

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1259 Session of  
2006

INTRODUCED BY BROWNE, FERLO, ERICKSON, ORIE, RHOADES, BOSCOLA,  
COSTA AND PILEGGI, JUNE 22, 2006

REFERRED TO URBAN AFFAIRS AND HOUSING, JUNE 22, 2006

AN ACT

1 Amending the act of December 3, 1959 (P.L.1688, No.621),  
2 entitled, as amended, "An act to promote the health, safety  
3 and welfare of the people of the Commonwealth by broadening  
4 the market for housing for persons and families of low and  
5 moderate income and alleviating shortages thereof, and by  
6 assisting in the provision of housing for elderly persons  
7 through the creation of the Pennsylvania Housing Finance  
8 Agency as a public corporation and government  
9 instrumentality; providing for the organization, membership  
10 and administration of the agency, prescribing its general  
11 powers and duties and the manner in which its funds are kept  
12 and audited, empowering the agency to make housing loans to  
13 qualified mortgagors upon the security of insured and  
14 uninsured mortgages, defining qualified mortgagors and  
15 providing for priorities among tenants in certain instances,  
16 prescribing interest rates and other terms of housing loans,  
17 permitting the agency to acquire real or personal property,  
18 permitting the agency to make agreements with financial  
19 institutions and Federal agencies, providing for the purchase  
20 by persons of low and moderate income of housing units, and  
21 approving the sale of housing units, permitting the agency to  
22 sell housing loans, providing for the promulgation of  
23 regulations and forms by the agency, prescribing penalties  
24 for furnishing false information, empowering the agency to  
25 borrow money upon its own credit by the issuance and sale of  
26 bonds and notes and by giving security therefor, permitting  
27 the refunding, redemption and purchase of such obligations by  
28 the agency, prescribing remedies of holders of such bonds and  
29 notes, exempting bonds and notes of the agency, the income  
30 therefrom, and the income and revenues of the agency from  
31 taxation, except transfer, death and gift taxes; making such  
32 bonds and notes legal investments for certain purposes; and  
33 indicating how the act shall become effective," further

1 providing for the Homeowner's Emergency Assistance Program,  
2 for notice and institution of foreclosure proceedings, for  
3 notice requirements, for assistance payments and for  
4 repayment; and providing for an ongoing foreclosure study.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 402-C(b) of the act of December 3, 1959  
8 (P.L.1688, No.621), known as the Housing Finance Agency Law,  
9 added December 23, 1983 (P.L.385, No.91), is amended to read:

10 Section 402-C. Notice and Institution of Foreclosure  
11 Proceedings.--\* \* \*

12 (b) A mortgagee shall not accelerate the maturity of any  
13 mortgage obligation covered under this article, commence any  
14 legal action including mortgage foreclosure to recover under  
15 such obligation, or take possession of any security of the  
16 mortgage debtor for such mortgage obligation until a final  
17 determination has been made by the agency on a mortgagor's  
18 application for emergency mortgage assistance payments or the  
19 applicable time periods provided for in section 403-C have  
20 expired without the mortgagor applying for assistance in a  
21 timely fashion, whichever is earlier. A final determination may  
22 not be made by the agency until the conclusion of any timely  
23 administrative appeal that may have been filed with the agency.

24 \* \* \*

25 Section 2. Section 403-C(b) of the act, amended December 21,  
26 1998 (P.L.1248, No.160), is amended to read:

27 Section 403-C. Notice Requirements.--\* \* \*

28 (b) (1) The agency shall prepare a notice which shall  
29 include all the information required by this subsection and by  
30 section 403 of the act of January 30, 1974 (P.L.13, No.6),  
31 referred to as the Loan Interest and Protection Law, and

1 referred to commonly as the Usury Law. This notice shall be in  
2 plain language and specifically state that the recipient of the  
3 notice may qualify for financial assistance under the  
4 Homeowner's Emergency Mortgage Assistance Program. [This notice  
5 shall contain the telephone number and the address of a local  
6 consumer credit counseling agency.]

7 (1.1) The notice shall contain, but not be limited to, the  
8 following information:

9 (i) The name of the mortgagor and the address of the  
10 mortgaged premises, including the property tax identification  
11 number and the account number.

12 (ii) The name and address of the servicer of the mortgage,  
13 with a toll-free telephone number, facsimile number, electronic  
14 mail address and contact person's name, and the name and address  
15 of the holder of the mortgage. If the holder is a loan trust,  
16 the name and address of the trustee and the name of the trust in  
17 which the particular mortgage is included.

