

No. 1984-73

AN ACT

SB 1357

Amending the act of December 3, 1959 (P.L.1688, No.621), entitled, as amended, "An act to promote the health, safety and welfare of the people of the Commonwealth by broadening the market for housing for persons and families of low and moderate income and alleviating shortages thereof, and by assisting in the provision of housing for elderly persons through the creation of the Pennsylvania Housing Finance Agency as a public corporation and government instrumentality; providing for the organization, membership and administration of the agency, prescribing its general powers and duties and the manner in which its funds are kept and audited, empowering the agency to make housing loans to qualified mortgagors upon the security of insured and uninsured mortgages, defining qualified mortgagors and providing for priorities among tenants in certain instances, prescribing interest rates and other terms of housing loans, permitting the agency to acquire real or personal property, permitting the agency to make agreements with financial institutions and Federal agencies, providing for the purchase by persons of low and moderate income of housing units, and approving the sale of housing units, permitting the agency to sell housing loans, providing for the promulgation of regulations and forms by the agency, prescribing penalties for furnishing false information, empowering the agency to borrow money upon its own credit by the issuance and sale of bonds and notes and by giving security therefor, permitting the refunding, redemption and purchase of such obligations by the agency, prescribing remedies of holders of such bonds and notes, exempting bonds and notes of the agency, the income therefrom, and the income and revenues of the agency from taxation, except transfer, death and gift taxes; making such bonds and notes legal investments for certain purposes; and indicating how the act shall become effective," allowing the agency to make loans independently of participation in a Federal Housing Assistance Program; saving an act from expiration; further providing guidelines and criteria to be used for homeowner's emergency assistance; making an appropriation; and making editorial changes.

The Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 401-A(1) of the act of December 3, 1959 (P.L.1688, No.621), known as the Housing Finance Agency Law, amended April 7, 1976 (P.L.73, No.33), is amended to read:

Section 401-A. Rental Housing Program.—To accomplish the declared purpose of this act of providing rental housing to persons and families of low and moderate income the agency is hereby authorized to:

(1) Make **[first mortgage]** loans secured by real property or a leasehold estate, including mortgages **[insured by a Federal agency] or such other security as the agency determines to be necessary**, to finance projects designed and planned to be available for low and moderate income persons and families or elderly persons and others. **[The agency shall not make any mortgage loan pursuant to the provisions of this Article IV, unless such mortgage loan is made in conjunction with a Federal Housing Assistance Program; provided, however, that any mortgage loan for which the agency had issued a**

written commitment and/or projects for which the agency had issued written feasibility approval on or before January 1, 1976, shall be excluded from the limitations of this sentence.]

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Section 2. Sections 401-C(a) and (b), 402-C(a), 403-C and 404-C(a) of the act, added December 23, 1983 (P.L.385, No.91), are amended to read:

Section 401-C. General Authority.—(a) The Pennsylvania Housing Finance Agency, hereinafter referred to as the “agency,” may make loans secured by liens on residential real property located in Pennsylvania to residents of Pennsylvania eligible for such loans as described in this article. *For the purpose of this article, the term “mortgage” shall include any obligation evidenced by a security document and secured by a lien upon real property located within this Commonwealth including, but not limited to, a deed of trust and land sale agreement. The term shall also include an obligation evidenced by a security lien on real property upon which an owner-occupied mobile home is located. The provisions of this article shall not be applicable if:*

(1) The property securing the mortgage is not the principal residence of the mortgagor.

(2) The property securing the mortgage is not a one or two-family owner-occupied residence.

(3) The mortgage is insured by the Federal Housing Administration under Title II of the National Housing Act (12 U.S.C. §§ 1707-1715z-18).

(4) The mortgage on the property was given by a noncorporate seller, unless the noncorporate seller elects, in writing, in the mortgage or elsewhere to be covered by this article. For purposes of this article “noncorporate seller” means any person giving a mortgage who is not a bank, a savings and loan association, a mortgage bank, a consumer discount company or other entity in the mortgage lending business.

(b) The agency shall carry out the program established by this article. Within sixty days of the effective date of this article, the agency shall adopt *initial* program guidelines for the implementation of this article *and may revise the guidelines whenever appropriate.* The agency shall report annually to the General Assembly on the effectiveness of the Homeowner’s Emergency Mortgage Assistance Program in accomplishing the purposes of this article.

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Section 402-C. Notice and Institution of Foreclosure Proceedings.—

(a) Before any mortgagee may accelerate the maturity of any mortgage obligation covered under this article, commence any legal action including mortgage foreclosure to recover under such obligation, or take possession of any security of the mortgage debtor for such mortgage obligation, such mortgagee shall give the mortgagor notice as described in section 403-C. Such notice shall be given in a form and manner prescribed by the agency. *Further, no mortgagee may enter judgment by confession pursuant to a note accompanying a mortgage, and may not proceed to enforce such obligation pursuant to applicable rules of civil procedure without giving the notice pro-*

vided for in this subsection and following the procedures provided for under this article.

