

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1426 Session of
1997

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MILLER, MELIO, L. I. COHEN, TRELLO AND TANGRETTI,
APRIL 29, 1997

REFERRED TO COMMITTEE ON URBAN AFFAIRS, APRIL 29, 1997

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

1 therefrom, and the income and revenues of the agency from
2 taxation, except transfer, death and gift taxes; making such
3 bonds and notes legal investments for certain purposes; and
4 indicating how the act shall become effective," further
5 providing for homeowner's emergency assistance.

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

8 Section 1. Section 401-C(a) of the act of December 3, 1959
9 (P.L.1688, No.621), known as the Housing Finance Agency Law,
10 amended May 31, 1984 (P.L.364, No.73) and December 18, 1992
11 (P.L.1652, No.182), is amended to read:

12 Section 401-C. General Authority.--(a) The Pennsylvania
13 Housing Finance Agency, hereinafter referred to as the "agency,"
14 may make loans secured by liens on residential real property
15 located in Pennsylvania to residents of Pennsylvania eligible
16 for such loans as described in this article. For the purpose of
17 this article, the term "mortgage" shall include any obligation
18 evidenced by a [security document] note or other debt instrument
19 and secured by a lien upon real property located within this
20 Commonwealth [including, but not limited to, a deed of trust and
21 land sale agreement]. The term shall also include an obligation
22 evidenced by a [security lien] note or other debt instrument and
23 secured by a lien on real property upon which an owner-occupied
24 mobile home is located. The provisions of this article shall not
25 be applicable if:

26 (1) The property securing the mortgage is not the principal
27 residence of the mortgagor.

28 (2) The property securing the mortgage is not a one or two-
29 family owner-occupied residence.

30 (3) The mortgage is insured by the Federal Housing
31 Administration under Title II of the National Housing Act (12
32 U.S.C. §§ 1707-1715z-18).

1 (4) The mortgage on the property was given by a noncorporate
2 seller, unless the noncorporate seller elects, in writing, in
3 the mortgage or elsewhere to be covered by this article. For
4 purposes of this article "noncorporate seller" means any person
5 [giving] who is given a mortgage by a buyer to secure repayment
6 of the purchase price of real property who is not a bank, a
7 savings and loan association, a mortgage bank, a consumer
8 discount company or other entity in the mortgage lending
9 business.

10 (5) The mortgagor is more than [~~thirty-six (36)~~] twenty-four
11 (24) months delinquent or in default for more than [~~thirty-six~~
12 ~~(36)~~] twenty-four (24) months, pursuant to the terms of
13 mortgagor's residential mortgage. This requirement shall mean
14 that if the mortgagor is more than [~~thirty-six (36)~~] twenty-four
15 (24) consecutive or nonconsecutive months in arrears on the
16 residential mortgage in question, no matter what the reason
17 therefor, the agency shall not be authorized to make any loans
18 hereunder to such mortgagor.

19 (6) The aggregate amount of arrearages due to a mortgagee
20 pursuant to the terms of the mortgage, without regard to any
21 acceleration under the mortgage including, but not limited to,
22 the amount of principal, interest, taxes, assessments, ground
23 rents, hazard insurance, any mortgage insurance or credit
24 insurance premiums, exceeds the sum of twenty-four thousand
25 dollars (\$24,000).

26 (7) If the property is encumbered by more than two
27 mortgages, other than a mortgage filed by the agency to secure
28 repayment of the mortgage assistance loans, or by other liens or
29 encumbrances which would unreasonably impair the security of the
30 agency's mortgage.

1 * * *

2 Section 2. Section 402-C of the act is amended by adding a
3 subsection to read:

4 Section 402-C. Notice and Institution of Foreclosure
5 Proceedings.--* * *

6 (d) If notice is given pursuant to this section at least
7 thirty (30) days prior to taking any action specified in this
8 section and such notice contains all of the information
9 prescribed by the provisions of the act of January 30, 1974
10 (P.L.13, No.6), referred to as the Loan Interest and Protection
11 Law, then no additional notice shall be required pursuant to
12 section 403 of the Loan Interest and Protection Law.

