

# HB3193



## 99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3193

by Rep. Robert F. Martwick

### SYNOPSIS AS INTRODUCED:

65 ILCS 95/11

from Ch. 24, par. 1611

Amends the Home Equity Assurance Act. Provides that a governing commission of a Guaranteed Home Equity Program with no less than \$4,000,000 in its guarantee fund may by resolution (currently, only by referendum) establish a Low Interest Home Improvement Loan Program.

LRB099 08617 AWJ 28780 b

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Home Equity Assurance Act is amended by  
5 changing Section 11 as follows:

6 (65 ILCS 95/11) (from Ch. 24, par. 1611)

7 (Text of Section before amendment by P.A. 98-1160)

8 Sec. 11. Guarantee Fund.

9 (a) Each governing commission and program created by  
10 referendum under the provisions of this Act shall maintain a  
11 guarantee fund for the purposes of paying the costs of  
12 administering the program and extending protection to members  
13 pursuant to the limitations and procedures set forth in this  
14 Act.

15 (b) The guarantee fund shall be raised by means of an  
16 annual tax levied on all residential property within the  
17 territory of the program having at least one, but not more than  
18 6 dwelling units and classified by county ordinance as  
19 residential. The rate of this tax may be changed from year to  
20 year by majority vote of the governing commission but in no  
21 case shall it exceed a rate of .12% of the equalized assessed  
22 valuation of all property in the territory of the program  
23 having at least one, but not more than 6 dwelling units and

1 classified by county ordinance as residential, or the maximum  
2 tax rate approved by the voters of the territory at the  
3 referendum which created the program or, in the case of a  
4 merged program, the maximum tax rate approved by the voters at  
5 the referendum authorizing the merger, whichever rate is lower.  
6 The commissioners shall cause the amount to be raised by  
7 taxation in each year to be certified to the county clerk in  
8 the manner provided by law, and any tax so levied and certified  
9 shall be collected and enforced in the same manner and by the  
10 same officers as those taxes for the purposes of the county and  
11 city within which the territory of the commission is located.  
12 Any such tax, when collected, shall be paid over to the proper  
13 officer of the commission who is authorized to receive and  
14 receipt for such tax. The governing commission may issue tax  
15 anticipation warrants against the taxes to be assessed for the  
16 calendar year in which the program is created and for the first  
17 full calendar year after the creation of the program.

18 (c) The moneys deposited in the guarantee fund shall, as  
19 nearly as practicable, be fully and continuously invested or  
20 reinvested by the governing commission in investment  
21 obligations which shall be in such amounts, and shall mature at  
22 such times, that the maturity or date of redemption at the  
23 option of the holder of such investment obligations shall  
24 coincide, as nearly as practicable, with the times at which  
25 monies will be required for the purposes of the program. For  
26 the purposes of this Section investment obligation shall mean

1 direct general municipal, state, or federal obligations which  
2 at the time are legal investments under the laws of this State  
3 and the payment of principal of and interest on which are  
4 unconditionally guaranteed by the governing body issuing them.

5 (d) Except as permitted by this subsection and subsection  
6 (d-5), the guarantee fund shall be used solely and exclusively  
7 for the purpose of providing guarantees to members of the  
8 particular Guaranteed Home Equity Program and for reasonable  
9 salaries, expenses, bills, and fees incurred in administering  
10 the program, and shall be used for no other purpose.

11 A governing commission, with no less than \$4,000,000 in its  
12 guarantee fund, may, if authorized (i) by referendum duly  
13 adopted by a majority of the voters or (ii) by resolution of  
14 the governing commission upon approval by two-thirds of the  
15 commissioners, establish a Low Interest Home Improvement Loan  
16 Program in accordance with and subject to procedures  
17 established by a financial institution, as defined in the  
18 Illinois Banking Act. Whenever the question of creating a Low  
19 Interest Home Improvement Loan Program is initiated by  
20 resolution or ordinance of the corporate authorities of the  
21 municipality or by a petition signed by not less than 10% of  
22 the total number of registered voters of each precinct in the  
23 territory, the registered voters of which are eligible to sign  
24 the petition, it shall be the duty of the election authority  
25 having jurisdiction over the municipality to submit the  
26 question of creating the program to the electors of each

1 precinct within the territory at the regular election specified  
2 in the resolution, ordinance, or petition initiating the  
3 question. A petition initiating a question described in this  
4 subsection shall be filed with the election authority having  
5 jurisdiction over the municipality. The petition shall be filed  
6 and objections to the petition shall be made in the manner  
7 provided in the Election Code. A resolution, ordinance, or  
8 petition initiating a question described in this subsection  
9 shall specify the election at which the question is to be  
10 submitted. The referendum on the question shall be held in  
11 accordance with the Election Code. The question shall be in  
12 substantially the following form:

