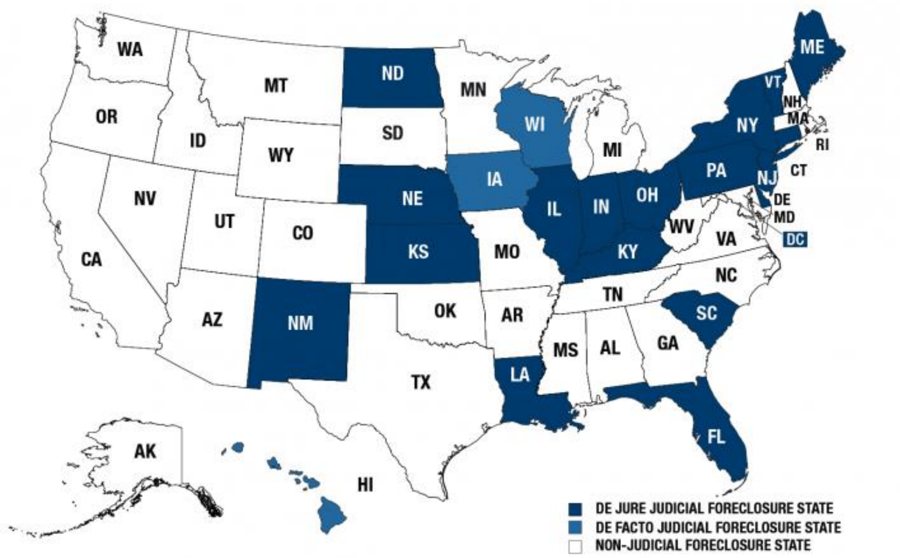
[47] *Foreclosure Process*, *How Does Foreclosure Work*, REALTYTRAC, https://www.realtytrac.com/real-estate-guides/foreclosure/foreclosure-process/ (last visited Sept. 19, 2020).

[48] *Id.*

[49] Wassmer, *supra* note 32, at 255.

[50] G. THOMAS KINGSLEY ET AL., THE IMPACTS OF FORECLOSURES ON FAMILIES AND COMMUNITIES 8 (2009).

FIGURE 1 MANDATORY JUDICIAL FORECLOSURE PROCEDURES, BY STATE



A. Foreclosure Mediation Program and Loan Modification

The difference between the judicial and non-judicial foreclosure process is an important distinction to clarify in order to discuss the current timely concepts of residential home-loan modification and residential home foreclosure mediation. In 2009, in response to the nationwide housing crisis, New Jersey launched a statewide mortgage Foreclosure Mediation Program (FMP).[51] The FMP "is a joint effort instituted by the New Jersey Judiciary, the Office of the Attorney General, the Public Advocate, the Department of Banking and

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[51] U.S. Bank Nat. Ass'n v. Williams, 415 N.J. Super. Ct. App. Div. 358, 368 (App. Div. 2010) (*citing* Press Release, Office of the Attorney General, Statewide Mortgage Foreclosure Mediation Program Launched (Jan. 9, 2009), https://www.nj.gov/oag/newsreleases09/pr20090109a.html.

Insurance, the New Jersey Housing and Mortgage Finance Agency, and Legal Services of New Jersey, *designed to aid the increasing number of owners facing foreclosure*."[52]

The entire state of New Jersey and their government made it a priority to decrease foreclosures in the state, and to help aid homeowners avoid foreclosure. New Jersey made it their official longstanding policy in 1995, when under *N.J.S.A 2A:50-54*, the New Jersey Legislature declared it to be the public policy of the state for homeowners to be given every opportunity to be able to pay their mortgages, to keep their homes, and thus that mortgage lenders benefit when residential mortgage debtors are able to cure the default owed to the mortgage company and to return the mortgage to standard performing status.[53] The FMP was designed to apply to "foreclosure actions that should not have gone to sheriff sale,"[54] and homeowners can qualify for the FMP if they: (1) are the owner-occupant of a one-to three family residential home, (2) the property is their primary residence; and (3) that they are the borrower on the loan being foreclosed upon.[55] The passage and implementation of the FMP was an important step to address the foreclosure crisis in New Jersey. Not only did the FMP give defaulting homeowners more time to contest the foreclosure proceedings against their property, but also gave them the option to work with housing counselors or defense attorneys, to better advise them of their rights, and to help homeowners complete the necessary paperwork to qualify for and participate in the one-hour mediation.[56] Not only does the FMP give homeowners the opportunity

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[52] *Id.* (emphasis added).

[53] N.J. STAT. ANN. §2A:50-54.

[54] *Williams*, 415 N.J. Super Ct. App. Div. at 863.

[55] *Id.* at 369.

[56] Petrilla-Sagnip, *supra* note 26, at 28, 29–30.

to be heard in court, but also gives both parties the opportunity to modify the mortgage loan.[57]

Black's Law Dictionary defines a "Mortgage Modification" as: [a] mortgage borrower relief options to alter mortgage contract terms. Primarily for borrowers unable to make the mortgage payments under original mortgage contract terms. Refinancing or extending loan terms to reduce the monthly payment amount are the typical methods used.[58] On the Federal level, beginning in 2009, the U.S. Department of Treasury, under the Troubled Asset Relief Program (TARP) program, issued the Home Affordable Modification Program (HAMP).[59] To qualify for HAMP, the homeowner needed to demonstrate "(1) a documented financial hardship; and (2) an ability to make their monthly mortgage payments after a modification."[60] After qualifying, "HAMP work[s] by encouraging participating mortgage servicers to modify mortgages so struggling homeowners can have lower monthly payments and avoid foreclosure."[61] While the original financial disbursements for the HAMP program have ended, the FMP still incentivizes mortgage lenders to provide loan modification for struggling homeowners.[62] The best way for a struggling homeowner to maximize their chances of loan

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[57] *Id.* at 28, 32.

[58] *What is Mortgage Modification?*, THE LAW DICTIONARY, https://thelawdictionary.org/mortgage-modification/ (last visited Sept. 19, 2020).

[59] *Home Affordable Modification Program (HAMP)*, U.S. DEP'T OF THE TREASURY, 35 https://www.treasury.gov/initiatives/financial-stability/TARP-Programs/housing/mha/Pages/hamp.aspx (Jan. 30, 2017, 3:14 PM).

[60] *Id.*

[61] *Id.*

[62] Petrilla-Sagnip, *supra* note 26, at 32.

modification is to consult with a certified HUD counselor or attorney to initiate the process, to properly prepare and file their documents on time for mediation, and to thoroughly participate in the mediation process to establish a feasible plan of success.[63] Both the FMP and the HAMP program offer struggling homeowners beginning viable options to help keep their home.

IV. WHAT CAUSES HOME FORECLOSURES?

Historically, New Jersey has had one of the worst foreclosure rates per capita.[64] Before analyzing the potential benefits that the New Jersey Foreclosure Mediation Act can produce, we have to seek the underlying causes of what causes New Jersey home foreclosures in the first place. There are a multitude of reasons why a homeowner might fall into foreclosure, and each case is individually different. Historically, residential home foreclosures are created in a two-step process; first there is a "trigger event," and second is the resulting mortgage default.[65] A "trigger event" is a change in the homeowner' financial circumstances which results in the homeowner's inability to pay their monthly mortgage; these trigger events include job loss, income curtailment, health problems, and divorce among other things.[66]

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[63] *Id.* at 29.

[64] *U.S. Real Estate Trends & Market Info, Foreclosure Rates for the U.S.*, REALTY TRAC (January 2020), https://www.realtytrac.com/statsandtrends/foreclosuretrends/.

[65] U.S. DEP'T OF HOUS. AND URB. DEV., REPORT TO CONGRESS ON THE ROOT CAUSES OF THE FORECLOSURE CRISIS vii (2010).

