
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2040 Session of
2007

INTRODUCED BY GRUCELA, CARROLL, COHEN, GEORGE, CALTAGIRONE,
CONKLIN, DALLY, FLECK, GEIST, HARHAI, HARKINS, HENNESSEY,
HERSHEY, HORNAMAN, JAMES, W. KELLER, KOTIK, KULA, LEACH,
LONGIETTI, MAHONEY, MANDERINO, MANN, MELIO, MICOZZIE,
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RAPP, READSHAW, REICHLEY, SHIMKUS, SIPTROTH, K. SMITH,
SOLOBAY, STEIL, STERN, TANGRETTI, J. TAYLOR, WATSON,
WOJNAROSKI, YUDICHAK AND J. WHITE, NOVEMBER 15, 2007

REFERRED TO COMMITTEE ON COMMERCE, NOVEMBER 15, 2007

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, providing for a home purchase loan
3 program to be administered by the Pennsylvania Housing
4 Finance Agency; establishing the Affordable Housing Trust
5 Fund; providing for a program of home mortgage insurance to
6 be administered by the Pennsylvania Housing Finance Agency;
7 and establishing the Housing Insurance Fund.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Chapter 60 of Title 53 of the Pennsylvania
11 Consolidated Statutes is amended by adding a subchapter to read:

12 SUBCHAPTER D

13 AFFORDABLE HOUSING TRUST FUND

14 AND HOME MORTGAGE INSURANCE PROGRAM

15 Sec.

16 6031. Definitions.

17 6032. Affordable Housing Trust Fund.

1 6033. Home mortgage insurance program.

2 § 6031. Definitions.

3 The following words and phrases when used in this subchapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Agency." The Pennsylvania Housing Finance Agency.

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

12 (1) Reasonable allowances for dependents.

13 (2) Reasonable allowances for medical expenses.

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

16 (4) Income not received regularly.

17 "Insurance fund." The Housing Insurance Fund established in
18 section 6033(a) (relating to home mortgage insurance program).

19 "Lending institution." Any of the following if it
20 customarily provides residential mortgage services or otherwise
21 aids in the financing of mortgages on residential housing in
22 this Commonwealth:

23 (1) Bank.

24 (2) Bank and trust company.

25 (3) Trust company.

26 (4) Savings bank.

27 (5) National banking association.

28 (6) Federal National Mortgage Association.

29 (7) Federal Home Loan Mortgage Corporation.

30 (8) Government National Mortgage Association.

1 (9) Pennsylvania Housing Finance Agency.

2 (10) Mortgage banker.

3 (11) FHA-approved mortgage service company.

4 (12) Savings and loan association.

5 (13) Federal savings and loan association.

6 (14) Building and loan association.

7 (15) Credit union.

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

10 "Low-income and moderate-income persons" or "low-income and
11 moderate-income families." An individual who or family that
12 cannot afford to pay the amounts at which private enterprise,
13 without the assistance of section 6032 (relating to Affordable
14 Housing Trust Fund), is providing a substantial supply of
15 decent, safe and sanitary housing. The Pennsylvania Housing
16 Finance Agency shall establish income limits for participation
17 of such persons and families, based on countywide income
18 statistics, where available.

19 "Mortgage." A lien other than a judgment on a fee simple
20 estate or leasehold in real property located in this
21 Commonwealth, together with the credit instruments, if any,
22 secured by it. The term shall include insured and uninsured
23 mortgages.

24 "Mortgagor." An individual, joint venture, partnership,
25 limited partnership, trust, corporation, cooperative or
26 condominium, whether organized for profit or not for profit.

27 "Trust fund." The Affordable Housing Trust Fund established
28 in section 6032 (relating to Affordable Housing Trust Fund).

29 § 6032. Affordable Housing Trust Fund.

30 (a) Establishment.--There is hereby established under the

1 jurisdiction and control of the agency the Affordable Housing
2 Trust Fund, as a permanent revolving fund of identifiable,
3 renewable and segregated capital to be used by the agency in
4 accordance with this section. The agency shall hold trust fund
5 moneys separate and distinct from its other assets and other
6 funds which it administers.

7 (b) Sources of trust fund.--There shall be paid into the
8 trust fund:

9 (1) All moneys appropriated by the General Assembly for
10 inclusion in the trust fund.

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

13 (3) Grants, donations, contributions or gifts from
14 public or private sources specifically earmarked for deposit
15 into the trust fund.

