

NEW JERSEY MORTGAGE  
FORECLOSURE PRACTICE:  
THE FAIR FORECLOSURE  
ACT

WITH FORMS

FIFTH EDITION, 2021

AUTHOR:

MYRON C. WEINSTEIN, ESQ.

2021 UPDATES BY:

BRIAN KERINS, ESQ.

**NEW JERSEY INSTITUTE FOR CONTINUING LEGAL EDUCATION®**  
**ONE CONSTITUTION SQUARE, NEW BRUNSWICK N.J. 08901-1520**  
**(732) 249-5100**



®NEW JERSEY INSTITUTE FOR CONTINUING LEGAL EDUCATION

For over 50 years, the New Jersey Institute for Continuing Legal Education, a division of the NJSBA, has served the needs of the New Jersey bench and bar. From seminars and legal manuals to CLE On-Demand videos and other educational tools, our products are designed to provide the latest strategies, expert advice, and guidance to practitioners at every stage in their career.

Our success in providing the legal community with the highest quality educational products would not be possible without the countless attorneys, doctors, dignitaries, and other legal experts who volunteer their efforts to serve as lecturers and authors. NJICLE is proud to be the conduit through which they share their knowledge, skills, and expertise with their fellow professionals.

For more information about NJICLE seminars and Publications, please visit [NJICLE.com](http://NJICLE.com).

**The material contained in this publication is for educational purposes only and is not intended to serve as a substitute for the professional services an attorney would normally provide to a client, including up to the minute legal research.**

**©2021 New Jersey State Bar Association. All rights reserved. Any copying of material herein, in whole or in part, and by any means without written permission is prohibited. Requests for such permission should be sent to NJICLE, a Division of the New Jersey State Bar Association, New Jersey Law Center, One Constitution Square, New Brunswick, New Jersey 08901-1520.**

# PREFACE

This Fifth Edition is meant to be a general mortgage foreclosure practice book with special emphasis on the Fair Foreclosure Act, since the bulk of mortgage foreclosures in New Jersey are Fair Foreclosure Act cases. This edition with forms also fully references and discusses implementation of the new rule revisions and other statutory changes.

This edition also contains a full set of forms along with pertinent information relating to the use of the Optional Foreclosure Procedure without sale, which the author believes is an underutilized remedy in New Jersey.

Every attempt has been made to make this edition as thorough, informative and understandable as possible.

Brian F. Kerins  
Lawrenceville

# New Jersey Mortgage Foreclosure Practice: The Fair Foreclosure Act

## Summary of Contents

### Chapters:

1	Definitions; Introduction and Fundamentals: Priorities; Office of Foreclosure .....	1.1
2	Application of Act: Definitions; Constitutionality; Federal Preemption .....	2.1
3	Default; Notice of Intention; Uniform Instruments: HUD Regulations .....	3.1
4	The Right to Cure; 14-Day Notice; Waiver .....	4.1
5	Uniform Sheriff's Sale Procedures .....	5.1
6	Judgement Creditors; Letters by Attorney General and U.S. Attorney; <i>Lis Pendens</i> ; Partial Payments; Regulations by Attorney General .....	6.1
7	Fair Debt Collection Practices Act .....	7.1
8	Default; Acceleration; Accrual of Right to Foreclose; Joinder of Claims (Germane); Parties.....	8.1
9	Commencement of Action; Service of Process; Answers .....	9.1
10	Procedure for Judgment; Writs; Execution/Possession; Post-Judgment Advances; Environmental.....	10.1
11	Foreclosure Sale: Sheriff's Practice.....	11.1
12	Post-Sale Redemption .....	12.1
13	Condominium Association Lien Foreclosures; Homeowners Association Liens.....	13.1
14	Strict Mortgage Foreclosure .....	14.1
15	Optional Procedure Without Sale .....	15.1
16	Deficiency Actions; Actions on the Note .....	16.1
17	Related Practice .....	17.1
18	Vacant And Abandoned Residential Property Foreclosures.....	18.1
	Appendix A.....	A.1

Appendix B .....B.1

Appendix C .....C.1

**CHAPTER 1**  
**DEFINITIONS; INTRODUCTION AND FUNDAMENTALS:**  
**PRIORITIES; OFFICE OF FORECLOSURE**

**Section 1**

§ 1.01	Terminology.....	1.3
§ 1.02	Mortgage Foreclosure – An Equitable Process.....	1.6
§ 1.03	Redemption .....	1.7
§ 1.04	Mortgage Foreclosure: Definition; General Introduction .....	1.10
§ 1.05	Uniform Instruments .....	1.10
§ 1.06	Mortgage Foreclosure – Not A Title Clearing Remedy.....	1.11
§ 1.07	How To Protect Your Interest In Foreclosure: Do You Have To File An Answer, And What Are The Advantages Of Doing So? .....	1.11
§ 1.08	Lender’s Remedies On Default.....	1.12
§ 1.09	Possession .....	1.12
§ 1.10	What Does A Conventional Foreclosure Do?.....	1.12
§ 1.11	What We Mean By “Cutting Off” A Lien, Judgement Or Interest In Foreclosure .....	1.12
§ 1.12	What Title Does The Purchaser At The Foreclosure Sale Obtain? .....	1.13
§ 1.13	Conventional Judgment Of Foreclosure (Conditional).....	1.13
§ 1.14	Defects In Foreclosure .....	1.13
§ 1.15	Bankruptcy – Removal Of Vested Liens .....	1.14
§ 1.16	Circumventing Process; Confession Of Foreclosure Judgment.....	1.14
§ 1.17	Mortgage Priority – In General.....	1.15
§ 1.18	Mortgage Priority – Versus Condominium Association Lien .....	1.15
§ 1.19	Affordable Housing Restrictions .....	1.17
§ 1.20	Taxes Or Municipal Liens On The Mortgaged Premises .....	1.18
§ 1.21	Searches .....	1.18
§ 1.22	Other Preliminary Information - Mortgage Documents; Mortgagee Title Policy; Survey; Parties in Possession .....	1.19
§ 1.23	Certificate Of Regularity.....	1.20
§ 1.24	Foreclosure Worksheet .....	1.20
§ 1.25	Office Of Foreclosure and Foreclosure Processing Services.....	1.20

**CHAPTER 2**  
**APPLICATION OF ACT; DEFINITIONS;**  
**CONSTITUTIONALITY; FEDERAL PREEMPTION**

**Section 2**

§ 2.01 Title Of Act .....2.5

§ 2.02 *Fair Foreclosure Act* (Short Title) - *N.J.S.A. 2A:50-53* .....2.5

§ 2.03 When Does The Act Take Effect? .....2.5

§ 2.04 Public Policy Behind The Act .....2.5

§ 2.05 What Does The Act Do? .....2.7

§ 2.06 “Arrearages” Legislation In Other States .....2.8

§ 2.07 The Right To “Cure” Versus The Right To “Redeem” .....2.9

§ 2.08 Application Of Act To Specific Statutory Sections - *N.J.S.A. 2A:50-55* .....2.9

§ 2.09 “Residential Mortgage” (Definition) - *N.J.S.A. 2A:50-55*.....2.11

(a) “Security Interest Or The Like” .....2.13

(b) “Time The Loan” Is Originated .....2.14

(c) Necessity Of A Mortgage In “Default” .....2.15

(d) Residential Property – A House, Real Property, Or Condominium .....2.15

(e) “Shall Not Have More Than Four Dwelling Units” .....2.15

(f) “Planned To Be Occupied” .....2.16

(g) Occupying Debtor – A “Natural” Person.....2.16

(h) Debtor’s “Immediate Family” .....2.17

(i) “Residence” .....2.17

(j) “Originated” .....2.17

(k) Partial Interest Mortgage.....2.18

(l) Interest Of Debtor In Property .....2.18

(m) “All Residential Mortgages Wherever Made”; “Choice Of Law” In The Mortgage Documents .....2.18