[66] *Id; see also The Most Common Causes of Foreclosure*, CITYWIDE HOME LOANS, https://www.citywidehomeloans.com/common-causes-foreclosure/ (last visited Jan. 22, 2021) (referencing other trigger events such as "Negative Equity" (where a home's value falls and is less than what the homeowner owes on it) and "Rising Interest Rates" (specifically subprime

Drug use and overall denial of the severity of the debtor's situation are other trigger events.[67] These trigger events lead to loss of income, and predictably lead to debtor default on their mortgage, thus resulting in foreclosure.[68] Another influence on a homeowner's likelihood of default is the amount of home equity that the homeowner possesses in their home.[69] Not only is a lack of home equity a leading signal of a homeowner's financial instability, but also is one less remedy the homeowner can use to save themselves from foreclosure.[70] This occurs because the homeowner cannot use their home equity to sell the house and release them of their mortgage obligation, or refinance the loan to obtain a smaller monthly payment.[71]

A. Causes of New Jersey Home Foreclosures

As previously noted, the foreclosure process can go through the judicial process, or non-judicial process; this is a general, broad explanation of the foreclosure concept. While this process occurs across the nation, the rest of this note specifically focuses on New Jersey.

Peter J. Elmer and Steven A. Seelig define "Trigger Events" as events that cause an "unanticipated shortfall in income such that income

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mortgage rates that can accelerate and increase the interest quickly, thus leaving the homeowner in a position where they can no longer afford the total mortgage payment)).

[67] *The Most Common Causes of Foreclosure*, *supra* note 67.

[68] *Id.*

[69] U.S. DEP'T OF HOUS. AND URB. DEV., *supra* note 66, at vii.

[70] *Id.*

[71] *Id.*

is no longer sufficient to meet periodic debt obligations."[72] These include: loss of income, sudden unemployment, and health problems, etc.[73] However, another key catalyst for New Jersey home foreclosures is the property tax rate. According to Samuel Stebbins from 24/7 Wall Street, in 2015 New Jersey had the highest effective property tax rate in the nation at 2.16%, the sixth highest median home value in the at $334,900, the highest per capita property taxes at $3,074.43 per property, and the New Jersey median household income was $80,008 (second highest in the nation).[74]

So, what does all of this mean? Essentially, New Jersey homeowners have one of the highest property tax rates in the nation, meaning that New Jerseyans are paying a significant money out of pocket for their property taxes. Furthermore, the average property tax payment in New Jersey for 2019 was $8,953, roughly equating to $746/month in property taxes alone; not including the homeowner's mortgage principal, interest, or homeowner's insurance.[75]

The chart below assesses the median home value, and the corresponding median annual property tax payment per home in these counties.

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[72] Peter J. Elmer & Steven A. Seelig, *Insolvency, Trigger Events and Consumer Risk Posture in the Theory of Single- Family Mortgage Default*, 10 J. HOUS. RSCH. 1, 8 (1999).

[73] *The Most Common Causes of Foreclosure*, *supra* note 67.

[74] Samuel Stebbins, *Property tax varies by state. Here's a look at what you'll pay*, USA TODAY, https://www.usatoday.com/story/money/2019/02/11/property-taxes-us-state-state-look-what-youll-pay/38909755/ (Feb. 12, 2019, 11:33 AM),.

[75] *Average New Jersey property tax bill climbs to nearly $9k*, ASSOCIATED PRESS (Mar. 4, 2020), https://apnews.com/2b915aafe8b1759040830a22544aed1b.

New Jersey Property Taxes by County[76]

County	Median Home Value	Median Annual Property Tax Payment	Average Effective Property Tax Rate
Atlantic	$219,000	$5,840	2.67%
Bergen	$451,200	$10,000	2.30%
Burlington	$245,300	$6,546	2.67%
Camden	$193,500	$6,570	3.40%
Cape May	$295,500	$4,369	1.48%
Cumberland	$160,500	$4,237	2.64%
Essex	$362,300	$10,000	2.76%
Gloucester	$213,800	$6,560	3.07%
Hudson	$349,500	$8,182	2.34%
Hunterdon	$393,800	$9,162	2.33%
Mercer	$281,900	$7,363	2.61%
Middlesex	$329,000	$7,759	2.36%
Monmouth	$396,200	$8,175	2.06%
Morris	$438,100	$9,370	2.14%
Ocean	$267,900	$5,385	2.01%
Passaic	$333,200	$9,496	2.85%
Salem	$185,800	$5,405	2.91%
Somerset	$412,800	$9,025	2.19%

[76] *New Jersey Property Tax Rates*, SMART ASSET, https://smartasset.com/taxes/new-jersey-property-tax-calculator (last visited Sept. 19, 2020).

County	Median Home Value	Median Annual Property Tax Payment	Average Effective Property Tax Rate
Sussex	$264,100	$7,086	2.68%
Union	$351,800	$9,486	2.70%
Warren	$256,700	$6,859	2.67%

New Jersey property taxes are used to fund public schools, local government, and other public works.[77] In Governor Murphy's 2020 annual budget address, he dedicated a big portion of his nearly $41 billion 2021 fiscal year proposed budget to increase funding for schools.[78] While New Jersey median household income sits at the 2nd highest in the nation,[79] which seems to imply that most New Jersey families can afford their high property taxes, this fails to account for struggling families who are barely making ends meet or individuals/families who suffer "trigger events" and cannot recover financially due to their rising mortgage payments and property taxes.
In order to attack the true roots of New Jersey's foreclosure crisis, the New Jersey Legislature needs to improve in the following areas:

1. Ways to maintain or reduce New Jersey property taxes;
2. A more efficient allocation of tax revenue;
3. To address lack of employment in certain areas in the state, specifically, the lack of income in urban cities; and
4. To identify reasons why New Jersey citizens are losing their jobs or are underemployed in their current jobs and cannot afford to meet their basic obligations.

[77] *Average New Jersey property tax bill climbs to nearly $9k, supra* note 76.
[78] *Id.*
[79] Stebbins, *supra* note 75.

V. IMPACT OF RESIDENTIAL HOME FORECLOSURES

A. On Individuals

Foreclosures by nature are inherently devastating and can have a scarring impact on the homeowner who is subjected to go through this process. Foreclosures also directly impact the family and have external impacts on the community as well. When a home is foreclosed, the person/family cannot stay in the property. When the bank evicts them how will the family get a fresh start or get back on their feet? Furthermore, the foreclosure process ruins the homeowner's credit, thereby limiting their ability to apply for other housing options and the foreclosure process does not differentiate between homeowner or tenant. If the tenant fails to realize their rental is being foreclosed on, they may be surprised to discover of their risk of immediate eviction.[80] This housing instability is frightening to all age groups, including families, young adults, and the elderly.[81]

Victims of foreclosures suffer serious economic hardship, including a reduction in credit score, loss of income a limited loan options, higher interest rates, and limited economic options.[82] Following the 2007-2008 housing crisis, there was particular fear about the economic hardship on elderly citizens, due to their limited time and energy to recover from a housing crisis and potentially depleting the financial equity elderly homeowners had invested in their homes.[83]

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[80] KINGSLEY ET AL., *supra* note 50.

[81] *Id.*

[82] *Id.* at 10.

[83] *Id.*

On top of housing instability and economic hardship, home foreclosures can directly affect the personal health of the homeowner.[84] Financial difficulties can cause extreme stress and anxiety, and compounding stress can further worsen pre-existing medical issues, which could have been the original foreclosure "trigger event" that started the cycle.[85] Poor health can lead to additional medical bills and continue the downward spiral of numerous defaults and poverty.

