

ASSEMBLY, No. 3506

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED DECEMBER 8, 2008

Sponsored by:

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

Assemblywoman MILA M. JASEY

District 27 (Essex)

Assemblywoman NELLIE POU

District 35 (Bergen and Passaic)

Assemblyman RUBEN J. RAMOS, JR.

District 33 (Hudson)

Assemblyman JOSEPH VAS

District 19 (Middlesex)

Assemblyman L. HARVEY SMITH

District 31 (Hudson)

Co-Sponsored by:

Assemblymen Prieto, Chivukula, Assemblywomen Greenstein and Tucker

SYNOPSIS

Mortgage Stabilization and Relief Act"; creates Mortgage Stabilization Program and Housing Assistance and Recovery Program; imposes additional requirements on lender foreclosing mortgage; appropriates \$40 million from the "Long Term Obligation and Capital Expenditure Fund."

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 12/16/2008)

1 AN ACT providing residential mortgage assistance under certain
2 circumstances, supplementing Title 46 and Title 55 of the
3 Revised Statutes, amending P.L.1983, c.530, and P.L.1988, c.29;
4 and making appropriations.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. (New section) This act shall be known and may be cited as the
10 “Mortgage Stabilization and Relief Act.”

11
12 2. (New section) The Legislature finds and declares that:

13 a. Many thousands of New Jersey homeowners are at risk of
14 losing their homes as a result of mortgage foreclosures.

15 b. Foreclosures involve the loss of a family’s home, often the
16 family’s most valuable financial asset, and foreclosures especially
17 undermine the health and economic vitality of the urban
18 neighborhoods in which a disproportionate share of foreclosures
19 take place.

20 c. Foreclosures result in the loss of millions of dollars in assets,
21 not only those of the homeowners who are the victims of
22 foreclosure, but also adversely affect the property values of homes
23 located in the vicinity of foreclosed properties.

24 d. The loss of a house often results in abandonment of properties,
25 leading to significant costs and lost revenue for local governments,
26 as well as harm to the neighborhoods in which properties are
27 abandoned.

28 e. Many of these foreclosures could be avoided if homeowners
29 had greater access to high-quality, in-person foreclosure prevention
30 counseling, emergency financial assistance, or additional time
31 during which to negotiate loan modifications or obtain refinancing.

32 f. There is a compelling public policy need for the State of New
33 Jersey to provide the means by which homeowners can obtain
34 mortgage related counseling, emergency financial assistance, and
35 time to adjust their finances in order to increase their ability to
36 retain their homes, and to protect local governments and
37 neighborhoods from the negative social, economic, and fiscal
38 consequences of foreclosure and property abandonment.

39 g. New Jersey must ensure that neighborhoods are not adversely
40 affected by properties that are abandoned as a result of foreclosure
41 and become dilapidated eyesores on the community.

42 h. The Legislature recognizes that the difficulties encountered by
43 homeowners who are delinquent, or are in danger of becoming
44 delinquent, on their mortgage payment does not lend itself to a “one

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 size fits all” solution and therefore it is necessary to establish a
2 number of programs to assist these homeowners.

3
4 3. (New section) Sections 3 through 7 of P.L. , c. (C.)
5 (pending before the Legislature as this bill) shall be known and may
6 be referred to as the “Mortgage Stabilization Program.”

7
8 4. (New section) As used in sections 4 through 7 of P.L. c.
9 (C.) (pending before the Legislature as this bill):

10 “Affordable mortgage payment” means a monthly mortgage
11 payment that does not exceed the greater of either 33% or the
12 applicable percentage required by governmental or private first
13 mortgage loan insurance, of the household’s monthly average
14 annual gross income, towards the payment of principal, interest,
15 taxes, and insurance (PITI) which is determined using traditional
16 underwriting standards.

17 “Agency” means the New Jersey Housing and Mortgage Finance
18 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
19 seq.).

20 “Covered Mortgage” means a first mortgage loan that is in
21 imminent danger of foreclosure.

22 “Homeowner” means the individual who holds legal title to a
23 residential real property that is the individual’s principal dwelling
24 and is in imminent danger of foreclosure.

25 “Lender” means any lawfully constituted mortgage lender,
26 mortgage investor or mortgage loan servicer that owns and is
27 willing to refinance or is authorized to negotiate the terms of the
28 homeowner’s mortgage.

29 “Maximum income limit” means a household income that does
30 not exceed 120% of the area median income, as defined for New
31 Jersey in guidelines published annually by the United States
32 Department of Housing and Urban Development, or that does not
33 exceed the New Jersey Housing and Mortgage Finance Agency’s
34 Mortgage Revenue Bond Program income limits, whichever is
35 greater.

