

## APPENDIX



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**STATEMENT OF**  
**LEGAL SERVICES OF NEW JERSEY**  
**TO THE ASSEMBLY HOUSING AND COMMUNITY**  
**DEVELOPMENT COMMITTEE**

**Presented by:**

**Maryann Flanigan**  
**Chief Counsel**

**Dawn K. Miller**  
**Executive Vice President**

**September 20, 2018**

Legal Services of New Jersey is the statewide system for providing free civil legal assistance to those least able to afford the help of an attorney. Our Foreclosure Defense Project is by far New Jersey's largest provider of legal defense for families facing foreclosure. Through our hotline, website, and outreach, we have provided legal assistance in nearly 8,600 cases in the past 10 years. We have assisted even more residents through educational materials which are accessed through our website. With funding from the 2014 Settlement Agreement between the United States Department of Justice (US DOJ), six states, and Bank of America, LSNJ created a Foreclosure Defense Project of significant size which has allowed LSNJ to provide representation in a substantial number of cases. LSNJ's current Foreclosure unit is a continuation of targeted legal work and advocacy that began at Legal Services in 2002.

Through our Foreclosure Defense Project, we have seen many troubling trends and issues related to improper practices and illegal conduct by servicers, loan originators, brokers, and other involved parties. Based upon our experience, LSNJ would be delighted to provide perspectives concerning any legislative proposals that the Committee might decide to consider after today's testimony. We will present one concrete legislative proposal today. To set the stage, we will share a few stories about some of the disturbing trends that our foreclosure unit has encountered. In some cases we are able to resolve the legal issue, and in others current law does not offer protection that would address the client's needs.

Client 1 is a 73-year-old widowed reverse mortgage homeowner who lives alone and suffers from depression related to very traumatic events that occurred during his life within his immediate family. He almost lost his home to foreclosure over approximately \$4,000 in tax advances. (*Monmouth County*)

Client 2 is an 82-year-old widowed African American reverse mortgage homeowner who suffers from dementia and other serious health ailments including terminal breast cancer. She owes approximately \$13,000 in tax advances and is at risk of losing her home to foreclosure, despite her attempts to work something out with her loan servicer. (*Somerset County*)

Based on these and other experiences, we propose that the NJ Housing and Mortgage Finance Agency (NJHMFA)'s Hardest Hit Fund (HHF) should clarify or amend HHF guidelines so that NJ reverse mortgage borrowers are eligible for assistance. LSNJ will provide language and work with legislative staff on this proposal if requested.

The NJ HMFA's HHF Homesaver program assists eligible homeowners by providing forgivable grants of up to \$50,000 in financial assistance to help bring their household monthly payment to an affordable level; the HHF funds are utilized to facilitate a default cure, refinance, recast, or permanent modification of the first mortgage loan.

Currently, reverse mortgage borrowers are excluded from assistance because reverse mortgages are not fully amortizing. Senior citizen reverse mortgage borrowers are a uniquely vulnerable population with regard to foreclosure and related risks of homelessness. Property tax defaults are a common reason for reverse mortgage foreclosures in New Jersey, and scores of reverse mortgage borrowers would benefit from HHF funds to cure default. Many other states have allowed HHF funds to be used for reverse mortgage property tax defaults including:

- California's HHF Reverse Mortgage Assistance Pilot Program,
- Florida's HHF Elderly Mortgage (ELMORE) Assistance Program,
- Illinois' HHF Reverse Mortgage Assistance Program,
- Michigan's HHF Step Forward program,
- Ohio's HHF Save the Dream program,
- Oregon's HHF Reverse Mortgage Benefit,
- Rhode Island's HHF, and
- The District of Columbia's HHF HomeSaver Program.

We offer one additional story that frames another problem. Client 3 is a 55-year-old separated woman who has suffered from several strokes. She moved into a property near her family, under a Rent-to-Own lease agreement. Her city inspector recently declared the home uninhabitable and informed her that the property will require tens of thousands of dollars in repairs. The landlord just informed her he's doubling the monthly rent payment. (*Sussex County*)

LSNJ also suggests that legislative attention may be required in areas involving unscrupulous contracts that require payments under the pretext of tenancy rent, but contain other provisions which make the agreements unfair and deceptive toward consumers. LSNJ is energetically challenging these practices in litigation, and we believe this is an area which is ripe for a hearing.

Above all, we urge this Committee to resist any importunings to alter New Jersey's critical laws which help provide a strong net of protection for the state's middle and lower income homeowners. The New Jersey Fair Foreclosure Act (NJFFA), Consumer Fraud Act (CFA) and entire system of judicial foreclosure provide essential rights to residents who otherwise would be far more likely to lose their homes. We would welcome the opportunity to provide information and analysis concerning the effect of any such proposals.

