

# 55:14K-82

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2008            **CHAPTER:** 127  
**NJSA:** 55:14K-82        ("Mortgage Stabilization and Relief Act")  
**BILL NO:** S1599         (Substituted for A3506)  
**SPONSOR(S):** Rice and others

**DATE INTRODUCED:** April 7, 2008

**COMMITTEE:**            **ASSEMBLY:** Appropriations  
**SENATE:** Commerce  
Budget and Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**        **ASSEMBLY:** December 15, 2008  
**SENATE:** December 15, 2008

**DATE OF APPROVAL:** January 9, 2009

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (First Reprint of Senate Committee Substitute enacted)

**S1599**

[SPONSOR'S STATEMENT:](#) (Begins on page 16 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    [ASSEMBLY:](#) Yes

**SENATE:** Yes [Commerce 6-9-08](#)  
[Budget 11-13-08](#)

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes [11-7-08](#)  
[11-26-08](#)  
[12-18-08](#)

**A3506**

[SPONSOR'S STATEMENT:](#) (Begins on page 14 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    [ASSEMBLY:](#) Yes

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

[LEGISLATIVE FISCAL ESTIMATE:](#) Yes

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:**

No

**HEARINGS:**

Yes

**NEWSPAPER ARTICLES:**

Yes

- "Corzine approves mortgage aid plans," Courier-Post, 1-10-09, p. 1A
- "Gov OKs foreclosure aid efforts," Asbury Park Press, 1-10-09, p. A3
- "Corzine signs anti-foreclosure measure," Courier News, 1-10-09, p. A11
- "Gov signs anti-foreclosure measure," The Trentonian, 1-10-09, p. \_\_\_
- "State offering help to avoid foreclosure," The Times, 1-10-09, p. A1
- "To face foreclosure fear, Jersey offers counseling," The Star-Ledger, 1-10-09, p. 001
- "N.J. offers help on foreclosures, The Philadelphia Inquirer, 1-10-09, p. B01
- "Corzine signs law benefiting homeowners, The Record, 1-10-09, p. A04

974.90, B218, 2007

Public hearing before Assembly Financial Institutions and Insurance Committee : testimony on the subprime lending crisis : [April 19, 2007, Trenton, New Jersey] / meeting recorded and transcribed by the Office of Legislative Services, Public Information Office, Hearing Unit.

<http://www.njstatelib.org/digit/b218/b2182007.pdf>

§§1-6, 8-13 -  
C.55:14K-82 to  
55:14K-93  
§§7,14 - Approp.  
§§15-18 -  
C.46:10B-49 to  
46:10B-52  
§21 - Note to  
§§1-6, 8-13, 15-18  
& C.55:14K-8  
& 54A:6-22

P.L. 2008, CHAPTER 127, *approved January 9, 2009*  
Senate Committee Substitute (*First Reprint*) for  
Senate, No. 1599

1 AN ACT providing residential mortgage assistance under certain  
2 circumstances, supplementing Title 46 and Title 55 of the  
3 Revised Statutes, amending 'P.L.1983, c.530, and'<sup>1</sup> P.L.1988,  
4 c.29; and making appropriations.  
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:  
8

9 1. (New section) This act shall be known and may be cited as  
10 the "Mortgage Stabilization and Relief Act."  
11

12 2. (New section) The Legislature finds and declares that:

13 a. Many thousands of New Jersey homeowners are at risk of  
14 losing their homes as a result of mortgage foreclosures.

15 b. Foreclosures involve the loss of a family's home, often the  
16 family's most valuable financial asset, and foreclosures especially  
17 undermine the health and economic vitality of the urban  
18 neighborhoods in which a disproportionate share of foreclosures  
19 take place.

20 c. Foreclosures result in the loss of millions of dollars in assets,  
21 not only those of the homeowners who are the victims of  
22 foreclosure, but also adversely affect the property values of homes  
23 located in the vicinity of foreclosed properties.

24 d. The loss of a house often results in abandonment of  
25 properties, leading to significant costs and lost revenue for local  
26 governments, as well as harm to the neighborhoods in which  
27 properties are abandoned.

28 e. Many of these foreclosures could be avoided if homeowners  
29 had greater access to high-quality, in-person foreclosure prevention

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AAP committee amendments adopted December 8, 2008.

1 counseling, emergency financial assistance, or additional time  
2 during which to negotiate loan modifications or obtain refinancing.

3 f. There is a compelling public policy need for the State of New  
4 Jersey to provide the means by which homeowners can obtain  
5 mortgage related counseling, emergency financial assistance, and  
6 time to adjust their finances in order to increase their ability to  
7 retain their homes, and to protect local governments and  
8 neighborhoods from the negative social, economic, and fiscal  
9 consequences of foreclosure and property abandonment.

10 g. New Jersey must ensure that neighborhoods are not adversely  
11 affected by properties that are abandoned as a result of foreclosure  
12 and become dilapidated eyesores on the community.

13 h. The Legislature recognizes that the difficulties encountered  
14 by homeowners who are delinquent, or are in danger of becoming  
15 delinquent, on their mortgage payment does not lend itself to a “one  
16 size fits all” solution and therefore it is necessary to establish a  
17 number of programs to assist these homeowners.

18

19 3. (New section) Sections 3 through 7 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill) shall be known and may  
21 be referred to as the “Mortgage Stabilization Program.”

22

23 4. (New section) As used in sections 4 through 7 of P.L. , c.  
24 (C. ) (pending before the Legislature as this bill):

25 “Affordable mortgage payment” means a monthly mortgage  
26 payment that does not exceed the greater of either 33% or the  
27 applicable percentage required by governmental or private first  
28 mortgage loan insurance, of the household’s monthly average  
29 annual gross income, towards the payment of principal, interest,  
30 taxes, and insurance (PITI) which is determined using traditional  
31 underwriting standards.

32 “Agency” means the New Jersey Housing and Mortgage Finance  
33 Agency established pursuant to P.L.1983, c. <sup>1</sup>[111] 530<sup>1</sup>  
34 (C.55:14K-1 et seq.).

35 “Covered Mortgage” means a first mortgage loan that is in  
36 imminent danger of foreclosure.

37 “Homeowner” means the individual who holds legal title to a  
38 residential real property that is the individual’s principal dwelling  
39 and is in imminent danger of foreclosure.

40 “Lender” means any lawfully constituted mortgage lender,  
41 mortgage investor or mortgage loan servicer that owns and is  
42 willing to refinance or is authorized to negotiate the terms of the  
43 homeowner’s mortgage.

44 “Maximum income limit” means a household income that does  
45 not exceed 120% of the area median income, as defined for New  
46 Jersey in guidelines published annually by the United States  
47 Department of Housing and Urban Development, or that does not

1 exceed the New Jersey Housing and Mortgage Finance Agency's  
2 Mortgage Revenue Bond Program income limits, whichever is  
3 greater.

