

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 40

Session of
2001

INTRODUCED BY THOMAS, BELFANTI, LAUGHLIN, YOUNGBLOOD AND
J. WILLIAMS, JANUARY 23, 2001

REFERRED TO COMMITTEE ON URBAN AFFAIRS, JANUARY 23, 2001

AN ACT

1 Amending the act of December 14, 1992 (P.L.866, No.137),
2 entitled "An act authorizing certain counties to increase the
3 recording fees of deeds and mortgages to support or enhance
4 local affordable housing efforts," extending the act to
5 counties of the first class; providing for a home purchase
6 loan program to be administered by the Pennsylvania Housing
7 Finance Agency; establishing the Affordable Housing Trust
8 Fund; providing for a program of home mortgage insurance; and
9 establishing the Housing Insurance Fund.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. The definition of "county" in section 3 of the
13 act of December 14, 1992 (P.L.866, No.137), known as the
14 Optional County Affordable Housing Funds Act, is amended to
15 read:

16 Section 3. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 * * *

21 "County." Any county of the first, second, second A, third,

1 fourth, fifth, sixth, seventh or eighth class. [The term does
2 not include any county of the first class.]

3 Section 2. Section 4 of the act is amended to read:

4 Section 4. Optional fee increases.

5 The county commissioners or the governing body of each
6 county, as defined in section 3, shall have the power and may by
7 ordinance increase the fees charged by the recorder of deeds for
8 recording deeds and mortgages under the act of June 12, 1919
9 (P.L.476, No.240), referred to as the Second Class County
10 Recorder of Deeds Fee Law, the fees charged for recording deeds
11 and mortgages in counties of the first class under ordinances
12 adopted under the act of August 26, 1953 (P.L.1476, No.433),
13 referred to as the Philadelphia City-County Consolidation Act,
14 and fees charged under the act of April 8, 1982 (P.L.310,
15 No.87), referred to as the Recorder of Deeds Fee Law. The
16 additional fees levied by the county commissioners shall not
17 exceed 100% of the amounts charged on the effective date of this
18 act.

19 Section 3. The act is amended by adding a section to read:

20 Section 6.1. Affordable Housing Trust Fund.

21 (a) Establishment.--There is hereby established under the
22 jurisdiction and control of the agency the Affordable Housing
23 Trust Fund, as a permanent revolving fund of identifiable,
24 renewable and segregated capital to be used by the agency in
25 accordance with this section. The agency shall hold fund moneys
26 separate and distinct from its other assets and other funds
27 which it administers.

28 (b) Sources of fund.--There shall be paid into the fund:

29 (1) All moneys appropriated by the General Assembly for
30 inclusion in the fund.

1 (2) Revenue collected from the imposition of the
2 surcharge on recorded documents under subsection (j).

3 (3) Grants, donations, contributions or gifts from
4 public or private sources specifically earmarked for deposit
5 into the fund.

6 (4) The proceeds from the sale of property, real,
7 personal or otherwise, which may be given or donated to the
8 agency for use in connection with the fund.

9 (5) Any money made available to the agency under the
10 provisions of this act.

11 (6) All interest, dividends and pecuniary gains from
12 investment of money in the fund.

13 (7) Repayments of principal and interest on loans
14 provided from the fund.

15 (8) All other revenues, receipts and fees of whatever
16 source derived from the operation of the fund.

17 (c) Use of fund.--The agency shall use moneys in the fund
18 for the purpose of enabling low-income and moderate-income
19 persons and families to attain home ownership through, but not
20 limited to, any or all of the following programs:

21 (1) The Home Purchase Loan Program, which shall consist
22 of second or subsequent mortgage loans or grants, the
23 proceeds of which can be used to provide closing cost
24 assistance, down payment assistance or both types of
25 assistance to eligible homebuyers. Repayment may be deferred
26 by the agency for a period up to the length of the first
27 mortgage but shall be repaid at the time of a sale, transfer
28 or nonowner occupancy of the property or upon payment in full
29 or a refinance of the first mortgage. The agency may allow
30 subordination of the mortgage loan where the first mortgage

1 is being refinanced to produce more favorable repayment terms
2 for the homeowner or to enable the homeowner to make repairs
3 necessary to preserve the property.

4 (2) The Mortgage Interest Subsidy Program, which shall
5 consist of second or subsequent mortgage loans and grants,
6 the proceeds of which can be used to buy down interest rates
7 for eligible homebuyers, thereby producing an affordable
8 monthly mortgage payment. Repayment of the loans may be
9 deferred by the agency for a period of up to the length of
10 the first mortgage and shall be repaid in the same manner as
11 set forth in paragraph (1).

