

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1931 Session of 1984

INTRODUCED BY RAPPAPORT AND SPENCER, FEBRUARY 13, 1984

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 1, 1984

AN ACT

1 Establishing the priority of advances made under mortgages AND <—
2 THE VALIDITY OF MORTGAGES WITH NO OUTSTANDING INDEBTEDNESS.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 ~~Section 1. Except as otherwise provided in this act, all~~ <—

6 SECTION 1. PRIORITY OF CERTAIN MORTGAGE LIENS. <—

7 EXCEPT FOR A MORTGAGE WHICH IS A FIRST LIEN ON A ONE-FAMILY
8 OR TWO-FAMILY DWELLING ONLY AND DOES NOT SECURE EITHER A
9 CONSTRUCTION OR A REVOLVING LOAN AND EXCEPT AS OTHERWISE
10 PROVIDED IN THIS ACT, THE LIEN OF ALL advances made under and
11 other sums secured by any mortgage which PROVIDES THAT IT <—

12 SECURES FUTURE ADVANCES, states a maximum principal amount to be
13 secured thereby and ~~which~~ is recorded in this Commonwealth after <—

14 the effective date of this act shall have priority as of the
15 time the mortgage is left for record OR, IF IT IS A TIMELY <—

16 RECORDED PURCHASE MONEY MORTGAGE, AS OF THE TIME OF DELIVERY
17 whether the advances are voluntary or obligatory. ~~Any advance or~~ <—

1 ~~portion thereof~~ THE LIEN OF ANY PORTION OF AN ADVANCE which, <—
2 when added to the unpaid principal balance of the mortgage,
3 ~~results in the total unpaid principal balance~~ IS in excess of <—
4 the maximum principal amount stated in the mortgage shall have
5 priority only ~~from~~ AS OF the time the advance was made. However, <—
6 the LIEN OF THE following advances made under or sums secured by <—
7 the mortgage shall have priority ~~from~~ AS OF the time the <—
8 mortgage is left for record OR, IF IT IS A TIMELY RECORDED <—
9 PURCHASE MONEY MORTGAGE, AS OF THE TIME OF DELIVERY whether or
10 not ~~the~~ THEY result in a total unpaid principal amount in excess <—
11 of the maximum principal amount stated in the mortgage: ~~accrued~~ <—
12 ~~interest, late, prepayment or service charges, advances made for~~
13 ~~the payment of taxes, assessments, maintenance charges or~~
14 ~~insurance premiums or for the reasonable protection of the~~
15 ~~mortgaged property or the lien of the mortgage, expenses~~
16 ~~incurred by the mortgagee by reason of default by the mortgagor~~
17 ~~under the mortgage, and advances made under a construction loan~~
18 ~~to enable completion of the improvement for which the~~
19 ~~construction loan was originally made. The priority of advances~~
20 ~~shall not be affected by the fact that no advance may have been~~
21 ~~made at or before the date of recording of the mortgage, that~~
22 ~~there may be no outstanding indebtedness at the time an advance~~
23 ~~is made or that no provision for future advances may be~~
24 ~~contained in the mortgage.~~

25 Section 2. ~~Nothing contained in this act shall be construed~~
26 ~~to affect the priority of advances made under any mortgage~~
27 ~~recorded before the effective date of this act.~~

28 Section 3. ~~This act shall take effect in 60 days.~~

29 (1) ACCRUED INTEREST. <—

30 (2) LATE, PREPAYMENT OR SERVICE CHARGES.

- 1 (3) ADVANCES MADE:
- 2 (I) FOR THE PAYMENT OF TAXES, ASSESSMENTS,
- 3 MAINTENANCE CHARGES OR INSURANCE PREMIUMS; OR
- 4 (II) FOR THE REASONABLE PROTECTION OF THE MORTGAGED
- 5 PROPERTY OR THE LIEN OF THE MORTGAGE.
- 6 (4) EXPENSES INCURRED BY THE MORTGAGEE BY REASON OF
- 7 DEFAULT BY THE MORTGAGOR UNDER THE MORTGAGE.
- 8 (5) ADVANCES MADE UNDER A CONSTRUCTION LOAN TO ENABLE
- 9 COMPLETION OF THE IMPROVEMENTS FOR WHICH THE CONSTRUCTION
- 10 LOAN WAS ORIGINALLY MADE.

11 THE PRIORITY OF THE LIEN OF ADVANCES AND THE VALIDITY AND

12 ENFORCEABILITY OF THE LIEN OF THE MORTGAGE SHALL NOT BE AFFECTED

13 BY THE FACT THAT NO ADVANCE MAY HAVE BEEN MADE AT OR BEFORE THE

14 DATE OF RECORDING OF THE MORTGAGE OR THAT THERE MAY BE NO

15 OUTSTANDING INDEBTEDNESS AT ANY TIME.

16 SECTION 2. EFFECT OF ACT ON PRIOR MORTGAGES.

17 NOTHING CONTAINED IN THIS ACT SHALL BE CONSTRUED TO AFFECT

18 THE PRIORITY OF ADVANCES MADE UNDER ANY MORTGAGE RECORDED BEFORE

19 THE EFFECTIVE DATE OF THIS ACT.

20 SECTION 3. EFFECTIVE DATE.

21 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.