4 "Mortgage lender loan" means a loan provided by a lender that is  
5 secured by a lien holding second priority and equal to one-half of  
6 the difference between the new first mortgage loan and the current  
7 appraised value of the property.

8 "Mortgage Stabilization Program" or "program" means a  
9 financing program established pursuant to section 5 of P.L. , c.  
10 (C. ) (pending before the Legislature as this bill).

11 "Mortgage stabilization program loan" means the loan provided  
12 to the homeowner by the agency pursuant to section 5 of P.L. , c.  
13 (C. ) (pending before the Legislature as this bill).

14 "Property" means an owner-occupied primary residence, (1) that  
15 is either a single-family one-unit house; an attached, semi-detached,  
16 or detached house; a condominium unit; or an owner-occupied two-  
17 or three-unit house, and (2) that is the principal dwelling of a  
18 homeowner who has resided in the property for at least one year  
19 prior to applying for assistance.

20

21 5. (New section) There is established in the New Jersey  
22 Housing and Mortgage Finance Agency a Mortgage Stabilization  
23 Program and Mortgage Stabilization Program Fund for the purpose  
24 of assisting homeowners and lenders willing to refinance covered  
25 mortgages in order to ensure that the homeowner has an affordable  
26 mortgage payment. The program shall meet the following  
27 requirements:

28 a. Program assistance shall not be made available unless a  
29 lender modifies or refinances the homeowner's mortgage loan so  
30 that the new first mortgage loan amount:

31 (1) results in an affordable mortgage payment; and

32 (2) results in a new first mortgage loan amount that is less than  
33 the appraised value of the property at the time of the modification  
34 or refinancing.

35 b. The program shall provide:

36 (1) a mortgage stabilization program loan that is a non-  
37 amortizing (no monthly payment) second mortgage loan equal to  
38 one-half of the difference between the new first mortgage loan  
39 amount and the appraised value of the subject property. The  
40 available funds for such loan shall not exceed \$25,000 per loan, and  
41 the proceeds of the loan shall be provided to the covered mortgage  
42 lender; and

43 (2) a mortgage lender loan.

44 Loans made pursuant to this subsection shall share a co-equal  
45 second mortgage position with each other.

- 1 c. The mortgage stabilization program loan and the mortgage  
2 lender loan shall each have an interest rate and term identical to the  
3 interest rate and term of the new first mortgage loan.
- 4 d. Mortgage stabilization program loans and mortgage lender  
5 loans may be prepaid at any time without penalty and shall be  
6 repaid on a proportional basis by the homeowner out of the net sale  
7 proceeds from the sale of the property.
- 8 e. The homeowner shall not be permitted to take cash-out  
9 refinances, except for agency approved emergency repairs or unless  
10 the mortgage stabilization program loan and the mortgage lender  
11 loan are repaid in full.
- 12 f. In order to be eligible to participate in the program, the  
13 homeowner must not exceed the maximum income limits <sup>1</sup>【set  
14 forth】 as defined<sup>1</sup> in section 4 of P.L. , c. <sup>1</sup>(C. )<sup>1</sup>(pending  
15 before the Legislature as this bill).
- 16 g. The homeowner may not hold any interest in other residential  
17 real property at the time the application to participate in the  
18 program is made.
- 19 h. If a homeowner has an existing subordinate mortgage loan  
20 held by one or more entities, the holder of the subordinate lien must  
21 agree to take subordinated mortgage position behind the mortgage  
22 stabilization program loan and the mortgage lender loan.
- 23 i. If the property is subject to an existing subordinate mortgage  
24 the mortgage stabilization program loan may, at the discretion of  
25 the agency, be used to satisfy that mortgage, or the mortgage lender  
26 loan may, at the discretion of the mortgage lender, be used to satisfy  
27 an existing subordinate mortgage, or both.
- 28 j. Homeowners must participate in budget counseling sessions  
29 approved by the agency in order to be eligible for the program.
- 30 k. Repayments of mortgage stabilization program loans shall be  
31 deposited into the Mortgage Stabilization Program Fund.
- 32 l. Benefits directly or indirectly received by a homeowner under  
33 the Mortgage Stabilization Program shall not be treated as income  
34 in determining eligibility requirements for other State programs and  
35 payments and benefits directly or indirectly received by a  
36 homeowner who is a taxpayer shall not be treated as income for  
37 New Jersey gross income tax purposes pursuant to section 2 of  
38 P.L.1988, c.29 (C.54A:6-22).
- 39
- 40 6. (New section) The agency is authorized to promulgate rules  
41 and regulations, pursuant to the provisions of the “Administrative  
42 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate  
43 this program.
- 44
- 45 7. (New section) Notwithstanding the provisions of P.L.2008,  
46 c.22 (C.52:9H-2.1 et al.), there is appropriated from the Long Term  
47 Obligation and Capital Expenditure Fund the sum of \$25,000,000 to

1 the Mortgage Stabilization Program Fund for the purposes of the  
2 Mortgage Stabilization Program, of which five percent may be used  
3 for the purposes of administering the program.  
4

5 8. (New section) Sections 8 through 14 of P.L. , c. (C. )  
6 (pending before the Legislature as this bill) shall be known and may  
7 be referred to as the “New Jersey Housing Assistance and Recovery  
8 Program.”  
9

10 9. (New section) As used in sections 9 through 14 of P.L. , c.  
11 (C. ) (pending before the Legislature as this bill):

12 “Affordable rent” means monthly rent or lease payments that do  
13 not exceed 33% of the household’s monthly average gross income.

14 “Agency” means the New Jersey Housing and Mortgage Finance  
15 Agency established pursuant to P.L.1983, c. <sup>1</sup>[111] 530<sup>1</sup>  
16 (C.55:14K-1 et seq.).

17 “Commissioner” means the Commissioner of Community  
18 Affairs.

19 “Homeowner” means the individual who holds legal title to a  
20 residential real property that is the individual’s principal dwelling  
21 and is in imminent danger of foreclosure.

22 “Household” means a homeowner and individuals who resided  
23 with the homeowner at the time the lease-purchase agreement was  
24 executed and continue to reside with the homeowner at the time the  
25 agreement of sale is executed.

26 “HUD” means the United States Department of Housing and  
27 Urban Development.

28 “HUD certified housing counseling agency” means a  
29 community-based non-profit organization, as demonstrated by  
30 section 501 (c)(3) of the Internal Revenue Code of 1986, 26 U.S.C.  
31 s.501(c)(3), which has been certified by the United States  
32 Department of Housing and Urban Development as experienced in  
33 housing counseling for at least one year prior to receiving  
34 certification.

35 “Fund” means the Housing Assistance and Recovery Program  
36 Support Fund established by section 10 of P.L. , c. (C. )  
37 (pending before the Legislature as this bill).