Thank you for hearing our statement.



## 2018-19 State Legislative Foreclosure Policy Priorities

**Reduce the Impact of Foreclosures:** NJ continues to be one of the states with the worst foreclosure problems. To solve this persistent crisis, we support the following initiatives:

- **Foreclosure Prevention Funding:** (A2123/S2906) sponsored by Asw. Sumter and Sen. Singleton. Creates a Foreclosure Prevention and Neighborhood Stabilization Revolving Trust Fund; places temporary surcharge on mortgage foreclosure complaints. The fund will be financed through a temporary \$800 surcharge placed on each foreclosure complaint filed in the State. DCA shall provide up to \$500,000 from the fund to train qualified vendors to provide training to local governments and non-profit entities undertaking neighborhood stabilization efforts. Following these disbursements from the fund, the next \$10 million collected during the fiscal year shall be allocated to qualified non-profit entities for the purpose of maintaining or expanding their foreclosure prevention programs.
- **Codifies and funds the Foreclosure Mediation Program** (A664/S1244) sponsored by Asw. Jasey and Sen. Rice. This bill also dedicates monies from foreclosure filing fees and fines to administer the program.
- **Revises residential mortgage foreclosure process** (S742/A3667) sponsored by Sen. Diegnan and Asw. Jasey. This bill requires a servicer who files a foreclosure complaint to tell the homeowner about all possible assistance to help them avoid foreclosure and provide a single point of contact to help them through the process.
- **Creates Mortgage Assistance Pilot Program** (S1145/A3430) sponsored by Sen. Singleton and Asw. Murphy. Creates a pilot program that allows homeowners with negative home equity, and who are in default of a mortgage owned by the agency, to lower the remaining principal owed on the mortgage to an amount more reflective of current market realities. This will occur in exchange for conveying an equity share in the property to the agency. *Passed Senate Community and Urban Affairs Committee 6.25.18*
- **Moratorium on certain foreclosures and places additional requirements for foreclosure** (A3119) sponsored by Asw. Tucker. Grants a six-month forbearance to pursue a mortgage settlement. *Passed Assembly Housing Committee 3.5.18*
- **Promote the ability of community residents to purchase a foreclosed home as their primary residence.** (4412) sponsored by Asw. Timberlake. Revises sheriff's procedures for residential mortgage foreclosure sales in order accomplish this.

*For the complete text of any of these bills, go to [www.njleg.state.nj.us](http://www.njleg.state.nj.us) and search by bill number. For more information about these issues, contact Arnold Cohen or Staci Berger, 609/393-3752.*

\*Updated 9.20.2018



# NEW JERSEY CITIZEN ACTION

## New Jersey Citizen Action Testimony before the Assembly Housing and Community Development Committee regarding Foreclosure

September 20, 2018

For more information contact:

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I would like to thank Chairman Wimberly and the Assembly Housing and Community Development Committee for inviting me to testify today on foreclosures and vacant properties in our state.

My name is Phyllis Salowe-Kaye, and I am the Executive Director of New Jersey Citizen Action. Citizen Action is a statewide progressive grassroots organization that fights for social, racial, and economic justice for all. NJCA combines issue advocacy, organizing, and education with the provision of free financial empowerment services, reaching over 13,000 people across the state each year.

Unfortunately, New Jersey once again holds the distinct honor of leading the nation in residential foreclosures. In 2017, nearly 70,000 properties went through the foreclosure process, setting our state apart from the rest of the country, which is experiencing 12-year lows in foreclosure filings, according to a report from ATTOM Data Solutions, a real estate data firm. The data for 2018 continues to put us in the position of 'Leader of the Pack,' leaving behind thousands of displaced families, as well as vacant and abandoned properties.

While the actual number of foreclosure filings among New Jersey homeowners has decreased compared to filings for the same time last year, New Jersey Citizen Action, the state's largest statewide HUD-certified housing counseling agency, continues to receive high volumes of calls from homeowners who are facing sheriff sale and/or eviction. Most have exhausted state and federal remedies, have been unable to maintain modification plans, or simply waited too long to seek help. Many have yet to find decent paying jobs to increase their income, while others who have managed to remain in their homes for long periods despite not making mortgage payments, are now facing eviction. As the housing market has grown stronger, lenders are moving quickly to sell properties to investors, who come to auctions with cash in their pockets, purchasing multiple properties, investing meager amounts in rehab, only to flip them for huge profits. In addition to those homeowners trying to remain in their properties, far too many distressed homeowners have already walked away from their homes, seeing no solution to their horrific situations, leaving thousands of vacant and abandoned properties across our Garden State. Clearly not a good way to preserve our neighborhoods.