12 (d) Eligibility criteria.--Persons or families must meet the
13 following criteria to be eligible to participate in a program
14 set forth in subsection (c):

15 (1) Applicants must be persons or families whose annual
16 income adjusted for family size does not exceed 115% of
17 median household income for the county in which the property
18 is located. The agency may establish additional criteria
19 limiting certain kinds of assistance to persons of low or
20 very low income.

21 (2) Applicants must be persons or families who have not
22 had an ownership interest in residential real property within
23 the previous three years. This paragraph may be waived by the
24 agency in the case of single-parent families.

25 (3) Applicants must have insufficient assets or income,
26 as determined by the agency to be able to purchase the
27 property without the assistance provided by this section.

28 (4) The agency shall require homebuyers to undergo home
29 ownership counseling as approved by the agency as a condition
30 of the receipt of a grant and/or loan.

1 (5) The agency shall establish limits on the amount of
2 money available to each applicant.

3 (e) Distribution of moneys.--The agency shall use its best
4 efforts to distribute moneys in the fund on a regional basis in
5 the same proportion to where the moneys were derived; provided,
6 however, that the distribution of moneys in the restricted
7 account within the fund, created under subsection (1), shall not
8 be considered when the agency distributes the remaining moneys
9 in the fund in accordance with subsections (c) through (i). Any
10 Federal funds or moneys donated to the fund from outside this
11 Commonwealth can be used by the agency anywhere in this
12 Commonwealth.

13 (f) Participating lenders.--The following lending
14 institutions shall be eligible to participate in programs
15 authorized by this section, subject to such standards, criteria
16 and procedures as shall be established by the agency:

17 (1) Lending institutions that originate first mortgage
18 loans in conjunction with any of the agency's single family
19 home purchase programs.

20 (2) Lending institutions that originate first mortgage
21 loans in conjunction with a home purchase program operated by
22 a municipality, municipal authority or a residential finance
23 authority.

24 (3) Other lending institutions approved by the agency
25 which have agreed to comply with the homebuyer eligibility
26 and other requirements of subsection (d).

27 Funds will be made available in such amounts as the agency shall
28 determine in order to meet the requirements of subsection (e)
29 and within the financial limitations of the fund.

30 (g) Matching funds.--The agency may use money from the fund

1 to match Federal, State, local or private money to be used for
2 programs which have the purpose of fostering home ownership by
3 persons and families of low income and moderate income.

4 (h) Housing counseling programs.--The agency may use money
5 from the fund to pay for technical assistance, design, finance
6 and administrative services and housing counseling services
7 provided to applicants by nonprofit housing development
8 corporations or other community-based or neighborhood-based
9 organizations.

10 (i) Administrative expenses.--The agency may use money from
11 the fund to pay reasonable expenses incurred in connection with
12 administering the fund and operating the programs authorized
13 under this section.

14 (j) Imposition of surcharge.--

15 (1) There is hereby imposed a real estate document
16 surcharge in the amount of \$10 for every deed, mortgage or
17 other instrument for which a recording fee is provided and
18 which is recorded in the office of the recorder of deeds in
19 each county of this Commonwealth.

20 (2) The surcharge shall be in addition to any other
21 recording fee or other charge lawfully collected by the
22 recorder of deeds and shall be paid by the recorder of deeds
23 to the Department of Revenue at the same time and in the same
24 manner as the realty transfer tax.

25 (3) The Department of Revenue shall remit forthwith to
26 the agency for deposit to the fund all moneys received in
27 connection with the real estate document surcharge.

28 (k) County participation.--

29 (1) The county commissioners or the governing body of a
30 county with a down payment or closing cost assistance program

1 established under the provisions of this act, may elect to
2 not participate in the Affordable Housing Trust Fund
3 established under this section. The election to not
4 participate in the fund shall be evidenced by an ordinance
5 enacted by the county commissioners or the governing body of
6 such county.

7 (2) The surcharge under subsection (j) shall be imposed
8 and any moneys received shall be deposited into the fund
9 until such an ordinance is enacted under this subsection. Any
10 real estate document recorded in the office of the recorder
11 of deeds in a county which has enacted an ordinance under
12 this subsection shall not be subject to the surcharge imposed
13 by subsection (j).

14 (3) The residents of a county which has enacted an
15 ordinance under this subsection shall be ineligible to
16 receive any moneys from the fund until the county
17 commissioners or the governing body of the county repeals the
18 ordinance. The recorder of deeds of the county shall begin
19 collecting the surcharge imposed by subsection (j), 60 days
20 after the repeal is effective.

21 (1) Third class cities program.--

22 (1) The county commissioners or the governing body of a
23 county in which a city of the third class is located may
24 elect by ordinance to impose a surcharge of \$1 on every deed,
25 mortgage or other instrument for which a recording fee is
26 provided and which is recorded in the office of the recorder
27 of deeds. This surcharge shall be in addition to any other
28 recording fee or other charge lawfully collected by the
29 recorder of deeds.