B. Impact of Home Foreclosures on Community

In addition to the impact that foreclosure has on individuals, home foreclosures can also have an impact on the surrounding community. These include declining property values, physical deterioration of the home, an increase in neighborhood crime, and increases in local government issues and costs.[86] While the intensity of the impact depends on the individual neighborhood, residential foreclosures can have a significant impact on communities.[87] The number of foreclosures in a certain density plays a key factor; some neighborhoods have a powerful sense of community, and the neighbrohood, government, or anyone else may step in to fix the foreclosure.[88] But, if there are multiple foreclosures in the same neighborhood or located in a small density, it is possible that price values of the entire neighborhood deteriorate. Further, properties going through the foreclosure process are subject to potential physical deterioration, whether that arises from the eviction process, from squatters illegally occupying the property or

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[84] *Id.* at 11-12.
[85] *Id.*
[86] KINGSLEY ET AL., *supra n*ote 50.
[87] *Id.* at 13.
[88] *Id.*

from "vandals" robbing the property.[89] Research also shows that neighborhoods with home foreclosures may have a stronger linkage between the amount of foreclosed homes and an increase in the amount of general crime in that neighborhood.[90] Finally, residential foreclosures put a greater financial burden and overall responsibility on the local government within their jurisdiction. As already established, not only can residential foreclosures lead to lower property values and thus, less taxable revenue, but these vacant properties can also cause greater financial liability for the local government.[91] The foreclosed property can be left in 5 different conditions, including (1) Vacant and secured, (2) Vacant and unsecured (conserved), (3) Vacant and unsecured (demolished), (4) Vacant and unsecured (abandoned) and (5) Abandoned with fire damage.[92] Between diminishing home values, an increase in approximate crime, and the potential increased liability and financial burdens, residential property foreclosures can have very serious consequences on the local community.

VI. THE 2007-2008 NATIONAL HOUSING CRISIS

Now that we have examined the triggering events that cause residential home foreclosures, and its impact on homeowners and the community, recent memory shows how dangerous a foreclosure crisis can be and how quickly it can form. The 2007-2008 residential foreclosure crisis in the United States was a leading contributor to the

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[89] *Id.* at 16.
[90] *Id.* at 17–18.
[91] *Id.* at 16.
[92] KINGSLEY ET AL., *supra* note 50, at 19.

heightened global recession, which is often likened to be the worst period of economic turmoil since the Great Depression of the 1930's.[93]

The 2007-2008 financial crisis was the main accelerating factor that led to the overall financial recession in the United States of America from December 2007 to June 2009 [94]; with many effects still lingering long after (at least two years), both domestically and globally.[95] This financial recession also was the longest since World War II.[96] However, this was not a standard recession. A variety of contributing factors exacerbated the financial recession (including the full financial collapse of the American housing market) which led to: significant fluctuations and losses in American home prices and home equity, millions of lost jobs, extreme unemployment, exhaustion of personal financial safety accounts, and extreme financial poverty.[97]

The causes of the 2007-2008 residential foreclosure crisis have been studied extensively, and it is useful to define the roots of the foreclosure crisis nationally, to subsequently examine the historical impact it had on New Jersey, leading to the nine-Bill package recently enacted by Governor Murphy. The main cause of the 2007-2008 residential foreclosure crisis began in the early to mid-2000s when housing prices were rising, and mortgage lenders were seeking to

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[93] *Great Recession*, HISTORY.COM (Oct. 11, 2019), https://www.history.com/topics/21st-century/recession#section10 [hereinafter *Great Recession*, HISTORY.COM].

[94] THE FIN. CRISIS INQUIRY COMM'N., THE FINANCIAL CRISIS INQUIRY REPORT xv-xvi (2011).

[95] Robert Rich, *The Great Recession*, FED. RSRV. HIST., https://www.federalreservehistory.org/essays/great_recession_of_200709 (last visited Jan. 22, 2021).

[96] *Id.*

[97] THE FIN. CRISIS INQUIRY COMM'N., s*upra* note 95, at xv-xvii.

capitalize on this increased bubble.[98] Typically, when an applicant applies for a mortgage through their lender, they would go through a screening process to ensure that the applicant is sufficiently qualified to be able to pay their monthly mortgage.[99] Banks would incur losses if the homeowner failed to pay and defaulted, which incentivized banks to only issues loans to qualified applicants.[100] However, over time this process changed, and banks began originating the loans and selling them to become securitized.[101] The loan originators were being paid on the number of mortgages they approved and sold, thus incentivizing these loan originators to sell more loans, even if it resulted in riskier business practices, and a higher risk of applicant default.

With the mortgages being sold off to investment banks, the investment banks would pool a whole set of mortgages together and sell them off to new buyers.[102] However, these new sets of "tranches" being sold together were both significantly riskier investments due to the flexible mortgage approvals, and because all different types of tranches were being sold together. Couple that with improper authentication from the crediting agencies, an overall lack of industry control allowing this irresponsible financial business to continue combined with a significant surge in housing prices, this all led to a housing bubble that was bound to burst.[103]

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[98] *Great Recession*, HISTORY.COM, *supra* note 94.
[99] Franklin Allen & Elena Carletti, *An Overview of the Crisis: Causes, Consequences, and Solutions*, 10 INT'L. REV. OF FIN. 3 (2010).
[100] *Id.*
[101] *Id.*
[102] *Id.*
[103] *Id.* at 6-7.

John Duca, from the Federal Reserve Bank of Dallas, outlines that with additional high-risk mortgage applicants being approved to purchase homes, first-time home ownership skyrocketed, thus resulting in greater housing demand and more importantly, inflated housing prices.[104] As time went on, these new, high-risk borrowers could not make their required loan payments and subsequently defaulted.[105] The cycle worsened when housing prices met their peak, and homeowners could neither refinance their loans nor have enough equity in the home to sell.[106] Eventually, the number of foreclosures was too much to bear and in April 2007, the housing market began to collapse when the leading subprime mortgage lender filed for bankruptcy.[107] This created a spiral effect: many other mortgage-backed securities were deemed a considerable risk, and more subprime lenders closed, which stopped the creation of subprime loans.[108] This created a lack of housing demand, resulting in a steep decline in home prices, and the crisis was in full swing.[109]

Duca further argues that the housing crisis described above was a stimulus for the 2007-2008 financial crisis in four major ways: (1) The housing crisis lowered new construction, (2) reduced wealth and consumer spending (depleted consumers' bank accounts), (3) decreased the ability of financial firms to lend money, and (4) reduced the ability

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[104] John V. Duca, *Subprime Mortgage Crisis*, FED. RSRV. HIST. (Nov. 22, 2013),
https://www.federalreservehistory.org/essays/subprime_mortgage_crisis.
[105] *Id.*
[106] *Id.*
[107] *Id.*
[108] *Id.*
[109] *Id.*

of financial firms to raise funds from securities markets.[110] This resulted in the DOW Jones dropping to 6,547 points, losing half of its previous value, in as little as 18 months, and hundreds of thousands of Americans suffering catastrophic financial losses.[111]

In January 2011, the Financial Crisis Inquiry Commission (FCIC) (a ten-person commission created to "examine the causes of the current financial and economic crisis in the United States.") published their findings as to what caused this traumatic financial recession and to prevent future financial catastrophes.[112] Some of the final conclusions from the FCIC regarding the 2007-2008 residential foreclosure crisis are as follows:

Financial Crisis Inquiry Commission Conclusions

(1) That the crisis was entirely avoidable, was caused by blatant human error and was entirely unnecessary from unstable business practices;[113]

(2) That there was widespread failure in the financial regulation and supervision of these financial markets and caused massive instability in America's financial markets;[114]

(3) That financial institutions dramatically failed their duties of corporate governance and risk management;[115]

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[110] Duca, *supra* note 105.

[111] *Great Recession*, HISTORY.COM, *supra* note 94.

[112] FIN. CRISIS INQUIRY COMM'N, *supra* note 95, at xi (2011).

[113] *Id.* at xvii.

[114] *Id.* at xviii.

