

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 486** Session of
2007

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

SENATOR ARMSTRONG, APPROPRIATIONS, RE-REPORTED AS AMENDED,
FEBRUARY 11, 2008

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

1 bonds and notes legal investments for certain purposes; and
2 indicating how the act shall become effective," further
3 providing for general authority, for notice and institution
4 of foreclosure proceedings, for notice requirements, for
5 assistance payments and for repayment; and providing for an
6 ongoing foreclosure study.

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

9 Section 1. Sections 401-C(d) and 402-C(b) of the act of
10 December 3, 1959 (P.L.1688, No.621), known as the Housing
11 Finance Agency Law, added December 23, 1983 (P.L.385, No.91),
12 are amended to read:

13 Section 401-C. General Authority.--* * *

14 (d) The agency shall designate and approve nonprofit
15 consumer credit counseling agencies in each county to be
16 available to assist the agency in implementing the provisions of
17 this article, including, but not limited to, mandated
18 counseling. A "consumer credit counseling agency" shall be
19 defined for the purpose of this article as a nonprofit consumer
20 credit counseling agency located in Pennsylvania which is
21 approved by the agency or a housing counseling agency certified
22 by the United States Department of Housing and Urban
23 Development. The agency shall maintain an up-to-date list of
24 approved consumer credit counseling agencies for each county and
25 publish the list on the agency's Internet website.

26 Section 402-C. Notice and Institution of Foreclosure
27 Proceedings.--* * *

28 (b) A mortgagee shall not accelerate the maturity of any
29 mortgage obligation covered under this article, commence any
30 legal action including mortgage foreclosure to recover under
31 such obligation, or take possession of any security of the
32 mortgage debtor for such mortgage obligation until a final

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1 determination has been made by the agency on a mortgagor's
2 application for emergency mortgage assistance payments or the
3 applicable time periods provided for in section 403-C have
4 expired without the mortgagor applying for assistance in a
5 timely fashion, whichever is earlier. ~~A final determination may~~ <—
6 ~~not be made by the agency until the conclusion of any timely~~
7 ~~administrative appeal that may have been filed with the agency.~~

8 * * *

9 Section 2. Section 403-C(b) of the act, amended December 21,
10 1998 (P.L.1248, No.160), is amended to read:

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

12 (b) (1) The agency shall prepare a notice which shall
13 include all the information required by this subsection and by
14 section 403 of the act of January 30, 1974 (P.L.13, No.6),
15 referred to as the Loan Interest and Protection Law, and
16 referred to commonly as the Usury Law. This notice shall be in
17 plain language and specifically state that the recipient of the
18 notice may qualify for financial assistance under the
19 Homeowner's Emergency Mortgage Assistance Program. This notice
20 shall contain the telephone number and the address of a local
21 consumer credit counseling agency. This notice shall be in lieu
22 of any other notice required by law. This notice shall also
23 advise the mortgagor of his delinquency or other default under
24 the mortgage including an itemized breakdown of the total amount
25 past due and that such mortgagor has thirty (30) days, plus
26 three (3) days for mailing, to have a face-to-face meeting with
27 [the mortgagee who sent the notice or] a consumer credit
28 counseling agency to attempt to resolve the delinquency or
29 default by restructuring the loan payment schedule or otherwise.
30 The mortgagee or other person sending the notice to the

1 mortgagor shall simultaneously send a copy of each notice issued
2 to the agency by regular mail, facsimile, electronic mail or
3 another means of electronic transfer in accordance with agency
4 guidelines. In lieu of sending a copy of each notice, the
5 mortgagee or other person charged with sending the notice may
6 provide the agency, within 30 days of the end of each calendar
7 quarter, a report listing the notices sent during the prior
8 calendar quarter arranged by property address including zip
9 code.

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

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

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

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

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

30 (5) [The notice shall include a statement that, if the

1 mortgagor is unable to resolve the delinquency or default within
2 thirty (30) calendar days of the mortgagor's first contact with
3 either the mortgagee or a consumer credit counseling agency, the
4 mortgagor may apply to the agency or its duly authorized agent
5 at the address and phone number listed in the notice in order to
6 obtain an application and information regarding the Homeowner's
7 Emergency Mortgage Assistance Program.] The notice shall include
8 a statement that the mortgagor must have a face-to-face meeting
9 with one of the designated consumer credit counseling agencies
10 within thirty (30) calendar days plus three (3) additional days
11 for mailing.

12 (6) If the mortgagor applies for mortgage assistance
13 payments, the agency shall promptly notify all of the mortgagees
14 secured by the mortgagor's real property. The agency shall make
15 a determination of eligibility within sixty (60) calendar days
16 of receipt of the mortgagor's application. During the time that
17 the application is pending, no mortgagee may commence legal
18 action to foreclose upon its mortgage with the mortgagor. The
19 agency shall provide notice to the mortgagee if an
20 administrative appeal is filed.

21 (7) An application for mortgage assistance may be submitted
22 to the agency beyond the thirty (30)-day period specified in
23 paragraph (5), and in such case, the agency shall make a
24 determination within sixty (60) calendar days of receipt of the
25 mortgagor's application. A late application or an administrative
26 appeal will not stay foreclosure proceedings, but in the event
27 the application is approved by the agency, a commenced
28 foreclosure proceeding shall be stayed unless and until the
29 mortgagor fails to proceed to closing and the agency rescinds
30 its approval.

1 * * *

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

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

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

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

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

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

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

26 (a.3) Upon the agency's payment of the initial payment to
27 the mortgagee, including all corporate advances allowed by the
28 agency, the mortgagee shall adjust its accounts to reflect that
29 the mortgage obligation is, as of the date of receipt of such
30 funds, reinstated and current for all purposes. The subsequent

1 imposition by a mortgagee of any charges, fees or other amounts
2 that were paid or disallowed by the agency, or waived by the
3 mortgagee, shall be in violation of the act of December 17, 1968
4 (P.L.1224, No.387), known as the "Unfair Trade Practices and
5 Consumer Protection Law."

6 * * *

7 (b.1) In lieu of paying arrearages under subsection (a) or
8 ongoing assistance under subsection (b), the agency may fund a
9 compromise pay-off of the balance of the mortgage, if the agency
10 determines that structuring assistance in such a manner would be
11 in the best interest of the agency and the mortgagor, as agreed
12 to by the mortgagee.

13 * * *

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

22 * * *

23 Section 4. Section 406-C(5) of the act, amended December 21,
24 1998 (P.L.1248, No.160), is amended to read:

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

1 * * *

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

18 * * *

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

20 Section 412-C. Ongoing Foreclosure Study.--The agency shall
21 monitor foreclosure activity and trends in this Commonwealth,
22 using data and information accumulated from notices and
23 applications for assistance processed under this article, and
24 shall, as appropriate, provide recommendations for addressing
25 any problems identified in this monitoring effort.

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