

1 AN ACT concerning mortgage foreclosures.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Housing Development Act is
5 amended by adding Section 7.24i as follows:

6 (20 ILCS 3805/7.24i new)

7 Sec. 7.24i. Homeowner's Stabilization Program.

8 (a) Homeowner's Stabilization Program. The Homeowner's
9 Stabilization Program is established to prevent mortgage
10 foreclosure by authorizing designated agencies to receive
11 funds to provide counseling and emergency mortgage payments
12 to eligible mortgagors.

13 (b) Definitions. In this Section:

14 "Authority" means the Illinois Housing Development
15 Authority.

16 "Designated agency" means a unit of local government or
17 an Illinois not-for-profit corporation.

18 "Household" means (i) a mortgagor and one or more persons
19 living in the same single-family residence or (ii) a
20 mortgagor living alone.

21 "Household income" means the total income of all members
22 of a household, less State and federal income and social
23 security taxes.

24 "Housing assistance" means all programs designed to
25 create or preserve decent, safe, affordable housing,
26 including the production of rental or homeowner units, rental
27 assistance, housing counseling, homeowner improvement, or
28 other assistance.

29 "Housing counseling" means the provision of outreach and
30 assistance to potential homeowners, renters, and first-time
31 buyers. Assistance to homeowners includes addressing

1 problems or potential problems that may result in default or
2 foreclosure on their property.

3 "Mortgage arrearage" means any payments past due to a
4 financial institution in connection with a mortgage,
5 including mortgage principal, interest, taxes, assessments,
6 insurance, and legal or other fees.

7 "Program" means the Homeowner's Stabilization Program
8 created in this Section.

9 "Single-family residence" means a house, condominium,
10 mobile home, or other interest in real estate that is
11 intended for residential use by no more than 4 households and
12 that is located in Illinois.

13 "Total housing expense" means the sum of the mortgagor's
14 monthly expenses, including utilities, hazard insurance
15 expenses, taxes, and all required mortgage payments.

16 (c) Responsibilities of the Authority. The Authority
17 must establish, by rule, the Homeowner's Stabilization
18 Program. The Authority must contract with designated
19 agencies that receive grant funds to provide counseling and
20 offer assistance in the form of emergency loans to eligible
21 mortgagors in order to prevent mortgage foreclosures.

22 (d) Responsibilities of designated agencies. Designated
23 agency responsibilities include, but are not limited to, the
24 following:

25 (1) screening applicants for assistance to
26 determine eligibility;

27 (2) providing housing counseling to address and
28 avoid actual or potential problems that may result in
29 default on a mortgage or foreclosure on an eligible
30 mortgagor's property;

31 (3) assisting mortgagors in attempting to negotiate
32 refinancing or alternative mortgage payment agreements
33 with financial institutions holding the mortgage;

34 (4) paying any mortgage arrearage and, if

1 necessary, monthly mortgage assistance payments on behalf
2 of eligible mortgagors in a manner consistent with the
3 requirements of subsection (f) of this Section;

4 (5) monitoring the level of the mortgagor's
5 continued eligibility for assistance, adjustment of
6 monthly payments, when appropriate, and accounting for
7 payments made either by or to the designated agency under
8 the Program; and

9 (6) any other responsibilities assumed by the
10 designated agency and approved by the Authority as part
11 of the designated agency's contract with the Authority.

12 (e) Eligibility for assistance. Designated agencies may
13 make mortgage and mortgage arrearage payments on behalf of a
14 household when all of the following conditions are met:

15 (1) The mortgagee has given the mortgagor notice
16 that the mortgage is in default.

17 (2) At least one full monthly installment due on
18 the mortgage is unpaid after the application of any
19 partial payments that may have been accepted but not yet
20 applied to the mortgage account.

21 (3) The mortgagor, with the assistance of the
22 designated agency, has attempted and failed to work out
23 an arrangement with the mortgagee to address the mortgage
24 default by restructuring the mortgage payment schedule.

25 (4) The mortgagor is suffering financial hardship
26 due to circumstances beyond the control of the mortgagor
27 that render the mortgagor unable to correct the
28 delinquency on the mortgage. In determining whether a
29 financial hardship is due to circumstances beyond the
30 control of a mortgagor, designated agencies may consider
31 information regarding the mortgagor's employment record,
32 credit history, and current income. The circumstances
33 beyond the control of the mortgagor include, but are not
34 limited to the following:

1 (A) Loss, reduction, or delay in the receipt
2 of income because of the death or disability of a
3 person who contributed to the household income.

4 (B) Expenses actually incurred related to
5 uninsured damage or costly repairs to the mortgaged
6 premises affecting its habitability.

7 (C) Expenses related to death or illness in
8 the homeowner's household or family members living
9 outside the household that reduce the amount of
10 household income.