(n) Vacation Residence.....2.19

(o) Time Share Property .....2.19

(p) Residential Property Definition As Applying To Each Separate Parcel Or Tract.....2.19

(q) Condominium Association Lien .....2.19

## APPLICATION OF ACT

(r)	Cooperative Apartment.....	2.20
(s)	Security Interest Covering Personal Property.....	2.20
(t)	Residential Leasehold Mortgage.....	2.20
(u)	“Recordation” Of Residential Mortgage.....	2.20
(v)	Other Applications; Real Estate Sales Contract.....	2.20
§ 2.10	“Obligation” (Definition) – <i>N.J.S.A. 2A:50-55</i> .....	2.21
§ 2.11	Debtor; “Residential Mortgage Debtor” (Definition) - <i>N.J.S.A. 2A:50-55</i> .....	2.22
§ 2.12	“Immediate Family” (Definition) - <i>N.J.S.A. 2A:50-55</i> .....	2.25
§ 2.13	“Residential Mortgage Lender” (Definition) - <i>N.J.S.A. 2A:50-55</i> .....	2.25
§ 2.14	“Non-Residential Mortgage” (Definition) - <i>N.J.S.A. 2A:50-55</i> .....	2.26
§ 2.15	“Deed in Lieu of Foreclosure” (Definition) - <i>N.J.S.A. 2A:50-55</i> .....	2.26
§ 2.16	“Office of Foreclosure” (Definition) - <i>N.J.S.A. 2A:50-55</i> .....	2.30
§ 2.17	“Commercial” Versus “Non-Commercial” Loan (Application of Act).....	2.31
§ 2.18	Relationship Of Act To Deficiency Action Statutes.....	2.32
§ 2.19	Person Signing Note Or Bond; Importance .....	2.32
§ 2.20	Debtor (Natural Person Requirement) .....	2.33
§ 2.21	Deceased Debtor (Personal Representative, Heirs, Devisees as Debtor) .....	2.34
§ 2.22	Does The Debtor Have To Be A Party To The Foreclosure?.....	2.36
§ 2.23	Corporate Obligation Secured By Officer’s Residence, Guarantor (Application Of Act).....	2.36
§ 2.24	Is A Guarantor A “Debtor” Under The Act? .....	2.37
§ 2.25	Priority Of Mortgage And Act’s Application .....	2.38
§ 2.26	“Once A Residential Mortgage, Not Always A Residential Mortgage”; Conversion To Non-Residential Use .....	2.38
§ 2.27	Mortgage Covering Residential and Non-Residential Property – <i>N.J.S.A. 2A:50-55, 62</i> .....	2.39
§ 2.28	Concurrent Actions On A Residential And Non-Residential Mortgage Securing The Same Obligation; Inconsistent Results.....	2.40
§ 2.29	Mortgage Modification (Addition of Residential Property) .....	2.41
§ 2.30	Condominium Association Lien (Residential Mortgage?) .....	2.42
§ 2.31	Common Law Strict Mortgage Foreclosure (Application Of Act).....	2.42
§ 2.32	Foreclosing A Security Interest On Personal Property (Application Of Act) .....	2.43
§ 2.33	Playing It Safe; Uncertainty As To Act’s Application; Giving Notice Erroneously .....	2.43



§ 2.34	Questions And Answers (Application Of Act) .....	2.44
§ 2.35	Constitutionality Of Act.....	2.46
§ 2.36	Federal Preemption Of Notification Requirements Of Act .....	2.47
§ 2.37	Statute Of Limitations.....	2.49
§ 2.38	Recent Developments, <i>US Bank Nat. Ass'n v. Guillaume</i> .....	2.49

**CHAPTER 3**  
**DEFAULT; NOTICE OF INTENTION; UNIFORM**  
**INSTRUMENTS: HUD REGULATIONS**

**Section 3**

§ 3.01 Introduction.....3.5

§ 3.02 Establishment Of A “Default” Under The Act; Expiration of Grace Period; Accrual of Right to Mail Notice Intention.....3.5

(a) Establishment Of A Default Under The Act .....3.5

(b) Breached Under Obligation As Giving Rise To Notice Of Intention Under The Act.....3.6

(c) Other Reasons Why There May Be No Default Under The Act .....3.9

(d) Accrual Of Right To Mail Notice Of Intention .....3.9

§ 3.03 Compliance With The Fair Debt Collection Practices Act (“FDCPA”).....3.9

§ 3.04 The Notice Of Intention (General Application) – *N.J.S.A. 2A:50-56* .....3.11

(a) Exclusive Statutory Requirements For Residential Mortgage Foreclosure; “Judicial” Foreclosure Required .....3.12

(b) 30-Day Period .....3.13

(c) Debtor To Receive Notice Of Intention .....3.13

(d) Obligation .....3.14

(e) Maturity Of Obligation .....3.14

(f) Notice Of Intention – Matured Obligation; Applicability .....3.14

(g) Notice of Intention Not Required Where Property Voluntarily Surrendered .....3.15

(h) Lender’s Self-Help Possession Remedy On Default .....3.15

(i) Lender’s Action For Possession (Formerly Ejectment).....3.16

(j) Contractual Obligation To Give Pre-Acceleration Notice.....3.16

§ 3.05 Fair Debt Collection Practice Act (Notice Of Intention).....3.17

§ 3.06 Bankruptcy Of Debtor (Notice Of Intention).....3.17

§ 3.07 Notice Of Intention (Specific Paragraphs Discussed ) - *N.J.S.A. 2A:50-56c* .....3.18

(a) “Tender” Of Performance By Debtor .....3.21

(b) Cure Amount – Monetary Default .....3.22

(c) Performance Required To Cure A Non-Monetary Default .....3.25

(d) A Default Which Cannot Be Cured .....3.26

§ 3.08	Notice Of Intention - Form .....	3.36
§ 3.09	Service Of Notice Of Intention; On Whom; Address; When Effective - <i>N.J.S.A. 2A:50-56b</i> .....	3.41
§ 3.10	Who Should Mail The Notice Of Intention: Attorney Or Lender, Whither The Difference?.....	3.45
§ 3.11	Mailing (Separate Envelopes).....	3.46
§ 3.12	Duration (Notice Of Intention) .....	3.47
§ 3.13	Computing The Thirty Day Period .....	3.47
§ 3.14	Necessity Of Adding Three Additional Days For Mailing .....	3.48
§ 3.15	Service Of Notice Of Intention; Independent Of Any Other Duty To Give Notice Or Right Or Remedy .....	3.48
§ 3.16	Notice Of Intention (Not To Be Combined With Other Notices).....	3.50
§ 3.17	Dual Notices; Necessity Of Sending (FNMA-FHLMC) Pre-Acceleration Notice .....	3.50
§ 3.18	Multiple Mortgages; Separate Notices Of Intention .....	3.51
	(a) Multiple Mortgages In Default – No Intervening Liens .....	3.51
	(b) Multiple Mortgages – Subordinate Mortgage Not In Default .....	3.51
	(c) Multiple Mortgages In Default – Intervening Liens .....	3.52
	(d) Miscellaneous .....	3.52
§ 3.19	Defective Notice Of Intention; Failure Of Proof Of Mailing – GE Capital Doctrine .....	3.52
§ 3.20	Partial Payment (Resending Notice Not Required) .....	3.54
§ 3.21	Corrective Notice Of Intention (Resending Notice) .....	3.55
§ 3.22	Impossibility Of Cure; Matured Debt (Necessity Of Notice Of Intention) .....	3.56
	(a) Impossibility Of Cure .....	3.56
	(b) If The Mortgage Debt Has Matured.....	3.58
§ 3.23	Violation Of Due On Sale Clause (Necessity Of Notice Of Intention) .....	3.59
§ 3.24	Deed In Lieu Of Foreclosure (Notice Of Intention Not Required) - <i>N.J.S.A. 2A:50-56d</i> .....	3.63
§ 3.25	Notice Of Intention Independent Of Other Notices - <i>N.J.S.A. 2A:50-56e</i> .....	3.63
§ 3.26	Compliance With Section To Be Set Forth In Pleadings - <i>N.J.S.A. 2A:50-56f</i> .....	3.64
§ 3.27	Lender’s Action For Possession (Notice Of Intention).....	3.65
§ 3.28	The Uniform Instruments.....	3.66
	(a) Uniform Instruments Generally .....	3.66