[115] *Id.*

(4) That "a combination of excessive borrowing, risky investments, and lack of transparency put the financial system on a collision course with crisis" and finally[116];

(5) That the government was ill-prepared for a financial crisis of this magnitude and the government's inconsistent response led to greater uncertainty and panic in financial markets.[117]

A. National Recovery

In response to the financial crisis, on February 13th, 2008, Congress and President Bush passed the Economic Stimulus Act of 2008.[118] The purpose of this Bill was to give American taxpayers tax rebates to encourage consumer spending, reduce taxes, and to increase loan limits for federal home loan programs.[119] However, the governmental bailout intervention did not end there. In October 2008, President Bush signed into law the Troubled Asset Relief Program (TARP), which authorized $700 billion in financial assets from the United States Treasury into certain economic sectors to strengthen the American economy; this number was later reduced to $475 billion after the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) was passed in 2010.[120] The financial relief from TARP was allocated as follows: $250 billion to stabilize banking institutions, $27 billion was committed through programs to restart credit markets, $82 billion was given to stabilize the United State Auto industry, $70

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[116] *Id.* at xix.
[117] *Id.* at xxi.
[118] Economic Stimulus Act of 2008, Pub. L. No. 110-185, 122 Stat. 613.
[119] *Great Recession*, HISTORY.COM, *supra* note 94.
[120] *Id.*; *see also TARP Programs*, U.S. DEP'T TREASURY, https://www.treasury.gov/initiatives/financial-stability/TARP-Programs/Pages/default.aspx# (last updated Nov. 16, 2016, 2:09 PM).

billion was given to stabilize AIG; and $46 billion was committed to help *struggling families avoid foreclosure*.[121] In addition, on February 17th, 2009, President Obama signed a second stimulus package into law, the American Recovery and Reinvestment Act of 2009.[122] This act was worth a staggering $787 billion, with its spending focused on tax cuts, infrastructure, schools, health care, and green energy.[123] In hindsight, this Bill created "more than 40,000 miles of roads and more than 2,700 bridges have been upgraded, nearly 700 drinking water systems serving more than 48 million people have been brought into compliance with federal clean water standards and high-speed Internet was introduced to about 20,000 community institutions."[124]

As noted above, the Federal government acted in a variety of diverse ways to combat both the root causes of the 2007-2008 residential mortgage foreclosure crisis, and the directly correlated economic fallout. This note now shifts its focus to New Jersey's legislative history in addressing residential foreclosures.

VII. NEW JERSEY RESIDENTIAL FORECLSOURE HISTORY

A. 1995- The Beginnings of New Jersey Foreclosure Legislation

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[121] *Great Recession*, HISTORY.COM, *supra* note 94; *see also* U.S. DEP'T TREASURY, *supra* note 121.

[122] *See* American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115.

[123] *Great Recession*, HISTORY.COM, *supra* note 94.

[124] Darlene Superville, *Five Years Later, What Did the Stimulus Bill Accomplish?,* PBS (Feb. 17, 2014, 4:53 PM), https://www.pbs.org/newshour/nation/stimulus-bill-turns-5-years-old-still.

The New Jersey Legislature took a major step forward to cure unfair residential mortgage foreclosures when they enacted the Fair Foreclosure Act on September 5, 1995.[125] Within this act, the New Jersey legislature declared that it was the public policy of the state to allow for homeowners to have every opportunity to pay off their mortgages, and that mortgage lenders benefit more when their clients are able to cure their defaults and make their payments.[126] This Act was a landmark piece of legislation that significantly strengthened homeowner rights to keep their homes. However, it was not until the 2007-2008 housing crisis that New Jersey amended this Act further.

B. 2009- Response to the 2007-2008 Housing Crisis

Up until 2006, New Jersey was averaging 25,000 foreclosure filings per year; but after the housing collapse of 2008, more than 65,000 foreclosure filings occurred in 2009 alone.[127] The housing collapse and massive influx of foreclosure cases made it extremely difficult for the New Jersey Judiciary to cut down on the backlog of foreclosure cases.[128] It was clear that something needed to be done. Following Congress's lead in 2009, forty-six states, the District of Columbia, and Puerto Rico, all introduced new foreclosure legislation at the state level.[129] Fourteen years after the "Fair Foreclosure Act" of

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[125] N.J. STAT. ANN. § 2A:50-53.

[126] *Id.* § 2A:50–54.

[127] ADMIN. OFF. CTS., N.J. JUDICIARY, REPORT OF THE SPECIAL COMMITTEE ON RESIDENTIAL FORECLOSURES 2 (2018).

[128] *See generally id.*

[129] *Foreclosures 2009 Legislation*, NAT'L CONF. OF STATE LEGISLATURES (Jan. 5, 2010), https://www.ncsl.org/research/financial-services-and-commerce/foreclosures-2009-legislation.aspx#NJ.

1995, the 2007-2008 housing crisis spurred New Jersey to add extensive legislation to protect homeowners, and revitalize the economy.[130] The New Jersey Legislature and Judiciary knew that because of their historically high foreclosure rate, this crisis had the potential to have particularly devasting effects on their citizens. The New Jersey Legislature and Governor Corzine passed a number of legislative Bills and amendments including; the Mortgage Stabilization and Relief Act (January 9, 2009),[131] the New Jersey Foreclosure Fairness Act (January 17, 2010),[132] and the "Foreclosure Rescue Fraud Prevention Act" (December 20, 2011),[133] among many others. The Mortgage Stabilization and Relief Act created a mortgage stabilization program, which provided a soft second loan payment paid by the government, to the lender, to give struggling homeowners additional time to cure their default.[134] It also created the "New Jersey Assistance and Recovery Program,"[135] which: (1) allowed non-profit organizations to purchase foreclosed homes and allow the defaulting owner to live in the home for up to 36 months, until the homeowner can re-purchase the home, (2) required forbearance (requiring

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[130] *Id.*

[131] *Summary of the NJ Mortgage Stabilization & Relief Act (A.3506/S.1599)*, HOUS. CMTY. DEV. NETWORK N.J., https://www.hcdnnj.org/assets/documents/npt_mortgagestabilizationactsummary.pdf (last visited Oct. 25, 2020).

[132] New Jersey Foreclosure Fairness Act, 2009 N.J. Sess. Law Serv. Ch. 296 (West) (codified as amended N.J. STAT. ANN. § 2A:50-69 et seq.).

[133] Foreclosure Rescue Fraud Prevention Act, 2011 N.J. Sess. Law Serv. Ch. 146 (West) (codified as amended N.J. STAT. ANN. § 46:10B–53 et seq.).

[134] HOUS. CMTY. DEV. NETWORK N.J., *supra* note 132.

[135] *Id.*

creditors who are seeking to foreclose on "high risk" loans, to give debtor's a six month hold, if requested, in order to negotiate refinancing, or short-sale options),[136] (3) established a vacant property responsibility burden on the creditors, requiring that the mortgage lenders fix violations, and (4) gave municipalities a new tool to require creditors to update and maintain their foreclosures.[137]

Furthermore, the New Jersey Foreclosure Fairness Act required that when a homeowner lost their home to a sheriff sale, or to a deed in lieu of foreclosure, and tenants were still occupying the homes, a proper notice (advising tenants of their rights) be placed on the door within 10 days of the home sale.[138] Further, this Act prevented former landlords or other individuals from inducing the tenant to vacate the property.[139] The Act also amended Section 15 of P.L. 2008, c.127 (C.46:10B-49) (requiring mortgage creditors who foreclosure on their loans) to report to the New Jersey Department of Banking and Insurance.[140] On a quarterly basis, this department issues a summary report based on these foreclosed homes.[141] Finally, this Act properly amended the procedures for serving summons and complaints in in foreclosure mortgage actions.[142]

C. 2013- Fair Foreclosure and the Vacant and Abandoned Residential Property Act

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[136] *Id.*

[137] *Id.*

[138] New Jersey Foreclosure Fairness Act, 2009 N.J. Sess. Law Serv. Ch. 296 (West) (codified as amended N.J. STAT. ANN. § 2A:50-69 et seq.).