36 “Mortgage lender loan” means a loan provided by a lender that is
37 secured by a lien holding second priority and equal to one-half of
38 the difference between the new first mortgage loan and the current
39 appraised value of the property.

40 “Mortgage Stabilization Program” or “program” means a
41 financing program established pursuant to section 5 of P.L. , c.
42 (C.) (pending before the Legislature as this bill).

43 “Mortgage stabilization program loan” means the loan provided
44 to the homeowner by the agency pursuant to section 5 of P.L. , c.
45 (C.) (pending before the Legislature as this bill).

46 “Property” means an owner-occupied primary residence, (1) that
47 is either a single-family one-unit house; an attached, semi-detached,
48 or detached house; a condominium unit; or an owner-occupied two-

1 or three-unit house, and (2) that is the principal dwelling of a
2 homeowner who has resided in the property for at least one year
3 prior to applying for assistance.

4
5 5. (New section) There is established in the New Jersey Housing
6 and Mortgage Finance Agency a Mortgage Stabilization Program
7 and Mortgage Stabilization Program Fund for the purpose of
8 assisting homeowners and lenders willing to refinance covered
9 mortgages in order to ensure that the homeowner has an affordable
10 mortgage payment. The program shall meet the following
11 requirements:

12 a. Program assistance shall not be made available unless a lender
13 modifies or refinances the homeowner's mortgage loan so that the
14 new first mortgage loan amount:

15 (1) results in an affordable mortgage payment; and

16 (2) results in a new first mortgage loan amount that is less than
17 the appraised value of the property at the time of the modification
18 or refinancing.

19 b. The program shall provide:

20 (1) a mortgage stabilization program loan that is a non-
21 amortizing (no monthly payment) second mortgage loan equal to
22 one-half of the difference between the new first mortgage loan
23 amount and the appraised value of the subject property. The
24 available funds for such loan shall not exceed \$25,000 per loan, and
25 the proceeds of the loan shall be provided to the covered mortgage
26 lender; and

27 (2) a mortgage lender loan.

28 Loans made pursuant to this subsection shall share a co-equal
29 second mortgage position with each other.

30 c. The mortgage stabilization program loan and the mortgage
31 lender loan shall each have an interest rate and term identical to the
32 interest rate and term of the new first mortgage loan.

33 d. Mortgage stabilization program loans and mortgage lender
34 loans may be prepaid at any time without penalty and shall be
35 repaid on a proportional basis by the homeowner out of the net sale
36 proceeds from the sale of the property.

37 e. The homeowner shall not be permitted to take cash-out
38 refinances, except for agency approved emergency repairs or unless
39 the mortgage stabilization program loan and the mortgage lender
40 loan are repaid in full.

41 f. In order to be eligible to participate in the program, the
42 homeowner must not exceed the maximum income limit as defined
43 in section 4 of P.L. , c. (C.) (pending before the Legislature
44 as this bill).

45 g. The homeowner may not hold any interest in other residential
46 real property at the time the application to participate in the
47 program is made.

- 1 h. If a homeowner has an existing subordinate mortgage loan
- 2 held by one or more entities, the holder of the subordinate lien must
- 3 agree to take subordinated mortgage position behind the mortgage
- 4 stabilization program loan and the mortgage lender loan.
- 5 i. If the property is subject to an existing subordinate mortgage
- 6 the mortgage stabilization program loan may, at the discretion of
- 7 the agency, be used to satisfy that mortgage, or the mortgage lender
- 8 loan may, at the discretion of the mortgage lender, be used to satisfy
- 9 an existing subordinate mortgage, or both.
- 10 j. Homeowners must participate in budget counseling sessions
- 11 approved by the agency in order to be eligible for the program.
- 12 k. Repayments of mortgage stabilization program loans shall be
- 13 deposited into the Mortgage Stabilization Program Fund.
- 14 l. Benefits directly or indirectly received by a homeowner under
- 15 the Mortgage Stabilization Program shall not be treated as income
- 16 in determining eligibility requirements for other State programs and
- 17 payments and benefits directly or indirectly received by a
- 18 homeowner who is a taxpayer shall not be treated as income for
- 19 New Jersey gross income tax purposes pursuant to section 2 of
- 20 P.L.1988, c.29 (C.54A:6-22).
- 21
- 22 6. (New section) The agency is authorized to promulgate rules
- 23 and regulations, pursuant to the provisions of the “Administrative
- 24 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
- 25 this program.
- 26
- 27 7. (New section) Notwithstanding the provisions of P.L.2008,
- 28 c.22 (C.52:9H-2.1 et al.), there is appropriated from the Long Term
- 29 Obligation and Capital Expenditure Fund the sum of \$25,000,000 to
- 30 the Mortgage Stabilization Program Fund for the purposes of the
- 31 Mortgage Stabilization Program, of which five percent may be used
- 32 for the purposes of administering the program.
- 33
- 34 8. (New section) Sections 8 through 14 of P.L. , c. (C.)
- 35 (pending before the Legislature as this bill) shall be known and may
- 36 be referred to as the “New Jersey Housing Assistance and Recovery
- 37 Program.”
- 38
- 39 9. (New section) As used in sections 9 through 14 of P.L. , c.
- 40 (C.) (pending before the Legislature as this bill):
- 41 “Affordable rent” means monthly rent or lease payments that do
- 42 not exceed 33% of the household’s monthly average gross income.
- 43 “Agency” means the New Jersey Housing and Mortgage Finance
- 44 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
- 45 seq.).
- 46 “Commissioner” means the Commissioner of Community
- 47 Affairs.