	(b) Differences Between <i>Fair Foreclosure Act</i> And Uniform Instrument Requirements .....	3.67
§ 3.29	Mortgage Documents; Other Notification Requirements; HUD Regulations and Guidelines .....	3.68

## CHAPTER 4

### THE RIGHT TO CURE; 14-DAY NOTICE; WAIVER

#### Section 4

§ 4.01	The Right To Cure - <i>N.J.S.A. 2A:50-57a</i> .....	4.3
§ 4.02	The Amount And Other Performance Required To Cure (No Charge, Fee Or Penalty) - <i>N.J.S.A. 2A:50-57b, c</i> .....	4.6
§ 4.03	Search Fees .....	4.10
§ 4.04	Counsel Fees .....	4.11
§ 4.05	Court Costs.....	4.13
§ 4.06	Cure (On Or Before The Cure Date) - <i>N.J.S.A. 2A:50-56c</i> .....	4.13
§ 4.07	Cure (After The Cure Date But Prior To Foreclosure); During The Interval - <i>N.J.S.A.</i> <i>2A:50-57b</i> .....	4.13
§ 4.08	Cure (After Commencement Of Foreclosure) - <i>N.J.S.A. 2A:50-57b</i> .....	4.14
§ 4.09	Cure (After Judgment) .....	4.14
§ 4.10	The Effect Of The Cure - <i>N.J.S.A. 2A:50-57d</i> .....	4.14
§ 4.11	Dismissal Or Non-Initiation of Foreclosure On Cure - <i>N.J.S.A. 2A:50-57e</i> .....	4.15
§ 4.12	The Right To Cure (Independent Right) - <i>N.J.S.A. 2A:50-57f</i> .....	4.16
§ 4.13	14-Day Notice Of Entry Of Judgment - <i>N.J.S.A. 2A:50-58a(1)</i> .....	4.17
§ 4.14	Debtor’s Statement Of Ability To Cure Default – 45-Day Period - <i>N.J.S.A. 2A:50-</i> <i>58a(2), (3)</i> .....	4.19
§ 4.15	14-Day Notice Of Entry Of Judgment (“Notice To Cure”) - Form.....	4.21
§ 4.16	Default Cured Under Bankruptcy Repayment Plan (Reinstatement Of Mortgage Relationship - <i>N.J.S.A. 2A:50-59</i> .....	4.23
§ 4.17	Federal Law Regarding Availability Of Homeownership Counseling Unaffected - <i>N.J.S.A. 2A:50-60</i> .....	4.24
§ 4.18	Waiver Of The Act - <i>N.J.S.A. 2A:50-61</i> .....	4.24
§ 4.19	Inapplicability To Foreclosures Of Non-Residential Mortgages – <i>N.J.S.A. 2A:50-62</i> .....	4.26

**CHAPTER 5**  
**UNIFORM SHERIFF’S SALE PROCEDURES**

**Section 5**

§ 5.01 Uniform Sale Procedures - *N.J.S.A. 2A:50-64*.....5.3

§ 5.02 Bidding In The Name Of The Assignee - *N.J.S.A. 2A:50-64a(1)* .....5.4

§ 5.03 Adjournment Of The Foreclosure Sale - *N.J.S.A. 2A:50-64a(2)*.....5.5

§ 5.04 Sheriff Shall Schedule A Sale Date Within 150-Days - *N.J.S.A. 2A:50-64a(3)(a), (b), (c)* .....5.5

§ 5.05 Deposit And Resale Procedures - *N.J.S.A. 2A:50-64a(4)*.....5.6

§ 5.06 Bidding By Letter - *N.J.S.A. 2A:50-64a(5)* .....5.8

§ 5.07 Uniform Sheriff’s Deed - *N.J.S.A. 2A:50-64a(6)* .....5.8

§ 5.08 Attorney Shall Prepare Sheriff’s Deed - *N.J.S.A. 2A:50-64b*.....5.13

§ 5.09 Delivery Of Deed By Sheriff Within Two Weeks - *N.J.S.A. 2A:50-64c* .....5.14

§ 5.10 Adjournment Of Sheriff Sales; Section 14 - *N.J.S.A. 2A:17-36*.....5.15

§ 5.11 Notice To Tenants - *N.J.S.A. 2A:50-70* .....5.16

**CHAPTER 6**  
**JUDGEMENT CREDITORS; LETTERS BY ATTORNEY  
GENERAL AND U.S. ATTORNEY; *LIS PENDENS*; PARTIAL  
PAYMENTS; REGULATIONS BY ATTORNEY GENERAL**

**Section 6**

§ 6.01	Service On Judgment Creditor By Mail To Address In Client’s Records - <i>N.J.S.A.</i> 2A:50-65 .....	6.3
§ 6.02	Letter By The United States Attorney; Non-Contesting Answer – <i>N.J.S.A.</i> 2A:50-66a.....	6.4
§ 6.03	Letter By Attorney General Of New Jersey; Non-Contesting Answer – <i>N.J.S.A.</i> 2A:50-66b .....	6.5
§ 6.04	5-Year <i>Lis Pendens</i> - <i>N.J.S.A.</i> 2A:15-11 .....	6.6
§ 6.05	Partial Payments - <i>N.J.S.A.</i> 2A:50-67 .....	6.6
§ 6.06	Attorney General To Promulgate Regulations - <i>N.J.S.A.</i> 2A:50-68 .....	6.8

**CHAPTER 7**  
**FAIR DEBT COLLECTION PRACTICES ACT**

**Section 7**

§ 7.01	In General – “Run Scared, Run Safe” .....	7.3
§ 7.02	“Consumer Debt” .....	7.5
§ 7.03	“Debt Collector” .....	7.6
§ 7.04	“Creditor” .....	7.7
§ 7.05	Servicing Agents .....	7.7
§ 7.06	Statutory Exemptions .....	7.8
§ 7.07	Disclosure (Notice) Requirements; Initial Communication .....	7.9
§ 7.08	Disputed Debt; Verification .....	7.11
§ 7.09	Follow-Up Communications; Disclosure Notice .....	7.12
§ 7.10	“Formal Pleading” In A Civil Or Legal Action; Exemption .....	7.12
§ 7.11	The Notice Of Intention – FDCPA Communication?.....	7.13
§ 7.12	Other FDCPA Prohibitions .....	7.13
§ 7.13	Harassment And Abuse.....	7.14
§ 7.14	False, Deceptive Or Misleading Representations .....	7.15
§ 7.15	Unfair Practices.....	7.17
§ 7.16	Deceptive Forms .....	7.18
§ 7.17	Liability.....	7.19
§ 7.18	Application Of The FDCPA To The <i>Fair Foreclosure Act</i> Process; Critical Analysis.....	7.21



**CHAPTER 8**

**DEFAULT; ACCELERATION; ACCRUAL OF RIGHT TO FORECLOSE; JOINDER OF CLAIMS (GERMANE); PARTIES**

**Section 8**

§ 8.01 Default – In General.....8.3

§ 8.02 Acceleration – In General .....8.4

§ 8.03 Absence Of An Acceleration Clause .....8.5

§ 8.04 Acceleration And Commencement Of Foreclosure Under The *Fair Foreclosure Act*.....8.6

§ 8.05 Acceleration And Commencement Of Foreclosure Under The Fannie Mae/Freddie Mac Uniform Mortgage Instrument; FHA; VA.....8.6

