

46: 10B-16 to 46: 10B-21

LEGISLATIVE HISTORY CHECKLIST

WJSA 46:10B-16 to 46:10B-21 ("Senior Citizen Homeowner's
Income Security Act")

LAWS OF 1979 CHAPTER 140

Bill No. A1660

Sponsor(s) Kern and others

Date Introduced Sept. 25, 1978

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage Yes Amendments during passage
denoted by asterisks

Date of Passage: Assembly Feb. 26, 1979

Senate May 7, 1979

Date of approval July 6, 1979

Following statements are attached if available:

Sponsor statement	Yes	<input checked="" type="checkbox"/>
Committee Statement: Assembly	Yes	<input checked="" type="checkbox"/>
Senate	<input checked="" type="checkbox"/>	No
Fiscal Note	<input checked="" type="checkbox"/>	No
Veto message	<input checked="" type="checkbox"/>	No
Message on signing	Yes	<input checked="" type="checkbox"/>

Following were printed:

Reports	<input checked="" type="checkbox"/>	No
Hearings	<input checked="" type="checkbox"/>	No

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[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 1660

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 25, 1978

By Assemblymen KERN, EDWARDS, GORMLEY, HURLEY, BAER,
BURSTEIN, DOYLE, NEWMAN and BORNHEIMER

Referred to Committee on Banking and Insurance

AN ACT authorizing lending institutions to make reverse annuity
mortgages and reverse direct payment mortgages.

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

1 1. This act shall be known and may be cited as the "Senior
2 Citizen Homeowner's Income Security Act."

1 2. As used in this act:

2 "Reverse annuity mortgage" means a mortgage loan secured
3 by unencumbered residential property of the mortgagor which loan
4 is used by the mortgagee to purchase annuities for the benefit of
5 the mortgagor.

6 "Reverse direct payment mortgage" means a mortgage loan
7 secured by unencumbered residential property of the mortgagor,
8 which loan is paid directly to the mortgagor in fixed amounts over
9 the term of the mortgage not to exceed 10 years*, or such other term
10 as may be established by the Commissioner of Banking by regu-
11 lation*.

1 3. Notwithstanding any law, rule, regulation, or opinion to the
2 contrary, it shall be lawful for any institution authorized in the
3 State to make *[mortgage]* *first lien* loans secured by a mort-
4 gage on real property to make reverse annuity mortgages and
5 reverse direct payment mortgages subject to the following
6 conditions:

7 a. Said mortgages shall *[not]* be made to a mortgagor *[under
8 the age of 60 and]* *who is at least 60 years old; provided, how-
8A ever, that the Commissioner of Banking may by regulation raise
8B or lower the age limit for eligibility. Such mortgages* shall not be
8C made in an amount to exceed *[50%]* *70%* of the value of the
8D mortgaged property*, or such amount as is established by the
8E commissioner by regulation*.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

9 b. Said mortgages shall be made voidable at the option of the
10 mortgagor upon payment of the principal and interest to date, with
11 no penalty.

12 c. Interest on said mortgages shall not exceed the usury rate.

1 4. With respect to a reverse annuity mortgage or a reverse
2 direct payment mortgage, at the termination of the mortgage the
3 mortgagor shall have the option to enter into a subsequent reverse
4 annuity mortgage or a reverse direct payment mortgage with the
5 same mortgagee, provided the **mortgagee consents to the subse-*
6 *quent reverse annuity mortgage or the reverse direct payment*
7 *mortgage and provided the** mortgaged property has not depre-
8 ciated significantly during the term of the initial mortgage and
9 the subsequent mortgage does not exceed ***[80%]*** **90%** of the
10 value of the unencumbered portion of the mortgaged property*,
11 *or such amount as is established by the commissioner by regulation**.

1 5. Income derived **by mortgagors** from mortgages authorized
2 pursuant to this act shall not be considered income for purposes of
3 the "New Jersey Gross Income Tax Act".

1 **6. The Commissioner of Banking may make such regulations as*
2 *he deems necessary to effectuate the purposes of this act.**

1 ***[6.]*** **7.** This act shall take effect immediately.

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5 the mortgagor.

6 "Reverse direct payment mortgage" means a mortgage loan
7 secured by unencumbered residential property of the mortgagor,
8 which loan is paid directly to the mortgagor in fixed amounts over
9 the term of the mortgage not to exceed 10 years.

1 3. Notwithstanding any law, rule, regulation, or opinion to the
2 contrary, it shall be lawful for any institution authorized in the
3 State to make mortgage loans secured by a mortgage on real
4 property to make reverse annuity mortgages and reverse direct
5 payment mortgages subject to the following conditions:

6 a. Said mortgages shall not be made to a mortgagor under the
7 age of 60 and shall not be made in an amount to exceed 50% of the
8 value of the mortgaged property.

9 b. Said mortgages shall be made voidable at the option of the
10 mortgagor upon payment of the principal and interest to date, with
11 no penalty.

12 c. Interest on said mortgages shall not exceed the usury rate.

1 4. With respect to a reverse annuity mortgage or a reverse
2 direct payment mortgage, at the termination of the mortgage the
3 mortgagor shall have the option to enter into a subsequent reverse

4 annuity mortgage or a reverse direct payment mortgage with the
5 same mortgagee, provided the mortgaged property has not de-
6 preciated significantly during the term of the initial mortgage and
7 the subsequent mortgage does not exceed 80% of the value of the
8 unencumbered portion of the mortgaged property.

1 5. Income derived from mortgages authorized pursuant to this
2 act shall not be considered income for purposes of the "New Jersey
3 Gross Income Tax Act".

1 6. This act shall take effect immediately.

