

**SENATE BILL NO. 1346  
(First Reprint)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1346 (First Reprint) with my recommendations for reconsideration.

This bill makes changes to and supplements existing law regarding mortgages based upon recommendations from the New Jersey Law Revision Commission. The Commission studied issues relating to mortgage recording for two years and issued a report and recommendations on September 19, 2013. I appreciate the work of the Commission and support its efforts to bring greater clarity to this area of the law.

Sections 1 through 4 of this bill, which provide that the authority to file foreclosure actions and the authority and obligation to file satisfactions of mortgages should be based on the mortgage records in the county clerk's office, essentially mirror the recommendations of the Commission. However, Section 5 of the bill, which does not address mortgage recording, departs from the recommendations of the Commission. This section concerns a mortgagor who pays the wrong party when misinformed through fraud or error, requiring the proper mortgagee or servicer to seek redress from the party wrongfully paid, and prohibiting any foreclosure action that is based upon a payment made to the wrong party through fraud or misinformation.

The Commission's report identified a concern for situations where a mortgagor is the victim of criminal fraud perpetrated by a thief. I share that concern, but believe that Section 5 of the bill is overbroad in that it would be triggered not only by fraud, but also by any error, including a mortgagor's own error. This could have significant unintended consequences, including

impacts on the orderly progression of foreclosure actions and the burden on our courts. I am concerned that the adverse consequences resulting from the breadth and scope of Section 5 outweigh any perceived benefit, particularly since the Commission noted that the criminal fraud about which it was concerned is "very rare."

Accordingly, I herewith return Senate Bill No. 1346 (First Reprint) and recommend that it be amended as follows:

Page 4, Section 5, Lines 36-48: Delete in their entirety

Page 5, Section 6, Line 1: Delete "6." and insert "5."

Respectfully,

[seal]

/s/ Chris Christie

Governor

Attest:

/s/ Thomas P. Scrivo

Chief Counsel to the Governor