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

19 (5) Any money made available to the agency under the
20 provisions of this subchapter.

21 (6) All interest, dividends and pecuniary gains from
22 investment of money in the trust fund.

23 (7) Repayments of principal and interest on loans
24 provided from the trust fund.

25 (8) All other revenues, receipts and fees of whatever
26 source derived from the operation of the trust fund.

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

1 (1) The Home Purchase Loan Program, which shall consist
2 of second or subsequent mortgage loans or grants, the
3 proceeds of which can be used to provide closing cost
4 assistance, down payment assistance or both types of
5 assistance to eligible homebuyers. Repayment may be deferred
6 by the agency for a period up to the length of the first
7 mortgage but shall be repaid at the time of a sale, transfer
8 or nonowner occupancy of the property or upon payment in full
9 or a refinance of the first mortgage. The agency may allow
10 subordination of the mortgage loan where the first mortgage
11 is being refinanced to produce more favorable repayment terms
12 for the homeowner or to enable the homeowner to make repairs
13 necessary to preserve the property.

14 (2) The Mortgage Interest Subsidy Program, which shall
15 consist of second or subsequent mortgage loans and grants,
16 the proceeds of which can be used to buy down interest rates
17 for eligible homebuyers, thereby producing an affordable
18 monthly mortgage payment. Repayment of the loans may be
19 deferred by the agency for a period of up to the length of
20 the first mortgage and shall be repaid in the same manner as
21 set forth in paragraph (1).

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

25 (1) Applicants must be persons or families whose annual
26 income adjusted for family size does not exceed 115% of
27 median household income for the county in which the property
28 is located. The agency may establish additional criteria
29 limiting certain kinds of assistance to persons of low or
30 very low income.

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

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

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

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

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

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

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

30 (2) Lending institutions that originate first mortgage

1 loans in conjunction with a home purchase program operated by
2 a municipality, municipal authority or a residential finance
3 authority.

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

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

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

14 (h) Housing counseling programs.--The agency may use money
15 from the trust fund to pay for technical assistance, design,
16 finance and administrative services and housing counseling
17 services provided to applicants by nonprofit housing development
18 corporations or other community-based or neighborhood-based
19 organizations.

20 (i) Administrative expenses.--The agency may use money from
21 the trust fund to pay reasonable expenses incurred in connection
22 with administering the trust fund and operating the programs
23 authorized under this section.

24 (j) Imposition of surcharge.--

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

30 (2) The surcharge shall be in addition to any other

1 recording fee or other charge lawfully collected by the
2 recorder of deeds and 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.

5 (3) The Department of Revenue shall remit forthwith to
6 the agency for deposit to the trust fund all moneys received
7 in connection with the real estate document surcharge.

8 (k) County participation.--

9 (1) The county commissioners or the governing body of a
10 county with a down payment or closing cost assistance program
11 established under the provisions of this subchapter may elect
12 to not participate in the trust fund. Election to not
13 participate in the trust fund shall be evidenced by an
14 ordinance enacted by the county commissioners or the
15 governing body of such county.

16 (2) The surcharge under subsection (j) shall be imposed
17 and any moneys received shall be deposited into the trust
18 fund until such an ordinance is enacted under this
19 subsection. Any real estate document recorded in the office
20 of the recorder of deeds in a county which has enacted an
21 ordinance under this subsection shall not be subject to the
22 surcharge imposed by subsection (j).

23 (3) The residents of a county which has enacted an
24 ordinance under this subsection shall be ineligible to
25 receive any moneys from the trust fund until the county
26 commissioners or the governing body of the county repeals the
27 ordinance. The recorder of deeds of the county shall begin
28 collecting the surcharge imposed by subsection (j) 60 days
29 after the repeal is effective.

30 (l) Third class cities program.--

1 (1) The county commissioners or the governing body of a
2 county in which a city of the third class is located may
3 elect by ordinance to impose a surcharge of \$1 on every deed,
4 mortgage or other instrument for which a recording fee is
5 provided and which is recorded in the office of the recorder
6 of deeds. This surcharge shall be in addition to any other
7 recording fee or other charge lawfully collected by the
8 recorder of deeds.

9 (2) The surcharge shall be paid by the recorder of deeds
10 to the Department of Revenue at the same time and in the same
11 manner as the realty transfer tax. The Department of Revenue
12 shall remit forthwith to the agency for deposit into a
13 restricted account within the trust fund all moneys received
14 in connection with the surcharge imposed under this
15 subsection.

