

No. 2012-70

## AN ACT

SB 1433

Providing for the Homeowner Assistance Settlement Act; establishing a fund for the purpose of funding the Homeowner's Emergency Mortgage Assistance Program; and providing for the effect of noncompliance with the notice requirements of the Homeowner's Emergency Mortgage Assistance Program and for allocations from the fund.

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

Section 1. Short title.

This act shall be known and may be cited as the Homeowner Assistance Settlement Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Fund." The Homeowner Assistance Settlement Fund established in section 3(a).

"Homeowner Assistance Settlement Agreement." The settlement agreement and related documents entered into on February 9, 2012, by the Attorney General of the Commonwealth and the leading United States mortgage servicing companies.

"Homeowner's Emergency Mortgage Assistance Program." The program administered by the Pennsylvania Housing Finance Agency and established under Article IV-C of the act of December 3, 1959 (P.L.1688, No.621), known as the Housing Finance Agency Law.

Section 3. Homeowner Assistance Settlement Fund.

(a) Establishment.—There is established a special fund known as the Homeowner Assistance Settlement Fund. All payments received by the Commonwealth pursuant to the Homeowner Assistance Settlement Agreement shall be deposited by the Treasury Department into the fund and are hereby appropriated on a continuing basis.

(b) Allocation of funds.—The moneys in the fund shall be allocated each fiscal year no later than July 1 until all settlement funds are expended, subject to the following limitations:

(1) Ninety percent shall be allocated to the Pennsylvania Housing Finance Agency for the purpose of funding the Homeowner's Emergency Mortgage Assistance Program.

(2) Five percent shall be allocated to the Office of Attorney General for the purpose of funding housing consumer protection programs.

(3) Five percent shall be allocated to the Access to Justice Account established under 42 Pa.C.S. § 4904 (relating to establishment of Access to Justice Account) for civil legal assistance related to housing issues.

(c) Limitation on annual allocation.—The annual allocation of funds under subsection (b) shall not exceed \$12,000,000 annually, except that in fiscal year 2012-2013 the amount shall not exceed \$18,000,000.

Section 4. Initial allocation.

In addition to any allocation under section 3, the sum of \$6,000,000 is hereby allocated from the fund for fiscal year 2012-2013 to the Pennsylvania Housing Finance Agency for the Homeowner's Emergency Mortgage Assistance Program.

Section 5. Effect of noncompliance with notice requirements in the Homeowner's Emergency Mortgage Assistance Program.

The following provisions shall apply relating to the Homeowner's Emergency Mortgage Assistance Program:

(1) If there has been a failure to comply with the notice requirements of sections 402-C and 403-C of the act of December 3, 1959 (P.L.1688, No.621), known as the Housing Finance Agency Law, and such failure has been properly raised in a legal action, including an action in foreclosure, for money due under the mortgage obligation or to take possession of the mortgagor's security, the court may dismiss the action without prejudice, order the service of a corrected notice during the action, impose a stay on any action or impose other appropriate remedies in the action to address the interests, if any, of the mortgagor who has been prejudiced thereby.

(2) The failure of a mortgagee to comply with the requirements of sections 402-C and 403-C of the Housing Finance Agency Law must be raised in a legal action before the earlier delivery of a sheriff's or marshal's deed in the foreclosure action or delivery of a deed by the mortgagor.

(3) The failure of a mortgagee to comply with the requirements of sections 402-C and 403-C of the Housing Finance Agency Law shall not deprive a court of jurisdiction over any legal action, including an action in foreclosure, for money due under the mortgage obligation or to take possession of the mortgagor's security.

(4) The failure of a mortgagee to comply with the requirements of sections 402-C and 403-C of the Housing Finance Agency Law shall not impair the conveyance or other transfer of land and the title of property subject to a mortgage obligation covered under the Housing Finance Agency Law.

Section 6. Severability.

The provisions of this act shall be severable. If any provision shall be held to be invalid, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

Section 7. Applicability.

The provisions of section 5 shall apply retroactively to June 5, 1999.

Section 8. Effective date.

This act shall take effect immediately.

APPROVED—The 22nd day of June, A.D. 2012

TOM CORBETT