

New Jersey Senate Bill 2156, signed by Governor Chris Christie on December 3, 2012, authorizes lenders to bring summary actions to foreclose mortgages on vacant and abandoned residential properties, and grants state courts the authority to enter a final residential mortgage foreclosure judgment if it finds, by clear and convincing evidence, that the residential property is “vacant and abandoned,” proper summary judgment procedures are followed, and no answer, written objection, or appearance asserting a defense or proper cause would preclude a judgment.

The factors enumerated in the statute are listed below. Factors highlighted in red are those that an on-site vendor would not be able to determine at the property, or could not be conclusive regarding. The remaining factors are suitable for a vendor affidavit.

Vacant and abandoned is defined in the Bill as follows:

- (i) the property is not occupied by a mortgagor or by a tenant who entered into a lease agreement before the mortgagee served notice of intention to commence foreclosure, and
- (ii) there exist at least two of the following fifteen enumerated conditions that indicate vacancy and abandonment:
 - (1) overgrown or neglected vegetation;
 - (2) the accumulation of newspapers, circulars, flyers or mail on the property;
 - (3) disconnected gas, electric, or water utility services to the property;
 - (4) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
 - (5) the accumulation of junk, litter, trash or debris on the property;
 - (6) the absence of window treatments such as blinds, curtains or shutters;
 - (7) the absence of furnishings and personal items;
 - (8) statements of neighbors, delivery persons, or government employees indicating that the residence is vacant and abandoned;
 - (9) windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
 - (10) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
 - (11) a risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;

(12) an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;

(13) the mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;

(14) a written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;

(15) any other reasonable indicia of abandonment.

A residential property will not be deemed “vacant and abandoned” if the court finds that:

(1) there is an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion, and the building is in compliance with all applicable ordinances, codes, regulations, and statutes;

(2) there is a building occupied on a seasonal basis, but otherwise secure; or

(3) there is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute.

If the court makes a finding in the foreclosure judgment that the property is vacant and abandoned, the sheriff will be required to sell the property within 60 days of the sheriff’s receipt of any writ of execution issued by the court (the Fair Foreclosure Act previously required 120 days). If it becomes apparent that the sheriff cannot comply with this timeframe, the foreclosing plaintiff may apply to the court for an order appointing a Special Master or judicial agent to hold the foreclosure sale.

This new summary action is not intended to supersede or limit other procedures adopted by the Court to resolve residential mortgage foreclosure actions, including, but not limited to, foreclosure mediation. It shall not be construed to affect the rights of a tenant to possession of a leasehold interest under the Anti-Eviction Act, The New Jersey Foreclosure Fairness Act, or any other applicable law.

When a property is deemed vacant and abandoned, the lender would not be required to serve the debtor with the notice to cure required by the "Fair Foreclosure Act."

The law took effect immediately, but does not become operative until April 1, 2013.