11 (D) Loss of income or a substantial increase
12 in total housing expenses because of divorce,
13 abandonment, separation from a spouse, or failure to
14 support a spouse or child.

15 (E) Unemployment or underemployment.

16 (F) Loss, reduction, or delay in the receipt
17 of federal, State, or other government benefits.

18 (G) Participation by the homeowner in a
19 recognized labor action, such as a strike.

20 (5) There is a reasonable prospect that the
21 mortgagor will be able to resume full mortgage payments
22 not less than 24 months after the beginning of the period
23 for which assistance payments are provided and to pay the
24 mortgage in full by its maturity date or by a later date
25 agreed upon by the mortgagee. In determining whether
26 there is a reasonable prospect that the mortgagor will be
27 able to resume full mortgage payments, the designated
28 agency may consider:

29 (A) a favorable work and credit history;

30 (B) the mortgagor's ability to and history of
31 paying the mortgage when employed;

32 (C) the lack of an impediment or disability
33 that prevents reemployment;

34 (D) new education and training opportunities;

1 (E) non-cash benefits that may reduce
2 household expenses;

3 (F) other debts; and

4 (G) that the mortgagor is actively seeking or
5 has obtained employment.

6 (6) The property mortgaged is the mortgagor's
7 principal place of residence and is a single-family
8 residence as defined in this Act.

9 (7) The mortgagor has applied to the Program for
10 assistance in accordance with this Section and rules
11 adopted by the Authority for its implementation.

12 (8) The mortgagor's gross household income does not
13 exceed 80% of area median income as determined by the
14 federal Bureau of the Census.

15 (9) Installments of principal and interest due
16 under the mortgage are structured so that the loan is
17 fully amortized by regular and periodic payments over a
18 designated period of time. A mortgage in which the
19 balance is due upon demand or the balance is due in a
20 lump sum or balloon payment at the end of a term is not
21 eligible for mortgage assistance if the balance would be
22 due during the term of assistance.

23 (f) Assistance payments to eligible mortgagors.

24 (1) If the designated agency determines that a
25 mortgagor is eligible for financial assistance, the
26 following provisions apply.

27 (A) The designated agency must pay the
28 mortgage arrearage without regard to any
29 acceleration under the mortgage or the full amount
30 of any alternative mortgage payments agreed to by
31 the mortgagee and mortgagor.

32 (B) In addition, the designated agency may
33 also make monthly mortgage assistance payments on
34 behalf of the mortgagor. Payments under this

1 subparagraph (B) may be provided for a period not to
2 exceed 24 months, either consecutively or
3 non-consecutively.

4 (2) A mortgagor on whose behalf a designated agency
5 is making the mortgage assistance payments must make his
6 or her payments to the designated agency. These payments
7 must be in an amount that will not cause the mortgagor's
8 total housing expense to exceed 35% of the mortgagor's
9 household income. This is the maximum amount the
10 mortgagor can be required to pay during the 24-month
11 period of assistance eligibility. The mortgagor must
12 make the payments at least 7 days before each mortgage
13 payment is due under the mortgage.

14 (3) Upon receipt of the payment from the mortgagor,
15 the designated agency must send the total mortgage
16 payment directly to the mortgagee.

17 (4) If the mortgagor fails to pay to the designated
18 agency any amounts due from the mortgagor under this
19 subsection, not less than 15 days after the due date the
20 designated agency must review the mortgagor's financial
21 circumstances to determine whether a delinquency in
22 payments due from the mortgagor is the result of a change
23 in the mortgagor's financial circumstances since the
24 payment amount was last determined. If the delinquency
25 is not the result of a change in the mortgagor's
26 financial circumstances, the designated agency may
27 terminate future mortgage assistance payments and the
28 mortgagee may, at any time after the termination, take
29 appropriate legal action to enforce its mortgage. For
30 one time only, and at the sole discretion of the
31 designated agency, the delinquency incurred for
32 non-financial reasons may be satisfied by the designated
33 agency if it appears that the payment will prevent
34 foreclosure.

1 (5) If the delinquency is the result of a change,
2 the designated agency must modify the mortgagor's
3 required payments as the designated agency determines.

4 (6) The designated agency must establish procedures
5 for periodic review of the mortgagor's financial
6 circumstances for the purpose of determining the
7 necessity of continuation, termination, or adjustment of
8 the amount of the payments. No assistance payments on
9 behalf of any mortgagor may exceed \$60,000 in the
10 aggregate.

11 (g) Repayment of assistance.

12 (1) The amount by which the assistance payments
13 made by the designated agency to the mortgagee exceeds
14 the amount of payments made by the mortgagor to the
15 designated agency are a loan by the designated agency to
16 the mortgagor. The loan may be evidenced by any
17 documents that are necessary to protect the interests of
18 the designated agency.