13 "Shall the (name of the home equity program) implement  
14 a Low Interest Home Improvement Loan Program with money  
15 from the guarantee fund of the established guaranteed home  
16 equity program? "

17 The votes must be recorded as "Yes" or "No".

18 Whenever a majority of the voters on the public question  
19 approve the creation of the program as certified by the proper  
20 election authorities or a resolution of the governing  
21 commission is approved by a two-thirds majority, the commission  
22 shall establish the program and administer the program with  
23 funds collected under the Guaranteed Home Equity Program,  
24 subject to the following conditions:

25 (1) At any given time, the cumulative total of all  
26 loans and loan guarantees (if applicable) issued under this

1 program may not reduce the balance of the guarantee fund to  
2 less than \$3,000,000.

3 (2) Only eligible applicants may apply for a loan.

4 (3) The loan must be used for the repair, maintenance,  
5 remodeling, alteration, or improvement of a guaranteed  
6 residence. This condition is not intended to exclude the  
7 repair, maintenance, remodeling, alteration, or  
8 improvement of a guaranteed residence's landscape. This  
9 condition is intended to exclude the demolition of a  
10 current residence. This condition is also intended to  
11 exclude the construction of a new residence.

12 (4) An eligible applicant may not borrow more than the  
13 amount of equity value in his or her residence.

14 (5) A commission must ensure that loans issued are  
15 secured with collateral that is at least equal to the  
16 amount of the loan or loan guarantee.

17 (6) A commission shall charge an interest rate which it  
18 determines to be below the market rate of interest  
19 generally available to the applicant.

20 (7) A commission may, by resolution, establish other  
21 administrative rules and procedures as are necessary to  
22 implement this program including, but not limited to, loan  
23 dollar amounts and terms. A commission may also impose on  
24 loan applicants a one-time application fee for the purpose  
25 of defraying the costs of administering the program.

26 (d-5) A governing commission, with no less than \$4,000,000

1 in its guarantee fund, may, if authorized by referendum duly  
2 adopted by a majority of the voters, establish a Foreclosure  
3 Prevention Loan Fund to provide low interest emergency loans to  
4 eligible applicants that may be forced into foreclosure  
5 proceedings.

6 Whenever the question of creating a Foreclosure Prevention  
7 Loan Fund is initiated by resolution or ordinance of the  
8 corporate authorities of the municipality or by a petition  
9 signed by not less than 10% of the total number of registered  
10 voters of each precinct in the territory, the registered voters  
11 of which are eligible to sign the petition, it shall be the  
12 duty of the election authority having jurisdiction over the  
13 municipality to submit the question of creating the program to  
14 the electors of each precinct within the territory at the  
15 regular election specified in the resolution, ordinance, or  
16 petition initiating the question. A petition initiating a  
17 question described in this subsection shall be filed with the  
18 election authority having jurisdiction over the municipality.  
19 The petition shall be filed and objections to the petition  
20 shall be made in the manner provided in the Election Code. A  
21 resolution, ordinance, or petition initiating a question  
22 described in this subsection shall specify the election at  
23 which the question is to be submitted. The referendum on the  
24 question shall be held in accordance with the Election Code.  
25 The question shall be in substantially the following form:

26 "Shall the (name of the home equity program) implement a

1 Foreclosure Prevention Loan Fund with money from the guarantee  
2 fund of the established guaranteed home equity program? "

3 The votes must be recorded as "Yes" or "No".

4 Whenever a majority of the voters on the public question  
5 approve the creation of a Foreclosure Prevention Loan Fund as  
6 certified by the proper election authorities, the commission  
7 shall establish the program and administer the program with  
8 funds collected under the Guaranteed Home Equity Program,  
9 subject to the following conditions:

10 (1) At any given time, the cumulative total of all  
11 loans and loan guarantees (if applicable) issued under this  
12 program may not exceed \$3,000,000.

13 (2) Only eligible applicants may apply for a loan. The  
14 Commission may establish, by resolution, additional  
15 criteria for eligibility.

16 (3) The loan must be used to assist with preventing  
17 foreclosure proceedings.

18 (4) An eligible applicant may not borrow more than the  
19 amount of equity value in his or her residence.

20 (5) A commission must ensure that loans issued are  
21 secured as a second lien on the property.

22 (6) A commission shall charge an interest rate which it  
23 determines to be below the market rate of interest  
24 generally available to the applicant.

