

[First Reprint]

SENATE, No. 2034

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

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District 7 (Burlington)

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District 5 (Camden and Gloucester)

Co-Sponsored by:

Senators Addiego, Greenstein and Turner

SYNOPSIS

Establishes "Mortgage Assistance Pilot Program."

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on May 7, 2020, with amendments.



(Sponsorship Updated As Of: 5/14/2020)

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 P.L. , c. (C.) (pending before the
42 Legislature as this bill):

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.).

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted May 7, 2020.

1 "Commissioner" means the Commissioner of Community
2 Affairs.

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

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

7 "Qualified mortgage" means a mortgage owned by the agency,
8 which has a principal balance greater than the current market value
9 of the mortgaged property and is the sole mortgage on the property.
10

11 3. a. The "Mortgage Assistance Pilot Program" is established
12 in the agency to offer a homeowner, who is in default on a qualified
13 mortgage 'as of the effective date of P.L. , c. (C.) (pending
14 before the Legislature as this bill)¹, an agreement under which the
15 remaining principal owed on the mortgage shall be reduced in
16 consideration for which the agency shall receive a proportionate
17 equity share in the property. The pilot program shall operate for a
18 period of three years.

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

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

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

26 (3) the entitlement of the agency, upon the sale of the property
27 to a third party by the homeowner, to the percentage of the sales
28 price equal to the percentage represented on the equity share
29 certificate;

30 (4) the obligation of a homeowner:

31 (a) to remain the owner of a property encumbered by a qualified
32 mortgage restructured by an agreement under the pilot program for
33 at least five years after the agreement is signed, and if a homeowner
34 sells such property to a third party less than five years thereafter, an
35 additional five percent of the sales price shall be forfeited to the
36 agency;

37 (b) to repay, upon making the final payment owing on a
38 qualified mortgage restructured by an agreement under the pilot
39 program, the amount of the principal reduction provided under the
40 agreement, which obligation shall be repaid to the agency over a
41 10-year period under the interest rate, terms, and conditions of the
42 mortgage in effect at the time the agreement is executed, unless the
43 parties mutually agree to a different repayment arrangement; and

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

48 c. Each homeowner who is in default of a qualified mortgage
49 shall be invited to apply for an agreement under the pilot program.

1 The application shall be made on a form and accompanied by
2 documentation as prescribed by the executive director of the
3 agency. An application shall be approved if it is demonstrated that
4 the homeowner would otherwise qualify for a loan issued by the
5 agency equivalent to the qualified mortgage as restructured by an
6 agreement under the pilot program.

7 d. Any funds provided by the federal government and received
8 by the State that may be used for the implementation of the pilot
9 program or any funds appropriated and made available by the State
10 for the pilot program shall be allocated solely for:

11 (1) application materials and processing costs;

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

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

15 (4) maintenance of mortgage insurance; and

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

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

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

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

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

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