

CHAPTER 427

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

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

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

C.46:9-8.1 Definitions.

1. As used in this act:

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

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

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

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

(2) The financial condition of any borrower;

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

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

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

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

d. "Modification" means:

(1) A change in the interest rate, due date or other terms and conditions of a mortgage loan; or

(2) An advance made pursuant to a line of credit or other advance of principal, but only to the extent that the advance does not cause the principal balance due to exceed the principal amount stated in the mortgage. "Modification" does not include a substitution in the collateral.

C.46:9-8.5 Title insurance to continue in effect despite modification to mortgage loan; exception.

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

3. This act shall take effect immediately.

Approved January 19, 1998.