25 (7) A commission may, by resolution, establish other  
26 administrative rules and procedures as are necessary to



1           implement this program including, but not limited to,  
2           eligibility requirements for eligible applicants, loan  
3           dollar amounts, and loan terms.

4           (8) A commission may also impose on loan applicants a  
5           one-time application fee for the purpose of defraying the  
6           costs of administering the program.

7           (e) The guarantee fund shall be maintained, invested, and  
8           expended exclusively by the governing commission of the program  
9           for whose purposes it was created. Under no circumstance shall  
10          the guarantee fund be used by any person or persons,  
11          governmental body, or public or private agency or concern other  
12          than the governing commission of the program for whose purposes  
13          it was created. Under no circumstances shall the guarantee fund  
14          be commingled with other funds or investments.

15          (e-1) No commissioner or family member of a commissioner,  
16          or employee or family member of an employee, may receive any  
17          financial benefit, either directly or indirectly, from the  
18          guarantee fund. Nothing in this subsection (e-1) shall be  
19          construed to prohibit payment of expenses to a commissioner in  
20          accordance with Section 4 or payment of salaries or expenses to  
21          an employee in accordance with this Section.

22          As used in this subsection (e-1), "family member" means a  
23          spouse, child, stepchild, parent, brother, or sister of a  
24          commissioner or a child, stepchild, parent, brother, or sister  
25          of a commissioner's spouse.

26          (f) An independent audit of the guarantee fund and the

1 management of the program shall be conducted annually and made  
2 available to the public through any office of the governing  
3 commission or a public facility such as a local public library  
4 located within the territory of the program.

5 (Source: P.A. 95-691, eff. 6-1-08.)

6 (Text of Section after amendment by P.A. 98-1160)

7 Sec. 11. Guarantee Fund.

8 (a) Each governing commission and program created by  
9 referendum under the provisions of this Act shall maintain a  
10 guarantee fund for the purposes of paying the costs of  
11 administering the program and extending protection to members  
12 pursuant to the limitations and procedures set forth in this  
13 Act.

14 (b) The guarantee fund shall be raised by means of an  
15 annual tax levied on all residential property within the  
16 territory of the program having at least one, but not more than  
17 6 dwelling units and classified by county ordinance as  
18 residential. The rate of this tax may be changed from year to  
19 year by majority vote of the governing commission but in no  
20 case shall it exceed a rate of .12% of the equalized assessed  
21 valuation of all property in the territory of the program  
22 having at least one, but not more than 6 dwelling units and  
23 classified by county ordinance as residential, or the maximum  
24 tax rate approved by the voters of the territory at the  
25 referendum which created the program or, in the case of a

1 merged program, the maximum tax rate approved by the voters at  
2 the referendum authorizing the merger, whichever rate is lower.  
3 The commissioners shall cause the amount to be raised by  
4 taxation in each year to be certified to the county clerk in  
5 the manner provided by law, and any tax so levied and certified  
6 shall be collected and enforced in the same manner and by the  
7 same officers as those taxes for the purposes of the county and  
8 city within which the territory of the commission is located.  
9 Any such tax, when collected, shall be paid over to the proper  
10 officer of the commission who is authorized to receive and  
11 receipt for such tax. The governing commission may issue tax  
12 anticipation warrants against the taxes to be assessed for the  
13 calendar year in which the program is created and for the first  
14 full calendar year after the creation of the program.

15 (c) The moneys deposited in the guarantee fund shall, as  
16 nearly as practicable, be fully and continuously invested or  
17 reinvested by the governing commission in investment  
18 obligations which shall be in such amounts, and shall mature at  
19 such times, that the maturity or date of redemption at the  
20 option of the holder of such investment obligations shall  
21 coincide, as nearly as practicable, with the times at which  
22 monies will be required for the purposes of the program. For  
23 the purposes of this Section investment obligation shall mean  
24 direct general municipal, state, or federal obligations which  
25 at the time are legal investments under the laws of this State  
26 and the payment of principal of and interest on which are

1 unconditionally guaranteed by the governing body issuing them.

2 (d) Except as permitted by this subsection and subsection  
3 (d-5), the guarantee fund shall be used solely and exclusively  
4 for the purpose of providing guarantees to members of the  
5 particular Guaranteed Home Equity Program and for reasonable  
6 salaries, expenses, bills, and fees incurred in administering  
7 the program, and shall be used for no other purpose.