38 “Lease-purchase agreement” means a use and occupancy  
39 agreement approved by the agency whereby the sponsor acquires  
40 title to the homeowner’s property and agrees to permit the former  
41 homeowner to use and occupy the property for a period not to  
42 exceed 36 months at an affordable rent.

43 “Lender” means the owner of the homeowner’s mortgage.

44 “Maximum income limit” means a household income that does  
45 not exceed 120% of the area median income, as defined for New  
46 Jersey in guidelines published annually by the United States  
47 Department of Housing and Urban Development, or that does not

1 exceed the New Jersey Housing and Mortgage Finance Agency's  
2 Mortgage Revenue Bond Program income limits, whichever is  
3 greater.

4 "Program" means the "New Jersey Housing Assistance and  
5 Recovery Program."

6 "Property" means a one-, two- or three-family dwelling that is  
7 the primary residence of the household.

8 "Sponsor" means a non-profit community development  
9 corporation, a non-profit housing counseling organization, or a  
10 public entity, including a municipality, county, or a municipal or  
11 county authority.

12 "Trained foreclosure prevention and default mitigation  
13 counselor" means a housing counselor employed by a HUD  
14 certified housing counseling agency who has successfully  
15 completed a foreclosure prevention and default mitigation training  
16 course provided by a nationally recognized homeownership  
17 education and counseling organization such as course HO345d-rq  
18 "Foreclosure Intervention and Default Counseling Certification Part  
19 I" provided by the NeighborWorks America Center for  
20 Homeownership Education and Counseling.

21

22 10. (New section) a. There is established in the New Jersey  
23 Housing and Mortgage Finance Agency a Housing Assistance and  
24 Recovery Program (HARP) Support Fund, for the purpose of  
25 providing support and aid to any sponsor who establishes a Housing  
26 Assistance and Recovery Program which meets the following  
27 requirements. The sponsor shall:

28 (1) upon application to the commissioner, be certified by the  
29 commissioner as eligible to participate in the Housing Assistance  
30 and Recovery Program by the commissioner;

31 (2) employ trained foreclosure prevention and default mitigation  
32 counselors or contract with a HUD certified counseling agency that  
33 employs trained foreclosure prevention and default mitigation  
34 counselors;

35 (3) provide counseling to the homeowner both before and after  
36 the execution of a lease-purchase agreement, which shall include  
37 contact information for legal services programs within the county  
38 where the property is located;

39 (4) screen and assess the eligibility of homeowners to repurchase  
40 the property and sustain the homeowner's mortgage payments;

41 (5) have prior experience in (a) negotiating mortgage debt  
42 reduction from lenders, and (b) the purchase of distressed  
43 properties; and

44 (6) receive a commitment from a regulated financial institution  
45 or a government entity for a line of credit or other financing  
46 mechanism to purchase properties under a housing assistance and  
47 recovery program.



- 1       b. The lease-purchase agreement shall:
- 2       (1) include terms and conditions under which the sponsor shall
- 3 convey the property to the homeowner at the expiration of the
- 4 agreed upon use and occupancy period;
- 5       (2) enable the homeowner to continue to live in the property
- 6 during the use and occupancy period for an affordable rent; and
- 7       (3) include a provision that the property will be sold back to the
- 8 homeowner at a price not to exceed the price at which the sponsor
- 9 purchased the property, plus any reasonable sponsor funded repair
- 10 and maintenance costs.
- 11       c. Monies from the fund may be allocated solely for:
- 12       (1) appraisal of the property to determine current market value;
- 13       (2) construction and rehabilitation of the property to ensure
- 14 compliance with all codes and standards;
- 15       (3) payment of property taxes accrued during sponsor's
- 16 ownership of the property;
- 17       (4) maintenance of property insurance, including, but not limited
- 18 to landlord liability and fire insurance coverage;
- 19       (5) payment of no more than \$25,000 toward the difference
- 20 between the appraised value and the purchase price of the property;
- 21 and
- 22       (6) any other activity the agency deems necessary to effectuate
- 23 the purposes of the program.
- 24       d. No money allocated from the fund shall be used for the
- 25 purchase of real property, other than as provided for in paragraph
- 26 (5) of subsection c. of this section.
- 27       e. The agency shall conduct a quarterly audit of all funds
- 28 received and expended for the program. The agency shall issue an
- 29 annual report at the end of State fiscal year detailing the result of
- 30 the quarterly audits for the prior State fiscal year. The annual report
- 31 shall be completed no more than 60 day after the end of the State
- 32 fiscal year. The annual report shall be provided to the
- 33 commissioner and, pursuant to section 2 of P.L.1991, c.164
- 34 (C.52:14-19.1), to the Legislature and made available to the public
- 35 on the Department of Community Affairs website.
- 36
- 37       11. (New section) A sponsor who receives monies from the
- 38 fund and the homeowner shall execute a lease-purchase agreement,
- 39 not to exceed a term of 36 months, that includes the following:
- 40       a. The terms and conditions under which the sponsor shall
- 41 convey the property to the homeowner or other member of the
- 42 household upon termination of the use and occupancy period;
- 43       b. Provisions permitting the homeowner and other members of
- 44 the household to remain in the property during the use and
- 45 occupancy period in exchange for an affordable rent; and
- 46       c. A provision that the property will be sold back to the
- 47 homeowner or to another member of the household at a price not to

1 exceed the price at which the sponsor purchased the property plus  
2 reasonable sponsor maintenance costs.

3

4 12. (New section) The Department of Community Affairs shall  
5 notify the agency in the event a sponsor fails to maintain  
6 compliance with the department's certification process.

7

8 13. (New section) The commissioner and the agency are  
9 authorized to promulgate rules and regulations, pursuant to the  
10 provisions of the "Administrative Procedure Act," P.L.1968, c.410  
11 (C.52:14B-1 et seq.), to effectuate this program.

12

13 14. (New section) Notwithstanding the provisions of P.L.2008,  
14 c.22 (C.52:9H-2.1 et al.), there is appropriated from the Long Term  
15 Obligation and Capital Expenditure Fund the sum of \$15,000,000 to  
16 the Housing Assistance and Recovery Program (HARP) Support  
17 Fund, for the purposes of effectuating the New Jersey Housing  
18 Assistance and Recovery Program, of which five percent may be  
19 used for the purposes of administering the program.

20

21 <sup>1</sup>[15. (New section) a. A creditor filing a notice of intention to  
22 foreclose on a covered mortgage loan, pursuant to the "Fair  
23 Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et seq.), shall file  
24 within 30 days of that notice an initial foreclosure report with the  
25 Department of Banking and Insurance on a form prescribed by the  
26 department by regulation, which shall include but not be limited to:

27 (1) the terms of the mortgage, including interest rate, rate  
28 adjustments, prepayment fees, negative amortization, and such other  
29 terms as the department may specify;

30 (2) the date of the mortgage;

31 (3) the maker of the mortgage;

32 (4) the current holder and servicer of the mortgage, including  
33 contact information for a responsible individual employed by the  
34 servicer;

35 (5) all efforts made by the creditor to negotiate any modifications  
36 to the mortgage or payments required under it with the borrower;  
37 and

38 (6) the amount due on the mortgage, including interest and  
39 penalties.

