

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 486 Session of
2007

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

REFERRED TO URBAN AFFAIRS AND HOUSING, MARCH 15, 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
33 indicating how the act shall become effective," further

1 providing for the Homeowner's Emergency Assistance Program,
2 for notice and institution of foreclosure proceedings, for
3 notice requirements, for assistance payments and for
4 repayment; and providing for an ongoing foreclosure study.

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

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

10 Section 402-C. Notice and Institution of Foreclosure
11 Proceedings.--* * *

12 (b) A mortgagee shall not accelerate the maturity of any
13 mortgage obligation covered under this article, commence any
14 legal action including mortgage foreclosure to recover under
15 such obligation, or take possession of any security of the
16 mortgage debtor for such mortgage obligation until a final
17 determination has been made by the agency on a mortgagor's
18 application for emergency mortgage assistance payments or the
19 applicable time periods provided for in section 403-C have
20 expired without the mortgagor applying for assistance in a
21 timely fashion, whichever is earlier. A final determination may
22 not be made by the agency until the conclusion of any timely
23 administrative appeal that may have been filed with the agency.

24 * * *

25 Section 2. Section 403-C(b) of the act, amended December 21,
26 1998 (P.L.1248, No.160), is amended to read:

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

28 (b) (1) The agency shall prepare a notice which shall
29 include all the information required by this subsection and by
30 section 403 of the act of January 30, 1974 (P.L.13, No.6),
31 referred to as the Loan Interest and Protection Law, and

1 referred to commonly as the Usury Law. This notice shall be in
2 plain language and specifically state that the recipient of the
3 notice may qualify for financial assistance under the
4 Homeowner's Emergency Mortgage Assistance Program. [This notice
5 shall contain the telephone number and the address of a local
6 consumer credit counseling agency.]

7 (1.1) The notice shall contain, but not be limited to, the
8 following information:

9 (i) The name of the mortgagor and the address of the
10 mortgaged premises, including the property tax identification
11 number and the account number.

12 (ii) The name and address of the servicer of the mortgage,
13 with a toll-free telephone number, facsimile number, electronic
14 mail address and contact person's name, and the name and address
15 of the holder of the mortgage. If the holder is a loan trust,
16 the name and address of the trustee and the name of the trust in
17 which the particular mortgage is included.

18 (iii) The date the loan was originated, the name of the
19 originating lender, the original principal amount of the loan,
20 the interest rate on the loan or, if a variable rate, the rate
21 that was effective when the loan was originated and the fact
22 that it is a variable rate.

23 (iv) A list of consumer credit counseling agencies which
24 have been approved by the agency only for the county in which
25 the mortgaged premises is located, including their addresses and
26 telephone numbers. The agency shall maintain an up-to-date list
27 of approved consumer credit counseling agencies for each county
28 and publish the list on the agency's Internet website. A
29 reference to the agency's Internet website shall also be
30 included in the notice.

1 (v) Any other information determined by the agency.

2 (1.2) This notice shall be in lieu of any other notice
3 required by law. This notice shall also advise the mortgagor of
4 his delinquency or other default under the mortgage including an
5 itemized breakdown of the total amount past due and that such
6 mortgagor has thirty (30) days, plus three (3) days for mailing,
7 to have a face-to-face meeting with [the mortgagee who sent the
8 notice or] a consumer credit counseling agency to attempt to
9 resolve the delinquency or default by restructuring the loan
10 payment schedule or otherwise. The mortgagee or other person
11 sending the notice to the mortgagor shall simultaneously send a
12 copy of each notice issued to the agency by regular mail,
13 facsimile, electronic mail or another means of electronic
14 transfer in accordance with agency guidelines. In lieu of
15 sending a copy of each notice, the mortgagee or other person
16 charged with sending the notice may provide the agency with
17 statistical information on a monthly basis as to the number of
18 notices sent pursuant to this act and pursuant to section 403 of
19 the Usury Law. This information shall be broken down by county
20 and census tract.

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

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

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

27 (3) The proposed notice under paragraph (1) shall be
28 published by the agency in the Pennsylvania Bulletin within one
29 hundred twenty (120) days of the effective date of this
30 paragraph. The notice actually adopted for use by the agency

1 shall be promulgated as part of the program guidelines required
2 by section 401-C(b).

3 (4) If the mortgagor meets with a consumer credit counseling
4 agency, the consumer credit counseling agency shall promptly
5 notify all of the mortgagees secured by the mortgagor's real
6 property, and no mortgagee so notified shall commence any legal
7 action against the mortgagor's real property for a period not to
8 exceed thirty (30) calendar days from the date that the
9 mortgagor first meets with the consumer credit counseling
10 agency.

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

27 (6) If the mortgagor applies for mortgage assistance
28 payments, the agency shall promptly notify all of the mortgagees
29 secured by the mortgagor's real property. The agency shall make
30 a determination of eligibility within sixty (60) calendar days

1 of receipt of the mortgagor's application. During the time that
2 the application is pending, including any timely administrative
3 appeal filed with the agency in connection therewith, no
4 mortgagee may commence legal action to foreclose upon its
5 mortgage with the mortgagor. The agency shall provide notice to
6 the mortgagee if an administrative appeal is filed.

7 (7) An application for mortgage assistance may be submitted
8 to the agency beyond the thirty (30)-day period specified in
9 paragraph (5), and in such case, the agency shall make a
10 determination within sixty (60) calendar days of receipt of the
11 mortgagor's application. A late application or an administrative
12 appeal will not stay foreclosure proceedings, but in the event
13 the application is approved by the agency, a commenced
14 foreclosure proceeding shall be stayed.

15 * * *

16 Section 3. Section 405-C(e) of the act, added December 23,
17 1983 (P.L.385, No.91), is amended and the section is amended by
18 adding subsections to read:

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

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

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

30 (2) Copies of the following documents from the original

1 mortgage transaction:

2 (i) The HUD-1 settlement statement.

3 (ii) The mortgage and note.

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

6 (a.2) Failure to provide in a timely fashion the documents
7 and information required under subsection (a.1) will result in
8 the mortgagee's forfeiture of the right to receive any late fees
9 and attorney fees, costs and expenses.

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

20 * * *

21 (b.1) In lieu of paying arrearages under subsection (a) or
22 ongoing assistance under subsection (b), the agency may fund a
23 compromise pay-off of the balance of the mortgage, if the agency
24 determines that structuring assistance in such a manner would be
25 in the best interest of the agency and the mortgagor.

26 * * *

27 (e) If any mortgagee scheduled to receive monthly payments
28 from the agency pursuant to this article fails to receive from
29 the agency the full amount of such monthly payment within thirty
30 (30) days of the scheduled due date, or if a mortgagor fails to

1 observe and perform all the terms, covenants and conditions of
2 the mortgage, that mortgagee may, at any time thereafter, take
3 any legal action to enforce the mortgage without any further
4 restriction or requirement under this article.

5 * * *

6 Section 4. Section 406-C(5) of the act, amended December 21,
7 1998 (P.L.1248, No.160), is amended to read:

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

14 * * *

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

1 * * *

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

3 Section 412-C. Ongoing Foreclosure Study.--The agency shall
4 monitor foreclosure activity and trends in this Commonwealth,
5 using data and information accumulated from notices and
6 applications for assistance processed under this article, and
7 shall, as appropriate, provide recommendations for addressing
8 any problems identified in this monitoring effort.

9 Section 6. This act shall take effect in 60 days.