19 (2) Before making assistance payments on behalf of
20 an eligible mortgagor, the designated agency must enter
21 into an agreement with the mortgagor for repayment of all
22 mortgage assistance provided under this Section plus
23 interest as provided in this subsection. The agreement
24 must provide for monthly payments by the mortgagor to the
25 designated agency that:

26 (A) must begin once the designated agency has
27 determined that continuation of mortgage assistance
28 payments to the mortgagee is unnecessary; and

29 (B) must be in an amount determined as
30 follows:

31 (i) if the mortgagor's total housing
32 expense is less than 35% of the mortgagor's
33 household income, the mortgagor must pay to the
34 designated agency the difference between 35% of

1 the mortgagor's household income and the
2 mortgagor's total housing expense but in any
3 case not less than \$25; or

4 (ii) if the mortgagor's total housing
5 expense is more than 35% of the mortgagor's
6 household income, repayment of the mortgage
7 assistance must be deferred until the
8 mortgagor's total housing expense is less than
9 35% of the mortgagor's household income.

10 Notwithstanding any other provision of this paragraph, if
11 repayment of mortgage assistance is not made by the date that
12 the mortgage is paid in full, the mortgagor must make
13 mortgage assistance repayments in an amount not less than the
14 previous regular mortgage payment until the mortgage
15 assistance is repaid.

16 (3) Interest shall accrue on all mortgage
17 assistance payments made under this Section at the rate
18 of 3%.

19 (h) Lien to secure repayment of assistance. Repayment
20 of amounts owed to the designated agency from a mortgagor
21 must be secured by a mortgage lien on the property and by any
22 other obligation that the designated agency may require. The
23 lien or other security interest may not be less than a third
24 lien on the mortgaged property. Subordination of the
25 mortgage assistance lien may be allowed only if subordination
26 is in the best interest of the homeowner and necessary to
27 permit the mortgagor to obtain a home improvement loan for
28 repairs necessary to preserve the property.

29 (i) Time for repayment. Payments under this Section must
30 be made by the mortgagor to the designated agency not later
31 than 14 days after each mortgage payment is due under the
32 mortgage, or in the case of repayment after the mortgage has
33 been paid in full, not later than the date the mortgage
34 payments were due under the mortgage.

1 (j) Use of repayment funds. Designated agencies may use
2 all repayment funds to continue implementation of the
3 Homeowner's Stabilization Program as long as the State
4 continues to fund the Program. If the State discontinues the
5 Program, agencies may use repayment and other funds to
6 operate their own emergency mortgage assistance and
7 counseling programs or may use repayment funds to provide
8 housing assistance to families eligible under this Program.

9 (k) Additional responsibilities of the Authority. In
10 addition to its responsibilities under subsection (3) of this
11 Section, the Authority has the following responsibilities:

12 (1) The Authority must provide a toll-free number,
13 using existing State services where possible, to inform
14 mortgagors about the Program and must refer mortgagors to
15 the appropriate designated agency in the mortgagor's
16 vicinity.

17 (2) The Authority must publicize the existence of
18 the Homeowner's Stabilization Program to the general
19 public.

20 (3) The Authority must provide initial training to
21 any person responsible for administering the Program on
22 behalf of a designated agency and must monitor the
23 performance of designated agencies.

24 (l) First delinquency notice to mortgagor. The
25 mortgagee must include the following statement, in large bold
26 type, with the first delinquency notice and, when practical,
27 with each subsequent notice mailed to the mortgagor following
28 an unpaid mortgage obligation: IF YOU NEED HELP PAYING YOUR
29 MORTGAGE AND WANT TO AVOID PENALTIES, YOU MAY BE ELIGIBLE FOR
30 THE HOMEOWNER'S STABILIZATION PROGRAM BY CALLING
31 1-8XX-(insert number) IMMEDIATELY. THIS DOES NOT ALTER ANY
32 RIGHT OF YOUR MORTGAGE LENDER TO ENFORCE YOUR MORTGAGE
33 AGREEMENT.

34 (m) No impairment of legal rights. Nothing in this

1 Section shall be construed to impair the legal right of
2 mortgagees to enforce contracts or mortgage agreements.

3 (n) The Homeowner's Stabilization Fund. The Homeowner's
4 Stabilization Fund is created in the State Treasury. Moneys
5 in the Fund may be used, subject to appropriation, by the
6 Authority to carry out the purposed of this Act. Banks and
7 other lending institutions may make contributions to the Fund
8 and may apply those contributions to satisfy their
9 responsibilities under the federal Community Reinvestment Act
10 of 1977 to the maximum extent permitted by federal law.

11 Section 10. The State Finance Act is amended by adding
12 Section 5.545 as follows:

13 (30 ILCS 105/5.545 new)

14 Sec. 5.545. The Homeowner's Stabilization Fund.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.