30 (2) The surcharge shall be paid by the recorder of deeds

1 to the Department of Revenue at the same time and in the same
2 manner as the realty transfer tax. The Department of Revenue
3 shall remit forthwith to the agency for deposit into a
4 restricted account within the fund all moneys received in
5 connection with the surcharge imposed under this subsection.

6 (3) In accordance with subsections (c) through (i),
7 where applicable, the agency shall use the moneys in the
8 restricted account only for the purpose of enabling low-
9 income and moderate-income persons and families to attain
10 home ownership within a city of the third class located
11 within a county where the money was collected. If there is
12 more than one city of the third class within a county
13 imposing a surcharge under this subsection, the moneys
14 distributed for use in a city of the third class shall be
15 based upon the total population of all cities of the third
16 class within the county where the money was collected divided
17 by the total population of a city of the third class where
18 the moneys will be distributed.

19 (4) If all of the moneys in the restricted account
20 cannot be distributed under this subsection, the agency shall
21 distribute the moneys in accordance with subsection (e).

22 (m) Semiannual report.--The agency shall report to the
23 General Assembly and the Governor on a semiannual basis,
24 corresponding with the beginning of each two-year legislative
25 session, on the income and expenses of the fund and its uses,
26 including the number and amounts of loans and grants made, the
27 number and types of residential units assisted, the income
28 levels of persons assisted and the geographical distribution of
29 loans and grants made.

30 (n) Expiration.--The Affordable Housing Trust Fund

established under this section, together with its statutory functions and duties, and this section, shall terminate on December 31, 2003, unless reestablished or continued by the General Assembly. The Legislative Budget and Finance Committee shall be required to present to the General Assembly a report evaluating the fund by December 31, 2002. This report shall provide the General Assembly with a recommendation as to whether the fund is to be continued and, if so, the changes which are suggested by the committee to improve the operation of the fund.

(o) Definitions.--The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Agency." The Pennsylvania Housing Finance Agency, a public corporation and government instrumentality, established under the act of December 3, 1959 (P.L.1688, No.621), known as the Housing Finance Agency Law.

"Annual income." The total annual income of all members of a family from whatever source derived, including, but not limited to, pension, annuity, retirement and Social Security benefits, but may exclude the following as the Pennsylvania Housing Finance Agency may establish by rule or regulation:

(1) Reasonable allowances for dependents.

(2) Reasonable allowances for medical expenses.

(3) All or a proportionate part of the earnings of dependent family members.

(4) Income not received regularly.

"Fund." The Affordable Housing Trust Fund established under this section.

"Lending institution." Any of the following if it customarily provides residential mortgage services or otherwise

aids in the financing of mortgages on residential housing in
this Commonwealth:

(1) Bank.

(2) Bank and trust company.

(3) Trust company.

(4) Savings bank.

(5) National banking association.

(6) Federal National Mortgage Association.

(7) Federal Home Loan Mortgage Corporation.

(8) Government National Mortgage Association.

(9) Pennsylvania Housing Finance Agency.

(10) Mortgage banker.

(11) FHA-approved mortgage service company.

(12) Savings and loan association.

(13) Federal savings and loan association.

(14) Building and loan association.

(15) Credit union.

(16) A financial institution similar to those listed in
paragraphs (1) through (15).

"Low-income and moderate-income persons" or "low-income and
moderate-income families." An individual who or family that
cannot afford to pay the amounts at which private enterprise,
without the assistance of this section, is providing a
substantial supply of decent, safe and sanitary housing. The
agency shall establish income limits for participation of such
persons and families, based on countywide income statistics,
where available.

"Mortgage." A lien other than a judgment on a fee simple
estate or leasehold in real property located in this
Commonwealth, together with the credit instruments, if any,

1 secured by it. The term shall include insured and uninsured
2 mortgages.

3 "Mortgagor." An individual, joint venture, partnership,
4 limited partnership, trust, corporation, cooperative or
5 condominium, whether organized for profit or not for profit.

6 Section 4. Section 7 of the act is repealed.

7 Section 5. The act is amended by adding a section to read:

8 Section 8. Home mortgage insurance program.

9 (a) Housing Insurance Fund.--

10 (1) There is hereby established under the jurisdiction
11 of the agency, or any nonprofit corporate subsidiary it may
12 create for this purpose, an insurance reserve fund called the
13 Housing Insurance Fund.

14 (2) There shall be paid into the fund:

15 (i) All money appropriated by the General Assembly
16 for inclusion in the fund.

17 (ii) All proceeds from the issuance of bonds by the
18 agency for inclusion in the fund.

