

months in arrears and again within 10 calendar days of the filing of a complaint seeking foreclosure of the first purchase money mortgage held on an affordable dwelling. However, a judgment of foreclosure upon the property shall in no instance terminate the conditions and requirements of this chapter maintaining the dwelling as an affordable, income-restricted residence.

- (2) The obligation of the first mortgagee and servicer to notify the Borough shall cease automatically and immediately upon the sale of the first purchase money mortgage to the Federal National Mortgage Association or in the secondary mortgage market, unless the rules and regulations or guidelines of the Federal National Mortgage Association are amended so as to not prohibit or exclude placing such obligation upon the holder of the mortgage or its service representative, in which case, an instrument duly evidencing the same must be recorded with the Office of the Clerk, Camden County, New Jersey, before any such obligation shall exist. Provided that the first mortgagee is obligated to give the Borough the above-mentioned notices, the first mortgagee shall also serve written notice of any proposed foreclosure sale upon the Borough at least 30 days prior to the first scheduled date of such sale. The first mortgagee shall serve notice upon the Borough within 30 days of the sale of the first purchase money mortgage to the Federal National Mortgage Association or in the secondary mortgage market.
- (3) The Borough of Berlin or any instrumentality designated by the Borough shall have the right to purchase any mortgage which is in default at any time prior to the entry of a foreclosure judgment or within the redemption period thereafter. Notification of a default and of the institution of a foreclosure action and of a sheriff's sale shall be served, in writing, upon the Borough Clerk. The Borough of Berlin shall at all times be considered a party in interest and shall have the right to be joined as a party defendant and/or shall have the right to intervene in any foreclosure action seeking foreclosure of a first mortgage and/or shall have the right to redeem and acquire the owner's equity of redemption or to acquire the dwelling from the owner upon such terms and conditions as may be determined by the Borough.
- (4) Surplus funds. In the event of a foreclosure sale by the holder of the first purchase money mortgage, the owner shall be personally obligated to pay to the Borough any excess funds, but only to the extent that such excess funds exceed the difference between what the owner could have resold his dwelling for under this chapter at the time of the foreclosure sale and the amount necessary to redeem and satisfy the first purchase money mortgage debt, including costs of foreclosure and costs of repairs necessary to bring the dwelling up to any and all applicable local, state or federal codes. For the purposes of this subsection, excess funds shall be the total paid to the sheriff in excess of the amount required to pay and satisfy the first purchase money mortgage, including the costs of foreclosure, even if junior creditors actually receive payment from said surplus funds to the exclusion of the owner. The

Borough is hereby given a first priority lien, second only to the first mortgagee for any taxes or public assessments by a duly authorized governmental body up to the full amount of excess funds. This obligation of the owner to pay this full amount to the Borough shall be deemed to be a personal obligation of the owner of record at the time of the foreclosure sale, and the Borough is hereby empowered to enforce this obligation in any appropriate court of law or equity as though the same were a personal contractual obligation of the owner. Neither the first mortgagee nor the purchaser at the foreclosure sale shall be responsible or liable to the Borough for any portion of this excess. The Borough shall deposit any funds received in the Affordable Housing Fund and use it for the purpose as set forth in § 193-9 of this chapter.

**Section 12.** §193-8, Miscellaneous provisions, is hereby amended in its entirety:

**§ 193-8. Miscellaneous provisions.**

- A. Nothing in these rules should be construed to limit the rights and duties of the owner and tenant to maintain the dwelling in accordance with all appropriate New Jersey State codes.
- B. Notwithstanding anything to the contrary in this chapter, any member of a household occupying a dwelling under this chapter and subject to the regulations of the Borough is subject to eviction for any reasons allowed under applicable New Jersey law. The provisions of this chapter are not intended to confer any additional rights or obligations on property owners or tenants other than those mandated by statute or required by the courts of the State of New Jersey or the Council on Affordable Housing.

**Section 13.** §193-9, Borough Affordable Housing Fund, is hereby amended as follows:

**§ 193-9. Borough Affordable Housing Fund**

- A. Establishment of fund. There is hereby established by the Borough of Berlin an interest-bearing account known as the "Berlin Borough Affordable Housing Fund" to be maintained by the chief financial officer of the municipality. This fund shall have as its primary purpose the support of very low, low and moderate income housing program(s) in the Borough of Berlin in furtherance of the mandates of the Constitution of the State of New Jersey. The trustees of the fund shall be the governing body of the Borough of Berlin.
- B. General provisions.