

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 486 Session of 2007

INTRODUCED BY BROWNE, FERLO, BOSCOLA, TOMLINSON, ERICKSON, RAFFERTY, RHOADES, COSTA, BAKER AND STACK, MARCH 15, 2007

SENATOR PIPPY, URBAN AFFAIRS AND HOUSING, AS AMENDED, NOVEMBER 28, 2007

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

1 indicating how the act shall become effective," further
2 providing for ~~the Homeowner's Emergency Assistance Program,~~ <—
3 GENERAL AUTHORITY, for notice and institution of foreclosure <—
4 proceedings, for notice requirements, for assistance payments
5 and for repayment; and providing for an ongoing foreclosure
6 study.

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

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

12 SECTION 1. SECTIONS 401-C(D) AND 402-C(B) OF THE ACT OF <—
13 DECEMBER 3, 1959 (P.L.1688, NO.621), KNOWN AS THE HOUSING
14 FINANCE AGENCY LAW, ADDED DECEMBER 23, 1983 (P.L.385, NO.91),
15 ARE AMENDED TO READ:

16 SECTION 401-C. GENERAL AUTHORITY.--* * *

17 (D) THE AGENCY SHALL DESIGNATE AND APPROVE NONPROFIT
18 CONSUMER CREDIT COUNSELING AGENCIES IN EACH COUNTY TO BE
19 AVAILABLE TO ASSIST THE AGENCY IN IMPLEMENTING THE PROVISIONS OF
20 THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO, MANDATED
21 COUNSELING. A "CONSUMER CREDIT COUNSELING AGENCY" SHALL BE
22 DEFINED FOR THE PURPOSE OF THIS ARTICLE AS A NONPROFIT CONSUMER
23 CREDIT COUNSELING AGENCY LOCATED IN PENNSYLVANIA WHICH IS
24 APPROVED BY THE AGENCY OR A HOUSING COUNSELING AGENCY CERTIFIED
25 BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
26 DEVELOPMENT. THE AGENCY SHALL MAINTAIN AN UP-TO-DATE LIST OF
27 APPROVED CONSUMER CREDIT COUNSELING AGENCIES FOR EACH COUNTY AND
28 PUBLISH THE LIST ON THE AGENCY'S INTERNET WEBSITE.

29 Section 402-C. Notice and Institution of Foreclosure
30 Proceedings.--* * *

31 (b) A mortgagee shall not accelerate the maturity of any
32 mortgage obligation covered under this article, commence any

1 legal action including mortgage foreclosure to recover under
2 such obligation, or take possession of any security of the
3 mortgage debtor for such mortgage obligation until a final
4 determination has been made by the agency on a mortgagor's
5 application for emergency mortgage assistance payments or the
6 applicable time periods provided for in section 403-C have
7 expired without the mortgagor applying for assistance in a
8 timely fashion, whichever is earlier. A final determination may
9 not be made by the agency until the conclusion of any timely
10 administrative appeal that may have been filed with the agency.

11 * * *

12 Section 2. Section 403-C(b) of the act, amended December 21,
13 1998 (P.L.1248, No.160), is amended to read:

14 Section 403-C. Notice Requirements.--* * *

15 (b) (1) The agency shall prepare a notice which shall
16 include all the information required by this subsection and by
17 section 403 of the act of January 30, 1974 (P.L.13, No.6),
18 referred to as the Loan Interest and Protection Law, and
19 referred to commonly as the Usury Law. This notice shall be in
20 plain language and specifically state that the recipient of the
21 notice may qualify for financial assistance under the
22 Homeowner's Emergency Mortgage Assistance Program. †This notice <—
23 shall contain the telephone number and the address of a local
24 consumer credit counseling agency.† <—

25 ~~(1.1) The notice shall contain, but not be limited to, the~~
26 ~~following information:~~

27 ~~(i) The name of the mortgagor and the address of the~~
28 ~~mortgaged premises, including the property tax identification~~
29 ~~number and the account number.~~

30 ~~(ii) The name and address of the servicer of the mortgage,~~

1 ~~with a toll free telephone number, facsimile number, electronic~~
2 ~~mail address and contact person's name, and the name and address~~
3 ~~of the holder of the mortgage. If the holder is a loan trust,~~
4 ~~the name and address of the trustee and the name of the trust in~~
5 ~~which the particular mortgage is included.~~

6 ~~(iii) The date the loan was originated, the name of the~~
7 ~~originating lender, the original principal amount of the loan,~~
8 ~~the interest rate on the loan or, if a variable rate, the rate~~
9 ~~that was effective when the loan was originated and the fact~~
10 ~~that it is a variable rate.~~

11 ~~(iv) A list of consumer credit counseling agencies which~~
12 ~~have been approved by the agency only for the county in which~~
13 ~~the mortgaged premises is located, including their addresses and~~
14 ~~telephone numbers. The agency shall maintain an up to date list~~
15 ~~of approved consumer credit counseling agencies for each county~~
16 ~~and publish the list on the agency's Internet website. A~~
17 ~~reference to the agency's Internet website shall also be~~
18 ~~included in the notice.~~