On the 10<sup>th</sup> Anniversary of the Wall Street Crash, we look back on the government intervention that shored up the banking system but left behind millions of homeowners who endured job loss and a loss of financial security, and who still struggle to survive even today. For many, faith in homeownership, the financial markets and the government's social safety net have yet to be restored.

The good news is that we have a Governor and Legislature that have shown a commitment to improving this bleak situation. I will use my time to make some suggestions about how we can improve this situation in New Jersey, even as Wall Street exerts its incredible influence over Washington, trying to persuade Congress to ease the tighter regulations imposed on financial institutions after the crisis to prevent a reoccurrence.





# NEW JERSEY CITIZEN ACTION

1. During the last Administration, New Jersey's Attorney General was absent from the table, when other states joined, taking action against bad lenders for wrong doings they had committed. Millions of dollars in settlement funds were disbursed across the country providing some relief for homeowners who were victims of fraudulent practices, additional funds for HUD-certified counseling agencies, and much-needed financing for the purchase of vacant and abandoned properties by CDFI's and nonprofit housing developers. Unfortunately, while New Jersey did participate in the historic 49 state settlement, the funds received were not earmarked for foreclosure assistance, and instead then-Governor Christie redirected them to the General Fund as state revenue. Moreover, while Attorneys General in other states like New York and Illinois aggressively fought to win additional remediation for distressed homeowners, New Jersey's Attorney General sat on the sidelines, watching as New Jersey homeowners continued to struggle.

*New Jerseyans need our Attorney General to fight for our share of the millions of dollars in remaining settlement funds from financial institutions like the Royal Bank of Scotland and Deutsche Bank.*

2. The Federal Housing Administration (FHA) holds thousands of delinquent or foreclosed mortgages. *We need the New Jersey Housing Mortgage Finance Agency (HMFA) to work in partnership with New Jersey Community Capital (NJCC), a CDFI with a long track record of dealing with vacant and abandoned properties, to purchase one thousand FHA loans and, through NJCC's RESTART program, work together to keep families in their homes while preserving our neighborhoods.*
3. *Increase the Affordable Housing Trust Fund – \$15 million is far too little to do a decent job.*
4. HMFA's recently reinstated Foreclosure Mediation Assistance Program (FMAP) is a good program. However, when it was originally introduced in New Jersey, the program included free legal assistance for homeowners facing foreclosure as well as foreclosure prevention counseling by approved housing counseling agencies that would send counselors to the mediation sessions with the homeowner.

*The FMAP program should be expanded to provide free legal assistance to clients when answering foreclosure complaints and/or providing bankruptcy consultations.*

5. NJHMFA currently administers New Jersey's Hardest Hit Fund programs, including NJ HomeSaver (and previously NJ HomeKeeper). *HMFA should expand the underwriting criteria for the NJ HomeSaver program, to include homeowners who have Home Equity Lines of Credit (HELOCs).* For many distressed senior homeowners who have paid off their original mortgages but may have Home Equity mortgages or lines of credit, they are not currently eligible for HomeSaver.
6. As indicated above, NJ HomeKeeper is no longer being offered. *HMFA should reinstate the NJ HomeKeeper program, which provides assistance to homeowners facing foreclosure due to unemployment or underemployment.* A large number of individuals continue to fall behind on their mortgages today due to unemployment and/or underemployment.
7. At one time, NJHMFA also administered the Mortgage Assistance Program (MAP), one time assistance that provided up to \$20,000 to homeowners in imminent danger of foreclosure. The funds covered issues such as unpaid property taxes, home repair, medical emergencies, etc. *HMFA should reinstate MAP.*



# NEW JERSEY CITIZEN ACTION

8. Distressed homeowners who must leave their homes due to foreclosure eviction are often unable to find safe and affordable housing upon eviction. *The State should establish a fund that offers relocation assistance to homeowners being evicted from their homes (there is currently only a state fund for renters).*

In addition to these suggested policies, NJCA supports the following pending legislation to address foreclosure and/or abandoned properties:

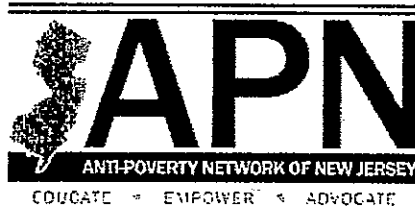
- *New Jersey Residential Foreclosure Transformation Act (A2115/S1584)*, sponsored by Assemblyman Green and Assemblywoman Jasey, as well as Senators Cruz and Singleton. This bill creates as a temporary program within the NJ Housing and Mortgage Finance Agency ("HMFA") for the purpose of purchasing foreclosed residential properties from institutional lenders and dedicating them for occupancy as affordable homes.
- *Hold Creditors responsible for Non-Residential Buildings (S1422/A3217)* and *Hold Creditors responsible for building interiors (S1423/A3216)*. Both bills address the maintenance of vacant and abandoned properties.