13 Section 3. Section 403-C(a) and (f) of the act, amended or
14 added May 31, 1984 (P.L.364, No.73) and December 18, 1992
15 (P.L.1652, No.182), are amended and the section is amended by
16 adding a subsection to read:

17 Section 403-C. Notice Requirements.--(a) Any mortgagee who
18 desires to foreclose upon a mortgage shall send to such
19 mortgagor at his or her last known address the notice provided
20 in subsection (b): Provided, however, That such mortgagor shall
21 be at least sixty (60) days contractually delinquent in his
22 mortgage payments or be in violation of any other provision of
23 such mortgage. If notice is given pursuant to this section, at
24 least thirty (30) days prior to taking any action specified in
25 section 402-C, and such notice contains all of the information
26 prescribed by the provisions of the act of January 30, 1974
27 (P.L.13, No.6), referred to as the Loan Interest and Protection
28 Law, then no additional notice shall be required pursuant to
29 section 403 of the Loan Interest and Protection Law.

30 * * *

(f) Notwithstanding any other provisions of this section, a mortgagee shall not be required to send the uniform notice provided in subsection [(b) to any mortgagor who is more than thirty-six (36) months delinquent or in default for more than thirty-six (36) months, pursuant to the terms of mortgagor's residential mortgage with mortgagee. This requirement shall mean that if the mortgagor is more than thirty-six (36)] (b):

(1) to any mortgagor who is more than twenty-four (24) consecutive or nonconsecutive months in arrears on the residential mortgage in question, no matter what the reason therefor[, he shall be ineligible to receive the notice in subsection (b).]; or

(2) where the aggregate amount of arrearages due to a mortgagee pursuant to the terms of the mortgage, without regard to any acceleration under the mortgage including, but not limited to, the amount of principal, interest, taxes, assessments, ground rents, hazard insurance, any mortgage insurance or credit insurance premiums, exceeds the sum of twenty-four thousand (\$24,000) dollars.

(g) Notwithstanding any other provisions of this section, a mortgagee shall not be required to send the uniform notice provided in subsection (b) to any mortgagor who has already been sent the uniform notice and:

(1) who did not apply for a mortgage assistance loan;

(2) who applied for a mortgage assistance loan but whose application was denied; or

(3) whose mortgage assistance disbursements were terminated by the agency for any reason.

Unless the mortgagor has cured his or her mortgage delinquency, by means of a mortgage assistance loan or otherwise, receipt of

1 partial payments of arrears from the mortgagor, subsequent to
2 the sending of the uniform notice, shall not mean that the
3 mortgagee must send a new uniform notice to the mortgagor prior
4 to legal action being taken to enforce the mortgage. A uniform
5 notice sent to the mortgagor, while the mortgagor was in
6 bankruptcy, shall be valid for the purpose of this act and no
7 new uniform notice need be provided as a result of any discharge
8 or dismissal of the bankruptcy petition or relief from the
9 automatic stay.

10 Section 4. Section 404-C(a) of the act, amended May 31, 1984
11 (P.L.364, No.73) and December 18, 1992 (P.L.1652, No.182), is
12 amended to read:

13 Section 404-C. Eligibility for Assistance.--(a) No
14 assistance may be made with respect to a mortgage or mortgagor
15 under this article unless all of the following are established:

16 (1) The property securing the mortgage, or other security
17 interest in the case of units in cooperative or condominium
18 projects, is a one-family residence, or two-family owner-
19 occupied residence including one-family units in a condominium
20 project or a membership interest and occupancy agreement in a
21 cooperative housing project, is the principal residence of the
22 mortgagor and is located in this Commonwealth.

23 (2) (i) Any mortgagee has indicated to the mortgagor its
24 intention to foreclose; and

25 (ii) payments under any mortgage have been contractually
26 delinquent for at least sixty (60) days.

27 (3) The mortgage is not insured by the Federal Housing
28 Administration under Title II of the National Housing Act (12
29 U.S.C. §§ 1707-1715z-18).

30 (4) The mortgagor is a permanent resident of this

1 Commonwealth and is suffering financial hardship due to
2 circumstances beyond the mortgagor's control which render the
3 mortgagor unable to correct the delinquency or delinquencies
4 within a reasonable time and make full mortgage payments.

