



## Legislation Text

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**ORDINANCE AMENDING TITLE 2, ADMINISTRATION, CHAPTER 10, DEPARTMENT OF ECONOMIC AND HOUSING DEVELOPMENT, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000 AS AMENDED AND SUPPLEMENTED, TO ADD A NEW SECTION 2:10-1.4F REGULATING THE CARE, MAINTENANCE, SECURITY, AND UPKEEP OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES ON WHICH A SUMMONS AND COMPLAINT IN AN ACTION TO FORECLOSE HAS BEEN FILED AND REQUIRING OUT-OF-STATE CREDITORS, WHO HAVE SERVED A SUMMONS AND COMPLAINT IN AN ACTION TO FORECLOSE ON A RESIDENTIAL PROPERTY, TO DESIGNATE AN IN-STATE PERSON OR ENTITY TO BE RESPONSIBLE FOR THE CARE, MAINTENANCE, AND UP-KEEP OF THE PROPERTY.**

**Sponsors: Ramos/ Crump**

**WHEREAS**, *N.J.S.A. 46:10B-51* outlines the procedure for notifying municipalities about a foreclosure filing and establishes certain rules regarding vacant properties in foreclosure that violate state statutes or local ordinances; and

**WHEREAS**, *N.J.S.A. 46:10B-51*, was amended by Assembly Bill 1257-P.L.2008, c 127 (the "Assembly Bill 1257"), signed into law on August 22, 2014, and now permits municipalities to adopt Ordinances to regulate the care, maintenance, security and upkeep to the exterior of vacant and abandoned residential properties on which a summons and complaint in an action of foreclosure has been filed and require Out-of-State creditors, who have served a summons and complaint in an action to foreclose on a residential property, to designate an In-State person or entity to be responsible for the care, maintenance, and up-keep of the property; and

**WHEREAS**, it is in the public interest for the City of Newark to adopt an Ordinance that regulates the care, maintenance, security and upkeep to the exterior of vacant and abandoned residential properties on which a summons and complaint in an action of foreclosure has been filed in order to protect the health, safety and general welfare of the residents of the City of Newark.

**NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

### **Section 1.**

Title 2, Administration, Chapter 10, Department of Economic and Housing Development, of the Revised General Ordinances of the City of Newark, New Jersey, 2000 as amended and supplemented, be amended to add a new Section 2:10-1.4F regulating the care, maintenance, security, and upkeep of vacant and abandoned properties on which a summons and complaint in an action to foreclose has been filed.

### **2:10-1.4F.1 Definitions.**

**Creditor** shall mean any person or any federal or state chartered bank, savings bank, savings and loan association, credit union or any other financial institution or entity acting on behalf of the Creditor including, but not limited to, servicers, located In-State or Out-of-State, who serves a summons and complaint in an action to foreclose on a mortgage on residential property located in the City of Newark, New Jersey.

**Public Officer** shall mean the Director of Economic and Housing Development, unless another person is designated by the Mayor and Municipal Council, by Ordinance, to carry out the administration of any property maintenance or public nuisance code.

**Residential property** shall mean any real property and the improvements, buildings, structures or house thereon, whether single or multi-family, whether or not owner occupied, used for residential purposes.

#### **2:10-1.4F.2 Maintenance.**

a. Any person or entity filing a summons and complaint in an action to foreclose shall be responsible for the maintenance and upkeep of the vacant property, and if located Out-of-State, shall be responsible for appointing an in-State agent to act for the foreclosing person or entity.