1 “Homeowner” means the individual who holds legal title to a
2 residential real property that is the individual’s principal dwelling
3 and is in imminent danger of foreclosure.

4 “Household” means a homeowner and individuals who resided
5 with the homeowner at the time the lease-purchase agreement was
6 executed and continue to reside with the homeowner at the time the
7 agreement of sale is executed.

8 “HUD” means the United States Department of Housing and
9 Urban Development.

10 “HUD certified housing counseling agency” means a
11 community-based non-profit organization, as demonstrated by
12 section 501 (c)(3) of the Internal Revenue Code of 1986, 26 U.S.C.
13 s.501(c)(3), which has been certified by the United States
14 Department of Housing and Urban Development as experienced in
15 housing counseling for at least one year prior to receiving
16 certification.

17 “Fund” means the Housing Assistance and Recovery Program
18 Support Fund established by section 10 of P.L. , c. (C.)
19 (pending before the Legislature as this bill).

20 “Lease-purchase agreement” means a use and occupancy
21 agreement approved by the agency whereby the sponsor acquires
22 title to the homeowner’s property and agrees to permit the former
23 homeowner to use and occupy the property for a period not to
24 exceed 36 months at an affordable rent.

25 “Lender” means the owner of the homeowner’s mortgage.

26 “Maximum income limit” means a household income that does
27 not exceed 120% of the area median income, as defined for New
28 Jersey in guidelines published annually by the United States
29 Department of Housing and Urban Development, or that does not
30 exceed the New Jersey Housing and Mortgage Finance Agency’s
31 Mortgage Revenue Bond Program income limits, whichever is
32 greater.

33 “Program” means the “New Jersey Housing Assistance and
34 Recovery Program.”

35 “Property” means a one-, two- or three-family dwelling that is
36 the primary residence of the household.

37 “Sponsor” means a non-profit community development
38 corporation, a non-profit housing counseling organization, or a
39 public entity, including a municipality, county, or a municipal or
40 county authority.

41 “Trained foreclosure prevention and default mitigation
42 counselor” means a housing counselor employed by a HUD
43 certified housing counseling agency who has successfully
44 completed a foreclosure prevention and default mitigation training
45 course provided by a nationally recognized homeownership
46 education and counseling organization such as course HO345d-rq
47 “Foreclosure Intervention and Default Counseling Certification Part

1 I” provided by the NeighborWorks America Center for
2 Homeownership Education and Counseling.

3

4 10. (New section) a. There is established in the New Jersey
5 Housing and Mortgage Finance Agency a Housing Assistance and
6 Recovery Program (HARP) Support Fund, for the purpose of
7 providing support and aid to any sponsor who establishes a Housing
8 Assistance and Recovery Program which meets the following
9 requirements. The sponsor shall:

10 (1) upon application to the commissioner, be certified by the
11 commissioner as eligible to participate in the Housing Assistance
12 and Recovery Program by the commissioner;

13 (2) employ trained foreclosure prevention and default mitigation
14 counselors or contract with a HUD certified counseling agency that
15 employs trained foreclosure prevention and default mitigation
16 counselors;

17 (3) provide counseling to the homeowner both before and after
18 the execution of a lease-purchase agreement, which shall include
19 contact information for legal services programs within the county
20 where the property is located;

21 (4) screen and assess the eligibility of homeowners to repurchase
22 the property and sustain the homeowner’s mortgage payments;

23 (5) have prior experience in (a) negotiating mortgage debt
24 reduction from lenders, and (b) the purchase of distressed
25 properties; and

26 (6) receive a commitment from a regulated financial institution
27 or a government entity for a line of credit or other financing
28 mechanism to purchase properties under a housing assistance and
29 recovery program.

30 b. The lease-purchase agreement shall:

31 (1) include terms and conditions under which the sponsor shall
32 convey the property to the homeowner at the expiration of the
33 agreed upon use and occupancy period;

34 (2) enable the homeowner to continue to live in the property
35 during the use and occupancy period for an affordable rent; and

36 (3) include a provision that the property will be sold back to the
37 homeowner at a price not to exceed the price at which the sponsor
38 purchased the property, plus any reasonable sponsor funded repair
39 and maintenance costs.