18 (iii) The date the loan was originated, the name of the  
19 originating lender, the original principal amount of the loan,  
20 the interest rate on the loan or, if a variable rate, the rate  
21 that was effective when the loan was originated and the fact  
22 that it is a variable rate.

23 (iv) A list of consumer credit counseling agencies which  
24 have been approved by the agency only for the county in which  
25 the mortgaged premises is located, including their addresses and  
26 telephone numbers. The agency shall maintain an up-to-date list  
27 of approved consumer credit counseling agencies for each county  
28 and publish the list on the agency's Internet website. A  
29 reference to the agency's Internet website shall also be  
30 included in the notice.

1     (v) Any other information determined by the agency.

2     (1.2) This notice shall be in lieu of any other notice  
3     required by law. This notice shall also advise the mortgagor of  
4     his delinquency or other default under the mortgage including an  
5     itemized breakdown of the total amount past due and that such  
6     mortgagor has thirty (30) days, plus three (3) days for mailing,  
7     to have a face-to-face meeting with [the mortgagee who sent the  
8     notice or] a consumer credit counseling agency to attempt to  
9     resolve the delinquency or default by restructuring the loan  
10    payment schedule or otherwise. The mortgagee or other person  
11    sending the notice to the mortgagor shall simultaneously send a  
12    copy of each notice issued to the agency by regular mail,  
13    facsimile, electronic mail or another means of electronic  
14    transfer in accordance with agency guidelines. In lieu of  
15    sending a copy of each notice, the mortgagee or other person  
16    charged with sending the notice may provide the agency with  
17    statistical information on a monthly basis as to the number of  
18    notices sent pursuant to this act and pursuant to section 403 of  
19    the Usury Law. This information shall be broken down by county  
20    and census tract.

21     (2) The notice under paragraph (1) must be sent by a  
22     mortgagee at least thirty (30) days before the mortgagee:

23         (i) asks for full payment of any mortgage obligation; or

24         (ii) begins any legal action, including foreclosure, for  
25     money due under the mortgage obligation or to take possession of  
26     the mortgagor's security.

27     (3) The proposed notice under paragraph (1) shall be  
28     published by the agency in the Pennsylvania Bulletin within one  
29     hundred twenty (120) days of the effective date of this  
30     paragraph. The notice actually adopted for use by the agency

1 shall be promulgated as part of the program guidelines required  
2 by section 401-C(b).

3 (4) If the mortgagor meets with a consumer credit counseling  
4 agency, the consumer credit counseling agency shall promptly  
5 notify all of the mortgagees secured by the mortgagor's real  
6 property, and no mortgagee so notified shall commence any legal  
7 action against the mortgagor's real property for a period not to  
8 exceed thirty (30) calendar days from the date that the  
9 mortgagor first meets with the consumer credit counseling  
10 agency.

11 (5) [The notice shall include a statement that, if the  
12 mortgagor is unable to resolve the delinquency or default within  
13 thirty (30) calendar days of the mortgagor's first contact with  
14 either the mortgagee or a consumer credit counseling agency, the  
15 mortgagor may apply to the agency or its duly authorized agent  
16 at the address and phone number listed in the notice in order to  
17 obtain an application and information regarding the Homeowner's  
18 Emergency Mortgage Assistance Program.] The notice shall include  
19 a statement that the mortgagor must have a face-to-face meeting  
20 with one of the designated consumer credit counseling agencies  
21 within thirty (30) calendar days plus three (3) additional days  
22 for mailing. The purpose of this meeting shall be to attempt to  
23 negotiate a forbearance agreement to resolve the delinquency or  
24 default. If unable to do so, the mortgagor may then proceed with  
25 an application for a homeowner's emergency mortgage assistance  
26 loan.

27 (6) If the mortgagor applies for mortgage assistance  
28 payments, the agency shall promptly notify all of the mortgagees  
29 secured by the mortgagor's real property. The agency shall make  
30 a determination of eligibility within sixty (60) calendar days

1 of receipt of the mortgagor's application. During the time that  
2 the application is pending, including any timely administrative  
3 appeal filed with the agency in connection therewith, no  
4 mortgagee may commence legal action to foreclose upon its  
5 mortgage with the mortgagor. The agency shall provide notice to  
6 the mortgagee if an administrative appeal is filed.

7 (7) An application for mortgage assistance may be submitted  
8 to the agency beyond the thirty-day period specified in  
9 paragraph (5), and in such case, the agency shall make a  
10 determination within sixty (60) calendar days of receipt of the  
11 mortgagor's application. A late application or an administrative  
12 appeal will not stay foreclosure proceedings, but in the event  
13 the application is approved by the agency, a commenced  
14 foreclosure proceeding shall be stayed.