5 (5) The agency has determined that there is a reasonable
6 prospect that the mortgagor will be able to resume full mortgage
7 payments within [thirty-six (36)] twenty-four (24) months after
8 the beginning of the period for which assistance payments are
9 provided under this article and pay the mortgage or mortgages in
10 full by its maturity date or by a later date agreed to by the
11 mortgagee or mortgagees for completing mortgage payments.

12 (6) The mortgagor has applied to the agency for assistance
13 on an application form prescribed by the agency for this use
14 which includes a financial statement disclosing all assets and
15 liabilities of the mortgagor, whether singly or jointly held,
16 and all household income regardless of source. Any applicant who
17 intentionally misrepresents any financial information in
18 conjunction with the filing of an application for assistance
19 under this article may be denied assistance or required to
20 immediately repay any amount of assistance made as a result of
21 such misrepresentation, and the mortgagee may, at any time
22 thereafter, take any legal action to enforce the mortgage
23 without any further restrictions or requirements under this
24 article.

25 (7) The mortgagee is not prevented by law from foreclosing
26 upon the mortgage.

27 (8) The agency has determined, based on the mortgagor's
28 financial statement, that the mortgagor has insufficient
29 household income or net worth to correct the delinquency or
30 delinquencies within a reasonable period of time and make full

1 mortgage payments.

2 (9) Except for the current delinquency, the mortgagor shall
3 have had a favorable residential mortgage credit history for the
4 previous five (5) years. This requirement shall mean that, if
5 the mortgagor has been more than three (3) consecutive months in
6 arrears on a residential mortgage within the previous five (5)
7 years, he shall be ineligible for assistance, unless the
8 mortgagor can demonstrate that the prior delinquency was the
9 result of financial hardship due to circumstances beyond his
10 control.

11 (10) For purposes of this section, in order to determine
12 whether the financial hardship is due to circumstances beyond
13 the mortgagor's control, the agency may consider information
14 regarding the mortgagor's employment record, credit history and
15 current income.

16 (11) The mortgagor meets any other procedural requirements
17 established by the agency.

18 (12) The mortgagor is not more than [thirty-six (36)]
19 twenty-four (24) months delinquent or in default for more than
20 [thirty-six (36)] twenty-four (24) months pursuant to the terms
21 of mortgagor's residential mortgage. This requirement shall mean
22 that if the mortgagor is more than [thirty-six (36)] twenty-four
23 (24) consecutive or nonconsecutive months in arrears on the
24 residential mortgage in question, no matter what the reason
25 therefor, he shall be ineligible for assistance.

26 (13) The property is not encumbered by more than two
27 mortgages, other than a mortgage filed by the agency to secure
28 repayment of the mortgage assistance loan, or by other liens or
29 encumbrances which would unreasonably impair the security of the
30 agency's mortgage.

1 * * *

2 Section 5. Sections 405-C(a), (b), (f) and (g), 406-C and
3 408-C of the act, added December 23, 1983 (P.L.385, No.91), are
4 amended to read:

5 Section 405-C. Assistance Payments.--(a) If the agency
6 determines that a mortgagor is eligible for assistance under
7 this article, the agency shall pay directly to each mortgagee
8 secured by the mortgagor's real estate payments on behalf of the
9 mortgagor. The agency shall pay to each mortgagee the full
10 amount then due to that mortgagee pursuant to the terms of the
11 mortgage without regard to any acceleration under the mortgage,
12 or the full amount of any alternate mortgage payments agreed to
13 by the mortgagee and mortgagor. This amount shall include, but
14 not be limited to, the amount of principal, interest, taxes,
15 assessments, ground rents, hazard insurance, any mortgage
16 insurance or credit insurance premiums. The initial payment made
17 by the agency to each mortgagee shall be an amount which makes
18 each mortgage current and pays reasonable costs and reasonable
19 attorneys' fees already incurred by such mortgagee. However, in
20 no event shall the total payment exceed the sum equal to 24
21 consecutive or nonconsecutive months of arrears on any
22 residential mortgage.