STATEMENT

This bill would permit lending institutions in New Jersey to offer "reverse annuity mortgages" and "reverse direct payment mortgages" designed to increase the working income of senior citizens who often have substantial wealth in the form of equity interest in their homes, but who live on fixed incomes gradually eroded by inflation. In essence, a mortgage is created with the money flowing from an annuity or directly from the lender. The borrower receives a certain amount of money periodically from the annuity or for a stipulated time period, based on a percentage of the unencumbered value of his real property, from the direct payment mortgage.

A1660 (1979)

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1660

STATE OF NEW JERSEY

DATED: JANUARY 25, 1979

This bill would permit mortgage lenders to make reverse annuity mortgages and reverse direct payment mortgages. These mortgages could only be made to individuals 60 years old or older, and could not be made in an amount to exceed 50% of the value of the mortgaged property. The mortgages would be voidable at the option of the mortgagor upon payment of the principal and interest to date, with no penalty. Interest on the mortgages could not exceed the usury ceiling. At the termination of the mortgage the mortgagor would be given the option to enter into a subsequent reverse annuity mortgage or a reverse direct payment mortgage with the same mortgagee, provided that the mortgage property has not depreciated significantly during the term of the initial mortgage and that the subsequent mortgage does not exceed 80% of the value of the unencumbered portion of the mortgaged property. Income derived from mortgages authorized pursuant to this act shall not be considered income for purposes of the "New Jersey Gross Income Tax Act."

These mortgage instruments have been devised as a means of permitting senior citizens to make use of the equity which they have built up in their home. Often times this equity represents their primary asset. The reverse mortgage concept attempts to use this dormant asset by enabling a homeowner to enter into an agreement with a bank for the sale of their home over a period of time; this kind of instrument is like a mortgage flowing in reverse. The borrower would receive a stipulated amount of money for a certain time period based on the unencumbered value of his real property. The senior citizen would thus have his income supplemented while still being able to live in his home.

There are two kinds of instruments which would accomplish this. One, the "reverse direct payment mortgage," is simply a mortgage in which the institution or other lender pays a sum directly to the mortgagor, in the same manner as a conventional mortgage loan is paid by the mortgagor. In a "reverse annuity mortgage," the mortgagee takes the lump sum of money borrowed, and used the money to purchase an annuity for the benefit of the mortgagor.

These instruments are based on the proposition that the value of the home will stay or increase over the term of the reverse mortgage, and that the individuals who live in the house are able to keep up the property and to pay the taxes on it from existing income. The risk to the lending institution, as in the case of a conventional mortgage loan, is that the property might not continue to hold its value.

The Banking and Insurance Committee has amended the legislation to change the loan-to-value ratio established by the legislation, and to give the Commissioner of Banking discretionary authority to modify the age eligibility limit and the loan-to-value ratio, and to promulgate such other regulations as he may deem appropriate.

The committee believes that this legislation demonstrates an innovative approach to the problem of providing adequate and affordable housing for senior citizens.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 1660

STATE OF NEW JERSEY

ADOPTED JANUARY 25, 1979

Amend page 1, section 2, line 9, after "years", insert ", or such other term as may be established by the Commissioner of Banking by regulation".

Amend page 1, section 3, line 3, after "make", omit "mortgage", insert "first lien".

Amend page 1, section 3, lines 6-7, omit "not", omit "under the age of 60 and"; insert "who is at least 60 years old; provided, however, that the Commissioner of Banking may by regulation raise or lower the age limit for eligibility. Such mortgages"; omit "50%", insert "70%".

Amend page 1, section 3, line 8, after "property", insert ", or such amount as is established by the commissioner by regulation".

Amend page 2, section 4, line 5, after "the", insert "mortgagee consents to the subsequent reverse annuity mortgage or the reverse direct payment mortgage and provided the".

Amend page 2, section 4, line 7, omit "80%", insert "90%".

Amend page 2, section 4, line 8, after "property", insert ", or such amount as is established by the commissioner by regulation".

Amend page 2, section 5, line 1, after "derived", insert "by mortgagors".

Amend page 2, section 5, line 3, insert new section as follows: "6. The Commissioner of Banking may make such regulations as he deems necessary to effectuate the purposes of this act."

Amend page 2, section 6, line 1, omit "6", insert "7".

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JULY 10, 1979

PAT SWEENEY

Governor Brendan Byrne has signed A-1660, sponsored by Assemblyman Walter M.D. Kern, Jr. (R-Bergen), known as the "Senior Citizen Homeowner's Income Security Act," which will permit the making of reverse annuity mortgages and reverse direct payment mortgages.

The bill is designed to give senior citizens a means of using the equity built up through paying off conventional mortgages on their houses. Rather than taking out a mortgage and receiving a lump sum payment, they will be permitted to receive monthly installments over a fixed term. Under the reverse annuity mortgage, the proceeds of the mortgage are paid by the bank to the entity furnishing the annuity. Under the reverse direct payment mortgage, the monthly payments are made directly by the bank to the mortgagor.

Any institution authorized in New Jersey to make first lien loans secured by mortgages is permitted to make reverse annuity mortgages and direct payment mortgages, subject to the conditions of the bill.

The conditions are:

- the mortgagor must be at least 60 years old, or such other age limit for eligibility as is established by the Commissioner of Banking by regulation;
- the mortgage may not exceed 70 per cent of the value of the mortgaged property, but the Commissioner may vary the amount by regulation;
- the mortgage must be voidable at the option of the mortgagor upon payment of the principal and interest owed as of the date of cancellation. No pre-payment penalty is permitted;
- the interest rate on such mortgages may not exceed the usury rate.

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