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Section 403-C. Notice Requirements.—(a) Any mortgagee who desires to foreclose upon a mortgage shall send to such mortgagor at his or her last known address the notice provided in subsection (b); Provided, however, That such mortgagor shall be at least sixty (60) days contractually delinquent in his mortgage payments or be in violation of any other provision of such mortgage.

(b) The agency shall prepare a uniform notice for purposes of this section as follows: The notice shall list consumer credit counseling agencies and shall advise the mortgagor of his delinquency or other default under the mortgage and that such mortgagor has thirty (30) days to have a face-to-face meeting with the mortgagee who sent the notice or a consumer credit counseling agency to attempt to resolve the delinquency or default by restructuring the loan payment schedule or otherwise. *The notice shall be promulgated as part of the program guidelines required by section 401-C(b).* If the mortgagor meets with a consumer credit counseling agency, the consumer credit counseling agency shall promptly notify all of the mortgagees secured by the mortgagor's real property, and no mortgagee so notified shall commence any legal action against the mortgagor's real property for a period not to exceed thirty (30) calendar days from the date that the **[mortgagee] mortgagor** first meets with the consumer credit counseling agency. The notice shall include a statement that, if the mortgagor is unable to resolve the delinquency or default within thirty (30) calendar days of the mortgagor's first **[contract] contact** with either the mortgagee or a consumer credit counseling agency, the mortgagor may apply to the agency or its duly authorized agent at the address and phone number listed in the notice in order to obtain an application and information regarding the Homeowner's Emergency Mortgage Assistance Program. If the mortgagor applies for mortgage assistance payments, the agency shall promptly notify all of the mortgagees secured by the mortgagor's real property. The agency shall make a determination of eligibility within sixty (60) calendar days of receipt of the mortgagor's application. During the time that the application is pending, no mortgagee may commence legal action to foreclose upon its mortgage with the mortgagor.

(c) If the mortgagor fails to meet with the mortgagee or consumer credit counseling agency or meet any of the time limitations specified in the notice or if the mortgagor's application for mortgage assistance payments is denied, the mortgagee may, at any time thereafter, take any legal action to enforce the mortgage without any further restriction or requirements under this article. Financial institutions shall not be the duly authorized agents of the agency **[and shall not make the]** *for the purpose of making any decision on the approval of assistance under this act.*

(d) *If, after a face-to-face meeting, the mortgagor and the mortgagee reach an agreement to resolve the delinquency or default as provided for in section 403-C(b) and if, because of circumstances beyond the mortgagor's control, the mortgagor is unable to fulfill the obligations of that agreement,*

the mortgagor may apply to the agency or its duly authorized agent for assistance under this article within thirty (30) days of any default in payment under the agreement previously reached. The mortgagee shall not be required to send any additional notice pursuant to this article.

(e) All parties requiring notice pursuant to this article shall be deemed to receive notice on the third business day following the date of the mailing of the notice as documented by a certificate of mailing obtained from the United States Postal Service.

Section 404-C. Eligibility for Assistance.—(a) No assistance may be made with respect to a mortgage under this article unless all of the following are established:

(1) The property securing the mortgage, or other security interest in the case of units in cooperative or condominium projects, is a one-family residence, or two-family owner-occupied residence including one-family units in a condominium project or a membership interest and occupancy agreement in a cooperative housing project, is the principal residence of the mortgagor and is located in this Commonwealth.

(2) (i) Any mortgagee has indicated to the mortgagor its intention to foreclose; **[or] and**

(ii) payments under any mortgage have been contractually delinquent for at least sixty (60) days.

(3) The mortgage is not insured by the Federal Housing Administration under Title II of the National Housing Act (*12 U.S.C. §§ 1707-1715z-18*).

(4) The mortgagor is a permanent resident of this Commonwealth and is suffering financial hardship due to circumstances beyond the mortgagor's control which render the mortgagor unable to correct the delinquency or delinquencies within a reasonable time and make full mortgage payments.

(5) The agency has determined that there is a reasonable prospect that the mortgagor will be able to resume full mortgage payments within thirty-six (36) months after the beginning of the period for which assistance payments are provided under this article and pay the mortgage or mortgages in full by its maturity date or by a later date agreed to by the mortgagee or mortgagees for completing mortgage payments.