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

29 (4) If all of the moneys in the restricted account
30 cannot be distributed under this subsection, the agency shall

distribute the moneys in accordance with subsection (e).

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

(n) Expiration.--The trust fund, together with its statutory functions and duties, and this section, shall terminate on December 31, 2010, 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 trust fund by December 31, 2009. This report shall provide the General Assembly with a recommendation as to whether the trust fund is to be continued and, if so, the changes which are suggested by the committee to improve the operation of the trust fund.

§ 6033. Home mortgage insurance program.

(a) Insurance Fund established.--

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

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

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

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

1 (iii) All premiums collected under the home mortgage
2 insurance program.

3 (iv) All interest, dividends and gains from
4 investment of money of the insurance fund.

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

7 (3) Money held in the insurance fund shall be used to
8 make payments pursuant to home mortgage insurance contracts,
9 to pay any or all expenses of administration and operation of
10 the home mortgage insurance program and to maintain the
11 insurance fund at an amount equal to prudent minimum
12 insurance reserves as determined by the agency. Any money in
13 the insurance fund in excess of that required for the
14 aforesaid purposes may be allocated by the agency to the
15 trust fund established under section 6032 (relating to
16 Affordable Housing Trust Fund).

17 (b) Home mortgage insurance program.--The agency, or any
18 nonprofit corporate subsidiary of the agency formed for this
19 purpose, may create, develop, administer and supervise the
20 administration of the home mortgage insurance program in
21 cooperation with public or private mortgage insurers to
22 encourage home ownership for low-income and moderate-income
23 persons and families who are unable to purchase a home without
24 mortgage insurance or similar credit enhancements. In this
25 connection, the agency may:

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

29 (2) Procure reinsurance or coinsurance or enter into
30 reciprocal or interinsurance contracts from and with any

1 agency of the United States, local agency or any licensed
2 private mortgage insurer or reinsurer.

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

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

7 (c) Eligibility requirements.--

8 (1) To qualify for loan insurance pursuant to this
9 section, a borrower shall be a purchaser of a single-family,
10 owner-occupied residence who is qualified and financially
11 able to bear the usual expenses of maintaining such
12 residences and repaying the loan. The agency may insure or
13 issue commitments to insure loans upon certification of an
14 officer of an approved lending institution that the borrower
15 is qualified for the loan according to standard single-family
16 lending practices and agency guidelines.

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

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

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

24 (d) Loan defaults.--The agency shall establish procedures to
25 be followed by lending institutions in the event of a default on
26 the loan insured under this section. The agency may require
27 that, prior to submission and payment of a claim, the lending
28 institution must foreclose and take possession of the property
29 or otherwise acquire title and possession of the property within
30 the time specified by the agency.

1 (e) Home mortgage insurance premiums.--The agency shall fix
2 mortgage insurance premiums for the insurance of mortgage loans
3 under the provisions of this section. The amount of premium need
4 not be uniform for all insured loans.

5 (f) Status of mortgages as investments.--Loans secured by
6 mortgages, the payment of which are insured by the agency, shall
7 be legal investments for trust companies; banks; investment
8 companies; savings banks; building and loan associations;
9 executors, administrators, guardians, conservators, trustees and
10 other fiduciaries; public and private pension, profit-sharing
11 and retirement funds; the State Treasurer; and agencies of the
12 Commonwealth.

13 (g) Licensure exemption.--The authority granted to the
14 agency by this section, or to any nonprofit corporate subsidiary
15 it may create for this purpose, is intended to be in complete
16 substitution of all licensing, filing and other regulatory
17 requirements otherwise applicable to insurance carriers doing
18 business in this Commonwealth and the agency or its nonprofit
19 corporate subsidiary.

20 (h) Expiration.--The insurance fund, together with its
21 statutory functions and duties, and this section shall expire on
22 December 31, 2010, unless reestablished or continued by the
23 General Assembly. The Legislative Budget and Finance Committee
24 shall present to the General Assembly a report evaluating the
25 insurance fund by December 31, 2009. This report shall provide
26 the General Assembly with a recommendation as to whether the
27 insurance fund is to be continued and, if so, the changes which
28 are suggested by the committee to improve the operation of the
29 insurance fund.

30 Section 2. This act shall take effect as follows:

1 (1) The addition of 53 Pa.C.S. §§ 6032(j) and 6033 shall
2 take effect in 60 days.

3 (2) The remainder of this act shall take effect
4 immediately.