

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

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20 ~~construction loan was originally made.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

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

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

30 (1) ACCRUED INTEREST. <—

1 (2) LATE, PREPAYMENT OR SERVICE CHARGES.

2 (3) ADVANCES MADE:

3 (I) FOR THE PAYMENT OF TAXES, ASSESSMENTS,  
4 MAINTENANCE CHARGES OR INSURANCE PREMIUMS; OR

5 (II) FOR THE REASONABLE PROTECTION OF THE MORTGAGED  
6 PROPERTY OR THE LIEN OF THE MORTGAGE.

7 (4) EXPENSES INCURRED BY THE MORTGAGEE BY REASON OF  
8 DEFAULT BY THE MORTGAGOR UNDER THE MORTGAGE.

9 (5) ADVANCES MADE UNDER A CONSTRUCTION LOAN TO ENABLE  
10 COMPLETION OF THE IMPROVEMENTS FOR WHICH THE CONSTRUCTION  
11 LOAN WAS ORIGINALLY MADE.

12 THE PRIORITY OF THE LIEN OF ADVANCES AND THE VALIDITY AND  
13 ENFORCEABILITY OF THE LIEN OF THE MORTGAGE SHALL NOT BE AFFECTED  
14 BY THE FACT:

15 (1) THAT THE FIRST ADVANCE IS MADE AFTER THE DATE OF  
16 RECORDING OF THE MORTGAGE; OR

17 (2) THAT THERE MAY BE NO OUTSTANDING INDEBTEDNESS FOR A  
18 PERIOD OF TIME AFTER AN ADVANCE OR ADVANCES HAVE BEEN MADE  
19 AND REPAID, PROVIDED AS TO THE SITUATION IN THIS PARAGRAPH  
20 THAT THE MORTGAGE PROVIDES THAT:

21 (I) ITS LIEN IS PRESERVED DURING THE APPLICABLE  
22 PERIOD OF TIME WHEN THERE IS NO OUTSTANDING INDEBTEDNESS;  
23 AND

24 (II) THE MORTGAGOR WAIVES THE RIGHT TO HAVE THE  
25 MORTGAGE SATISFIED BECAUSE OF THE FACT THAT THERE IS NO  
26 OUTSTANDING INDEBTEDNESS DURING THE APPLICABLE PERIOD OF  
27 TIME.

28 SECTION 2. EFFECT OF ACT ON PRIOR MORTGAGES.

29 NOTHING CONTAINED IN THIS ACT SHALL BE CONSTRUED TO AFFECT  
30 THE PRIORITY OF ADVANCES MADE UNDER ANY MORTGAGE RECORDED BEFORE

- 1 THE EFFECTIVE DATE OF THIS ACT.
- 2 SECTION 3. EFFECTIVE DATE.
- 3 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.