

[Passed Both Houses]

[First Reprint]

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:

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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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted December 12, 1996.

1 amounts advanced pursuant to the agreement;

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

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

6 (6) A decision of the lender not to continue to engage in the
7 business of providing lines of credit on terms similar to the agreement.

8 d. "Modification" means:

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

13 (2) An advance made pursuant to a line of credit ¹or other advance
14 of principal, but only to the extent that the advance does not cause the
15 principal balance due to exceed the principal amount stated in the
16 mortgage¹. "Modification" does not include ¹[an advance of principal
17 which increases the principal balance over the principal amount stated
18 in the mortgage or]¹ a substitution in the collateral.

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

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

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34 3. This act shall take effect immediately.

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Concerns the priority of modified mortgage loans.