

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 486 Session of  
2007

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

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

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## 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,~~

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

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

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

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

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

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

\* \* \*

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

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

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

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

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

(i) The HUD-1 settlement statement.  
(ii) The mortgage and note.  
(iii) The appraisal, if an appraisal has been performed  
during the last five (5) years.

(a.2) Failure to provide in a timely fashion the documents  
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.