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**Lashway, Lisa**

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**From:** egg@dca.state.nj.us  
**Sent:** Thursday, April 02, 2009 4:20 PM  
**To:** Lashway, Lisa  
**Subject:** Clerks Notice on Foreclosure Filings  
**Attachments:** Clerks and Mortgage reform.doc

Dear Municipal Clerk:

Among the provisions of the recently enacted "Mortgage Stabilization and Relief Act," (Section 17 of P.L. 2008, c.127, copy attached) are requirements of mortgage holders to notify the municipal clerk of any intent to foreclose on a residential property that is provided to a homeowner in their municipality. This requirement took effect on April 1, 2009. In municipalities that have exercised authority to create an "unfit public buildings" program pursuant to N.J.S.A. 40:48-2.3, the notice is provided to the "public officer" designated under that law.

When providing notice, the copy served on the municipality must include 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 law also provides authority for the municipality to take code enforcement actions and hold the mortgage holder responsible to abate any violations as if they were the property owner, and recover costs if the municipality expends funds to resolve the violation.

In addition, the creditor must identify any property that is an affordable housing unit pursuant to the New Jersey Fair Housing Act. If the unit is properly deed restricted pursuant to COAH regulations or the municipality is receiving COAH credit for such unit, then the municipality may wish to participate in the foreclosure action in order to maintain the deed restriction and preserve the affordability of the unit.

The Housing and Mortgage Finance Agency will soon send each Mayor a package of information about the law and about the Mortgage Stabilization and Relief Act in general. This information will provide helpful in understanding the implications of the law and how it can affect your organization.

In the meantime, Municipal Clerks (and Public Officers where they exist) should prepare to accept these documents and retain them until local officials determine what, if any action will be taken on them. Local officials can also review the law to determine what other local actions may be appropriate.

Please share this information with your elected officials and other appropriate staff.

THIS E-MAIL HAS BEEN SENT TO THE FOLLOWING OFFICIALS: Municipal Clerk

PLEASE REMEMBER: If your e-mail address changes please make the change to your GovConnect User Profile. If you change employers please send us the details by replying to this e-mail. Helpdesk 609.943.4724

C.46:10B-51 Procedure for serving notice of intention to foreclose.

17. a. A creditor serving a notice of intention to foreclose on a mortgage on residential property in this State shall serve the public officer of the municipality in which the property is located, or, if the municipality has not designated a public officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal clerk, with a copy of the notice at the same time it is served on the owner of the property. In the event that the property being foreclosed is an affordable unit pursuant to the "Fair Housing Act," then the creditor shall identify that the property is subject to the "Fair Housing Act." The copy served on the public officer or municipal clerk shall include the full name and contact information of an individual located within the State who is authorized to accept service on behalf of the creditor.

b. If a residential property becomes vacant at any point subsequent to the creditor's filing the notice of intention to foreclose, but prior to vesting of title in the creditor or any other third party, and the property is found to be a nuisance or in violation of any applicable State or local code, the local public officer or municipal clerk 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 the public officer or municipal clerk.

c. If the municipality 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 the provisions of subsection b. of this section but failed to abate the nuisance or correct the violation as directed, the public officer or municipal clerk 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 section 23 of P.L.2003, c.210 (C.55:19-100).