15 \* \* \*

16 Section 3. Section 405-C(e) of the act, added December 23,  
17 1983 (P.L.385, No.91) is amended and the section is amended by  
18 adding subsections to read:

19 Section 405-C. Assistance Payments.--\* \* \*

20 (a.1) A mortgagee entitled to payments under this section  
21 shall provide to the agency within thirty (30) days of the  
22 agency's request, the following documents and information:

23 (1) An itemized statement of the amounts due under the  
24 mortgage including all corporate advances incurred for which  
25 reimbursement from the mortgagor is demanded by the mortgagee.  
26 Demands for attorney fees, court costs and other advances shall  
27 be reasonable and shall reflect the amount of work and expenses  
28 actually expended and may not include any amounts incurred  
29 during any period a stay is in effect under this act.

30 (2) Copies of the following documents from the original

1 mortgage transaction:

2 (i) The HUD-1 settlement statement.

3 (ii) The mortgage and note.

4 (iii) The appraisal, if an appraisal has been performed  
5 during the last five (5) years.

6 (a.2) Failure to provide in a timely fashion the documents  
7 and information required under subsection (a.1) will result in  
8 the mortgagee's forfeiture of the right to receive any late fees  
9 and attorney fees, costs and expenses.

10 (a.3) Upon the agency's payment of the initial payment to  
11 the mortgagee, including all corporate advances allowed by the  
12 agency, the mortgagee shall adjust its accounts to reflect that  
13 the mortgage obligation is, as of the date of receipt of such  
14 funds, reinstated and current for all purposes. The subsequent  
15 imposition by a mortgagee of any charges, fees or other amounts  
16 that were paid or disallowed by the agency, or waived by the  
17 mortgagee, shall be in violation of the act of December 17, 1968  
18 (P.L.1224, No.387), known as the "Unfair Trade Practices and  
19 Consumer Protection Law."

20 \* \* \*

21 (b.1) In lieu of paying arrearages under subsection (a) or  
22 ongoing assistance under subsection (b), the agency may fund a  
23 compromise pay-off of the balance of the mortgage, if the agency  
24 determines that structuring assistance in such a manner would be  
25 in the best interest of the agency and the mortgagor.

26 \* \* \*

27 (e) If any mortgagee scheduled to receive monthly payments  
28 from the agency pursuant to this article fails to receive from  
29 the agency the full amount of such monthly payment within thirty  
30 (30) days of the scheduled due date, or if a mortgagor fails to

1 observe and perform all the terms, covenants and conditions of  
2 the mortgage, that mortgagee may, at any time thereafter, take  
3 any legal action to enforce the mortgage without any further  
4 restriction or requirement under this article.

5 \* \* \*

6 Section 4. Section 406-C(5) of the act, amended December 21,  
7 1998 (P.L.1248, No.160), is amended to read:

8 Section 406-C. Repayment.--Upon approval of mortgage  
9 assistance, the agency shall enter into an agreement with the  
10 mortgagor for repayment of all mortgage assistance made by the  
11 agency plus interest as provided in paragraph (5). The agreement  
12 shall provide for monthly payments by the mortgagor and be  
13 subject to the following provisions:

14 \* \* \*

15 (5) Interest shall accrue on all mortgage assistance made by  
16 the agency [at the rate of nine (9) percent per annum.] a rate  
17 of interest to be determined by the agency prior to the end of  
18 each calendar year for loans closed in the next calendar year,  
19 which rate shall not exceed the interest rate established by the  
20 Department of Banking pursuant to section 301 of the act of  
21 January 30, 1974 (P.L.13, No.6), referred to as the Loan  
22 Interest and Protection Law, and referred to commonly as the  
23 Usury Law. Interest shall start to accrue whenever the mortgagor  
24 begins to make repayment under this section. Interest shall  
25 accrue only during the period in which the mortgagor is required  
26 to make repayment under this section. When any mortgage for  
27 which mortgage assistance was made is paid, interest shall then  
28 accrue on all mortgage assistance due and owing at the same rate  
29 and on the same basis as the mortgage for which the mortgage  
30 assistance was made.



1       \* \* \*

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

3       Section 412-C. Ongoing Foreclosure Study.--The agency shall  
4 monitor foreclosure activity and trends in this Commonwealth,  
5 using data and information accumulated from notices and  
6 applications for assistance processed under this article, and  
7 shall, as appropriate, provide recommendations for addressing  
8 any problems identified in this monitoring effort.

9       Section 6. This act shall take effect in 60 days.