[139] N.J. STAT. ANN. § 2A:50-71.

[140] *Id.*

[141] N.J. STAT. ANN. § 46:10B-49.

[142] N.J. STAT. ANN. § 46:10B-51.

Five years later in 2013, the New Jersey Legislature passed additional legislation to continue attacking the foreclosure problem. Two of these Bills continue to strengthen homeowner foreclosure rights today: the Vacant and Abandoned Property Act of 2012 and the Fair Foreclosure Act of 2013. Both of these Bills are referenced and amended as a part of the 2019 nine-Bill legislative package.

The new rights formed under the Fair Foreclosure Act of 2013 include that the mortgagor holding the loan had to provide a "notice of intention to foreclose" at least 30 days in advance of the actual foreclosure proceeding; and also required defaulting debtors receive adequate notice within 30 days prior, in order to cure the default.[143] This Act also initially changed the statute of limitations period regarding residential mortgage foreclosures[144], highlighted and provided options for the debtor to "cure" their debt[145], allowed for partial payments[146], and provided new adequate notice to tenants in rental properties of active foreclosures.[147]

The Vacant and Abandoned Property Act of 2012 was an Act that was created to establish a summary action to foreclose mortgages on vacant and abandoned property.[148] The Act created a 15-condition test (only two conditions minimum required) that the state can use to determine if a property is vacant and abandoned, and if deemed vacant,

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[143] N.J. STAT. ANN. § 2A:50-56.
[144] *Id*. at § 2A:50-56.1.
[145] *Id*. at § 2A:50-57.
[146] *Id*. at § 2A:50-67.
[147] *Id*. at § 2A:50-70.
[148] Vacant and Abandoned Property Act, 2012 N.J. Sess. Law Serv. Ch. 70.

the court can issue an order allowing the creditor to foreclose on the property and to send the property to the appropriate sheriff sale.[149]

The reason why both the Fair Foreclosure and Vacant and Abandoned property acts are so important because they helped lay the groundwork for the current New Jersey Foreclosure Mediation Act. While legislation is a crucial step, execution and implementation are necessary to see actual change.

D. 2018- Judiciary Response and the Special Committee on Residential Foreclosures

The changes implemented by New Jersey's government through 2013 were effective, and successfully countered the accumulation of rising foreclosure cases arising out of the 2008 great recession. However, these adjustments still did not have the meaningful impact needed to change New Jersey's nationwide leading foreclosure rate.[150] Therefore, in May 2017, Chief Justice Stuart Rabner established the Special Committee on Residential Foreclosures, a committee specifically tasked with reviewing the current practices, policies, court rules, and legislation and to make special recommendations on how to ensure a more efficient foreclosure process, while preserving the due process rights of the debtor.[151]

The majority of the nine Bill package initially began as ideas and recommendations from the report published by this Special Committee

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[149] *Id.*

[150] *Is there an End in Sight? N.J. Once Again Worst for Foreclosures*, New Jersey 101.5, (Jan. 17, 2019), https://nj1015.com/is-there-an-end-in-sight-nj-once-again-worst-for-foreclosures/.

[151] ADMIN. OFF. CTS., *supra* note 128, at 2.

in September 2018.[152] The report found that mediation, between homeowner and mortgage lender, earlier in the foreclosure process was a preferred alternative to foreclosure, which alloweding homeowners additional time to seek other remedies, to stay within their home.[153] In response to the national foreclosure crisis, this original Foreclosure Mediation Program was created in 2008-2009,;[154] and in the 2018-2019 session, the permanent extension of the Foreclosure Mediation Program was formally codified through New Jersey Assembly Bill 664.

The Special Committee also brainstormed additional relief for mortgage lenders and the community. The committee recommended changes to be made to the Vacant and Abandoned Property Act that was implemented in 2012,[155] by giving mortgage lenders alternative foreclosure options on properties that are deemed to be "vacant."[156] New Jersey Senate Bill 3413 of the 2018-2019 legislative session formally enacted these changes. This Bill allows lenders to work under an expediated foreclosure process on homes where these homes are deemed abandoned.[157] Further, this Act offers a different alternative than the traditional New Jersey foreclosure process, where homes can be sitting on the judicial docket for up to 1,000 days or more.[158] This can also incentivize the right buyer to restore the

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[152] *Id.*; *see also Governor Murphy Signs Legislative Package to Address New Jersey's Foreclosure Crisis*, *supra* note 12.

[153] ADMIN. OFF. CTS., *supra* note 128, at 8-9.

[154] New Jersey Foreclosure Mediation Act, 2019 N.J. Sess. Law Serv. Ch. 64.

[155] ADMIN. OFF. CTS., *supra* note 128, at 7 (citing N.J. STAT. ANN. §2A:50-73 (2013)).

[156] ADMIN. OFF. CTS., *supra* note 128, at 3.

[157] *Id.* at 4.

[158] *Id.* at 4, 13.

property condition and value, thus increasing hope and economic prices in the neighborhood.[159]

The Special Committee also found that technological innovation plays a key role in the New Jersey residential foreclosure judicial process, just like many other industries where technology can improve effectiveness of service.[160] The New Jersey judiciary successfully implemented it's electronic filing system to foreclosure cases in 2009, dismissed thousands of inactive cases that were dormant for twelve months or more, and administratively dismissed the dormant cases.[161] The intent behind applying this technological advancement, is for the judiciary to stay ahead of the large amount of foreclosure cases it receives, and to reduce the number of overall filings in the system.

Finally, the Committee concluded that by emphassizing efforts on "public outreach" that New Jersey communities can have an instrumental impact by educating homeowners on the foreclosure process and their options directly. [162] These public outreach efforts are recommendations from the Committee outside of what the legislature and the judiciary can accomplish; they focus on helping the individual themselves. The Committee recommended: "(1) Implement educational outreach programs for the legal community and for homeowners, (2) develop informational materials, including for self-represented litigants, (3) restructure the Foreclosure Mediation program, particularly with regard to eligibility and participation

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[159] *Id.*

[160] *Id.*

[161] *Id.*

[162] ADMIN. OFF. CTS., *supra* note 128, at 5.

requirements, and (4) provide a public access portal to the electronic foreclosure docket. [163]

Overall, the Special Committee concluded with 17 specific recommendations in the areas of public outreach, legislative proposals and judicial solutions.[164] The judicial solutions are a topic for additional research, but the remainder of this note is going to focus on the nine-Bill package and the proposed impact they will have.

E. Nine-Bill Package from Governor Murphy (2019)

Using the Judiciary's recommendations, Governor Phil Murphy signed into law a nine-Bill, bipartisan legislative package to help New Jerseyans struggling with foreclosure.[165] Below is a summary of all of the Bills and the proposed impact they may have:

The Governor signed the following nine bills into Law on April 29th, 2019:[166]

• **N.J.-A664** - Codifies the Judiciary's Foreclosure Mediation Program; dedicates monies from foreclosure filing fees and fines.
• **N.J.-A4997** - "Mortgage Servicers Licensing Act."

[163] *Id.*

[164] *Id.*

[165] *Governor Murphy Signs Legislative Package to Address New Jersey's Foreclosure Crisis*, *supra* note 12.

[166] *Id.*

• **N.J.-A4999** - Requires filing of certain creditor contact information with residential mortgage foreclosure complaint and lis pendens.
• **N.J.-A5001** - Revises statute of limitations for residential mortgage foreclosures.
• **N.J.-A5002** - Permits certain planned real estate developments to file certain liens; concerns limited priority of certain liens.
• **N.J.-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.
• **N.J.-S3413** - Makes certain changes to summary action foreclosure process under "Fair Foreclosure Act."
• **N.J.-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.
• **N.J.-S3464** - Revises certain procedures for real estate foreclosure sales; alters adjournment of sale process.