40 c. Monies from the fund may be allocated solely for:

41 (1) appraisal of the property to determine current market value;

42 (2) construction and rehabilitation of the property to ensure
43 compliance with all codes and standards;

44 (3) payment of property taxes accrued during sponsor’s
45 ownership of the property;

46 (4) maintenance of property insurance, including, but not limited
47 to landlord liability and fire insurance coverage;

1 (5) payment of no more than \$25,000 toward the difference
2 between the appraised value and the purchase price of the property;
3 and

4 (6) any other activity the agency deems necessary to effectuate
5 the purposes of the program.

6 d. No money allocated from the fund shall be used for the
7 purchase of real property, other than as provided for in paragraph
8 (5) of subsection c. of this section.

9 e. The agency shall conduct a quarterly audit of all funds
10 received and expended for the program. The agency shall issue an
11 annual report at the end of State fiscal year detailing the result of
12 the quarterly audits for the prior State fiscal year. The annual report
13 shall be completed no more than 60 day after the end of the State
14 fiscal year. The annual report shall be provided to the
15 commissioner and, pursuant to section 2 of P.L.1991, c.164
16 (C.52:14-19.1), to the Legislature and made available to the public
17 on the Department of Community Affairs website.

18
19 11. (New section) A sponsor who receives monies from the
20 fund and the homeowner shall execute a lease-purchase agreement,
21 not to exceed a term of 36 months, that includes the following:

22 a. The terms and conditions under which the sponsor shall
23 convey the property to the homeowner or other member of the
24 household upon termination of the use and occupancy period;

25 b. Provisions permitting the homeowner and other members of
26 the household to remain in the property during the use and
27 occupancy period in exchange for an affordable rent; and

28 c. A provision that the property will be sold back to the
29 homeowner or to another member of the household at a price not to
30 exceed the price at which the sponsor purchased the property plus
31 reasonable sponsor maintenance costs.

32
33 12. (New section) The Department of Community Affairs shall
34 notify the agency in the event a sponsor fails to maintain
35 compliance with the department's certification process.

36
37 13. (New section) The commissioner and the agency are
38 authorized to promulgate rules and regulations, pursuant to the
39 provisions of the "Administrative Procedure Act," P.L.1968, c.410
40 (C.52:14B-1 et seq.), to effectuate this program.

41
42 14. (New section) Notwithstanding the provisions of P.L.2008,
43 c.22 (C.52:9H-2.1 et al.), there is appropriated from the Long Term
44 Obligation and Capital Expenditure Fund the sum of \$15,000,000 to
45 the Housing Assistance and Recovery Program (HARP) Support
46 Fund, for the purposes of effectuating the New Jersey Housing
47 Assistance and Recovery Program, of which five percent may be
48 used for the purposes of administering the program.

1 15. (New section) a. A creditor that institutes a mortgage
2 foreclosure action in the Superior Court of New Jersey shall report
3 to the Department of Banking and Insurance, on a quarterly basis
4 and on a form promulgated by the department, information about
5 the number of mortgage foreclosure actions filed by the creditor in
6 the State.

7 b. The Department of Banking and Insurance shall produce a
8 report, on a quarterly basis; detailing information about mortgage
9 foreclosures filed by creditors in each county of the State, and shall
10 make the report available to the public on its website. The report
11 shall describe the type of mortgage being foreclosed on based on
12 the following categories:

13 (1) prime rate mortgages foreclosed upon;

14 (2) subprime rate mortgage foreclosed upon;

15 (3) fixed rate mortgages foreclosed upon;

16 (4) adjustable rate mortgages foreclosed upon;

17 (5) nonconforming mortgages, as defined by Fannie Mae,
18 Freddie Mac, or their successors;

19 (6) mortgages insured by the Federal Housing Administration
20 foreclosed upon;

21 (7) mortgages insured by the Veteran's Administration
22 foreclosed upon; and

23 (8) any other category of classification the department deems
24 appropriate to effectuate the purpose of this section.

25 c. The Department of Banking and Insurance, pursuant to the
26 Administrative Procedure Act," P.L.1986, c.410 (C.52:14B-1, et
27 seq) shall adopt regulations necessary to effectuate the purpose of
28 this section.

29
30 16. (New section) a. A creditor that files, pursuant to the "Fair
31 Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et seq.), a complaint
32 of foreclosure on a high risk mortgage loan, shall grant the
33 borrower a six month period of forbearance to pursue a loan
34 workout, loan modification, refinancing, or other alternative
35 through mediation sponsored by the Administrative Office of the
36 Courts. During the six month forbearance period, the interest rate
37 on the covered mortgage loan shall not increase and the creditor
38 shall take no further action to pursue foreclosure of the property.
39 Nothing in this subsection shall constitute a limitation on the ability
40 of the creditor and borrower to participate in mediation sponsored
41 by the Administrative Office of the Courts or enter into an
42 agreement as a result of that mediation pursuant to subsection b. of
43 this section.