§ 8.06 Statute Of Limitations.....8.9

§ 8.07 Title Company/Abstract Company .....8.9

§ 8.08 Filing Papers In Mortgage Foreclosure Actions .....8.10

§ 8.09 Notice Of Intention To Foreclosure (*Fair Foreclosure Act* Only) – Pre-Acceleration Notice.....8.10

§ 8.10 Pre-Acceleration Notice – Mortgage Documents .....8.11

§ 8.11 The Right To Cure Versus The Right To Redeem .....8.11

§ 8.12 Bankruptcy .....8.12

§ 8.13 Germane Claims – Joinder In Foreclosure Actions; Predatory Lending; Reverse Redlining.....8.13

§ 8.14 Arbitration Provision In Loan Documents.....8.16

§ 8.15 Entire Controversy Doctrine .....8.17

§ 8.16 Joinder Of Parties In General.....8.18

§ 8.17 Mortgage Fraud; Joinder Of Fictitious Mortgagor; Identity Fraud .....8.19

§ 8.18 Who To Join.....8.19

§ 8.19 Who Not To Join.....8.21

§ 8.20 Naming Of Parties .....8.21

§ 8.21 Parties Plaintiff.....8.22

§ 8.22 Parties Defendant.....8.26

(A) Mortgagor; Owner .....8.26

(B) Spouses; Fictitious Spouses .....8.27

(C) Deceased Mortgagor/Owner; Heirs, Devisees .....	8.28
(D) Junior Mortgagees.....	8.30
(E) Condominium Association Liens; Limited Priority.....	8.30
(F) Judgment Creditors; Other Liens .....	8.31
(G) Trustees; Beneficial Owners .....	8.33
(H) Tenants; Occupants.....	8.34
(I) State of New Jersey.....	8.36
(J) United States .....	8.38
(K) The Federal Deposit Insurance Corporation (“FDIC”).....	8.40
(L) Persons To Be Held For A Deficiency .....	8.41
(M) Military Persons; Appointment Of Attorney .....	8.41
(N) Minors; Mentally Incapacitated Persons; Appointment Of A Guardian <i>Ad Litem</i> .....	8.43

# CHAPTER 9

## COMMENCEMENT OF ACTION; SERVICE OF PROCESS; ANSWERS

### Section 9

§ 9.01	Filing Foreclosure Papers With The Courts.....	9.5
§ 9.02	When Can You Proceed Before The Vicinage Chancery Judge?.....	9.7
§ 9.03	Jurisdiction And Venue In Foreclosure Actions; Filing Of Complaint; Federal Foreclosures .....	9.7
§ 9.04	Multi-State Foreclosure; Ancillary Foreclosure .....	9.8
§ 9.05	Computation Of Time (Under Court Rules); Extra Days For Mailing .....	9.9
§ 9.06	Certifications vs. Affidavits; <i>R.</i> 1:4-4(a), (b).....	9.10
§ 9.07	Facsimile Signatures (Certifications Or Affidavits); <i>R.</i> 1:4-4(c).....	9.10
§ 9.08	Effect Of Signing Or Filing A Paper; <i>R.</i> 1:4-8 .....	9.10
§ 9.09	Caption – Necessity Of Naming All Defendants.....	9.11
§ 9.10	Notice Of Intention – If <i>Fair Foreclosure Act</i> Applies .....	9.12
§ 9.11	Necessity Of Pre-Filing Title Search .....	9.12
§ 9.12	Certification Of Compliance (Title Search)(Form) .....	9.12
§ 9.12A	Recording Of Mortgage/Assignment Require Prior To Commencement.....	9.13
§ 9.13	Compliant And Commencement Of Action .....	9.13
§ 9.13A	Water Boundaries – Caveat .....	9.15
§ 9.13B	Manufactured Or Mobile Homes .....	9.15
§ 9.14	Complaint – Mandatory Allegations – 2006 Rules Changes.....	9.16
§ 9.15	Certification Of Diligent Inquiry .....	9.18
§ 9.16	Analysis – <i>Rule</i> 4:64-1(a) And (b)1 Through (13) .....	9.21
§ 9.17	<i>N.J.S.A.</i> 46:10B-51d - New Requirements To Be Included In A Complaint.....	9.26
§ 9.18	Complaints – Other General Requirements .....	9.26
§ 9.19	Separate Residential And Non-Residential Tracts ( <i>Fair Foreclosure Act</i> ) – Separate Actions Possible.....	9.28
§ 9.20	Certification Of Compliance With Title Search Requirement (Attachment To Complaint) .....	9.28
§ 9.21	<i>R.</i> 4:5-1 Certification; Notice Of Other Actions; Designation Of Trial Counsel (Attachment To Complaint) .....	9.29
§ 9.22	Case Information Statement (CIS).....	9.29

§ 9.23	Filing Notice Of The <i>Lis Pendens</i> .....	9.30
§ 9.24	Continuation Searches .....	9.31
§ 9.25	Amendments; Supplemental Complaint .....	9.31
§ 9.26	Service Of Amendments .....	9.32
§ 9.27	The Summons .....	9.32
§ 9.28	The Summons (New Form) .....	9.34
§ 9.29	Notice In Lieu Of Summons – State Of New Jersey .....	9.36
§ 9.30	Persons Authorized To Serve Process; Sheriff; Private Process Servers .....	9.36
§ 9.31	Service Of Process; General .....	9.37
§ 9.32	R. 4:4-3(a) – Mailed Service; Adobe; Business; In State Only .....	9.37
§ 9.33	R. 4:4-4 – Primary Mode Of Service; and Substituted Service .....	9.38
§ 9.34	Service Of Process Authorized By Statute .....	9.43
§ 9.35	R. 4:4-5 – Service Of Process On Absent Defendants: <i>Quasi In Rem</i> Jurisdiction .....	9.43
§ 9.36	The Affidavit Of Inquiry .....	9.44
§ 9.37	Service On The United States – Dual Service; Federal Deposit Insurance Corporation (“FDIC”) .....	9.46
§ 9.38	Service On State Official Or Agency For Business Entity, Domestic Or Foreign, Required To Register In This State – Department Of Treasury (Formerly Secretary Of State) .....	9.47
§ 9.39	Appearance Or Acknowledgment Of Service .....	9.48
§ 9.40	Service Of Mediation Documents With The Summons And Complaint .....	9.49
§ 9.41	Service Of Notice Of Residential Tenants Rights .....	9.49
§ 9.42	Municipal Clerk, Mayor, Or Other Chief Executive Officer To Be Notified Of Service Of Summons And Complaint In An Action To Foreclose On Mortgage .....	9.50
§ 9.43	46:10B-49.3. Notice Of Service Of Summons And Complaint; Actions To Foreclose .....	9.52
§ 9.44	Service Outline – Practical Suggestions .....	9.52
§ 9.45	Proof Of Service – Original Service; Return; Proof Of Mailing; Publication .....	9.56
§ 9.46	When Service Complete .....	9.57
§ 9.47	Proof Of Service – Private Process Server; Official Affidavit Form .....	9.58
§ 9.48	Subsequent Papers - Service .....	9.58
§ 9.49	Subsequent Papers – When Service Complete .....	9.59
§ 9.50	Subsequent Papers – Proof of Service .....	9.60
§ 9.51	Answers .....	9.61

§ 9.52	Answers (Late) Filed After Default .....	9.63
§ 9.53	Counterclaims – Germane Requirement .....	9.64
§ 9.54	Cross-Claim - Germane .....	9.65
§ 9.55	Set-Off And Recoupment .....	9.66
§ 9.56	Reply .....	9.66
§ 9.57	Amended And Supplemental Answers .....	9.67
§ 9.58	Entry Of Default; Request And Affidavit.....	9.67
§ 9.59	Default-Out-Time; Motion And Order .....	9.68
§ 9.60	Entering Default At Time Of Judgment.....	9.69
§ 9.61	Mailing Copy Of Filed Default To Defaulted Defendants Served Personally Or By Mail .....	9.70
§ 9.62	Guardian Ad Litem – Minors; Mentally Incapacitated Persons .....	9.71
§ 9.63	Attorney For Defendant In Military Service.....	9.71
§ 9.64	Answers; Resolution Of Contested Answers.....	9.72
§ 9.65	Foreclosure Mediation Program .....	9.72