Thank you for your time. If you have any questions or you require additional information, please feel free to contact me — my contact information is included with my testimony.

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*New Jersey Citizen Action is a statewide progressive grassroots organization that fights for social, racial, and economic justice for all. NJCA combines issue advocacy, organizing, and education with the provision of free financial empowerment services, reaching over 13,000 people across the state each year. For more information, visit us on the web at*

[www.njcitizenaction.org](http://www.njcitizenaction.org)



**Testimony of Renee Koubiadis,  
Executive Director of the Anti-Poverty Network of New Jersey  
TO  
NJ Assembly Housing & Community Development Committee  
September 20, 2018**

Good morning Chairman Wimberly, Vice-chair Chaparro, and members of the committee.

Thank you for the opportunity to submit testimony regarding the foreclosure crisis that continues in our state. The Anti-Poverty Network (APN) is deeply concerned that we have not adequately addressed the issues that have created and sustained this crisis for so many of our residents, especially people of color.

New Jersey has led the nation far too long in the number of foreclosures since the Great Recession, with an 11-year high of 23,322 bank-owned homes in 2017. What was largely lost during this time is the acknowledgement that Black and Latino households were disproportionate victims of the predatory lending practices that led to the Great Recession.

The loss of homes to foreclosure has been about three times higher in predominantly Black and Latino neighborhoods compared to predominantly white neighborhoods. New Jersey continues to face the highest risk of continued foreclosures in the nation, with many of these homes located in high-minority communities.

It is widely known that home ownership is the single biggest source of wealth-building in our country. The recession only expanded the gap between whites and Blacks in wealth. The foreclosure crisis hit Black households worse because it gutted home values, further decreasing access to equity. In the years to come, foreclosures will continue to hurt the capacity of people of color to create wealth.

While people were forced from their homes with underwater mortgages, they were left with the reality that New Jersey is the 6<sup>th</sup> highest rental market in the country. These families may continue to struggle, paying a higher percentage of their income towards housing than they might have otherwise if we had offered solutions earlier in this crisis to stave off foreclosures.

At the same time some families may have become functionally homeless doubling and tripling up in others' homes. However, our state instituted "compliance reviews" over the last three years at county boards of social services for people applying for Emergency Assistance, which increased denials of these applications significantly and many people who sought assistance were turned away.

New Jersey is one of the most segregated states in the United States. Segregation between Blacks and Whites has grown by about 20 percent and between Hispanics and Whites by nearly 50 percent, since the early 2000s. With the kinds of setbacks and inability to build wealth already mentioned, the capability of people of color to gain access to non-inclusionary communities in our state is more severely limited.

With the average time to foreclosure at the end of last year at 1,298 days, that leaves plenty of time for interventions that could aid the people of our state who are struggling. The alternatives of homelessness and higher rents leaving little money for other basic necessities could put an even further drain on our public programs that is costlier to our state in the long run.

There are already creative solutions on the table that would help those facing foreclosure. Currently legislative bill A2123 sponsored by Assemblywoman Shavonda Sumter, would create a Foreclosure Prevention and Neighborhood Stabilization revolving trust fund by placing a temporary surcharge on mortgage foreclosure complaints. The income would be used to train vendors and non-profits and expand non-profit foreclosure prevention programs.

There are other current bills that would stave off foreclosure and help people stay in their homes. These include legislation that would: 1) codify and fund the Foreclosure Mediation Program, 2) revise the residential mortgage foreclosure process, 3) create a mortgage assistance pilot program, and 4) change certain requirements or place a moratorium on some types of foreclosure.

In addition, we support bill A2115, "The New Jersey Residential Foreclosure Transformation Act". This legislation has recently moved out of committee and

would create a temporary program to utilize vacant foreclosed properties to create additional affordable homes.

We urge this Committee and the Legislature to consider these important solutions for the future of our state and all our residents.

Thank you again for the opportunity to speak today.

For follow-up, please feel free to contact me:

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