44 As used in this section:

45 "Forbearance" means a period of six months during which the
46 judicial foreclosure proceedings filed by the creditor against the
47 borrower are suspended; however the borrower is obligated to
48 continue making monthly mortgage payments.

1 “High risk mortgage” means the first mortgage loan that has one
2 or more of the following characteristics:
3 is an interest only mortgage with a future interest reset rate;
4 has a reset mortgage interest rate that increases the interest rate;
5 contains a payment option plan or a “pick a payment” plan;
6 contains a negative amortization schedule;
7 is a subprime mortgage;
8 contains an enforceable prepayment penalty; or
9 is a high cost home loan as defined by the “New Jersey Home
10 Ownership Security Act of 2002,” P.L.2003, c.64 (C.46:10B-28).

11 b. Upon filing of a complaint for foreclosure, and the beginning
12 of the six month forbearance period, the borrower and creditor shall
13 participate in mediation sponsored by the Administrative Office of
14 the Courts.

15 c. If the borrower ceases to occupy the property at any time
16 subsequent to the period of forbearance under this section, the
17 creditor may notify the court, and upon notification the period of
18 forbearance shall be deemed to have ended.

19 d. The provisions of this section shall expire two years
20 following the effective date of P.L. , c. (pending before the
21 Legislature as this bill).

22

23 17. (New section) a. A creditor serving a notice of intention to
24 foreclose on a mortgage on residential property in this State shall
25 serve the public officer of the municipality in which the property is
26 located, or, if the municipality has not designated a public officer
27 pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal
28 clerk, with a copy of the notice at the same time it is served on the
29 owner of the property. In the event that the property being
30 foreclosed is an affordable unit pursuant to the “Fair Housing Act,”
31 then the creditor shall identify that the property is subject to the
32 “Fair Housing Act.” The copy served on the public officer or
33 municipal clerk shall include the full name and contact information
34 of an individual located within the State who is authorized to accept
35 service on behalf of the creditor.

36 b. If a residential property becomes vacant at any point
37 subsequent to the creditor’s filing the notice of intention to
38 foreclose, but prior to vesting of title in the creditor or any other
39 third party, and the property is found to be a nuisance or in
40 violation of any applicable State or local code, the local public
41 officer or municipal clerk shall notify the creditor, which shall have
42 the responsibility to abate the nuisance or correct the violation in
43 the same manner and to the same extent as the title owner of the
44 property, to such standard or specification as may be required by
45 the public officer or municipal clerk.

46 c. If the municipality expends public funds in order to abate a
47 nuisance or correct a violation on a residential property in situations
48 in which the creditor was given notice pursuant to the provisions of

1 subsection b. of this section but failed to abate the nuisance or
2 correct the violation as directed, the public officer or municipal
3 clerk shall have the same recourse against the creditor as it would
4 have against the title owner of the property, including but not
5 limited to the recourse provided under section 23 of P.L.2003, c.210
6 (C.55:19-100).

7
8 18. (New section) A consumer reporting agency or any other
9 business entity shall not sell to, or exchange with, a third party,
10 unless the third party holds an existing mortgage loan on the
11 property, the existence of a credit inquiry arising from a consumer
12 mortgage loan application when the sale or exchange is triggered by
13 an inquiry made in response to an application for credit. This
14 section shall not apply to information provided by a mortgage
15 originator or servicer to a third party providing services in
16 connection with the mortgage loan origination or servicing; a
17 proposed or actual securitization; secondary market sale, including
18 sales of servicing rights; or similar transaction related to the
19 consumer mortgage loan.

20
21 19. Section 8 of P.L.1983, c.530 (C.55:14K-8) is amended to
22 read as follows:

23 8. a. Admission to housing projects constructed, improved or
24 rehabilitated under this act shall be limited to families whose gross
25 aggregate family income at the time of admission does not exceed
26 six times the annual rental or carrying charges, including the value
27 or cost to them of heat, light, water, sewerage, parking facilities and
28 cooking fuel, of the dwellings that may be furnished to such
29 families, or seven times those charges if there are three or more
30 dependents. There may be included in the carrying charges to any
31 family for residence in any mutual housing project constructed,
32 improved or rehabilitated with a loan from the agency an amount
33 equal to 6% of the original cash investment of the family in the
34 mutual housing project and, to the extent authorized by the agency
35 where not included in the carrying charges, the value or cost of
36 repainting the apartment and replacing any fixtures or appliances.
37 Notwithstanding the provisions of this section, no family or
38 individual shall be eligible for admission to any housing project
39 constructed, improved or rehabilitated with a loan from the agency,
40 whose gross aggregate family income exceeds such amount as shall
41 be established from time to time by the agency, by rules or
42 regulations promulgated hereunder; except that with respect to any
43 project financed by an agency loan insured or guaranteed by the
44 United States of America or any agency or instrumentality thereof,
45 the agency may adopt the admission standards for such projects
46 then currently utilized or required by the guarantor or insurer.