## CHAPTER 10

### PROCEDURE FOR JUDGMENT; WRITS EXECUTION/POSSESSION; POST-JUDGMENT ADVANCES; ENVIRONMENTAL

#### Section 10

§ 10.01	Procedure For Judgment .....	10.3
§ 10.02	Uncontested Action Date .....	10.4
§ 10.03	Notice To The Bar - Foreclosure Actions (Administrative Office Of The Courts).....	10.4
§ 10.04	14-Day Notice Of Entry Of Judgment (“Notice To Cure”) - <i>Fair Foreclosure Act</i> Cases Only; 2006 Amendment .....	10.8
§ 10.05	14-Day Notice (Notice To Cure) - Amended Form.....	10.11
§ 10.06	Suppose Debtor Given A Notice Of Intention And <i>Fair Foreclosure Act</i> Not Applicable .....	10.12
§ 10.07	Motions For Judgment.....	10.12
§ 10.08	Affidavit Of Costs.....	10.16
§ 10.09	Certification Of Amount Due And Non-Military Service .....	10.16
§ 10.10	Separate Affidavit Of Non-Military .....	10.21
§ 10.11	Notice To The Bar - Administrative Director (August 7, 2006).....	10.23
§ 10.12	Form - Non-Military Certification (With Department Of Defense Statement Attached) .....	10.25
§ 10.13	Form - Non-Military Certification Or Inability To Ascertain Military Status Of Defendant.....	10.26
§ 10.14	Certified Or Original Instruments .....	10.26
§ 10.15	Counsel Fees .....	10.27
§ 10.16	Affidavit Of Lost Assignment Of Mortgage; Lost Note.....	10.28
§ 10.17	Inclusion Of Encumbrancer In Plaintiff’s Judgment .....	10.29
§ 10.18	Abandonment Rule - <i>R. 4:64-4</i> .....	10.31
§ 10.19	Dismissal Of Action - Cure And Reinstatement ( <i>Fair Foreclosure Act</i> ) .....	10.32
§ 10.20	Dismissal Of Foreclosure Action For Lack Of Prosecution .....	10.32
§ 10.21	Proof Of Relief From Bankruptcy Stay .....	10.33
§ 10.22	Final Judgment Package .....	10.34
§ 10.23	Denial Of Entry Of Judgment/Office Of Foreclosure - Return Checklist .....	10.36
§ 10.24	Entry Of Judgment.....	10.40
§ 10.25	Checklist (Conventional Action/ <i>Fair Foreclosure Act</i> ).....	10.44

§ 10.26	Service Of Judgment On Defendants (Appearing And Defaulting) .....	10.47
§ 10.27	Stipulation Of Payment Agreement (Forbearance Agreement).....	10.48
§ 10.28	Assignment Of Judgment.....	10.48
§ 10.29	Amended Judgment; Correcting Judgment.....	10.49
§ 10.30	Satisfaction; Reversal Of Judgment .....	10.49
§ 10.31	Vacating, Setting Aside Final Judgment.....	10.50
§ 10.32	Setting Aside A Pre-Bankruptcy Foreclosure Sale As A Fraudulent Conveyance .....	10.51
§ 10.33	Appeal And Review Of The Judgment.....	10.53
§ 10.34	Writ Of Execution; Alias; Pluries .....	10.54
§ 10.35	Endorsement (Regular) –Writ Of Execution (Form).....	10.58
§ 10.36	Endorsement (Contract Rate Interest) - Writ Of Execution (Form) .....	10.59
§ 10.37	Writ Of Possession.....	10.59
§ 10.38	Anti-Eviction Act Certification - Writ Of Possession .....	10.60
§ 10.39	Advances For Taxes And Insurance After Judgment – Order For Additional Sums.....	10.61
§ 10.40	Environmental Considerations.....	10.61

**CHAPTER 11**  
**FORECLOSURE SALE: SHERIFF’S PRACTICE**

**Section 11**

§ 11.01	Overall Procedure – What To Send To The Sheriff .....	11.3
§ 11.02	Notice Of Sale - Contents .....	11.4
§ 11.03	Notice Of Sale - Posting .....	11.5
§ 11.04	Notice Of Sale - Advertising.....	11.5
§ 11.05	Service Of Notice Of Sale .....	11.5
§ 11.06	Adjournments Of Sale; Stays.....	11.6
§ 11.07	Sheriff’s Duty To Schedule Sale – 150-Days; Special Master .....	11.8
§ 11.08	Conduct Of Sale – In General.....	11.8
§ 11.09	Place Of Sale.....	11.9
§ 11.10	Conditions Of Sale.....	11.9
§ 11.11	Reading Description.....	11.10
§ 11.12	Announcements .....	11.10
§ 11.13	Public Auction; Bidding Credit .....	11.10
§ 11.14	Who Can Purchase? .....	11.11
§ 11.15	Purchase Or Reacquisition Of Title By The Mortgagor .....	11.12
§ 11.16	Irregularities In Advertisement.....	11.13
§ 11.17	Selling Officer’s Fees .....	11.13
§ 11.18	Statement (Taxed Bill) Of Cost .....	11.14
§ 11.19	Bids; Resale .....	11.15
§ 11.20	Position Of Successful Bidder – Payment Of Bid .....	11.17
§ 11.21	Enforcement Of Bidder’s Obligation.....	11.19
§ 11.22	Relief Of The Bidder .....	11.19
§ 11.23	Report Of Sale .....	11.21
§ 11.24	Objections To Sale; Confirmation .....	11.21
	Confirmation Required – Selling Officer Other Than Sheriff; R. 4:65-6.....	11.22
	Proofs Required For Confirmation .....	11.22
§ 11.25	Deed To Purchaser.....	11.23
	Form Of The Deed .....	11.23



Realty Transfer Fee; Statement Of Prior Liens .....	11.23
Preparation Of The Deed – By Attorney .....	11.24
Time For Delivery; Method Of Payment.....	11.24
Additional Interest; Net Proceeds To Plaintiff.....	11.24
§ 11.26 Vacating Or Setting The Sale Aside .....	11.24
§ 11.27 Resale After Sale Is Vacated Or Set Aside.....	11.26

**CHAPTER 12**  
**POST-SALE REDEMPTION**

**Section 12**

§ 12.01 Redemption Within The 10-Day Period After Sale.....12.3  
    Summary Of Post-Sale Redemption Decisions – Vagaries Abound; Proposed  
    Resolution .....12.5  
§ 12.02 Right Of The Mortgagor’s Assignee To Redeem After Sale.....12.7  
§ 12.03 United States – Redemption After Sale; Danger Lurking .....12.9  
§ 12.04 Redemption After Deficiency Judgment .....12.12

**CHAPTER 13**  
**CONDOMINIUM ASSOCIATION LIEN FORECLOSURES;**  
**HOMEOWNERS ASSOCIATION LIENS**

**Section 13**

§ 13.01 General.....13.3  
§ 13.02 Fair Debt Collection Practices Act (“FDCPA”) .....13.4  
§ 13.03 Priority; Limited 6-Month Priority Over Mortgage And Other Liens.....13.4  
§ 13.04 Homeowners Association Liens .....13.7

**CHAPTER 14**  
**STRICT MORTGAGE FORECLOSURE**

**Section 14**

§ 14.01	Strict Mortgage Foreclosure (Common Law).....	14.3
	Strict Foreclosure – Procedure.....	14.6
§ 14.02	Complaint – Strict Mortgage Foreclosure (Form) .....	14.8
§ 14.03	Redemption Order – Strict Mortgage Foreclosure (Form) .....	14.10
§ 14.04	Notice To Redeem – Strict Mortgage Foreclosure (Form).....	14.11
§ 14.05	Certification Of Service (Mail) – Redemption Order (Form).....	14.11
§ 14.06	Certification Of Service (Publication) – Redemption Order (Form).....	14.12
§ 14.07	Affidavit Of Non-Redemption (Form) .....	14.12
§ 14.08	Final Judgment – Strict Mortgage Foreclosure (Form) .....	14.13