#### **2:10-1.4F.3 Notification of the Municipal Clerk.**

a. Any Creditor serving a summons and complaint in an action to foreclose on a mortgage on residential property located in the City of Newark, New Jersey shall, within ten (10) days of serving the summons and complaint, serve the City of Newark's Municipal Clerk (the "City Clerk") with a Notice indicating that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property. The notice may contain information about more than one (1) property and shall be provided by mail or electronic communication at the discretion of the City Clerk.

b. The above Notice shall contain the name and contact information for the representative of the Creditor, who is responsible for receiving complaints of property maintenance and code violations. The City Clerk shall forward a copy of the Notice to the Public Officer as defined herein.

c. In the event that the property being foreclosed on is an affordable unit pursuant to the "Fair Housing Act," (*N.J.S.A. 52:27D-301 et al.*), then the Creditor shall identify that the property is subject to said "Fair Housing Act." The Notice shall also include the street address, block and lot number(s) of the property, and the full name and contact information of an individual located within the State, who is authorized to accept service on behalf of the Creditor. The Notice shall be provided to the City Clerk within ten (10) days of service of a summons and complaint in an action to foreclose on a mortgage against the subject property.

d. Pursuant to the "New Jersey Foreclosure Act", (*N.J.S.A. 2A:50-69 et al.*), any Creditor that has initiated a foreclosure proceeding on any residential property, which is pending in Superior Court shall provide to the City Clerk, a listing of all residential properties in the City of Newark for which the Creditor has foreclosure actions pending by street address and block and lot number(s). The City Clerk shall forward a copy of the Notice to the Public Officer as defined herein.

#### **2:10-1.4F.4 Responsibility of Creditor, if owner of a residential property vacates or abandons property subject to foreclosure.**

a. If the owner of a residential property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a residential property becomes vacant at any point subsequent to the Creditor's filing the summons and complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the Creditor or any other third party, and if the property is found to be a nuisance or in violation of any applicable State or local code, the Public Officer, City Clerk, or other authorized Municipal Official shall notify the Creditor, which shall have the responsibility to abate the nuisance or correct the violation in the same manner and to the same extent as the title owner of the property, to such standard or specification as may be required by State law or Municipal Ordinance.

#### **2:10-1.4F.5 Repair by City.**

a. If the City of Newark expends public funds in order to abate a nuisance or correct a violation on a residential property in situations in which the Creditor was given Notice pursuant to this Ordinance, but failed to abate the nuisance or correct the violation as directed, the City of Newark shall have the same recourse against the Creditor as it would have against the title owner of the property, including, but not limited to the recourse provided under *N.J.S.A. 55:19-100*.

#### **2:10-1.4F.6 Out-of-State Creditors.**

a. Any Out-of-State Creditor that has served a summons and complaint in an action to foreclose on a residential property, that subsequently becomes vacant, shall designate an In-State representative, who shall be responsible for the care, maintenance, and up-keep of the vacant property. The Out-of-State Creditor shall inform the City Clerk or the Public Officer that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property in the manner prescribed herein.

#### **2:10-1.4F.7. Violations and Penalties.**

a. Any Creditor found by the City of Newark Municipal Court, or any other court of competent jurisdiction, to be in violation of this Ordinance shall be subject to a fine of \$2,500.00, payable by the Creditor, for each day of the violation.

b. No less than twenty (20) percent of any money collected pursuant to this Section shall be utilized by the Municipality for municipal code enforcement purposes.

**Section 2.** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**Section 3.** The Provisions of this Ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this Ordinance shall be declared invalid, illegal or unconstitutional, such clause, phrase, sentence, paragraph or provision shall be served and shall be inoperative and the remainder of this Ordinance shall remain operative and in full force and effect.

**Section 4.** This Ordinance shall take effect upon final passage and publication and in accordance

with the laws of the State of New Jersey.

**STATEMENT:**

This Ordinance amends Title 2, Administration, Chapter 10, Department of Economic and Housing Development to add New Section 2:10-1.4F regulating the care, maintenance, security, and upkeep of vacant and abandoned residential properties on which a summons and complaint in an action to foreclose has been filed an requiring Out-Of-State Creditors, who have served a summons and complaint in an action to foreclose on a residential property, to designate an In-State person or entity to be responsible for the care, maintenance, and up-keep of the property.