19 ~~(v) Any other information determined by the agency.~~

20 ~~(1.2)~~ This notice shall be in lieu of any other notice
21 required by law. This notice shall also advise the mortgagor of
22 his delinquency or other default under the mortgage including an
23 itemized breakdown of the total amount past due and that such
24 mortgagor has thirty (30) days, plus three (3) days for mailing,
25 to have a face-to-face meeting with [the mortgagee who sent the
26 notice or] a consumer credit counseling agency to attempt to
27 resolve the delinquency or default by restructuring the loan
28 payment schedule or otherwise. The mortgagee or other person
29 sending the notice to the mortgagor shall simultaneously send a
30 copy of each notice issued to the agency by regular mail,

1 facsimile, electronic mail or another means of electronic
2 transfer in accordance with agency guidelines. In lieu of
3 sending a copy of each notice, the mortgagee or other person
4 charged with sending the notice may provide the agency with <—
5 statistical information on a monthly basis as to the number of
6 notices sent pursuant to this act and pursuant to section 403 of
7 the Usury Law. This information shall be broken down by county
8 and census tract., WITHIN 30 DAYS OF THE END OF EACH CALENDAR <—
9 QUARTER, A REPORT LISTING THE NOTICES SENT DURING THE PRIOR
10 CALENDAR QUARTER ARRANGED BY PROPERTY ADDRESS INCLUDING ZIP
11 CODE.

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

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

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

18 (3) The proposed notice under paragraph (1) shall be
19 published by the agency in the Pennsylvania Bulletin within one
20 hundred twenty (120) days of the effective date of this
21 paragraph. The notice actually adopted for use by the agency
22 shall be promulgated as part of the program guidelines required
23 by section 401-C(b).

24 (4) If the mortgagor meets with a consumer credit counseling
25 agency, the consumer credit counseling agency shall promptly
26 notify all of the mortgagees secured by the mortgagor's real
27 property, and no mortgagee so notified shall commence any legal
28 action against the mortgagor's real property for a period not to
29 exceed thirty (30) calendar days from the date that the
30 mortgagor first meets with the consumer credit counseling

1 agency.

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

18 (6) If the mortgagor applies for mortgage assistance
19 payments, the agency shall promptly notify all of the mortgagees
20 secured by the mortgagor's real property. The agency shall make
21 a determination of eligibility within sixty (60) calendar days
22 of receipt of the mortgagor's application. During the time that
23 the application is pending, including any timely administrative <—
24 appeal filed with the agency in connection therewith, no
25 mortgagee may commence legal action to foreclose upon its
26 mortgage with the mortgagor. The agency shall provide notice to
27 the mortgagee if an administrative appeal is filed.

28 (7) An application for mortgage assistance may be submitted
29 to the agency beyond the thirty (30)-day period specified in
30 paragraph (5), and in such case, the agency shall make a

1 determination within sixty (60) calendar days of receipt of the
2 mortgagor's application. A late application or an administrative
3 appeal will not stay foreclosure proceedings, but in the event
4 the application is approved by the agency, a commenced
5 foreclosure proceeding shall be stayed UNLESS AND UNTIL THE ←
6 MORTGAGOR FAILS TO PROCEED TO CLOSING AND THE AGENCY RESCINDS
7 ITS APPROVAL.

8 * * *

9 Section 3. Section 405-C(e) of the act, added December 23,
10 1983 (P.L.385, No.91), is amended and the section is amended by
11 adding subsections to read:

12 Section 405-C. Assistance Payments.--* * *

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

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

23 (2) Copies of the following documents from the original
24 mortgage transaction:

25 (i) The HUD-1 settlement statement.

26 (ii) The mortgage and note.

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

29 (a.2) Failure to provide in a timely fashion the documents
30 and information required under subsection (a.1) will result in

1 the mortgagee's forfeiture of the right to receive any late fees
2 and attorney fees, costs and expenses.

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

13 * * *

14 (b.1) In lieu of paying arrearages under subsection (a) or
15 ongoing assistance under subsection (b), the agency may fund a
16 compromise pay-off of the balance of the mortgage, if the agency
17 determines that structuring assistance in such a manner would be
18 in the best interest of the agency and the mortgagor, AS AGREED ←
19 TO BY THE MORTGAGEE.

20 * * *

21 (e) If any mortgagee scheduled to receive monthly payments
22 from the agency pursuant to this article fails to receive from
23 the agency the full amount of such monthly payment within thirty
24 (30) days of the scheduled due date, or if a mortgagor fails to
25 observe and perform all the terms, covenants and conditions of
26 the mortgage, that mortgagee may, at any time thereafter, take
27 any legal action to enforce the mortgage without any further
28 restriction or requirement under this article.

29 * * *

30 Section 4. Section 406-C(5) of the act, amended December 21,

1 1998 (P.L.1248, No.160), is amended to read:

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

8 * * *

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

25 * * *

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

27 Section 412-C. Ongoing Foreclosure Study.--The agency shall
28 monitor foreclosure activity and trends in this Commonwealth,
29 using data and information accumulated from notices and
30 applications for assistance processed under this article, and

1 shall, as appropriate, provide recommendations for addressing
2 any problems identified in this monitoring effort.
3 Section 6. This act shall take effect in 60 days.