1. Bill A664 – "Formally Codifies the Judiciary's Foreclosure Mediation Program; and dedicates monies from foreclosure filing fees and fines."[167]

[167] *Id.*

Bill A664 is one of the strongest Bills in this legislative package, as it formally codifies the Foreclosure Mediation Program (FMP) that was created in 2008 in response to the housing crisis.[168] This formal codification ensures that the foreclosure mediation services being provided by the FMP program will continue to be provided to New Jersey residents.[169] Furthermore, the act requires lenders who are attempting to foreclose on residential properties in New Jersey to mail notice to the homeowner informing them of the mediation rights they are entitled to under the FMP program, along with standard foreclosure notice.[170] By requiring mortgage lenders to advise their clients about mediation, this in turn is an additional form of mandatory consumer education from the mortgage lenders. Additionally, Bill A664 grants the court the power to order mediation when a homeowner files an answer to a foreclosure complaint, or if the homeowner voluntarily initiates a mediation request to the court on their own.[171] The homeowner must comply to provide all necessary documentation, and both parties must participate in foreclosure mediation "in good faith."[172]

Bill A664 also requires the Judiciary to record each foreclosure mediation session and to compile the data into an accessible format thus tracking the success of the program.[173] Rounding out Bill A664, may be one of the more important pieces to the Bill: funding. Section 7 of A664, creates a dedicated, non-lapsing fund called the "Foreclosure

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[168] N.J. STAT. ANN. § 2A:50-75 (2019).
[169] *Id.*
[170] *Id.* at § 2A:50-76.
[171] *Id.* at § 2A:50-77.
[172] New Jersey Foreclosure Mediation Act, 2019 N.J. Sess. Law Serv. Ch. 64 § 5 (West).
[173] *Id.* at § 6.

Mediation Fund," within the New Jersey General fund.[174] Section 7 requires that in each foreclosure action, the plaintiff must pay a $155 filing fee to the clerk of courts, with $60 of this fee to be deposited into the "Foreclosure Mediation Fund".[175] These funds are used to operate the FMP program, compensate the trained mediators, and to enhance the integrity of the mortgage foreclosure review process.[176]

2. Bill A4997 - "Creates and Defines the Mortgage Servicers Licensing Act."[177] This act defines the qualifications for national and local mortgage service companies in New Jersey, and defines the process for a company to obtain a New Jersey mortgage service license.[178] The act also requires New Jersey mortgage servicers to formally file with the state, specific information regarding the amount of loans the company is servicing, the amount of foreclosure and delinquent loans the service company is holding, etc.[179] In addition to keeping accurate mortgage loan records, this act grants the Commissioner of Banking and Insurance the power to impose disciplinary actions, and civil penalties, for mortgage lenders who knowingly violate provisions of this act.[180]

3. Bill A4999 – Is an amendment to P.L. 2014, c.35 and P.L. 2008, c.127, requiring an out-of-state mortgage servicing creditor to file the correct creditor contact information of the companies' in-state

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[174] *Id.* at § 7.
[175] *Id.*
[176] *Id.*
[177] *Governor Murphy Signs Legislative Package to Address New Jersey's Foreclosure Crisis*, *supra* note 12; *see* Mortgage Servicers Licensing Act, 2019 N.J. Sess. Law Serv. Ch. 65 (West).
[178] *Id*. at §§ 3–4.
[179] *Id.* § 5.
[180] *Id.* §§ 16–17.

representative with the appropriate New Jersey local representative.[181] Furthermore, when the secured creditor institutes a foreclosure proceeding against a defaulting homeowner, the creditor needs to notify "the municipal clerk *and the mayor or other chief executive officer* of the municipality in which the foreclosed property is located (emphasis added)."[182] Finally, the creditor must provide accurate, up-to-date contact information for their loan company with the municipality, in order to facilitate proper communication with the township, the debtor, and the foreclosure mediators.[183]

4. Bill A5001 – Is an amendment to P.L. 2009, c. 105, essentially shortening the statute of limitations date for foreclosure creditors to foreclose on residential mortgage loans from twenty years of the debtor's default date, to six years.[184]

5. Bill A5002 – Is a Bill that outlines the rights of Homeowners association (HOA) communities and their rights concerning unpaid assessments, allows for certain planned HOA communities to file certain types of liens; and also outlines the limited priority of specific liens.[185]

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[181] Act Concerning Residential Mortgage Foreclosures, 2019 N.J. Sess. Law Serv. Ch. 66 (West) (amending § 1(b)3 of 2014 N.J. Sess. Law Serv. Ch. 35 (West)).

[182] *Id*. (amending § 17 of 2008 N.J. Sess. Law Serv. Ch. 127 (West)).

[183] *Id.*

[184] Act Concerning Residential Mortgage Foreclosures, 2019 N.J. Sess. Law Serv. Ch. 67 (West) (amending §1 of 2009 N.J. Sess. Law Serv. Ch. 105 (West)).

[185] Act Concerning Liens Filed for Unpaid Assessments in Certain Common Interest Communities, 2019 N.J. Sess. Law Serv. Ch. 68 (amending 1969

6. Bill S3411 – Amends Section 4 of P.L. 1995, c. 244 to add that the foreclosing creditor must give the defaulting debtor 30 days official notice prior to the initiation of foreclosure proceedings, and that this notice must inform the debtor of their mediation rights and their ability to cure the outstanding mortgage debt; however once foreclosure proceedings have started, these proceedings must be initiated against the homeowner within 180 days of the original notice date.[186] Further, the Bill adds that for multi-unit buildings that has more than one dwelling unit but less than five units, if the property is not properly maintained while in foreclosed status by the occupants, ("one of which is occupied by the debtor or a member of the debtor's immediate family as the debtor's or member's residence at the time the loan is originated") then the residential mortgage lender can file an order to show cause to appoint a receiver, for the upkeep of the building;[187] and finally, if a plaintiff's action to foreclose on a residential mortgage has been dismissed without prejudice, then reinstatement of the plaintiff's action may be permitted only on a motion for good cause; which is limited to three attempts, but a dismissal without prejudice following federal law, does not count within these three attempts.[188]

7. Bill S3413 – This Bill amends Section 1 of P.L. 2012 adding that the statements of a common interest community association, can now be used to help determine if a foreclosed property is "vacant and

N.J. Sess. Law Serv. Ch. 257 and supplementing 1993 N.J. Sess. Law Serv. Ch. 30 (West)).

[186] Act Concerning Residential Mortgage Foreclosure, 2019 N.J. Sess. Law Serv. Ch. 69 (West) (amending § 4 of 1995 N.J. Sess. Law Serv. Ch. 244 (West)).

