

Vacant and Abandoned Property Charges in Bankruptcy

N.J.S.A. 40:48-2.12(s) [Effective 8/15/14, 7/28/2019 Amended]

N.J.S.A. 40:48-2.12(s) authorizes a municipality to regulate by ordinance the care, maintenance, security, and upkeep of the exterior of “vacant and abandoned residential properties” subject to foreclosure.

IMPACT:

New Jersey Municipalities have adopted code sections requiring the following with respect to so-called “vacant and abandoned” properties:

- Registration;
- Payment of Registration Fees;
- Annual or Bi-Annual Registration Renewal;
- The definition of “vacant and abandoned” or “registrable property” can include occupied property related to a **mortgage default and/or pending foreclosure proceeding**;
- Fees range from \$500 to thousands of dollars, and can be progressive;
- Secured Creditor is responsible for the condition of registered property;
- Secured Creditor is required to perform inspections.

BANKRUPTCY IMPACT:

- There is no exception to enforcement for property owned and occupied by bankruptcy debtors with stayed foreclosure proceedings;
- Secured creditors are required by law to pay annual or bi-annual registration fees occasioned by payment defaults, that are then charged to the debtor’s account;
- Secure creditors can also be commanded to enter registered property to remedy code violations or face daily fines.

FUTURE IMPACT:

- High COVID19 Default Rates could expand registration;
- Bankruptcy Debtors will struggle to understand, account for and repay these charges;
- Bills are pending to expand Secured Creditor’s responsibility to interior maintenance and increase fines and/or toll penalties while an order is requested for permission to enter;
- Litigation is cropping up over these issues via objections to PPFNs, Claims and stay litigation relating to access/condition of registered property.

Materials Included:

- **N.J.S.A. 40:48-2.12(s) [Effective 8/15/14, 7/28/2019 Amended]**
- **Sample Ordinance – Winslow Township, Gloucester County**
- **Sample Registration Form – Winslow Township, Gloucester County**