**CHAPTER 15**  
**OPTIONAL PROCEDURE WITHOUT SALE**

**Section 15**

§ 15.01	Optional Procedure Without Sale – <i>N.J.S.A. 2A:50-63</i> .....	15.5
§ 15.02	“Optional Procedure”; Outline.....	15.6
§ 15.03	Does Section 11 Only Apply To “Residential” Mortgage Foreclosures? .....	15.7
§ 15.04	Limitation Of The Optional Procedure; No Right Of Action Against The United States .....	15.7
§ 15.05	Check Your Mortgage Documents .....	15.8
§ 15.06	Right Of Action Against RTC And FDIC .....	15.9
§ 15.07	Establishment Of Optional Procedure – <i>N.J.S.A. 2A:50-63a</i> .....	15.10
§ 15.08	Grounds For Using The Optional Procedure - <i>N.J.S.A. 2A:50-63b</i> .....	15.10
§ 15.09	Abandonment By Debtor - <i>N.J.S.A. 2A:50-63c</i> .....	15.11
§ 15.10	Deed In Lieu Of Foreclosure - <i>N.J.S.A. 2A:50-63d</i> .....	15.12
§ 15.11	No Equity - <i>N.J.S.A. 2A:50-63e</i> .....	15.14
§ 15.12	Waiver Of Rights By Debtor; Can Lender Maintain Optional Procedure? .....	15.16
§ 15.13	Jurisdiction, Venue, Pleadings and Process.....	15.16
§ 15.14	Fair Debt Collection Practices Act (Notice Of Intention) .....	15.16
§ 15.15	Notice Of Intention - <i>N.J.S.A. 2A:50-56</i> .....	15.17
§ 15.16	Fair Debt Collection Practices Act (Complaint; Subsequent Papers).....	15.17
§ 15.17	The Complaint .....	15.18
§ 15.18	Certification of Title Search .....	15.18
§ 15.19	Joinder Of Parties And Claims .....	15.19
§ 15.20	The Notice of <i>Lis Pendens</i> .....	15.19
§ 15.21	Service, Default, Answer and Appearance .....	15.19
§ 15.22	Mailing A Copy Of The Filed Default To Defaulted Defendants Served Personally Or By Mail .....	15.19
§ 15.23	The Optional Procedure Is Always “Optional” .....	15.20
§ 15.24	Uncontested Action Date .....	15.20
§ 15.25	The 14-Day Notice - <i>N.J.S.A. 2A:50-58b</i> .....	15.20
§ 15.26	Contents Of The 14-Day Notice - <i>N.J.S.A. 2A:50-58b(1)</i> .....	15.21
§15.27	Mailing 14-Day Notice; Address; Effective Date - <i>N.J.S.A. 2A:50-58b(1)</i> .....	15.22

§ 15.28	Debtor’s Right Of Response (Statement) To The 14-Day Notice – <i>N.J.S.A. 2A:50-58b(2)</i> .....	15.23
§ 15.29	Debtor’s Statement; Address; Person To Whom Mailed - <i>N.J.S.A. 2A:50-58b(2)</i> ...	15.23
§ 15.30	Statement By Debtor; Consequences - <i>N.J.S.A. 2A:50-58b(3)</i> .....	15.23
§ 15.31	Debtor’s Right To An Extension Of Time (Entry Of Redemption Order) .....	15.24
§ 15.32	“Rule” Requirements For Entry Of The Redemption Order; <i>R. 4:64-1(f)</i> .....	15.24
§ 15.33	Certification Of Search Fees And Cost – <i>R. 4:43-10</i> .....	15.25
§ 15.34	Certification Of Amount Due And Non-Military Service - <i>R. 4:64-2, 1:5-7</i> .....	15.25
§ 15.35	Redemption Order Package .....	15.26
§ 15.36	Election To Proceed Under The Optional Procedure - <i>N.J.S.A. 2A:50-63f</i> .....	15.27
§ 15.37	Affidavit Of Abandonment - <i>N.J.S.A. 2A:50-63c</i> .....	15.27
§ 15.38	Affidavit Of No Equity - <i>N.J.S.A. 2A:50-63e</i> .....	15.28
§ 15.39	Deed In Lieu Of Foreclosure - Proofs .....	15.28
§ 15.40	The Redemption Order - <i>N.J.S.A. 2A:50-63g</i> .....	15.28
§ 15.41	Contents Of The Redemption Order - <i>N.J.S.A. 2A:50-63g, h</i> .....	15.29
§ 15.42	Service Of The Redemption Order - <i>N.J.S.A. 2A:50-63h(1)</i> .....	15.30
§ 15.43	Ineffective Redemption Order .....	15.32
§ 15.44	Procedure For Requesting A Sale - <i>N.J.S.A. 2A:50-63i</i> .....	15.32
§ 15.45	When A Cash Deposit Or Bond Is Not Required - <i>N.J.S.A. 2A:50-63i</i> .....	15.33
§ 15.46	When A Bond Is Required; Procedure - <i>N.J.S.A. 2A:50-63i</i> .....	15.33
§ 15.47	Redemption - <i>N.J.S.A. 2A:50-63k</i> .....	15.34
§ 15.48	Redemption; Dispute Among Defendants - <i>N.J.S.A. 2A:50-63j</i> .....	15.35
§ 15.49	Procedure For Judgment - <i>N.J.S.A. 2A:50-63l</i> .....	15.35
§ 15.50	Final Judgment Package .....	15.37
§ 15.51	Checklist (General) .....	15.38
§ 15.52	Checklist (Detailed) .....	15.40
§ 15.53	Entry Of Final Judgment.....	15.43
§ 15.54	Bankruptcy .....	15.44
§ 15.55	Service Of Judgment On Parties .....	15.44
§ 15.56	Debt Deemed Satisfied On Entry Of Judgment; No Personal Action – <i>N.J.S.A. 2A:50-63m</i> .....	15.44
§ 15.57	Disposition Of Profit On Resale By Lender; No Equity Basis – <i>N.J.S.A. 2A:50-63e(2), (3)</i> .....	15.45

§ 15.58	Reforeclosure .....	15.47
§ 15.59	Checklist No. 2 (Optional Procedure).....	15.48

**CHAPTER 16**  
**DEFICIENCY ACTIONS; ACTIONS ON THE NOTE**

**Section 16**

§ 16.01	In General.....	16.3
§ 16.02	When Deficiency Action Statutes Do Not Apply .....	16.3
§ 16.03	Deficiency Action Against Obligors On Bond Or Note .....	16.5
§ 16.04	When Rights Of Redemption After Deficiency Judgment Not Revived.....	16.6
§ 16.05	Deficiency Actions Against “Guarantors” and “Assuming Grantees” .....	16.6
§ 16.06	Non-Compliance With Deficiency Action Statutes – When Proper.....	16.7
§ 16.07	Non-Statutory Fair (Market) Value Credit – On Equitable Basis .....	16.8
§ 16.08	Judgment Execution Against The Mortgaged Premises Under A Judgment For The Mortgaged Debt .....	16.9
§ 16.09	Attorney’s Fees In Action On Secured Note Or Bond .....	16.10