47 The provisions of this subsection shall not apply to any housing
48 project that the agency determines is necessary to promote the long

1 term development and viability of a neighborhood and spur its
2 revitalization or is situated in a qualified municipality that is
3 constructed, improved or rehabilitated on or after the date upon
4 which the commissioner determines that the municipality fulfills the
5 definition of a qualified municipality pursuant to section 4 of
6 P.L.2002, c.43 (C.52:27BBB-4).

7 b. The agency shall by rules and regulations provide for the
8 periodic examination of the income of any person or family residing
9 in any housing project constructed, improved or rehabilitated with a
10 loan from the agency. If the gross aggregate family income of a
11 family residing in a housing project increases and the ratio to the
12 current rental or carrying charges of the dwelling unit becomes
13 greater than the ratio prescribed for admission in subsection a. of
14 this section but is not more than 25% above the family income so
15 prescribed for admission to the project, the owner or managing
16 agent of the housing project shall permit the family to continue to
17 occupy the unit. The agency or (with the approval of the agency)
18 the housing sponsor of any housing project constructed, improved
19 or rehabilitated with a loan from the agency, may terminate the
20 tenancy or interest of any family residing in the housing project
21 whose gross aggregate family income exceeds by 25% or more the
22 amount prescribed herein and which continues to do so for a period
23 of six months or more; but no tenancy or interest of any such family
24 in any such housing project shall be terminated except upon
25 reasonable notice and opportunity to obtain suitable alternate
26 housing, in accordance with rules and regulations of the agency;
27 and any such family, with the approval of the agency, may be
28 permitted to continue to occupy the unit, subject to payment of a
29 rent or carrying charge surcharge to the housing sponsor in
30 accordance with a schedule of surcharges fixed by the agency. The
31 housing sponsor shall pay the surcharge to the municipality granting
32 tax exemption, but only up to an amount that together with
33 payments made to the municipality in lieu of taxes and for any land
34 taxes equals 25% of the total rents or carrying charges of the
35 housing project for the current and any prior years that the project
36 has been in operation.

37 The provisions of this subsection shall not apply to any housing
38 project situated in a qualified municipality that is constructed,
39 improved or rehabilitated on or after the date upon which the
40 commissioner determines that the municipality fulfills the definition
41 of a qualified municipality pursuant to section 4 of P.L.2002, c.43
42 (C.52:27BBB-4).

43 c. For projects on which the agency has made a loan and
44 financed the loan with the proceeds of bonds issued prior to January
45 1, 1973, any remainder of the surcharge, or the total surcharge if tax
46 exemption has not been granted, shall be paid into the housing
47 finance fund securing the bonds issued to finance the project for the
48 use of the agency; for projects financed on or after January 1, 1973,

1 any remainder of the surcharge, or the total surcharge if tax
2 exemption has not been granted, shall be paid to the agency.

3 d. Any family residing in a mutual housing project required to
4 remove from the project because of excessive income as herein
5 provided shall be discharged from liability on any note, bond or
6 other evidence of indebtedness relating thereto and shall be
7 reimbursed, in accordance with the rules of the agency, for all sums
8 paid by the family to the housing sponsor on account of the
9 purchase of stock or debentures as a condition of occupancy or on
10 account of the acquisition of title for such purpose.

11 The provisions of this subsection shall not apply to any housing
12 project situated in a qualified municipality that is constructed,
13 improved or rehabilitated on or after the date upon which the
14 commissioner determines that the municipality fulfills the definition
15 of a qualified municipality pursuant to section 4 of P.L.2002, c.43
16 (C.52:27BBB-4).

17 e. The agency shall establish admission rules and regulations
18 for any housing project financed in whole or in part by loans
19 authorized hereunder which shall provide priority categories for
20 persons displaced by urban renewal projects, highway programs or
21 other public works, persons living in substandard housing, persons
22 and families who, by reason of family income, family size or
23 disabilities, have special needs, elderly persons and families living
24 under conditions violative of minimum health and safety standards.

25 The provisions of this subsection shall not apply to any housing
26 project situated in a qualified municipality that is constructed,
27 improved or rehabilitated on or after the date upon which the
28 commissioner determines that the municipality fulfills the definition
29 of a qualified municipality pursuant to section 4 of P.L.2002, c.43
30 (C.52:27BBB-4).