[187] *Id.*

[188] *Id.* at § 2(a).

abandoned."[189] Further if the Court determines that the foreclosed property is "vacant and abandoned," this Act extends the timeline of when the sheriff can sell the property, from 60 days to 90 days.[190]

8. Bill S3416 – This Bill amends Section 4 of P.L. 2009, c. 53 clarifying that the provisions of the "New Jersey Residential Mortgage Lending Act" apply also to certain out-of-state persons and entities that are involved in residential mortgage lending in the State of New Jersey.[191] Further, Section 4 of P.L. 1995, c.244, is amended to further clarify that the mortgage lender is required to be either licensed in accordance with the "New Jersey Residential Mortgage Lending Act," sections 1 through 39, or that the person or entity is exempt from licensure under the Act in accordance with applicable law.[192]

9. Bill S3464 – "Revises certain procedures for real estate foreclosure sales; alters adjournment of sale process."[193] Mostly, this Bill extends the timeframe that the sheriff must conduct a sheriff sale once receiving any writ of execution, from 120 days to 150 days.[194] The Bill also allows for appointment of a "special master" to hold foreclosure sales for one or more properties in a particular vicinage.[195] Finally, this Bill changes the amount of adjournments allowed for the

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[189] 2019 N.J. Sess. Law Serv. Ch. 72 (West) (amending § 1(8) of 2012 N.J. Sess. Law Serv. Ch. 70 (West)).
[190] *Id.* (amending §§ (j)-(k) of 2012 N.J. Sess. Law Serv. Ch. 70 (West)).
[191] 2019 N.J. Sess. Law Serv. Ch. 70 (West).
[192] *Id.* at § 12 (amending § 4 of 1995 N.J. Sess. Law Serv. Ch. 244 (West)).
[193] *Governor Murphy Signs Legislative Package to Address New Jersey's Foreclosure Crisis*, *supra* note 12.
[194] 2019 N.J. Sess. Law Serv. Ch. 71 (West) (amending § 12(3)(a) of 1995 N.J. Sess. Law Serv. Ch. 244 (West)).
[195] *Id.* (amending § 12(3)(c) of 1995 N.J. Sess. Law Serv. Ch. 244 (West)).

sale of real estate. Originally, *N.J.S.A. 2A:17-36* allowed the sheriff or other officer selling real estate, to allow for two adjournments (extensions) total, each not exceeding 30 days.[196] This Bill increased the amount of adjournments up to four, with two coming from the request of the lender, two at the request of the debtor, and potentially one additional adjournment if both the lender and the debtor agree to the adjournment.[197]

VII. LEGAL ANALYSIS OF THE NINE-BILL PACKAGE

In this section, this note analyzes the legislation of the nine-Bill package that can have the greatest impact on the State of New Jersey, but also questions the viability of the legislation (emphasis added).

Bill A664 is one of the strongest Bills in this legislative package and by formally codifying the FMP program into New Jersey Law, this proves that the New Jersey government is making a firm commitment to the mediation program and is tackling the residential foreclosures directly. By funding the FMP program through the "Foreclosure Mediation Fund", this can potentially make the program self-sufficient. However, the $155 filing fee charged to the foreclosing Plaintiff may not be enough to cover the costs of the program over the long-term; further, HUD agencies (hired to help defaulting debtors properly navigate the FMP) are running out of funding from the state government to accomplish their mission. Many defaulting debtors are unaware about the FMP and without help from a HUD certified counselor or defense attorney, they cannot receive the benefits of the program.

Assembly Bill 664 also provides for mandatory notice about the FMP to be sent by the foreclosing plaintiff, which as referenced earlier, can be another form of consumer education to help clients navigate the

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[196] *Id.* (amending N.J. STAT. ANN. § 2A: 17-36).
[197] *Id.*

foreclosure process. But how can we measure the helpfulness of this notice? Many defaulting debtors know that they are behind on their mortgage payments, and some purposely do not look at the mail for this exact reason. Some debtors may have already abandoned the property and do not receive any mail about the foreclosure process. Finally, what makes the Foreclosure Mediation Program work is the *"good faith"* principles between the debtors and the mortgage servicers, and the *full communication* between the Debtor, the mortgage lender and the mediator (emphasis added).[198] By holding all parties accountable to these principles, and with the New Jersey Judiciary tracking the results, hopefully this leads to greater success.

These Bills also set out to hold mortgage service providers more accountable. Assembly Bill 5001 shortens the statute of limitations period from 20 years to 6, forcing mortgage providers to properly foreclose on defaulting loans in a timely manner. Further, Assembly Bill 4999 requires mortgage providers to keep adequate contact information on file with the state of New Jersey, and to notify the township and executive branch of that township on when they plan on foreclosing on a local property. This additional level of communication can help the municipality keep watch on their properties and to prevent the negative effects that are attached to vacant and abandoned homes.
Finally, the additional adjournments that Senate Bill 3464 allow are a very strong step in the right direction. The sixty additional days that the debtor can receive by using their two adjournments can provide multiple benefits. This extra time can provide an opportunity for the debtor to return to work after a short-term "trigger" event, and to "cure" the

[198] New Jersey Foreclosure Mediation Act, 2019 N.J. Sess. Law Serv. Ch. 64 (West).

defaulting debt that they owed on their mortgage. Or, this ample time can allow a debtor to seek out a HUD certified counselor, hire a defense attorney, or participate and initiate mediation proceedings through the FMP program. It also allows the mortgage service provider time to reassess their options and to decide if there are any positive impacts from their position to choose mediation over litigation.

VIII. COVID-2019 UPDATE

At the time of the publication of this note, the Coronavirus disease 2019 (COVID-19 virus) is still active and threatening the world. COVID-19 was originally identified in Wuhan, China in December 2019, and officially received its name on February 11th, 2020.[199] At the time of this writing, the highly infectious Coronavirus disease caused over 113 million positive COVID-19 confirmed cases globally, with over 2.5 million deaths, and at least one infection in 221 countries/provinces.[200] The virus changed daily life as the world knew it, both socially and economically. Socially, to slow the spread of the disease and to prevent further infection, the Centers for Disease Control and Prevention recommended at a minimum, for the general public to wear a mask, stay 6 feet apart from one another, and to avoid crowds.[201] Additionally, extended family gatherings were severely limited, in-person fan attendance at concerts and sporting events were put on hold,

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[199] *About COVID-19, Coronoavirus Disease 2019 (COVID-19),* Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/cdcresponse/about-COVID-19.html (last visited Feb. 26, 2021).
[200] *COVID-19 CORONAVIRUS PANDEMIC,* WORLDOMETER, https://www.worldometers.info/coronavirus/ (last visited Feb. 26, 2021).
[201] *COVID-19 Home: Things You Need to Know*, CENTERS FOR DISEASE CONTROL AND PREVENTION, https://www.cdc.gov/coronavirus/2019-ncov/your-health/need-to-know.html (last visited Feb. 26, 2021).

and many companies shifted their work force to work from home.[202] The world is continuing to make sacrifices to eradicate this virus once and for all and to return to normal life again.

COVID-19 also has had a major economic impact on the world in addition to the social costs it has imposed. While employees and students were able to shift their employment to online means and working from home, this still did not prevent the economic devastation that COVID-19 had on small businesses. In the United States in select industries, small business revenue decreased 20% from January 2020 to August 2020.[203] Further, between January 2020 to April 2020, COVID-

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[202] *How can people safely get together? What are the limits for indoor and outdoor gatherings?*, NJ.GOV, https://covid19.nj.gov/faqs/nj-information/reopening-guidance-and-restrictions/how-can-people-safely-get-together-what-are-the-limits-for-indoor-and-outdoor-gatherings (last visited Feb. 26, 2021); *see also* Jon Blistein & Ethan Millman*, When Will Live Music Return?*, ROLLING STONE, https://www.rollingstone.com/pro/features/when-live-music-return-2021-covid-1106719/ (last visited Feb. 26, 2021); Megan Benan*, COVID-19 and Remote Work: An Update*, GALLUP PANEL*,* https://news.gallup.com/poll/321800/covid-remote-work-update.aspx (last visited Feb. 26, 2021).