23 (b) After the agency has paid any and all arrearages
24 pursuant to subsection (a) to each mortgagee, the mortgagor may
25 be entitled to monthly mortgage assistance payments pursuant to
26 this article. A mortgagor on whose behalf the agency is making
27 mortgage assistance payments shall pay monthly payments to the
28 agency. Such payments shall be in an amount which will cause the
29 mortgagor's total housing expense not to exceed [thirty-five
30 (35)] forty-five (45) percent of the mortgagor's net effective

1 income. This shall be the maximum amount the mortgagor can be
2 required to pay during the [thirty-six (36) months] period a
3 mortgagor is eligible for emergency mortgage assistance[.]:
4 Provided, however, That beginning July 1, 1997, and continuing
5 thereafter, any mortgagor approved for continuing monthly
6 mortgage assistance or whose continuing mortgage assistance is
7 approved after being recertified by the agency, shall pay to the
8 agency a minimum monthly payment of at least twenty-five (\$25)
9 dollars for each mortgage being assisted. The mortgagor shall
10 make the above payment to the agency at least [seven (7)]
11 fifteen (15) days before each mortgage payment is due to each
12 mortgagee. Upon receipt of this payment from the mortgagor, the
13 agency or its duly authorized agent shall send the total
14 mortgage payment directly to each mortgagee. "Housing expense"
15 shall be defined as the sum of the mortgagor's monthly
16 [maintenance,] utility, hazard insurance expense, real estate
17 taxes and required mortgage payments, including escrows. "Net
18 effective income" shall be defined as gross household income
19 less city, State and Federal income and social security taxes.
20 "Gross household income" means the total income of [a husband,
21 wife] the applicant, all other owner-occupants of the residence,
22 any spouse and children residing in the same household as the
23 applicant and any other resident of the household declared by
24 the mortgagor as a dependent for Federal tax purposes. The
25 income of other unrelated individuals residing in the household
26 shall be considered part of gross household income to the extent
27 that their income is made available in support of the household.
28 If the mortgagor is receiving emergency mortgage assistance
29 under a program other than that established in this article, the
30 amount of the payment he or she is required to make to the

1 agency under this article shall take into consideration the
2 amount of assistance he is receiving under such other programs.

3 * * *

4 (f) Payments under this article shall be provided for a
5 period not to exceed [thirty-six (36)] twenty-four (24) months,
6 either consecutively or nonconsecutively[.], whether such
7 payments are on account of arrears, continuing monthly
8 assistance or any combination thereof, and shall not exceed the
9 sum of twenty-four thousand (\$24,000) dollars on behalf of any
10 mortgagor. The agency shall establish procedures for periodic
11 review of the mortgagor's financial circumstances for the
12 purpose of determining the necessity for continuation,
13 termination or adjustment of the amount of the payments.
14 Payments shall be discontinued when the agency determines that,
15 because of the changes in the mortgagor's financial
16 circumstances, the payments are no longer necessary in
17 accordance with the standards set forth in section 404-C.

18 (g) Repayment of amounts owed to the agency from a mortgagor
19 shall be secured by a mortgage lien on the property and by such
20 other obligation as the agency may require. The priority of any
21 lien obtained by the agency under this article shall be
22 determined in the same manner as the lien of a general secured
23 creditor of the mortgagor. The lien or other security interest
24 of the agency shall not be deemed to take priority over any
25 other secured lien or secured interest in effect against the
26 mortgagor's property on the date assistance payments begin. The
27 agency may allow subordination of the mortgage assistance lien
28 if such subordination is necessary to permit the mortgagor to
29 obtain a home improvement loan for repairs necessary to preserve
30 the property.

1 (h) In cases of joint mortgagors who are husband and wife,
2 where only one spouse who is an occupant of the mortgaged
3 premises makes application for and receives assistance under
4 this article, the lien to secure repayment as aforesaid shall be
5 a lien on the property of like force and effect as a mechanic's
6 lien.