31 (cf: P.L.2002, c.108, s.15)

32

33 20. Section 2 of P.L.1988, c.29 (C.54A:6-22) is amended to read
34 as follows:

35 2. Gross income shall not include payments and benefits directly
36 received by a taxpayer under homeless persons' assistance
37 programs, including but not limited to assistance in obtaining
38 housing, temporary shelter and short-term financial assistance, as
39 may be established pursuant to subsection h. of section 24 of P.L.
40 1944, c. 85 (C. 52:27C-24), or benefits, including imputed income,
41 received pursuant to the "Mortgage Stabilization and Relief Act,"
42 P.L. , c. (C.) (pending before the Legislature as this bill).
43 (cf: P.L.1988, c.29, s.2)

44

45 21. This act shall take effect immediately, but sections 3 through
46 5, sections 7 through 12, and sections 14 through 20 shall remain
47 inoperative until the first day of the third month next following the
48 date of enactment.

STATEMENT

The bill establishes the Mortgage Stabilization program and the Housing Assistance and Recovery Program. The bill charges the New Jersey Housing and Mortgage Finance Agency (agency) with administering both programs.

With regard to the Mortgage Stabilization Program component of the bill, the agency is authorized to offer non-amortizing second mortgage loans, not to exceed \$25,000, to promote the refinancing of "covered mortgages." Covered mortgages are defined as a first mortgage loan in imminent danger of foreclosure.

Program assistance is contingent upon a lender agreeing to refinance a covered mortgage into a new first mortgage amount that is less than the appraised value of the property at the time of refinancing and which results in an "affordable mortgage payment" for the homeowner. An affordable mortgage payment is defined as a payment equal to 33 percent of the homeowner's monthly gross income or the applicable percentage required for loan insurance, principal, interest, tax and insurance determined using traditional underwriting standards.

The bill directs the agency to provide assistance in the form of a non-amortizing (no monthly payment) second mortgage loan equal to one-half of the difference between the new first mortgage amount and the appraised value of the property, not exceeding \$25,000. The other half of the difference between the new first mortgage amount and the appraised value of the property is to be secured by a lien held by the lender, which the bill terms a "mortgage lender loan."

The bill provides that the program loan and the mortgage lender loan are required to have an interest rate and term identical to that of the new first mortgage loan and are both second in priority to the new first mortgage loan. Program loans and mortgage lender loans may be prepaid without penalty at any time. The program loan and mortgage lender loan are to be repaid on a proportional basis by the homeowner out of the net sale proceeds of the property. Until the program loan and mortgage lender loans are repaid, the homeowner will not be permitted to take cash-out refinancing, except for emergency repairs.

If a homeowner already has an existing subordinate mortgage prior to accepting program assistance, participation is contingent on the existing subordinate mortgage holders agreeing to take a subordinated mortgage position behind the program loan and mortgage lender loan. Additionally, the bill grants the agency the discretion to use the program loan to satisfy existing subordinate mortgages. Lenders are granted similar discretion to use the mortgage lender loan to satisfy the existing subordinate mortgage.

To qualify for assistance under the Mortgage Stabilization Program a homeowner's household income may not exceed 120

1 percent of the area median household income or the agency's
2 Mortgage Revenue Bond Program income limits, whichever is
3 greater. Additionally, a homeowner may not hold an interest in
4 other residential real property at the time a program application is
5 made. The bill also requires homeowners accepting program
6 assistance to participate in agency approved household budget
7 counseling sessions.

8 The property at stake must be an owner-occupied primary
9 residence that is a single-family one-unit house; an attached, semi-
10 detached, or detached house; a condominium unit; or an owner-
11 occupied two- or three-unit house. Additionally, the property must
12 be the principal dwelling of a homeowner for at least one year
13 before applying for assistance under the Mortgage Stabilization
14 Program.

15 Benefits received under the Mortgage Stabilization Program are
16 not to be considered income for purposes of other State programs or
17 the New Jersey gross income tax.

18 The bill appropriates \$25 million from the Long Term Obligation
19 and Capital Expenditure Fund to the Mortgage Stabilization
20 Program Fund, which is established by this bill, for purposes of
21 providing assistance under the mortgage stabilization program. Up
22 to five percent of the appropriation may be used for administering
23 the program. Repayments of mortgage stabilization program loans
24 are to be deposited in the Mortgage Stabilization Program Fund.

25 The bill also establishes the Housing Assistance and Recovery
26 Program. The bill authorizes the New Jersey Housing and
27 Mortgage Finance Agency to provide financial support to certain
28 nonprofit and public entities to execute lease-purchase agreements
29 with homeowners meeting certain income requirements and facing
30 imminent danger of foreclosure. The lease-purchase agreements
31 will enable homeowners to stay in their home while paying
32 affordable rent, until such time as they are able to buy back the
33 property. Eligible properties under the program include one-, two-
34 or three-family dwellings which are used as the homeowner's
35 household's primary residence.

