

ASSEMBLY, No. 3430

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:

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District 7 (Burlington)

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District 14 (Mercer and Middlesex)

Co-Sponsored by:

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SYNOPSIS

Establishes the "Mortgage Assistance Pilot Program."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/8/2019)

1 AN ACT establishing a pilot program to help certain homeowners
2 with their mortgages and supplementing Title 55 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. The Legislature finds and declares that:

9 a. The severe housing downturn of the past several years has
10 substantially reduced the value of homes all across New Jersey,
11 leaving many homeowners with negative home equity, in which the
12 remaining principal owed on a mortgage is greater than the current
13 value of the home.

14 b. Homeowners with negative home equity are much more
15 likely to default on their mortgages than those with positive home
16 equity, leading to more foreclosures and short sales, which further
17 depress the value of neighboring homes.

18 c. The high number of homeowners with negative home equity
19 is a major impediment to the recovery of the housing sector, the
20 health of which is integral to that of the broader economy.

21 d. Many homeowners with negative home equity who are in
22 default would be able to afford to stay in their homes and avoid a
23 foreclosure or short sale if the remaining principal owed on their
24 mortgages was reduced to reflect current market realities.

25 e. The concern that offering such a principal reduction to these
26 homeowners might encourage similarly situated homeowners, who
27 are current on their mortgages, to default on their mortgages in
28 order to obtain a principal reduction may be addressed by requiring
29 a homeowner to convey an equity share in the property to the
30 mortgage lender in exchange for a principal reduction.

31 f. It is therefore in the public interest to require the New Jersey
32 Housing and Mortgage Finance Agency to develop and implement a
33 pilot program that provides principal reductions for homeowners,
34 with negative home equity and who are currently in default on
35 mortgages owned by the agency, in exchange for conveying equity
36 shares in the properties to the agency, and to study the financial
37 feasibility and effectiveness in stemming foreclosures and short
38 sales through such arrangements before considering further
39 expansion of the program.

40
41 2. As used in this act:

42 "Agency" means the New Jersey Housing and Mortgage Finance
43 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
44 seq.).

45 "Commissioner" means the Commissioner of Community
46 Affairs.

47 "Homeowner" means an individual who holds legal title to a
48 property encumbered by a qualified mortgage.

1 "Property" means a one- or two- family dwelling that is the
2 primary residence of a homeowner.

3 "Qualified mortgage" means a mortgage owned by the agency,
4 which has a principal balance greater than the current market value
5 of the mortgaged property and is the sole mortgage on the property.
6

7 3. a. The "Mortgage Assistance Pilot Program" is established
8 in the agency to offer a homeowner, who is in default on a qualified
9 mortgage, an agreement under which the remaining principal owed
10 on the mortgage shall be reduced in consideration for which the
11 agency shall receive a proportionate equity share in the property.
12 The pilot program shall operate for a period of three years.

13 b. An agreement under the pilot program shall provide for:

14 (1) a reduction in the principal balance of a qualified mortgage
15 of no more than 30% and a reduction in the interest rate of the
16 mortgage to current market rates, if lower than the existing rate;

17 (2) the conveyance of an equity share certificate that represents
18 an ownership interest in the property equal to the percentage of the
19 principal reduction under the agreement;

20 (3) the entitlement of the agency, upon the sale of the property
21 to a third party by the homeowner, to the percentage of the sales
22 price equal to the percentage represented on the equity share
23 certificate;

24 (4) the obligation of a homeowner:

25 (a) to remain the owner of a property encumbered by a qualified
26 mortgage restructured by an agreement under the pilot program for
27 at least five years after the agreement is signed, and if a homeowner
28 sells such property to a third party less than five years thereafter, an
29 additional five percent of the sales price shall be forfeited to the
30 agency;

31 (b) to repay, upon making the final payment owing on a
32 qualified mortgage restructured by an agreement under the pilot
33 program, the amount of the principal reduction provided under the
34 agreement, which obligation shall be repaid to the agency over a
35 10-year period under the interest rate, terms, and conditions of the
36 mortgage in effect at the time the agreement is executed, unless the
37 parties mutually agree to a different repayment arrangement; and

38 (5) the continued use and occupancy of the property by the
39 homeowner under the same terms and conditions of the qualified
40 mortgage prior to the execution of the agreement except as modified
41 by paragraphs (1), (2), (3), and (4) of this subsection.

42 c. Each homeowner who is in default of a qualified mortgage
43 shall be invited to apply for an agreement under the pilot program.
44 The application shall be made on a form and accompanied by
45 documentation as prescribed by the executive director of the
46 agency. An application shall be approved if it is demonstrated that
47 the homeowner would otherwise qualify for a loan issued by the

1 agency equivalent to the qualified mortgage as restructured by an
2 agreement under the pilot program.