40 b. A creditor filing an initial foreclosure report as required by  
41 subsection a. of this section shall file a quarterly supplementary  
42 foreclosure report on each quarterly anniversary of filing the notice  
43 of intention to foreclose, up until the entry of judgment of  
44 foreclosure. The quarterly supplemental report shall set forth:

45 (1) the status of foreclosure proceedings;

46 (2) the amount due on the mortgage, including interest and  
47 penalties;

1 (3) a description of all efforts made by the creditor during the  
2 preceding 90 days to negotiate any modifications to the mortgage or  
3 payments required under it with the borrower; and

4 (4) any alternatives to foreclosure, including any sales or  
5 conveyances, and any modifications to the mortgage or payments  
6 required under it, entered into between the creditor and the  
7 borrower.

8 c. The creditor shall provide a copy of the initial foreclosure  
9 report and the quarterly supplemental foreclosure report to the court  
10 and to the borrower, and shall also provide a copy of the reports to a  
11 qualified counseling entity upon submission by the entity of a letter  
12 signed by the borrower authorizing release of the reports to the  
13 entity.

14 d. Within three months of the effective date of this act, the  
15 Department of Banking and Insurance shall adopt and promulgate  
16 forms for the initial and supplementary foreclosure reports required  
17 under this section. ]<sup>1</sup>

18  
19 <sup>1</sup>15. (New section) a. A creditor that institutes a mortgage  
20 foreclosure action in the Superior Court of New Jersey shall report  
21 to the Department of Banking and Insurance, on a quarterly basis  
22 and on a form promulgated by the department, information about  
23 the number of mortgage foreclosure actions filed by the creditor in  
24 the State.

25 b. The Department of Banking and Insurance shall produce a  
26 report, on a quarterly basis; detailing information about mortgage  
27 foreclosures filed by creditors in each county of the State, and shall  
28 make the report available to the public on its website. The report  
29 shall describe the type of mortgage being foreclosed on based on  
30 the following categories:

31 (1) prime rate mortgages foreclosed upon;

32 (2) subprime rate mortgage foreclosed upon;

33 (3) fixed rate mortgages foreclosed upon;

34 (4) adjustable rate mortgages foreclosed upon;

35 (5) nonconforming mortgages, as defined by Fannie Mae,  
36 Freddie Mac, or their successors;

37 (6) mortgages insured by the Federal Housing Administration  
38 foreclosed upon;

39 (7) mortgages insured by the Veteran's Administration  
40 foreclosed upon; and

41 (8) any other category of classification the department deems  
42 appropriate to effectuate the purpose of this section.

43 c. The Department of Banking and Insurance, pursuant to the  
44 Administrative Procedure Act," P.L.1986, c.410 (C.52:14B-1, et  
45 seq) shall adopt regulations necessary to effectuate the purpose of  
46 this section.<sup>1</sup>

1       <sup>1</sup>16. (New section) a. A creditor that files, pursuant to the “Fair  
2 Foreclosure Act,” P.L.1995, c.244 (C.2A:50-53 et seq.), a complaint  
3 of foreclosure on a high risk mortgage loan, shall grant the  
4 borrower a six month period of forbearance to pursue a loan  
5 workout, loan modification, refinancing, or other alternative  
6 through mediation sponsored by the Administrative Office of the  
7 Courts. During the six month forbearance period, the interest rate  
8 on the covered mortgage loan shall not increase and the creditor  
9 shall take no further action to pursue foreclosure of the property.  
10 Nothing in this subsection shall constitute a limitation on the ability  
11 of the creditor and borrower to participate in mediation sponsored  
12 by the Administrative Office of the Courts or enter into an  
13 agreement as a result of that mediation pursuant to subsection b. of  
14 this section.

15       As used in this section:

16       “Forbearance” means a period of six months during which the  
17 judicial foreclosure proceedings filed by the creditor against the  
18 borrower are suspended; however the borrower is obligated to  
19 continue making monthly mortgage payments.

20       “High Risk Mortgage” means the first mortgage loan that has  
21 one or more of the following characteristics:

22       is an interest only mortgage with a future interest reset rate;

23       has a reset mortgage interest rate that increases the interest rate;

24       contains a payment option plan or a “pick a payment” plan;

25       contains a negative amortization schedule;

26       is a subprime mortgage;

27       contains an enforceable prepayment penalty; or

28       is a high cost home loan as defined by the “New Jersey Home  
29 Ownership Security Act of 2002,” P.L.2003, c.64 (C.46:10B-28).

30       b. Upon filing of a complaint for foreclosure, and the beginning  
31 of the six month forbearance period, the borrower and creditor shall  
32 participate in mediation sponsored by the Administrative Office of  
33 the Courts.

34       c. If the borrower ceases to occupy the property at any time  
35 subsequent to the period of forbearance under this section, the  
36 creditor may notify the court, and upon notification the period of  
37 forbearance shall be deemed to have ended.

38       d. The provisions of this section shall expire two years  
39 following the effective date of this P.L. , c. (pending before the  
40 Legislature as this bill).<sup>1</sup>

41  
42       <sup>1</sup>[16.] 17.<sup>1</sup> (New section) a. A creditor serving a notice of  
43 intention to foreclose on a mortgage on residential property in this  
44 State shall serve the public officer of the municipality in which the  
45 property is located, or, if the municipality has not designated a  
46 public officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the  
47 municipal clerk, with a copy of the notice at the same time it is

1 served on the owner of the property. <sup>1</sup>【The copy served on the  
2 public officer or municipal clerk shall include the full name and  
3 contact information of an individual located within the State who is  
4 authorized to accept service on behalf of the creditor】 In the event  
5 that the property being foreclosed is an affordable unit pursuant to  
6 the “Fair Housing Act,” then the creditor shall identify that the  
7 property is subject to the “Fair Housing Act.” The copy served on  
8 the public officer or municipal clerk shall include the full name and  
9 contact information of an individual located within the State who is  
10 authorized to accept service on behalf of the creditor<sup>1</sup>.

11 b. If a residential property becomes vacant at any point  
12 subsequent to the creditor’s filing the notice of intention to  
13 foreclose, but prior to vesting of title in the creditor or any other  
14 third party, and the property is found to be a nuisance or in  
15 violation of any applicable State or local code, the local public  
16 officer or municipal clerk shall notify the creditor, which shall have  
17 the responsibility to abate the nuisance or correct the violation in  
18 the same manner and to the same extent as the title owner of the  
19 property, to such standard or specification as may be required by  
20 the public officer or municipal clerk.

