

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

No. 1934 Session of  
2005

INTRODUCED BY GRUCELA, MELIO, RUBLEY, STEIL, CALTAGIRONE, CURRY,  
FREEMAN, GEIST, HANNA, HERMAN, HERSHEY, HUTCHINSON, JAMES,  
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B. SMITH, R. STEVENSON, TANGRETTI, E. Z. TAYLOR, TIGUE,  
WALKO, WATSON AND YUDICHAK, AUGUST 24, 2005

REFERRED TO COMMITTEE ON URBAN AFFAIRS, AUGUST 24, 2005

## 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:

1       \* \* \*

2       "County." Any county of the first, second, second A, third,  
3 fourth, fifth, sixth, seventh or eighth class. [The term does  
4 not include any county of the first class.]

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

6       Section 4. Optional fee increases.

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

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

22       Section 6.1. Affordable Housing Trust Fund.

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

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

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

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

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

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

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

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

15       (7) Repayments of principal and interest on loans  
16       provided from the fund.

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

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

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

1 or a refinance of the first mortgage. The agency may allow  
2 subordination of the mortgage loan where the first mortgage  
3 is being refinanced to produce more favorable repayment terms  
4 for the homeowner or to enable the homeowner to make repairs  
5 necessary to preserve the property.

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

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

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

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

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

30 (4) The agency shall require homebuyers to undergo home

ownership counseling as approved by the agency as a condition of the receipt of a grant and/or loan.

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

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

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

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

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

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

Funds will be made available in such amounts as the agency shall determine in order to meet the requirements of subsection (e)

1 and within the financial limitations of the fund.

2 (g) Matching funds.--The agency may use money from the fund  
3 to match Federal, State, local or private money to be used for  
4 programs which have the purpose of fostering home ownership by  
5 persons and families of low income and moderate income.

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

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

16 (j) Imposition of surcharge.--

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

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

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

30 (k) County participation.--

1       (1) The county commissioners or the governing body of a  
2 county with a down payment or closing cost assistance program  
3 established under the provisions of this act, may elect to  
4 not participate in the Affordable Housing Trust Fund  
5 established under this section. The election to not  
6 participate in the fund shall be evidenced by an ordinance  
7 enacted by the county commissioners or the governing body of  
8 such county.

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

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

23 (1) Third class cities program.--

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

1 recorder of deeds.

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

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

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

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



1 loans and grants made.

2 (n) Expiration.--The Affordable Housing Trust Fund  
3 established under this section, together with its statutory  
4 functions and duties, and this section, shall terminate on  
5 December 31, 2006, unless reestablished or continued by the  
6 General Assembly. The Legislative Budget and Finance Committee  
7 shall be required to present to the General Assembly a report  
8 evaluating the fund by December 31, 2007. This report shall  
9 provide the General Assembly with a recommendation as to whether  
10 the fund is to be continued and, if so, the changes which are  
11 suggested by the committee to improve the operation of the fund.

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

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

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

24 (1) Reasonable allowances for dependents.

25 (2) Reasonable allowances for medical expenses.

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

28 (4) Income not received regularly.

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

1 "Lending institution." Any of the following if it  
2 customarily provides residential mortgage services or otherwise  
3 aids in the financing of mortgages on residential housing in  
4 this Commonwealth:

5 (1) Bank.

6 (2) Bank and trust company.

7 (3) Trust company.

8 (4) Savings bank.

9 (5) National banking association.

10 (6) Federal National Mortgage Association.

11 (7) Federal Home Loan Mortgage Corporation.

12 (8) Government National Mortgage Association.

13 (9) Pennsylvania Housing Finance Agency.

14 (10) Mortgage banker.

15 (11) FHA-approved mortgage service company.

16 (12) Savings and loan association.

17 (13) Federal savings and loan association.

18 (14) Building and loan association.

19 (15) Credit union.

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

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

30 "Mortgage." A lien other than a judgment on a fee simple

1 estate or leasehold in real property located in this  
2 Commonwealth, together with the credit instruments, if any,  
3 secured by it. The term shall include insured and uninsured  
4 mortgages.

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

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

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

10 Section 8. Home mortgage insurance program.

11 (a) Housing Insurance Fund.--

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

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

17 (i) All money appropriated by the General Assembly  
18 for inclusion in the fund.

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

21 (iii) All premiums collected under the home mortgage  
22 insurance program.

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

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

27 (3) Money held in the fund shall be used to make  
28 payments pursuant to home mortgage insurance contracts, to  
29 pay any or all expenses of administration and operation of  
30 the home mortgage insurance program and to maintain the fund

1 at an amount equal to prudent minimum insurance reserves as  
2 determined by the agency. Any money in the fund in excess of  
3 that required for the aforesaid purposes may be allocated by  
4 the agency to the Affordable Housing Trust Fund, established  
5 under section 6.1.

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

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

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

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

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

26 (c) Eligibility requirements.--

27 (1) To qualify for loan insurance pursuant to this  
28 section, a borrower shall be a purchaser of a single-family  
29 owner-occupied residence who is qualified and financially  
30 able to bear the usual expenses of maintaining such

1 residences and repaying the loan. The agency may insure or  
2 issue commitments to insure loans upon certification of an  
3 officer of an approved lending institution that the borrower  
4 is qualified for the loan according to standard single-family  
5 lending practices and agency guidelines.

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

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

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

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

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

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

1 Commonwealth.

2 (g) Licensure exemption.--The authority granted to the  
3 agency by this section, or to any nonprofit corporate subsidiary  
4 it may create for this purpose, is intended to be in complete  
5 substitution of all licensing, filing and other regulatory  
6 requirements otherwise applicable to insurance carriers doing  
7 business in this Commonwealth and the agency or its nonprofit  
8 corporate subsidiary.

9 (h) Expiration.--The fund, together with its statutory  
10 functions and duties, and this section, shall expire on December  
11 31, 2007, unless reestablished or continued by the General  
12 Assembly. The Legislative Budget and Finance Committee shall  
13 present to the General Assembly a report evaluating the fund by  
14 December 31, 2006. This report shall provide the General  
15 Assembly with a recommendation as to whether the fund is to be  
16 continued and, if so, the changes which are suggested by the  
17 committee to improve the operation of the fund.

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

21 "Agency." The Pennsylvania Housing Finance Agency.

22 "Fund." The Housing Insurance Fund.

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

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

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