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

13 (1) If the mortgagor's total housing expense as defined in
14 section 405-C is less than [thirty-five (35)] forty-five (45)
15 percent of his or her net effective income, the mortgagor shall
16 pay to the agency the difference between [thirty-five (35)]
17 forty-five (45) percent of the mortgagor's net effective income
18 and the mortgagor's total housing expense unless otherwise
19 determined by the agency after examining the mortgagor's
20 financial circumstances and ability to contribute to repayment
21 of the mortgage assistance.

22 (2) If the mortgagor's total housing expense is more than
23 [thirty-five (35)] forty-five (45) percent of his or her net
24 effective income, repayment of the mortgage assistance shall be
25 deferred until the mortgagor's total housing expense is less
26 than [thirty-five (35)] forty-five (45) percent of his or her
27 net effective income[.]: Provided, however, That beginning July
28 1, 1997, and continuing thereafter, any mortgagor who has
29 received mortgage assistance shall pay to the agency a minimum
30 monthly repayment of at least twenty-five (\$25) dollars for each

1 mortgage that was assisted. Such minimum monthly repayment shall
2 not result in the accrual of interest on the mortgage assistance
3 loan pursuant to paragraph (5).

4 (3) If repayment of mortgage assistance is not made by the
5 date any mortgage is paid, the mortgagor shall make mortgage
6 assistance repayments in an amount not less than the mortgage
7 payment until the mortgage assistance is repaid.

8 (4) The agency shall establish procedures for periodic
9 review of the mortgagor's financial circumstances to determine
10 the amounts of repayment required under this section.
11 Notwithstanding any other provision of this section, the agency
12 shall require full or partial repayment of the mortgage
13 assistance loan once the mortgagor has established credit to the
14 extent that there is sufficient equity in the property for the
15 mortgagor to be able to refinance their mortgage obligations at
16 reasonable rates and terms as determined by the agency.

17 (5) Interest shall accrue on all mortgage assistance made by
18 the agency [at the rate of nine (9) percent per annum.] at a
19 rate to be determined by the agency. The agency shall set the
20 interest rate annually and publish notice of the rate in the
21 Pennsylvania Bulletin prior to the beginning of each fiscal
22 year. In no event shall the rate be less than eight (8) percent
23 per annum or more than fifteen (15) percent per annum. Interest
24 shall start to accrue whenever the mortgagor begins to make
25 repayment under this section. Interest shall accrue only during
26 the period in which the mortgagor is required to make repayment
27 under this section. When any mortgage for which mortgage
28 assistance was made is paid, interest shall then accrue on all
29 mortgage assistance due and owing at the same rate and on the
30 same basis as the mortgage for which the mortgage assistance was

1 made.

2 (6) All moneys received from mortgagors for repayment of
3 mortgage assistance shall be deposited in the State Homeowner's
4 Emergency Mortgage Assistance Fund established by the agency for
5 the sole purpose of implementing the provisions of this article.

6 Section 408-C. Homeowner's Emergency Mortgage Assistance
7 Fund.--The Homeowner's Emergency Mortgage Assistance Fund is
8 hereby created as a separate account within the agency for the
9 sole purpose of implementing the provisions of this article. No
10 other agency funds, moneys or interest earnings shall be
11 utilized for the purposes of this article. [The Homeowner's
12 Emergency Mortgage Assistance Fund shall only be utilized by the
13 agency whenever funds are specifically authorized and
14 appropriated by the General Assembly pursuant to section 410-C
15 of this article for the purposes provided for in this article.
16 All moneys paid by mortgagors to the agency to repay loans
17 provided by the agency shall be accounted for and lapsed into or
18 transferred back to the source from which the funds are
19 appropriated unless the funds cannot be lapsed or transferred
20 pursuant to any other act of the General Assembly: Provided,
21 however, That investment] Investment and interest earnings on
22 moneys from this fund may be used by the agency for the
23 administrative costs of the program. The Homeowner's Emergency
24 Mortgage Assistance Fund shall operate as a revolving loan fund
25 to which shall be credited all repayment of principal and
26 interest by mortgagors to the agency to repay loans provided by
27 the agency pursuant to this article, as well as grants or
28 donations from other sources and any funds that may be
29 appropriated by the General Assembly.

30 Section 6. Section 410-C of the act is repealed.

1 Section 7. This act shall take effect in 60 days.