19 (iii) All premiums collected under the home mortgage
20 insurance program.

21 (iv) All interest, dividends and gains from
22 investment of money of the fund.

23 (v) Any other money available to the agency which it
24 determines to use for this purpose.

25 (3) Money held in the fund shall be used to make
26 payments pursuant to home mortgage insurance contracts, to
27 pay any or all expenses of administration and operation of
28 the home mortgage insurance program and to maintain the fund
29 at an amount equal to prudent minimum insurance reserves as
30 determined by the agency. Any money in the fund in excess of

1 that required for the aforesaid purposes may be allocated by
2 the agency to the Affordable Housing Trust Fund, established
3 under section 6.1.

4 (b) Home mortgage insurance program.--The agency, or any
5 nonprofit corporate subsidiary of the agency formed for this
6 purpose, may create, develop, administer and supervise the
7 administration of the home mortgage insurance program in
8 cooperation with public or private mortgage insurers to
9 encourage home ownership for low-income and moderate-income
10 persons and families who are unable to purchase a home without
11 mortgage insurance or similar credit enhancements. In this
12 connection, the agency may:

13 (1) Enter into contracts to insure, reinsure or coinsure
14 the repayment of loans secured by mortgages on single-family
15 owner-occupied residences located in this Commonwealth.

16 (2) Procure reinsurance or coinsurance or enter into
17 reciprocal or interinsurance contracts from and with any
18 local agency, agency of the United States or any licensed
19 private mortgage insurer or reinsurer.

20 (3) Negotiate, solicit, sell and otherwise deal with
21 home mortgage loan insurance policies.

22 (4) Prescribe forms of policies, establish premiums and
23 otherwise implement the home mortgage insurance program.

24 (c) Eligibility requirements.--

25 (1) To qualify for loan insurance pursuant to this
26 section, a borrower shall be a purchaser of a single-family
27 owner-occupied residence who is qualified and financially
28 able to bear the usual expenses of maintaining such
29 residences and repaying the loan. The agency may insure or
30 issue commitments to insure loans upon certification of an

1 officer of an approved lending institution that the borrower
2 is qualified for the loan according to standard single-family
3 lending practices and agency guidelines.

4 (2) The mortgage loan shall exceed a 95% loan-to-value
5 ratio, but shall not exceed a 100% loan-to-value ratio.

6 (3) The mortgage loan and related documents shall
7 contain such terms as are satisfactory to the agency.

8 (4) A borrower that is approved for mortgage insurance
9 under this section shall be required to complete a home
10 ownership counseling program as approved by the agency.

11 (d) Loan defaults.--The agency shall establish procedures to
12 be followed by lending institutions in the event of a default on
13 the loan insured under this section. The agency may require
14 that, prior to submission and payment of a claim, the lending
15 institution must foreclose and take possession of the property
16 or otherwise acquire title and possession of the property within
17 the time specified by the agency.

18 (e) Home mortgage insurance premiums.--The agency shall fix
19 mortgage insurance premiums for the insurance of mortgage loans
20 under the provisions of this section. The amount of premium need
21 not be uniform for all insured loans.

22 (f) Status of mortgages as investments.--Loans secured by
23 mortgages, the payment of which are insured by the agency, shall
24 be legal investments for trust companies; banks; investment
25 companies; savings banks; building and loan associations;
26 executors, administrators, guardians, conservators, trustees and
27 other fiduciaries; public and private pension, profit-sharing
28 and retirement funds; the State Treasurer; and agencies of the
29 Commonwealth.

30 (g) Licensure exemption.--The authority granted to the

1 agency by this section, or to any nonprofit corporate subsidiary
2 it may create for this purpose, is intended to be in complete
3 substitution of all licensing, filing and other regulatory
4 requirements otherwise applicable to insurance carriers doing
5 business in this Commonwealth and the agency or its nonprofit
6 corporate subsidiary.

7 (h) Expiration.--The Housing Insurance Fund created under
8 this section, together with its statutory functions and duties,
9 and this section, shall expire on December 31, 2003, unless
10 reestablished or continued by the General Assembly. The
11 Legislative Budget and Finance Committee shall present to the
12 General Assembly a report evaluating the fund by December 31,
13 2002. This report shall provide the General Assembly with a
14 recommendation as to whether the fund is to be continued and, if
15 so, the changes which are suggested by the committee to improve
16 the operation of the fund.

17 (i) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this
19 subsection:

20 "Agency." The Pennsylvania Housing Finance Agency.

21 "Fund." The Housing Insurance Fund.

22 Section 6. This act shall take effect as follows:

23 (1) The addition of sections 6.1(j) and 8 of the act
24 shall take effect in 60 days.

25 (2) The remainder of this act shall take effect
26 immediately.