[203] Lauren Bauer, et al., *Ten Facts about COVID-19 and the U.S. Economy*, *THE HAMILTON PROJECT* https://www.hamiltonproject.org/papers/ten_facts_about_covid_19_and_the_u.s_economy*; see also* Raj Chetty, et al., *How Did COVID-19 and Stabilization Policies Affect Spending and Employment? A New Real-Time Economic Tracker Based on Private Sector Data*, NBER WORKING PAPER SERIES (Nov. 2020), https://www.nber.org/system/files/working_papers/w27431/w27431.pdf?fbcl

19 quadrupled the number of labor force participants not working, and in July 2020, 26 states had, on average, more than one in five rental households behind on their rental payment(s), potentially causing more cycles of long-term delinquencies.[204]

This note is applicable to the daily challenges the world faces today in combating the COVID-19 pandemic. As discussed previously, a "trigger event" is a change in the homeowner's financial circumstances which results in the homeowner's inability to pay their monthly mortgage; these trigger events include job loss, income curtailment, health problems, and divorce, among other things.[205] Since COVID-19 can cause trigger events to occur, the effects of the COVID-19 pandemic can have a direct impact on home foreclosures. New Jersey recognized this problem, and:

> on March 19th, 2020 New Jersey Governor Philip Murphy issued Executive Order 106, which suspended evictions and removals throughout the state. This is called an 'eviciton moratorium,' and it means that, except in rare circumstances, no homeowner may be removed from his or her home as a result of a foreclosure proceeding at this time. You cannot be removed even if a final judgment of foreclosure has been entered and a sheriff's sale of your property has taken place. The eviction moratorium does not affect court proceedings; instead it prevents removals.[206]

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id=IwAR3ucfgXlJV_IC47PPFt0W9rYC3hRowmTnBrlASNnRlAuqi0OWV1c9x2zQ0.

[204] *Id.*

[205] U.S. DEP'T OF HOUS. AND URB. DEV., *supra* note 66.

[206] Catherine Holder, et al., *Residential Evictions: What Homeowners Need To Know- February 2021*, JD SUPRA (Feb 19, 2021) (citing N.J. Exec. Order No. 106 (Mar. 19, 2020)); *Foreclosure Timeline*, LSNJLAW, https://www.lsnjlaw.org/Housing/Home-Ownership/Foreclosure/Pages/Foreclosure-Process.aspx (last visited Mar. 6, 2021)).

Executive Order No. 106 and the eviction moratorium remains in place for no longer than two months following the end of the Public Health Emergency that was put in place from Executive Order No. 103 in response to the COVID-19 Pandemic.[207] The Governor extended the Public Health Emergency, most recently through Executive Order 222 on March 19th, 2021.[208] Thus for now, people cannot be evicted through May 19th, 2021, but as this note goes to publication that date will likely continue to change in real-time. It is encouraging to see that the New Jersey Executive branch took emergency action to help keep people within their homes in light of the global pandemic. Even though people cannot be evicted under the eviction moratorium, homeowners will still have to make their monthly mortgage payments, whether sooner or later. Thus, if homeowners still cannot find work once the pandemic is over and the eviction moratorium ends, this could lead to a boom in post COVID-19 pandemic home foreclosures in New Jersey.

Additionally, Jennifer Alexander, managing shareholder of Randolph-based Griffin Alexander PC, noted that "Commercial tenants are not subject to the [N.J. Eviction] Moratorium", thus "if the commercial tenant fails to pay rent in accordance with the lease agreement, the landlord can proceed with filing the eviction matter against the tenant." [209] Now due to the pandemic, many of these commercial cases stalled in the court system with a backlog, but the New Jersey Judiciary announced on February 5th, that starting on

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[207] N.J. Exec. Order No. 103 (2020); N.J. Exec. Order No. 106 (2020).

[208] N.J. Exec. Order No. 222 (2021).

[209] Nick Muscavage, *NJ to Resume Evictions In Commercial Foreclosures*, LAW 360 (Feb. 9, 2021), https://www.law360.com/articles/1353586/nj-to-resume-evictions-in-commercial-foreclosures.

February 15th, 2021 mortgage lenders can begin the eviction process in commercial properties for tenants who have stopped making their mortgage payments.[210] While the eviction moratorium currently prevents residential home evictions, that does not stop their landlords from filing an eviction notice with the New Jersey courts with over 50,000 eviction filings being filed from March 2020 (the beginning of the COVID-19 pandemic) to November 2020.[211] New Jersey will have a tall task after the COVID-19 pandemic ends: to increase employment and income of its citizens, while balancing home foreclosures, evictions of tenants, and providing basic human needs in a post-pandemic world.

IX. RECOMMENDATIONS MOVING FORWARD (2021 AND BEYOND)

In this last section, this note will build off of the above analysis and look to see what the potential future of New Jersey's foreclosure market holds. Below are three future issues that may arise with the Foreclosure Mediation Program and should be further evaluated by the New Jersey Legislature, Judiciary and the Governor's officer:

(1) Lack of funding

As referenced earlier, while the "Foreclosure Mediation Fund" may be able to support the costs of the mediation system, in general there is a lack of funding from New Jersey for agencies created to help debtors navigate the foreclosure process. In turn, many of these agencies cannot accomplish their goals. The goal of this administration is to minimize the costs of the program, while

[210] *Id.*

[211] Ashley Balcerzak, *Can't Pay Rent Or Mortgage During COVID? Here Are The Latest Housing Protections In NJ*, NORTHJERSEY.COM (Dec. 23, 2020), https://www.northjersey.com/story/news/2020/12/23/federal-eviction-moratorium-ends-soon-what-protections-does-nj-have/3989536001/.

maximizing effectiveness of the program. New Jersey should revisit the amount of funding allocated to the programs supporting struggling homeowners.

(2) Mediation over Phone

When the Foreclosure Mediation Program first began, mediation required the debtor, the attorney, and the mediator to show up to the local courthouse and mediate in court. However, now all parties mediate over the phone, and the mediator can mediate based on the paperwork they have at the time, and the oral testimony over the phone of both parties. The results of foreclosure phone mediation have not been studied within this new program, and New Jersey may want to re-examine how successful this is and if any negative effects are present.

(3) Lack of Community Education

In order for the FMP program to have the most success, New Jersey homeowners have to actively participate in the program. However, a continuing problem is that many homeowners still do not know the FMP program exists, and if they do find out, it is too late. Further, a participant in the program may not file the correct paperwork with the court, or is scared to file legal paperwork, thus resulting in their mediation case being thrown out. If debtors want to achieve a positive solution, then need to prepare properly and work with the mortgage servicer to come to achieve this. In many of these cases, debtors need help, and that is where HUD housing counselors, or defense attorneys play a role, which circles back to the lack of funding argument.

The State of New Jersey should work with local municipalities on putting together educational resources for their citizens about their Foreclosure Mediation rights. This is a perfect project for the

New Jersey Executive branch to undertake, and it could result in direct success. Another way to help provide more community education on this issue, is if New Jersey created new legislation to require mortgage service providers to notify Debtors of their foreclosure mediation and "cure" rights not only through mail, but through email as well. The increase of community education throughout the state on this topic is one of the most important goals that should be achieved out of this program.

(4) What happens to FMP in the next recession?

It is a great sign for New Jersey that the legislature is taking appropriate steps to tackle residential foreclosure issues when the economy and the real estate market are very strong. But what will happen when the markets shift back… Is the Foreclosure Mediation Program prepared to handle a vast influx of mediation cases? Will enough funding and qualified mediators be in place to help struggling New Jersey homeowners when they need it most? These questions cannot be answered until the future, but it is vital that New Jersey continues to track the success of the FMP program in order to implement best practices before a financial downturn. Finally, New Jersey may want to draft future contingency strategies to plan for these types of scenarios.

X. CONCLUSION

The nine-Bill package legislative package signed by Governor Murphy in 2019 will have an impact on the state. The size of the impact that it will have remains to be seen. It is a comprehensive package that followed the Judiciary's and Special Committees' recommendations in 2018; these laws give the FMP more bite to the program, put struggling homeowners in a better position to recover from "trigger events," and are another instrumental step in New Jersey's long-term battle against home foreclosures. The key to the long-term success of the program is funding, tracking the results of the program, and educating the citizens of the state of New Jersey on their Foreclosure Mediation rights.