AN ACT

1 Providing for deferment program for mortgage payments, for
2 application criteria and procedures, for reduction of rent
3 for qualified tenants, for waivers during disaster
4 emergencies and for applicability.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:
7
8 Section 1. Short title.
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10 This act shall be known and may be cited as the Housing
11 Security Act.
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13 Section 2. Definitions.
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15 The following words and phrases when used in this act shall
16 have the meanings given to them in this section unless the
17 context clearly indicates otherwise:
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19 "Commercial mortgage loan." A loan for the acquisition,
20 construction or development of real property, or a loan secured
21 by collateral in the real property, that is owned or used by a
22 person, business or entity for the purpose of generating profit.
23 The term includes real property used for single-family housing,
24 multifamily housing, retail space, office space or commercial
space.

"Department." The Department of Banking and Securities of the Commonwealth.

"First mortgage loan." A loan which is:

(1) made primarily for personal, family or household use; and

(2) secured by any first lien mortgage, deed of trust or equivalent consensual security interest on a dwelling or on residential real estate.

"Lease-purchase agreement." As follows:

(1) A deferred purchase of residential real estate by which:

   (i) an individual makes installment payments to the seller of the dwelling or residential real estate; and

   (ii) the seller retains title to the residential real estate until some or all of the installment payments are completed.

(2) The term does not include an agreement by which:

   (i) an individual is not obligated to purchase the dwelling or residential real estate; and

   (ii) the final payment approximates the fair value of the dwelling or residential real estate or the anticipated fair value of the dwelling or residential real estate and is not a nominal amount.

"Mortgage loan." Any first or secondary mortgage loan, commercial mortgage loan, lease-purchase agreement or mortgage loan modification.

"Mortgage loan business." The business of:

(1) advertising, causing to be advertised, soliciting, negotiating or arranging in the ordinary course of business
or offering to make or making mortgage loans; or

(2) servicing mortgage loans.

"Mortgage loan modification." An agreement that revises the terms of an existing mortgage loan, including an agreement to reduce mortgage loan payment amounts, balance or interest rate or to waive any accrued or prospective mortgage loan charges. The term does not include any agreement to refinance a mortgage loan into a new mortgage loan.

"Mortgage servicer." A person who engages in the mortgage loan business by directly or indirectly engaging in the service of a mortgage loan.

"Qualified tenant." A commercial tenant of a property owned or controlled by a person or entity receiving a mortgage loan payment deferral under section 3 that has notified the landlord of an inability to pay all or a portion of the rent due as a result of a declaration by the Governor of disaster emergency under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor).

"Secondary mortgage loan." A loan which is:

(1) made primarily for personal, family or household use; and

(2) secured by any secondary lien mortgage, deed of trust or equivalent consensual security interest on a dwelling or on residential real estate.

"Secretary." The Secretary of Banking and Securities of the Commonwealth.

"Service a mortgage loan." The collection or remittance of payments for another or the right to collect or remit payments for another of principal, interest, taxes, insurance and any other payments pursuant to a mortgage loan.
Section 3. Deferment program for mortgage payments.

During a declaration by the Governor of disaster emergency under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor) and for 180 days after the expiration or termination of the declaration by executive order, proclamation or operation of law, a mortgage servicer that services a mortgage loan under the jurisdiction of the secretary shall develop a deferment program for mortgage loan borrowers in accordance with the department's criteria under section 4(a) that, at a minimum, provides for all of the following:

1. Grants at least a 90-day deferment period of mortgage loan payments for borrowers for each month the mortgage loan is in deferment under a deferment program.

2. Waives any late fee, processing fee or any other fees accrued during the pendency of the disaster emergency. This paragraph shall not apply to taxes or insurance collected in accordance with a mortgage loan.

3. Does not report to a credit bureau any delinquency or other derogatory information that occurs as a result of the deferment.

4. Does not require the borrower to pay past due mortgage payments due during the deferment period until, at the earliest, the first month following the last month of the original term of the mortgage loan.

5. Beginning in the first month following the end of the last month of the original term of the mortgage loan and unless the borrower voluntarily contributes a greater amount, allows a mortgage servicer to collect a monthly amount of no more than the lesser of the following:

   (i) Thirty-three percent of the full monthly
mortgage rate due during the deferment period.

(ii) The total amount of past due mortgage payments
divided by the number of months of deferment granted to
the borrower under paragraph (1).

Section 4. Application criteria and procedures.

(a) Criteria.--No later than 45 days from the effective date
of this section, the department shall establish application
criteria and procedures and a standardized application form for
mortgage loan borrowers to apply for a deferment program under
section 3. The mortgage servicer shall make the application
available on a publicly accessible Internet website and via
telephone.

(b) Approvals.--A mortgage servicer shall approve an
application to participate in a deferment program under section
3 if the applicant:

(1) demonstrates to the mortgage servicer evidence of a
financial hardship resulting directly or indirectly from a
disaster emergency declared by the Governor under 35 Pa.C.S.
§ 7301(c) (relating to general authority of Governor) by
executing an affidavit of financial hardship. The department
shall develop the affidavit of financial hardship for the
purpose specified under this paragraph no later than 45 days
from the effective date of this section; and

(2) agrees in writing to pay the deferred mortgage loan
payments in accordance with the terms provided in section
3(5).

(c) Agreements.--Upon approving an application under
subsection (b), the mortgage servicer shall agree in writing to
all of the following:

(1) Freezing mortgage loan amortization during the
deferment period.

(2) Extending the term of the mortgage loan by the same number of days as the deferment period.

(3) Waiving principal and interest payments due to the mortgage servicer during the deferment period without financial penalty until the day following the last day of the original term of the mortgage loan.

(4) Collecting tax and insurance payments during the deferment period.

d) Retention.--A mortgage servicer who receives an application to participate in a deferment program under section 3 shall retain the application, whether approved or denied, for at least three years after the final payment is made on the mortgage loan or the mortgage loan is sold, whichever occurs first. Upon request, the mortgage servicer shall make the application available to the department.

e) Prohibition.--A mortgage servicer may not require a lump sum payment from any mortgage loan borrower making payments under a deferment program under section 3.

f) Denials.--A person or entity that submitted an application to participate in a deferment program under section 3 and is denied participation may file a written complaint with the department.

Section 5. Reduction of rent for qualified tenants.

A mortgage loan borrower that participates in a deferment program under section 3(a) for a property occupied by a qualified tenant shall agree in writing to reduce the rent charged for the property to the qualified tenant during the period of time when the mortgage payment deferral is in effect in an amount proportional to the reduced mortgage amount paid by...
the mortgage loan borrower to the mortgage servicer during the deferment period.

Section 6. Waivers during disaster emergencies.

To the necessary to conform with the provisions of this act, the exceptions specified under 7 Pa.C.S. § 6112 (relating to exceptions to license requirements) and provisions of 68 Pa.C.S. § 3315 (relating to lien for assessments) shall be waived for the duration of a disaster emergency under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor).

Section 7. Applicability.

This act shall not apply to a mortgage servicer that initiated a foreclosure action or exercised the mortgage servicer's right to accelerate the balance and maturity date of the loan on or before March 11, 2020.

Section 8. Effective date.

This act shall take effect immediately.