(6) The mortgagor has applied to the agency for assistance on an application form prescribed by the agency for this use which includes a financial statement disclosing all assets and liabilities of the mortgagor, whether singly or jointly held, and all household income regardless of source. Any applicant who intentionally misrepresents any financial information in conjunction with the filing of an application for assistance under this article may be denied assistance or required to immediately repay any amount of assistance made as a result of such misrepresentation, and the mortgagee may, at any time thereafter, take any legal action to enforce the mortgage without any further restrictions or requirements under this article.

(7) The mortgagee is not prevented by law from foreclosing upon the mortgage.

(8) The agency has determined, based on the mortgagor's financial statement, that the mortgagor has insufficient household income or net worth to

correct the delinquency or delinquencies within a reasonable period of time and make full mortgage payments.

(9) Except for the current delinquency, the mortgagor shall have had a favorable residential mortgage credit history for the previous five (5) years. This requirement shall mean that, if the mortgagor has been more than three (3) consecutive months in arrears on a residential mortgage within the previous five (5) years, he shall be ineligible for assistance, unless the mortgagor can demonstrate that the prior delinquency was the result of financial hardship due to circumstances beyond his control.

(10) For purposes of this section, in order to determine whether the financial hardship is due to circumstances beyond the mortgagor's control, the agency may consider information regarding the mortgagor's employment record, credit history and current income.

(11) The mortgagor meets any other procedural requirements established by the agency.

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Section 3. Section 410-C(d) of the act, added December 23, 1983 (P.L.385, No.91), is amended and a subsection is added to read:

Section 410-C. Funding.—* * *

(d) The Department of Revenue shall grant a tax credit against any tax due under Articles IV, V, VII, VIII, XV and XVI of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," or against any tax due from an insurance company other than a foreign fire casualty insurance company. A tax credit of up to seventy (70) percent may be allowed. Contributions to the fund and any tax credit pursuant thereto not used in the period in which the contribution was made may be carried over for the next succeeding calendar or fiscal year until the full contribution has been used or the full credit has been allowed; provided that the total amount of all tax credits allowed pursuant to this section shall not exceed the limitations provided for in subsection (c). The [agency] *Department of Revenue* may provide for proportional credit in the event that total credits sought exceed fifteen million dollars in each of the fiscal years. [Notwithstanding the provisions of the act of November 29, 1967 (P.L.636, No.292), known as the "Neighborhood Assistance Act," the total amount of tax credits granted under that act shall not exceed three million seven hundred fifty thousand dollars for the fiscal year 1983-1984 and one million seven hundred fifty thousand dollars in each of the fiscal years 1984-1985, 1985-1986 and 1986-1987.] *The Department of Revenue may, jointly with the Housing Finance Agency, adopt rules and regulations, policy statements, guidelines and procedures to implement the tax credit program.*

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(f) *The sum of twenty-five million seven hundred fifty thousand dollars, or as much thereof as may be necessary, is hereby appropriated from the General Fund to the fund created by section 408-C of this article for the fiscal year beginning July 1, 1984 and ending June 30, 1985 to carry out the purposes of this act.*

Section 4. Section 6 of the act of December 31, 1981 (P.L.594, No.176), entitled "An act amending the act of December 3, 1959 (P.L.1688, No.621), entitled, as amended, 'An act to promote the health, safety and welfare of the people of the Commonwealth by broadening the market for housing for persons and families of low and moderate income and alleviating shortages thereof, and by assisting in the provision of housing for elderly persons through the creation of the Pennsylvania Housing Finance Agency as a public corporation and government instrumentality; providing for the organization, membership and administration of the agency, prescribing its general powers and duties and the manner in which its funds are kept and audited, empowering the agency to make housing loans to qualified mortgagors upon the security of insured and uninsured mortgages, defining qualified mortgagors and providing for priorities among tenants in certain instances, prescribing interest rates and other terms of housing loans, permitting the agency to acquire real or personal property, permitting the agency to make agreements with financial institutions and Federal agencies, providing for the purchase by persons of low and moderate income of housing units, and approving the sale of housing units, permitting the agency to sell housing loans, providing for the promulgation of regulations and forms by the agency, prescribing penalties for furnishing false information, empowering the agency to borrow money upon its own credit by the issuance and sale of bonds and notes and by giving security therefor, permitting the refunding, redemption and purchase of such obligations by the agency, prescribing remedies of holders of such bonds and notes, exempting bonds and notes of the agency, the income therefrom, and the income and revenues of the agency from taxation, except transfer, death and gift taxes; making such bonds and notes legal investments for certain purposes; and indicating how the act shall become effective,' providing for the issuance of tax-free mortgage revenue bonds to encourage housing within the Commonwealth," is repealed to the extent that it provides for the expiration of Act 176 of 1981 on May 31, 1984, unless it is sooner amended or reenacted.

Section 5. This act shall take effect immediately.

APPROVED—The 31st day of May, A. D. 1984.

DICK THORNBURGH