36 The bill terms those nonprofit and public entities executing
37 lease-purchase agreements as sponsors. The bill defines "sponsors"
38 as: non-profit community development corporations, non-profit
39 housing counseling organizations or public entities, including
40 municipalities, counties or municipal or county authorities.

41 To receive financial support under the program a sponsor must
42 be certified by the Commissioner of the Community Affairs as
43 meeting a series of eligibility requirements. Sponsors must have
44 prior experience in negotiating mortgage debt reduction and
45 purchasing distressed properties. Sponsors are also required to have
46 received a commitment from a regulated financial institution or
47 government entity for a line of credit to purchase properties under a
48 housing assistance and recovery program. Sponsors are required to

1 screen and assess the eligibility of homeowners to repurchase
2 property and sustain mortgage payments. Additionally, sponsors
3 must provide counseling to homeowners before and after the
4 execution of a lease-purchase agreement. The counseling can be
5 provided by trained foreclosure prevention and default mitigation
6 counselors employed by the agency or through a contract with a
7 U.S. Department of Housing and Urban Development (HUD)
8 certified housing counseling agency.

9 The bill qualifies homeowner participation in the program based
10 on a maximum income limit. A homeowner's household income
11 may not exceed 120 percent of the area median household income
12 or the agency's Mortgage Revenue Bond Program income limit,
13 whichever is greater.

14 In creating the Housing Assistance and Recovery Program, the
15 bill also establishes the Housing Assistance and Recovery Program
16 Support Fund, from which the agency may allocate monies for: the
17 appraisal, construction and rehabilitation of property; property tax
18 and insurance payments; the difference in the purchase price and
19 the appraised value of the property, not exceeding \$25,000; and any
20 other activity the agency deems necessary to effectuate the
21 program. The bill also specifies that no money from the fund is to
22 be allocated for property purchases other than the difference in the
23 purchase price and the appraised value of property, not exceeding
24 \$25,000.

25 The bill appropriates \$15 million, from the Long Term
26 Obligation and Capital Expenditure Fund, to the Housing
27 Assistance and Recovery Program Support Fund for purposes of
28 effectuating the program, of which five percent may be used for
29 administering the program. The bill also directs the agency to
30 conduct quarterly audits of all funds received and expended for the
31 program. Within 60 days of the end of each State fiscal year, the
32 agency is required to issue a year-end report that is to be provided
33 to the commissioner of the DCA and the Legislature. The report is
34 also to be made available on the DCA website.

35 The bill provides that lease-purchase agreements executed using
36 funds from the program may not exceed a term of 36 months.
37 Lease-purchase agreements are required to permit the homeowner
38 and household members to remain in the property in exchange for
39 an affordable rent, which is defined as no more than 33 percent of
40 the household's gross monthly income. Lease-purchase agreements
41 must also include the terms and conditions by which the sponsor
42 shall convey the property back to the homeowner or other member
43 of the household. The price at which the homeowner buys back the
44 property is not to exceed the price at which the sponsor purchased
45 the property and sponsor funded maintenance costs.

46 The bill authorizes the agency to promulgate rules and
47 regulations to effectuate the Housing Assistance and Recovery
48 Program.

1 The bill also provides that consumer reporting agencies, or any
2 other business entity, may not sell or exchange with a third party
3 the existence of a credit inquiry arising from a consumer mortgage
4 loan application when the sale or exchange is triggered by an
5 inquiry made in response to an application for credit. This
6 prohibition does not apply to third parties holding an existing
7 mortgage loan on the property giving rise to the application.

8 Additionally, the bill requires that a creditor who files a
9 complaint for foreclosure in Superior Court is subject to a six-
10 month forbearance period which prohibits the creditor from taking
11 any steps towards removing the borrower from the property.
12 During this six-month period, the creditor and borrower are to
13 participate in mediation sponsored by Administrative Office of the
14 Courts with the goal of entering into an agreement which allows the
15 borrower to remain in the home with and affordable monthly
16 mortgage payment.

17 The Department of Banking and Insurance is tasked with issuing
18 a report on the department's website detailing the types of
19 mortgages that have been the subject of complaints for foreclosure.

20 The bill also requires creditors who initiate foreclosure
21 proceedings through a notice of intention to foreclose, pursuant to
22 the "Fair Foreclosure Act," to provide notice to the municipality in
23 which the property is located. The bill authorizes municipalities to
24 take recourse against the creditors for failing to fulfill this
25 responsibility in the same way a municipality may take action
26 against a title owner of property, including the placement of a lien
27 against the property.

28 The programs established by bill would remain inoperative until
29 the first day of the third month after enactment.