8 A governing commission, with no less than \$4,000,000 in its  
9 guarantee fund, may, if authorized (i) by referendum duly  
10 adopted by a majority of the voters or (ii) by resolution of  
11 the governing commission upon approval by two-thirds of the  
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13 Program in accordance with and subject to procedures  
14 established by a financial institution, as defined in the  
15 Illinois Banking Act. Whenever the question of creating a Low  
16 Interest Home Improvement Loan Program is initiated by  
17 resolution or ordinance of the corporate authorities of the  
18 municipality or by a petition signed by not less than 10% of  
19 the total number of registered voters of each precinct in the  
20 territory, the registered voters of which are eligible to sign  
21 the petition, it shall be the duty of the election authority  
22 having jurisdiction over the municipality to submit the  
23 question of creating the program to the electors of each  
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23 loans and loan guarantees (if applicable) issued under this  
24 program may not reduce the balance of the guarantee fund to  
25 less than \$3,000,000.

26 (2) Only eligible applicants may apply for a loan.

1           (3) The loan must be used for the repair, maintenance,  
2 remodeling, alteration, or improvement of a guaranteed  
3 residence. This condition is intended to include the repair  
4 or maintenance of a guaranteed residence's water and sewer  
5 pipes and repair of a guaranteed residence, including but  
6 not limited to basement repairs, following flooding damage  
7 to the property. This condition is not intended to exclude  
8 the repair, maintenance, remodeling, alteration, or  
9 improvement of a guaranteed residence's landscape. This  
10 condition is intended to exclude the demolition of a  
11 current residence. This condition is also intended to  
12 exclude the construction of a new residence.

13           (4) An eligible applicant may not borrow more than the  
14 amount of equity value in his or her residence.

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21           (7) A commission may, by resolution, establish other  
22 administrative rules and procedures as are necessary to  
23 implement this program including, but not limited to, loan  
24 dollar amounts and terms. A commission may also impose on  
25 loan applicants a one-time application fee for the purpose  
26 of defraying the costs of administering the program.

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7 Whenever the question of creating a Foreclosure Prevention  
8 Loan Fund is initiated by resolution or ordinance of the  
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10 signed by not less than 10% of the total number of registered  
11 voters of each precinct in the territory, the registered voters  
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2 Foreclosure Prevention Loan Fund with money from the guarantee  
3 fund of the established guaranteed home equity program?"

4 The votes must be recorded as "Yes" or "No".

5 Whenever a majority of the voters on the public question  
6 approve the creation of a Foreclosure Prevention Loan Fund as  
7 certified by the proper election authorities, the commission  
8 shall establish the program and administer the program with  
9 funds collected under the Guaranteed Home Equity Program,  
10 subject to the following conditions:

11 (1) At any given time, the cumulative total of all  
12 loans and loan guarantees (if applicable) issued under this  
13 program may not exceed \$3,000,000.

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15 Commission may establish, by resolution, additional  
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18 foreclosure proceedings.

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20 amount of equity value in his or her residence.

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22 secured as a second lien on the property.

23 (6) A commission shall charge an interest rate which it  
24 determines to be below the market rate of interest  
25 generally available to the applicant.

26 (7) A commission may, by resolution, establish other



1 administrative rules and procedures as are necessary to  
2 implement this program including, but not limited to,  
3 eligibility requirements for eligible applicants, loan  
4 dollar amounts, and loan terms.

5 (8) A commission may also impose on loan applicants a  
6 one-time application fee for the purpose of defraying the  
7 costs of administering the program.

8 (e) The guarantee fund shall be maintained, invested, and  
9 expended exclusively by the governing commission of the program  
10 for whose purposes it was created. Under no circumstance shall  
11 the guarantee fund be used by any person or persons,  
12 governmental body, or public or private agency or concern other  
13 than the governing commission of the program for whose purposes  
14 it was created. Under no circumstances shall the guarantee fund  
15 be commingled with other funds or investments.

16 (e-1) No commissioner or family member of a commissioner,  
17 or employee or family member of an employee, may receive any  
18 financial benefit, either directly or indirectly, from the  
19 guarantee fund. Nothing in this subsection (e-1) shall be  
20 construed to prohibit payment of expenses to a commissioner in  
21 accordance with Section 4 or payment of salaries or expenses to  
22 an employee in accordance with this Section.

23 As used in this subsection (e-1), "family member" means a  
24 spouse, child, stepchild, parent, brother, or sister of a  
25 commissioner or a child, stepchild, parent, brother, or sister  
26 of a commissioner's spouse.

1           (f) An independent audit of the guarantee fund and the  
2 management of the program shall be conducted annually and made  
3 available to the public through any office of the governing  
4 commission or a public facility such as a local public library  
5 located within the territory of the program.

6           (Source: P.A. 98-1160, eff. 6-1-15.)