# CHAPTER 17

## RELATED PRACTICE

### Section 17

§ 17.01	Rent Receiver.....	17.3
§ 17.02	Deed In Lieu Of Foreclosure – Practical Considerations .....	17.7
§ 17.03	Foreclosure For Partial Default.....	17.8
§ 17.04	Sale Prior To Judgment (Sale <i>Pendente Lite</i> ) .....	17.10
§ 17.05	Foreclosure By Power Of Sale In The Mortgage .....	17.11
§ 17.06	Barring Equity Of Redemption By Lapse Of Time .....	17.11
§ 17.07	Installment Contract For The Sale Of Land.....	17.12
§ 17.08	Cooperative Apartment – No Judicial Foreclosure Remedy .....	17.13
§ 17.09	HUD Nonjudicial Power Of Sale Foreclosures – Multifamily and Single.....	17.14
§ 17.10	Acquisition Of Tax Lien By Mortgagor, Mortgagee and Foreclosure .....	17.15
§ 17.11	Assignment Of Mortgage After Filing Of Tax Foreclosure Complaint .....	17.17

**CHAPTER 18**  
**VACANT AND ABANDONED RESIDENTIAL PROPERTY**  
**FORECLOSURES**

**Section 18**

§18.01 Introduction.....18.3

§18.02 *N.J.S.A. 2A:50-73* .....18.4

§18.03 *R. 4:64-1A*.....18.7

§18.04 Sample Forms .....18.8

Plaintiff of Filing Attorney Information .....18.8

Count I Verification .....18.13

Count III Verification .....18.14

Rule 4:5-1 Certification .....18.15

Rule 4:5-1(b)(2) Certification .....18.15

Rule 1:5-6(c)(1)(e) And Rule 4: 64-1(a)(2) And (3) .....18.15

Rule 1:38-7 Certification Of Redaction .....18.16

Amount Due Schedule .....18.18

Stand-alone Verifications for Count I and III .....18.19

OSC - Summary Action Vacant & Abandoned Residential Property Foreclosure ...18.23

Motion To Proceed Summarily – Vacant & Abandoned Residential Property  
Foreclosure.....18.26

Proof Of Mailing/Filing – Superior Court Clerk .....18.27

Proof of Mailing – Defendants .....18.27

Certification in Support of Motion to Proceed Summarily – Abandoned Residential  
Property Foreclosure – Submitted With Motion To Proceed Summarily .....18.28

Certification in Support of Motion to Proceed Summarily – Abandoned Residential  
Property Foreclosure – Submitted With Motion To Proceed Summarily .....18.30

Certification in Support of Motion to Proceed Summarily – Abandoned Residential  
Property Foreclosure – Submitted With Motion To Proceed Summarily .....18.32

Order to Proceed Summarily – Abandoned Residential Property Foreclosure –  
Submitted With Motion To Proceed Summarily .....18.35

Order Denying Summary Foreclosure .....18.38

Model Mortgage Foreclosure Judgment – Vacant & Abandoned Residential  
Property .....18.39

**VACANT AND ABANDONED**

Model Writ Of Execution – Vacant & Abandoned Residential Property  
(*Rule 4:59-1(2)*) .....18.41

**TABLE OF CONTENTS**  
**APPENDIX A**

Letter From The Governor.....A.3  
*N.J.S.A.* 2A:50-53 .....A.4  
*N.J.S.A.* 2A:50-54 .....A.4  
*N.J.S.A.* 2A:50-55 .....A.4  
*N.J.S.A.* 2A:50-56 .....A.5  
*N.J.S.A.* 2A:50-56.1 .....A.8  
*N.J.S.A.* 2A:50-56.2 .....A.8  
*N.J.S.A.* 2A:50-56.3 .....A.9  
*N.J.S.A.* 2A:50-57 .....A.9  
*N.J.S.A.* 2A:50-58 .....A.10  
*N.J.S.A.* 2A:50-59 .....A.12  
*N.J.S.A.* 2A:50-60 .....A.12  
*N.J.S.A.* 2A:50-61 .....A.12  
*N.J.S.A.* 2A:50-63 .....A.12  
*N.J.S.A.* 2A:50-64 .....A.15  
*N.J.S.A.* 2A:50-65 .....A.21  
*N.J.S.A.* 2A:50-66 .....A.21  
*N.J.S.A.* 2A:50-67 .....A.21  
*N.J.S.A.* 2A:50-68 .....A.22  
*N.J.S.A.* 2A:50-69 .....A.22  
*N.J.S.A.* 2A:50-70 .....A.22  
*N.J.S.A.* 2A:50-71 .....A.24  
*N.J.S.A.* 2A:50-72 .....A.25  
*N.J.S.A.* 2A:50-73 .....A.25

**TABLE OF CONTENTS**  
**APPENDIX B**

Mortgage Foreclosure Worksheet.....B.3  
Instructions for Mortgage Foreclosure Worksheet .....B.4  
Certificate of Regularity .....B.9

**TABLE OF CONTENTS**  
**APPENDIX C**

**Form No.**

1	Waiver Of Rights Under The Act .....	C.7
2	Notice Of Intention To Foreclose .....	C.8
3	Complaint.....	C.19
4	Foreclosure Case Information Statement .....	C.26
5	Count In Complaint To Foreclose Security Interest .....	C.28
6	Count In Complaint For Reformation.....	C.29
7	Certification Of Verification.....	C.30
8	Substitute Of Attorney .....	C.31
9	Notice Of <i>Lis Pendens</i> .....	C.32
9A	Discharge Of Notice Of <i>Lis Pendens</i> .....	C.33
10	Consent To Amend To Complaint.....	C.34
11	Acknowledgment Of Service By Individual Defendant To Be Annexed To Summons.....	C.34
12	Consent To Amend Complaint And Acknowledgment Of Service.....	C.35
12A	Order Allowing Filing Amended Complaint .....	C.35
13	Notice Of Dismissal Of Defendant .....	C.36
14	Stipulation Of Dismissal .....	C.36
15	Summons: Appendix XII-A. Summons.....	C.37
15A	60 Day Summons (For USA And FDIC) Appendix XII-A. Summons .....	C.38
16	Notice In Lieu Of Summons (To State Of New Jersey) With Acknowledgment.....	C.40
17	Affidavit Of Service (Private Process Server) .....	C.45
18	Acknowledgment Of Service By Individual Defendant To Be Annexed To Summons.....	C.44
19	Certification Of Inquiry (In Support Of In-State Service By Mail) .....	C.45
20	Affidavit Of Inquiry In Support Of Out-Of-State Mailed Service .....	C.46
21	Certification Of Inquiry In Support Of Service By Publication .....	C.47
22	Inquiry Letter .....	C.50
23	Certification Of Service (By Mailing) .....	C.51
24	Notice To Absent Defendants (Publication) .....	C.51

**APPENDIX C**

25 Appearance By Defendant ..... C.53

26 Notice Of Appearance, Consent To Judgment, And Waiver Of Notices ..... C.53

27 Answer Not Disputing Right Of Plaintiff (Uncontested) ..... C.54

28 Stipulation Extending Time To Answer ..... C.55

29 Order Extending Time To Answer ..... C.55

30 Summary Judgment As To Defendant And Returning The Action To The Office Of Foreclosure..... C.56

31 Order Striking Answer Of Defendant And Returning The Action To The Office Of Foreclosure..... C.57

32 Request To Enter Default And Certification Of Default ..... C.58

33 Notice Of Motion For Default ..... C.59

34 Certification In Support Of Notice Of Motion To Enter Default After 6 Months..... C.60

35 Order Permitting Entry Of Default Where Default Not Entered Within 6 Months.... C.61

36 Certification Of Mailing Filed Default ..... C.62

37 Generic Motion Before The Office Foreclosure Under Rule 1:34-6..... C.63

38 Order Vacating Default Entered By Clerk..... C.64

39 Order Changing Venue ..... C.65

40 Order Correcting Legal Description ..... C.66

41 Order Substituting Name Of Plaintiff ..... C.66

42 Order Correcting Name Of Defendant..... C.67

43 Order Substituting Heirs, Devisees, And Personal Representatives..... C.68

44 Order Appointing Attorney For Defendant In Military Service ..... C.69

45 Report Of Attorney For Defendant In Military Service..... C.70

46 Notice Of Motion For Appointment Of Guardian Ad Litem For Minor Or Alleged Mentally Incapacitated Person And Certification Of Service ..... C.71