3 d. Any funds provided by the federal government and received
4 by the State that may be used for the implementation of the pilot
5 program or any funds appropriated and made available by the State
6 for the pilot program shall be allocated solely for:

7 (1) application materials and processing costs;

8 (2) appraisal of property to determine current market value;

9 (3) closing costs to refinance a qualified mortgage to a new
10 interest rate through the agency, as applicable;

11 (4) maintenance of mortgage insurance; and

12 (5) any other activity the agency deems necessary to effectuate
13 the purposes of the pilot program.

14 e. (1) An equity share conveyed to the agency pursuant to an
15 agreement under the pilot program shall not constitute government
16 property exempt from taxation by R.S.54:4-3.3.

17 (2) An equity share conveyed to the agency pursuant to an
18 agreement under the pilot program shall not constitute an
19 encumbrance or lien on the subject property for purposes of a tax
20 sale pursuant to Article 4 of the "tax sale law" (R.S.54:5-19 et seq.),
21 and a property tax foreclosure may be initiated and proceed without
22 regard to an outstanding equity share.

23

24 4. The Department of the Treasury, in consultation with the
25 agency, shall study whether the agency has minimized its losses and
26 reduced foreclosures and short sales through the pilot program and
27 shall submit a report with its findings and recommendations to the
28 Governor and to the Legislature, pursuant to section 2 of P.L.1991,
29 c.164 (C.52:14-19.1), no later than the first day of the tenth month
30 following the conclusion of the three-year pilot program.

31

32 5. The commissioner and the agency are authorized to
33 promulgate rules and regulations in accordance with the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.) to effectuate the provisions of this act.

36

37 6. This act shall take effect on the first day of the fourth month
38 next following the date of enactment, but the Commissioner of
39 Community Affairs and the executive director of the New Jersey
40 Housing and Mortgage Finance Agency may take such anticipatory
41 administrative action in advance thereof as shall be necessary for
42 the implementation of this act.

43

44

45 STATEMENT

46

47 This bill establishes the "Mortgage Assistance Pilot Program" in
48 the New Jersey Housing and Mortgage Finance Agency ("NJHMF")

1 for a period of three years to allow certain homeowners, who have
2 negative home equity and who are in default on an agency owned
3 mortgage, to lower their principal balances by transferring shares of
4 equity in the mortgaged property to the agency.

5 The bill's pilot program requires NJHMFA to invite each
6 homeowner who is in default of a qualified mortgage to apply for a
7 principal reduction agreement. The bill limits the pilot program's
8 principal balance reduction of a qualified mortgage to no more than 30
9 percent and allows the interest rate to be reset to lower existing rates, if
10 applicable. The bill conditions the pilot program's principal balance
11 reduction upon the homeowner's conveyance of an equity share to
12 NJHMFA equal to the percentage of the principal reduction.

13 Generally, the bill establishes two pathways for homeowners to
14 redeem NJHMFA's principal balance reduction equity share. The
15 preferred redemption pathway involves maintaining home ownership
16 for at least five years following entry into the pilot program and
17 redemption of the equity share, following satisfaction of the
18 underlying mortgage, via repayment through a 10-year repayment
19 period or sale proceeds. Note the bill does allow the pilot program to
20 negotiate variable repayment arrangements.

21 The disfavored redemption pathway involves disposal of the
22 property within five years of entering the pilot program, which entails
23 payment of a five percent sales price penalty in addition to an NJ
24 HMFA claim on resale proceeds sufficient to redeem NJHMFA's
25 principal balance reduction equity share.

26 As to NJHMFA's equity shares, the bill provides that the equity
27 share interest does not give rise to a government property tax
28 exemption on the property. The bill also denotes that an NJHMFA
29 equity share does not constitute a property encumbrance or lien for
30 purposes of municipal tax sales. This means that a property tax
31 foreclosure may be initiated and proceed without regard to an
32 outstanding NJHMFA equity share.

33 The bill requires the Department of the Treasury, in consultation
34 with NJHMFA, to produce a report on the pilot program that must be
35 submitted to the Legislature and the Governor no later than the first
36 day of the tenth month following the conclusion of the three-year pilot
37 program. The bill requires the report to address the extent to which the
38 pilot program enabled NJHMFA to minimize losses and reduce
39 foreclosures and short sales.

40 The bill authorizes the Commissioner of Community Affairs and
41 NJHMFA to adopt rules and regulations necessary to effectuate the
42 bill's provisions.

43 The bill takes effect on the first day of the fourth month next
44 following the date of enactment, but permits the Commissioner of
45 Community Affairs and the Executive Director of NJHMFA to take
46 anticipatory administrative action prior to the bill's effective date.