21 c. If the municipality expends public funds in order to abate a  
22 nuisance or correct a violation on a residential property in situations  
23 in which the creditor was given notice pursuant to the provisions of  
24 subsection b. of this section but failed to abate the nuisance or  
25 correct the violation as directed, the public officer or municipal  
26 clerk shall have the same recourse against the creditor as it would  
27 have against the title owner of the property, including but not  
28 limited to the recourse provided under section 23 of P.L.2003, c.210  
29 (C.55:19-100).

30  
31 <sup>1</sup>【17.】 18.<sup>1</sup> (New section) A consumer reporting agency or any  
32 other business entity shall not sell to, or exchange with, a third  
33 party, unless the third party holds an existing mortgage loan on the  
34 property, the existence of a credit inquiry arising from a consumer  
35 mortgage loan application when the sale or exchange is triggered by  
36 an inquiry made in response to an application for credit. This  
37 section shall not apply to information provided by a mortgage  
38 originator or servicer to a third party providing services in  
39 connection with the mortgage loan origination or servicing; a  
40 proposed or actual securitization; secondary market sale, including  
41 sales of servicing rights; or similar transaction related to the  
42 consumer mortgage loan.

43  
44 <sup>1</sup>19. Section 8 of P.L.1983, c.530 (C.55:14K-8) is amended to  
45 read as follows:

46 8. a. Admission to housing projects constructed, improved or  
47 rehabilitated under this act shall be limited to families whose gross

1 aggregate family income at the time of admission does not exceed  
2 six times the annual rental or carrying charges, including the value  
3 or cost to them of heat, light, water, sewerage, parking facilities and  
4 cooking fuel, of the dwellings that may be furnished to such  
5 families, or seven times those charges if there are three or more  
6 dependents. There may be included in the carrying charges to any  
7 family for residence in any mutual housing project constructed,  
8 improved or rehabilitated with a loan from the agency an amount  
9 equal to 6% of the original cash investment of the family in the  
10 mutual housing project and, to the extent authorized by the agency  
11 where not included in the carrying charges, the value or cost of  
12 repainting the apartment and replacing any fixtures or appliances.  
13 Notwithstanding the provisions of this section, no family or  
14 individual shall be eligible for admission to any housing project  
15 constructed, improved or rehabilitated with a loan from the agency,  
16 whose gross aggregate family income exceeds such amount as shall  
17 be established from time to time by the agency, by rules or  
18 regulations promulgated hereunder; except that with respect to any  
19 project financed by an agency loan insured or guaranteed by the  
20 United States of America or any agency or instrumentality thereof,  
21 the agency may adopt the admission standards for such projects  
22 then currently utilized or required by the guarantor or insurer.

23 The provisions of this subsection shall not apply to any housing  
24 project that the agency determines is necessary to promote the long  
25 term development and viability of a neighborhood and spur its  
26 revitalization or is situated in a qualified municipality that is  
27 constructed, improved or rehabilitated on or after the date upon  
28 which the commissioner determines that the municipality fulfills the  
29 definition of a qualified municipality pursuant to section 4 of  
30 P.L.2002, c.43 (C.52:27BBB-4).

31 b. The agency shall by rules and regulations provide for the  
32 periodic examination of the income of any person or family residing  
33 in any housing project constructed, improved or rehabilitated with a  
34 loan from the agency. If the gross aggregate family income of a  
35 family residing in a housing project increases and the ratio to the  
36 current rental or carrying charges of the dwelling unit becomes  
37 greater than the ratio prescribed for admission in subsection a. of  
38 this section but is not more than 25% above the family income so  
39 prescribed for admission to the project, the owner or managing  
40 agent of the housing project shall permit the family to continue to  
41 occupy the unit. The agency or (with the approval of the agency)  
42 the housing sponsor of any housing project constructed, improved  
43 or rehabilitated with a loan from the agency, may terminate the  
44 tenancy or interest of any family residing in the housing project  
45 whose gross aggregate family income exceeds by 25% or more the  
46 amount prescribed herein and which continues to do so for a period  
47 of six months or more; but no tenancy or interest of any such family

1 in any such housing project shall be terminated except upon  
2 reasonable notice and opportunity to obtain suitable alternate  
3 housing, in accordance with rules and regulations of the agency;  
4 and any such family, with the approval of the agency, may be  
5 permitted to continue to occupy the unit, subject to payment of a  
6 rent or carrying charge surcharge to the housing sponsor in  
7 accordance with a schedule of surcharges fixed by the agency. The  
8 housing sponsor shall pay the surcharge to the municipality granting  
9 tax exemption, but only up to an amount that together with  
10 payments made to the municipality in lieu of taxes and for any land  
11 taxes equals 25% of the total rents or carrying charges of the  
12 housing project for the current and any prior years that the project  
13 has been in operation.

14 The provisions of this subsection shall not apply to any housing  
15 project situated in a qualified municipality that is constructed,  
16 improved or rehabilitated on or after the date upon which the  
17 commissioner determines that the municipality fulfills the definition  
18 of a qualified municipality pursuant to section 4 of P.L.2002, c.43  
19 (C.52:27BBB-4).

20 c. For projects on which the agency has made a loan and  
21 financed the loan with the proceeds of bonds issued prior to January  
22 1, 1973, any remainder of the surcharge, or the total surcharge if tax  
23 exemption has not been granted, shall be paid into the housing  
24 finance fund securing the bonds issued to finance the project for the  
25 use of the agency; for projects financed on or after January 1, 1973,  
26 any remainder of the surcharge, or the total surcharge if tax  
27 exemption has not been granted, shall be paid to the agency.

28 d. Any family residing in a mutual housing project required to  
29 remove from the project because of excessive income as herein  
30 provided shall be discharged from liability on any note, bond or  
31 other evidence of indebtedness relating thereto and shall be  
32 reimbursed, in accordance with the rules of the agency, for all sums  
33 paid by the family to the housing sponsor on account of the  
34 purchase of stock or debentures as a condition of occupancy or on  
35 account of the acquisition of title for such purpose.

36 The provisions of this subsection shall not apply to any housing  
37 project situated in a qualified municipality that is constructed,  
38 improved or rehabilitated on or after the date upon which the  
39 commissioner determines that the municipality fulfills the definition  
40 of a qualified municipality pursuant to section 4 of P.L.2002, c.43  
41 (C.52:27BBB-4).

42 e. The agency shall establish admission rules and regulations  
43 for any housing project financed in whole or in part by loans  
44 authorized hereunder which shall provide priority categories for  
45 persons displaced by urban renewal projects, highway programs or  
46 other public works, persons living in substandard housing, persons  
47 and families who, by reason of family income, family size or

1 disabilities, have special needs, elderly persons and families living  
2 under conditions violative of minimum health and safety standards.