47 Certification For Appointment Of Guardian Ad Litem ..... C.72

48 Order Appointing Guardian Ad Litem..... C.73

49 Proof Of Mailing Order Of Appointment ..... C.74

50 Answer By Guardian Ad Litem On Behalf Of Minor Or Alleged Incompetent ..... C.74

51 Report Of Guardian Ad Litem For Minor Or Alleged Incompetent..... C.75

52 Notice By Defendant For Leave To Proceed (Abandonment Rule – Rule 4:64-4).... C.76

53 Bankruptcy Certification (Relief From Stay) ..... C.77

54 Certification Of Marital Statue ..... C.78

**NEW JERSEY MORTGAGE FORECLOSURE**

55 Order Permitting Entry Of Judgment Against Defendant Designated By Initials – Rule 4:26-6 ..... C.79

56 Certification In Support Of Order Permitting Entry Of Judgment Against Defendant Designated By Initials..... C.79

57 Certification Of Inability To Ascertain Defendant’s First Name (Or Name)..... C.80

58 Certification And Notice To Defendants By Encumbrancer Seeking To Be Included In Final Judgment..... C.82

59 Certification Of Non-Military Service..... C.83

60 Certification Of Non-Military Service (No Department Of Defense Statement Obtainable)..... C.83

61 Certification Of Search Fees ..... C.84

62 Proof Of Amount Due Affidavit And Schedule ..... C.85

63 14 Day Notice Of Entry Of Judgment (Notice To Cure) ..... C.88

64 Notice Of Motion For All Final Judgments To Answering Or Appearing Parties, Mortgagors And Tenants ..... C.90

65 Rule 4:64-2(D) Certification Of Diligent Inquiry And Accuracy Of Foreclosure Documents And Factual Assertions..... C.92

66 Certification Of Mailing Of 14 Day Notice..... C.93

67 Certification Of No Response..... C.94

68 Certification Of Mailing Of 14 Day Notice And No Response (Combined) ..... C.95

69 Certification That 14 Day Notice Is Not Required ..... C.96

70 Statement By Debtor ..... C.97

71 Combined Certification Of Mailing Of Various Foreclosure Documents And Non-Military Statue ..... C.98

72 Notice Of Cure..... C.101

73 Order Of Dismissal Without Prejudice (Where Cure Effected) ..... C.101

74 Final Judgment..... C.103

75 Proof Of Mailing (Copy Of Judgment)..... C.104

76 Consent To Judgment ..... C.106

77 Order Correcting Clerical Error In Final Judgment (Rule 1:13-1) ..... C.106

78 Warrant Of Satisfaction (Judgment) ..... C.107

79 Writ Of Execution..... C.108

80 Assignment Of Mortgage Foreclosure Judgment (And Note)..... C.111

81 Sheriff’s Deed ..... C.112

82 Writ Of Possession (With Anti-Eviction Act Certification)..... C.116



**APPENDIX C**

83 Order Directing Sheriff To Pay Additional Sums To Plaintiff ..... C.117

84 Certification In Support Of Order Directing Sheriff To Pay Additional Sums To Plaintiff ..... C.118

85 Order Appointing Special Master To Sell ..... C.119

86 Order Vacating Judgment ..... C.120

87 Order Vacating Execution And Judgment, Reinstating Bond And Mortgage And Dismissing Proceedings ..... C.120

88 Order To Show Cause For Redemption Of Mortgage After Sale, Setting Aside The Sale, Ordering That The Foreclosure Judgment Be Satisfied And Restraining The Sheriff From Delivering Deed ..... C.121

89 Proof Of Mailing (Notice Of Sale) ..... C.122

90 Concise Statement Of Description (N.J.S.A. 2a:61-1) ..... C.123

91 Assignment Of Bid At Sheriff’s Sale..... C.123

92 Motion For Hearing On Objections To Sale ..... C.124

93 Order Ratifying Sale Notwithstanding Defect, Irregularity, Or Omission In Proceedings ..... C.125

94 Notice Of Motion For Order To Pay Out Surplus Moneys (And Certification Of Service) ..... C.126

95 Certification In Support Of Application To Pay Out Surplus..... C.127

96 Order To Pay Out Surplus Moneys ..... C.128

97 Complaint – Optional Procedure ..... C.130

98 “Rescission Language” – Deed In Lieu Of Foreclosure..... C.140

99 Notice Of Rescission By Debtor After Deed In Lieu Of Foreclosure ..... C.141

100 14 Day Notice – Optional Procedure ..... C.142

101 Certification Of Mailing Of 14 Day Notice – Optional Procedure..... C.144

102 Certification Of No Response – Optional Procedure..... C.145

103 Certification Of Mailing Of 14 Day Notice And No Response – Optional Procedure (Combined) ..... C.146

104 Statement By Debtor ..... C.146

105 Certification Of Election To Utilize Optional Remedy ..... C.147

106 Certificate Of Abandonment..... C.149

107 Certification Of Non-Rescission..... C.150

108 Certification Of No-Equity ..... C.151

109 Order Fixing The Amount, Time And Place For Redemption ..... C.152

110 Notice To Redeem ..... C.155

**NEW JERSEY MORTGAGE FORECLOSURE**

111 Request For A Public Sale ..... C.157

112 Certification Of Mailing Of Order Fixing The Amount, Time And Place For  
Redemption Or Notice Thereof ..... C.158

113 Certification Of Publication Of Order Fixing The Amount Time And Place For  
Redemption Or Notice Thereof ..... C.159

114 Notice Of Motion For All Final Judgments To Answering Or Appearing Parties,  
Mortgagors And Tenants ..... C.160

115 Certificate Of Redemption ..... C.162

116 Certification Of Non-Redemption ..... C.163

117 Judgment – Optional Procedure..... C.164

118 Proof Of Mailing (Copy Of Judgment)..... C.165

119 Notice Of Deposit Of Excess Funds With The Superior Court Of New Jersey (No-  
Equity Only) ..... C.167

120 Certification Of Mailing Of Notice Of Deposit Of Excess Funds With The Superior  
Court Of New Jersey (No-Equity Only)..... C.168

121 Verified Complaint Vacant & Abandoned Residential Property Mortgage Foreclosure  
(With Sample Certification And Amount Due)..... C.169

122 Verified Complaint – Separate Count I Verification (In Place Of Verification Inserted  
Directly Into The Complaint)..... C.182

123 Verified Complaint – Separate Count III Verification (In Place Of Verification Inserted  
Directly Into The Complaint)..... C.185

124 OSC As Original Process – Summary Action Vacant & Abandoned Residential  
Property Foreclosure..... C.186

125 Motion To Proceed Summarily – Vacant & Abandoned Residential Property  
Foreclosure..... C.190

126 Proof Of Mailing/Filing – Superior Court Clerk ..... C.191

127 Proof Of Mailing – Defendants..... C.192

128 Certification In Support Of Motion To Proceed Summarily Abandoned Residential  
Property Foreclosure Submitted With Motion To Proceed Summarily..... C.193

129 Certification In Support Of Motion To Proceed Summarily Abandoned Residential  
Property Foreclosure Submitted With Motion To Proceed Summarily..... C.195

130 Certification In Support Of Motion To Proceed Summarily Abandoned Residential  
Property Foreclosure Submitted With Motion To Proceed Summarily..... C.197

131 Order To Proceed Summarily Abandoned Residential Property Foreclosure Submitted  
With Motion To Proceed Summarily..... C.200

132 Order Denying Summary Foreclosure ..... C.203

**APPENDIX C**

133 Model Mortgage Foreclosure Judgment – Vacant & Abandoned Residential  
Property ..... C.204

134 Model Writ Of Execution – Vacant & Abandoned Residential Property  
(*Rule 4:59-1(A)*)..... C.207