

ASSEMBLY, No. 2323

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 16, 1996

By Assemblymen AUGUSTINE and BATEMAN

1 AN ACT concerning the priority of certain mortgage loans and
2 amending and supplementing P.L.1985, c.353.

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

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7 1. Section 1 of P.L.1985, c.353 (C.46:9-8.1) is amended to read as
8 follows:

9 1. As used in this act:

10 a. "Mortgage loan" means any loan or line of credit, except a
11 construction loan, which states a maximum specified principal amount
12 and which is secured by an interest in real property.

13 b. "Construction loan" means a loan for a fixed term of no more
14 than three years which is secured by a lien on real property and which
15 is made by the lender for the sole purpose of financing the erection,
16 construction, completion, addition to, alteration or repair of
17 improvements to real property.

18 c. "Line of credit" means an agreement whereby a lender is
19 obligated to provide a specified amount of credit to a borrower from
20 time to time. The agreement may include provisions to amend or
21 change the interest rate or terms of repayment and shall be an
22 obligation for the purposes of this section notwithstanding the
23 inclusion of one or more of the following limitations and conditions:

24 (1) An expiration date of the agreement or an option of the lender
25 to cancel the agreement on notice to the borrower;

26 (2) The financial condition of any borrower;

27 (3) Continued compliance by the borrower with the terms of the
28 agreement and any mortgage or security agreement securing the
29 amounts advanced pursuant to the agreement;

30 (4) The absence of an adverse change in the value or condition of
31 any collateral securing the agreement;

32 (5) A requirement of certain procedures for activating the
33 obligation to make advances pursuant to the agreement; or

34 (6) A decision of the lender not to continue to engage in the

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

Matter underlined thus is new matter.

1 business of providing lines of credit on terms similar to the agreement.

2 d. "Modification" means:

3 (1) [With respect to a mortgage loan other than a line of credit, a]
4 A change in the interest rate, due date or other terms and conditions
5 of a mortgage loan [except an advance of principal or a substitution in
6 the collateral]; or

7 (2) An advance made pursuant to a line of credit.

8 "Modification" does not include an advance of principal which
9 increases the principal balance over the principal amount stated in the
10 mortgage or a substitution in the collateral.

11 (cf: P.L.1985, c.353, s.1)

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13 2. (New section) If a holder of a mortgage loan has insured the
14 holder's interest in the real property securing the mortgage loan with
15 title insurance issued in accordance with the "Title Insurance Act of
16 1974," P.L.1975, c.106 (C.17:46B-1 et seq.) and a modification has
17 been made in the mortgage loan which continues the priority of the
18 original mortgage as provided in section 2 of P.L.1985, c. 353
19 (C.46:9-8.2), the title insurance shall continue in effect whether or not
20 the modification agreement is recorded on the records of the county
21 where the mortgage is recorded, unless the terms of the title insurance
22 policy explicitly provide that the policy will not continue to apply if a
23 modification of a mortgage loan takes place pursuant to P.L.1985,
24 c.353 (C.46:9-8.1 et seq.).

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26 3. This act shall take effect immediately.

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STATEMENT

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31 This bill treats a modification of a line of credit agreements in the
32 same manner as modification of other mortgages. The bill clarifies
33 that principal advances on a mortgage are covered as a modification,
34 thereby maintaining the priority of the mortgage, so long as the
35 resulting outstanding principal balance does not exceed the principal
36 amount stated in the mortgage. In addition, the bill confirms the
37 continuation of the effectiveness of a policy of mortgagee's title
38 insurance upon a modification of the mortgage as provided pursuant
39 to P.L.1985, c.353 (C.46:9-8.1 et seq.) without requiring the issuance
40 of any new policy or an endorsement to the existing mortgagee's
41 policy, unless the title policy explicitly provides to the contrary. This
42 will reduce the cost to the borrower when a mortgage loan is modified.

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46 Concerns the priority of modified mortgage loans.