3 The provisions of this subsection shall not apply to any housing  
4 project situated in a qualified municipality that is constructed,  
5 improved or rehabilitated on or after the date upon which the  
6 commissioner determines that the municipality fulfills the definition  
7 of a qualified municipality pursuant to section 4 of P.L.2002, c.43  
8 (C.52:27BBB-4).<sup>1</sup>

9 (cf: P.L.2002, c.108, s.15)

10

11 <sup>1</sup>~~18.~~ 20.<sup>1</sup> Section 2 of P.L.1988, c.29 (C.54A:6-22) is  
12 amended to read as follows:

13 2. Gross income shall not include payments and benefits directly  
14 received by a taxpayer under homeless persons' assistance  
15 programs, including but not limited to assistance in obtaining  
16 housing, temporary shelter and short-term financial assistance, as  
17 may be established pursuant to subsection h. of section 24 of P.L.  
18 1944, c. 85 (C. 52:27C-24), or benefits, including imputed income,  
19 received pursuant to the "Mortgage Stabilization and Relief Act,"  
20 P.L. , c. (C. ) (pending before the Legislature as this bill).

21 (cf: P.L.1988, c.29, s.2)

22

23 <sup>1</sup>~~19.~~ 21.<sup>1</sup> This act shall take effect immediately, but sections 3  
24 through 5, sections 7 through 12, and sections 14 through <sup>1</sup>~~18.~~ 20<sup>1</sup>  
25 shall remain inoperative until the first day of the third month next  
26 following the date of enactment.

27

28

29

30

31 Mortgage Stabilization and Relief Act"; creates Mortgage  
32 Stabilization Program and Housing Assistance and Recovery  
33 Program; imposes additional requirements on lender foreclosing  
34 mortgage; appropriates \$40 million from the "Long Term  
35 Obligation and Capital Expenditure Fund."



# SENATE, No. 1599

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED APRIL 7, 2008

**Sponsored by:**

**Senator RONALD L. RICE**

**District 28 (Essex)**

**Senator DANA L. REDD**

**District 5 (Camden and Gloucester)**

**Co-Sponsored by:**

**Senators Cunningham, Sacco, Weinberg and Singer**

**SYNOPSIS**

The “New Jersey Homeownership Preservation Act.”

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/23/2008)**

S1599 RICE, REDD

2

1 AN ACT concerning foreclosures on residential properties,  
2 amending P.L. 1974, c.49 and supplementing Title 46 of the  
3 Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as  
9 the “New Jersey Homeownership Preservation Act.”

10

11 2. (New section) The Legislature finds and declares that:

12 a. Many thousands of New Jersey homeowners are at risk of  
13 losing their homes as a result of mortgage foreclosures in the  
14 immediate future;

15 b. Foreclosures involve the loss of a family’s home, which is  
16 often the family’s most valuable financial asset, and foreclosures  
17 especially undermine the health and economic vitality of the urban  
18 neighborhoods in which a disproportionate share of foreclosures  
19 take place;

20 c. Foreclosures result in the loss of millions of dollars in assets,  
21 not only those of the homeowners who are the victims of  
22 foreclosure, but in terms of the property values of homes located in  
23 the vicinity of foreclosed properties, as well as millions in  
24 additional costs to state and local governments;

25 d. Foreclosures, particularly in urban neighborhoods, often  
26 result in abandonment of properties, leading to significant costs and  
27 lost revenue for local governments, as well as harm to the  
28 neighborhoods in which properties are abandoned;

29 e. Foreclosures are largely the result of subprime lending  
30 practices, which have placed many homeowners in loans that they  
31 cannot realistically afford, by using loan features such as low  
32 introductory rates, high pre-payment penalties, and failure to  
33 require income documentation, all of which increase the risk of  
34 default for borrowers;

35 f. Many of these foreclosures could be avoided if homeowners  
36 had greater access to high-quality, in-person foreclosure prevention  
37 counseling, emergency financial assistance, or additional time  
38 during which to negotiate loan modifications or obtain refinancing;

39 g. There is a compelling public policy need for the State of  
40 New Jersey to address these issues, provide the means by which  
41 homeowners can obtain counseling, emergency financial assistance,  
42 and time to adjust their finances in order to increase their ability to  
43 retain their homes, protect local governments and neighborhoods  
44 from the negative social, economic, and fiscal consequences of  
45 foreclosure and abandonment; and

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

**Matter underlined thus is new matter.**

1 h. Beyond the provisions of this act, a concerted effort,  
2 including federal action and the provision of additional public and  
3 private financial resources, is needed to address this issue in a  
4 responsible and effective manner.

5  
6 3. (New section) As used in this act:

7 "Covered mortgage loan" means a first mortgage loan, other than  
8 a reverse mortgage loan, on residential real property, which meets  
9 any of the following criteria:

10 (1) the loan is a fixed rate mortgage loan with an annual  
11 percentage rate which, including all costs charged the borrower  
12 amortized over the duration of the comparable Treasury yield at the  
13 time of closing, which is at least 300 basis points above the  
14 comparable Treasury yield at the time of closing;

15 (2) the loan is an adjustable rate mortgage with an introductory  
16 rate, and the highest possible interest rate chargeable under the  
17 terms of the loan is at least 300 basis points above the comparable  
18 Treasury yield at the time or closing;

19 (3) the loan contains a pre-payment penalty;

20 (4) the total points and fees charged to the borrower at closing  
21 exceed four percent of the principal amount of the loan; or

22 (5) the loan is a nontraditional mortgage product, including but  
23 not limited to those products set forth in the federal Interagency  
24 Guidance on Nontraditional Mortgage Product Risks, and any  
25 additional mortgage product or feature thereof that may  
26 subsequently be defined as a nontraditional mortgage product by the  
27 Department of Banking and Insurance.

28 "Creditor" shall have the same meaning as "lender" as set forth  
29 in section 3500.2 of title 24, Code of Federal Regulations, except  
30 that it shall also include any person required to be licensed under  
31 the provisions of the "New Jersey Licensed Lenders Act,"  
32 P.L.1996, c.157 (C.17:11C-1 et seq.), and any entity acting on  
33 behalf of the secured creditor named in the debt obligation  
34 including, but not limited to, servicers.

35 "Department" means the Department of Community Affairs.

36 "Introductory rate" means an initial interest rate charged on a  
37 covered mortgage loan that remains in effect for no more than three  
38 years from the initial date of the loan and which is less than the  
39 highest possible interest rate chargeable at any time under the terms  
40 of the loan.

41 "Mortgage broker" has the same meaning as set forth in section  
42 3500.2 of Title 24 of the Code of Federal Regulations.

43 "Points and fees" means:

44 (1) all items included in the definition of "finance charge" in  
45 sections 226.4(a) and 226.4(b) of title 12, Code of Federal  
46 Regulations except interest or the time price differential;

47 (2) all items described in Section 226.32(b)(1)(iii) of title 12,  
48 Code of Federal Regulations.

1 (3) all compensation paid directly or indirectly to a mortgage  
2 broker from any source, including a mortgage broker that originates  
3 a loan in its own name in a table-funded transaction;

4 (4) the cost of all premiums financed by a creditor directly or  
5 indirectly for any credit life, credit disability, credit unemployment  
6 or credit property insurance or any other life or health insurance, or  
7 any payments financed by the creditor directly or indirectly for any  
8 debt cancellation or suspension agreement or contract, except that  
9 insurance premiums, including private mortgage insurance or debt  
10 cancellation or suspension fees calculated and paid on a monthly  
11 basis or through regularly scheduled periodic payments, may not be  
12 considered financed by the creditor;

13 (5) the maximum prepayment fees and penalties that may be  
14 charged or collected by the creditor under the terms of the loan  
15 documents; and

16 (6) all prepayment fees or penalties that are incurred by the  
17 borrower if the covered mortgage loan refinances a previous loan  
18 made or currently held by the same creditor or an affiliate of the  
19 creditor.

20 Points and fees shall not include the following items: taxes,  
21 filing fees, recording fees and other charges and fees paid or to be  
22 paid to public officials for determining the existence of or for  
23 perfecting, releasing or satisfying a security interest; bona fide and  
24 reasonable charges and fees paid to a person other than a creditor or  
25 an affiliate of a creditor for the following: fees for tax payment  
26 services; fees for flood certification; fees for pest infestation and  
27 flood determinations; appraisal fees; fees for inspections performed  
28 prior to closing; fees for credit reports; fees for surveys; attorney's  
29 fees; notary fees; escrow charges not otherwise included under  
30 paragraph (1); title insurance premiums; and fire and hazard  
31 insurance and flood insurance premiums, as long as the conditions  
32 in section 226.4(d)(2) of title 12, Code of Federal Regulations are  
33 met. For open-end loans, the points and fees shall be calculated by  
34 adding the total points and fees known at or before closing,  
35 including the maximum prepayment penalties that may be charged  
36 or collected under the terms of the loan documents and the  
37 minimum additional fees the borrower would be required to pay to  
38 draw down an amount equal to the total credit line.

39 "Qualified counseling entity" means an agency, organization, or  
40 other entity approved by the department to provide foreclosure  
41 prevention counseling and related services pursuant to the terms of  
42 this act.

43 "Residential real property" means property in this State upon  
44 which there is located or there is to be located a one to four family  
45 story dwelling which is or will be occupied by a borrower as the  
46 borrower's principal dwelling.

1       “Servicer” means the person or entity responsible for servicing a  
2 mortgage loan, and shall include any person who makes or holds a  
3 mortgage loan if such person also services the mortgage loan.

4       “Trust fund” means the Foreclosure Prevention Revolving Trust  
5 Fund established in section 4 of this act.

6  
7       4. (New section) a. There is established, in the Department of  
8 Community Affairs, a Foreclosure Prevention Revolving Trust  
9 Fund, comprised of monies collected or accruing to the trust fund  
10 pursuant to section 8 and 15 of this act, for the purpose of  
11 providing:

12       (1) grants to qualified counseling entities for the purpose of  
13 maintaining or expanding foreclosure prevention counseling and  
14 related activities;

15       (2) grants to qualified counseling entities for the purpose of  
16 providing emergency foreclosure prevention assistance loans; and

17       (3) loans and grants to non-profit entities for the purpose of  
18 acquiring mortgage loans or properties from creditors in order to  
19 restructure the mortgage loans or restore the properties to  
20 productive use.

21       b. The department may utilize up to five percent of the  
22 revenues in the trust fund or \$500,000 per year, whichever is less,  
23 for the purposes of contracting with appropriate qualified vendors,  
24 which may be qualified counseling entities, to provide training for  
25 foreclosure prevention counselors, and to provide information,  
26 outreach, and educational programs for borrowers potentially at risk  
27 of foreclosure.

28       c. The department shall establish rules and regulations  
29 governing the procedures for approval of qualified counseling  
30 entities, which shall be based on demonstrated experience in  
31 providing counseling to low and moderate income homebuyers and  
32 homeowners, and evidence that personnel have received specific  
33 training in foreclosure prevention counseling.

34  
35       5. (New section) The department shall deposit the monies  
36 collected pursuant to sections 8 and 15 of this act into the trust  
37 fund, and shall expend monies from the trust fund, subject to any  
38 initial expenditures made pursuant to subsection b. of section 4 of  
39 this act, in accordance with the following schedule:

40       a. The first \$5,000,000 collected during a fiscal year shall be  
41 allocated as grants to qualified counseling entities for the purpose  
42 of maintaining or expanding their foreclosure prevention counseling  
43 and related activities, and any monies collected but not allocated by  
44 the end of the fiscal year shall be available for allocation for these  
45 grants in the subsequent fiscal year;

46       b. Any amounts collected during a fiscal year, above  
47 \$5,000,000 and up to \$20,000,000, shall be allocated as grants to  
48 qualified counseling entities, for the purpose of making emergency

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6

1 foreclosure prevention assistance loans, and any monies collected  
2 but not allocated by the end of the fiscal year shall be available for  
3 allocation for these grants in the subsequent fiscal year;

4 c. Any amounts collected in excess of \$20,000,000 during a  
5 fiscal year, shall be allocated, in the form of a loan or grant, to non-  
6 profit entities, for the purpose of assisting homeowners in financial  
7 distress by restructuring covered mortgage loans acquired from  
8 creditors, or restoring the properties acquired from creditors to  
9 productive use, and any monies collected but not allocated by the  
10 end of the fiscal year shall be available for allocation for these loans  
11 or grants in the subsequent fiscal year.

12

13 6. (New section) In allocating a grant to a qualified counseling  
14 entity, pursuant to subsection b. of section 5 of this act, the  
15 department shall provide for contractual guarantees and procedures  
16 by which the department ensures that the qualified counseling entity  
17 administers the entity's loans made to homeowners in accordance  
18 with the following requirements.

19 a. A qualified counseling entity that receives grant proceeds  
20 from the trust fund shall use the grant proceeds to provide  
21 emergency foreclosure prevention assistance loans to homeowners  
22 in situations in which the entity making the loan finds that:

23 (1) the homeowner's covered home loan is at risk of foreclosure;  
24 (2) the risk of foreclosure is the product of temporary conditions;  
25 and

26 (3) the loan, if provided, creates a significant likelihood that the  
27 homeowner will be able to avoid foreclosure and retain ownership  
28 of the property.

29 b. The purposes for which a qualified counseling entity may  
30 provide emergency foreclosure prevention assistance loans may  
31 include, but shall not be not limited to:

32 (1) paying the costs of a homeowner's monthly mortgage  
33 payment of interest and principal; and

34 (2) paying attorney's fees and other fees and penalties, including  
35 prepayment penalties, associated with refinancing or restructuring a  
36 homeowner's mortgage.

37 c. The maximum emergency foreclosure prevention assistance  
38 loan to a homeowner shall not exceed \$5,000; provided, however,  
39 that with written approval of the department, a loan may be made  
40 up to a maximum of \$10,000.

41 d. All monies disbursed by a qualified counseling entity for  
42 emergency foreclosure prevention assistance shall be in the form of  
43 a loan to a homeowner that shall be secured by a mortgage on the  
44 homeowner's property, which mortgage shall be subordinate to  
45 existing mortgages. The homeowner shall not be required to make  
46 any payments during the term of the mortgage, but all amounts due  
47 on the mortgage shall be payable from the proceeds of sale at the  
48 time that the property is sold, which amounts shall include interest

1 that shall be calculated in accordance with the rate of increase in the  
2 housing component of the National Consumer Price Index, New  
3 York-Northeastern New Jersey region, but in any event shall not be  
4 more than 4 percent per annum.

5 e. Loan repayment shall be made by the homeowner to the  
6 qualified counseling entity that made the loan, provided, however,  
7 that if the entity is no longer active, or no longer providing  
8 foreclosure prevention services, repayment shall be made directly to  
9 the department, which shall deposit the proceeds into the trust fund.

10 f. A qualified counseling entity which receives repayment  
11 from a homeowner pursuant to subsection d. of this section, shall  
12 use any monies collected in the same manner and for the same  
13 emergency foreclosure prevention assistance purposes as set forth  
14 in this section.

15 g. A qualified counseling entity that receives an emergency  
16 foreclosure prevention assistance grant from the trust fund shall  
17 maintain records and provide reports on the disbursement of those  
18 funds as may be required by the department.

19

20 7. (New section) The department shall establish criteria for  
21 allocating grants and loans to non-profit entities pursuant to  
22 subsection c. of section 5 of this act, which criteria shall include:

23 a. Giving priority in making loans or grants to non-profit  
24 entities that serve areas with a high incidence of foreclosures and a  
25 high risk of foreclosures that result in vacant or abandoned  
26 properties; and

27 b. Procedures for determining the amount, terms, and  
28 conditions of the grant or loan.

29

30 8. (New section) a. A creditor that issues a notice of intention  
31 to foreclose on a covered mortgage loan, pursuant to the "Fair  
32 Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et. seq.), shall  
33 simultaneously transmit a certified check in the amount of \$2,000 to  
34 the department, for deposit into the trust fund. The creditor shall  
35 not add the amount paid to the department to the amount owed to  
36 the creditor by the borrower.

37 b. A motion by a creditor seeking a judgment of foreclosure as  
38 to a covered mortgage loan, pursuant to R.4:64-1 et seq. of the  
39 Rules Governing the Courts of the State of New Jersey, shall not be  
40 accepted by the court unless it is accompanied by evidence that the  
41 creditor bringing the motion has complied with subsection a. of this  
42 section.

43 c. A creditor that notifies a borrower of a covered mortgage  
44 loan pursuant to which, under the terms of the mortgage:

45 (1) the interest rate on the mortgage is to increase; or

46 (2) a mortgage payment is past due,

47 shall simultaneously send the borrower notification of the  
48 availability of foreclosure prevention counseling available through

1 qualified counseling entities, in such form of notification as the  
2 department shall establish.

3  
4 9. (New section) a. A creditor that issues, pursuant to the  
5 “Fair Foreclosure Act,” P.L.1995, c.244 (C.2A:50-53 et seq.), a  
6 notice of intention to foreclose on a covered mortgage loan that  
7 contains an introductory rate or a prepayment penalty, upon receipt  
8 of a written request by the borrower within 30 days of the  
9 borrower’s receipt of the notice of intention to foreclose, shall grant  
10 the borrower a six month period of forbearance to pursue a loan  
11 workout, loan modification, refinancing, or other alternative. The  
12 six month forbearance period shall commence at the time that the  
13 creditor receives the borrower’s request. During the six month  
14 forbearance period, the interest rate on the covered mortgage loan  
15 shall not increase and the creditor shall take no further action to  
16 pursue foreclosure of the property.

17 The notice of intention to foreclose shall contain in a prominent  
18 location a statement indicating:

- 19 (1) whether the loan meets the criteria set forth in this section;  
20 (2) that in the event the loan meets the criteria, the borrower has  
21 a right to request a six month forbearance period within 30 days of  
22 receipt of the notice; and  
23 (3) the full address and other contact information to which a  
24 request to initiate the six month forbearance period may be sent.

25 b. If the borrower ceases to occupy the property at any time  
26 subsequent to initiating a period of forbearance under this section,  
27 the creditor may notify the court, and upon notification the period  
28 of forbearance shall be deemed to have ended.

29  
30 10. (New section) a. A creditor filing a notice of intention to  
31 foreclose on a covered mortgage loan, pursuant to the “Fair  
32 Foreclosure Act,” P.L.1995, c.244 (C.2A:50-53 et seq.), shall file  
33 within 30 days of that notice an initial foreclosure report with the  
34 Department of Banking and Insurance on a form prescribed by the  
35 department by regulation, which shall include but not be limited to:

- 36 (1) the terms of the mortgage, including interest rate, rate  
37 adjustments, prepayment fees, negative amortization, and such other  
38 terms as the department may specify;  
39 (2) the date of the mortgage;  
40 (3) the maker of the mortgage;  
41 (4) the current holder and servicer of the mortgage, including  
42 contact information for a responsible individual employed by the  
43 servicer;  
44 (5) all efforts made by the creditor to negotiate any modifications  
45 to the mortgage or payments required under it with the borrower;  
46 and  
47 (6) the amount due on the mortgage, including interest and  
48 penalties.



1       b. A creditor filing an initial foreclosure report as required by  
2 subsection a. of this section shall file a quarterly supplementary  
3 foreclosure report on each quarterly anniversary of filing the notice  
4 of intention to foreclose, up until the entry of judgment of  
5 foreclosure. The quarterly supplemental report shall set forth:

6       (1) the status of foreclosure proceedings;  
7       (2) the amount due on the mortgage, including interest and  
8 penalties;

9       (3) a description of all efforts made by the creditor during the  
10 preceding 90 days to negotiate any modifications to the mortgage or  
11 payments required under it with the borrower; and

12       (4) any alternatives to foreclosure, including any sales or  
13 conveyances, and any modifications to the mortgage or payments  
14 required under it, entered into between the creditor and the  
15 borrower.

16       c. The creditor shall provide a copy of the initial foreclosure  
17 report and the quarterly supplemental foreclosure report to the court  
18 and to the borrower, and shall also provide a copy of the reports to a  
19 qualified counseling entity upon submission by the entity of a letter  
20 signed by the borrower authorizing release of the reports to the  
21 entity.

22       d. Within three months of the effective date of this act, the  
23 Department of Banking and Insurance shall adopt and promulgate  
24 forms for the initial and supplementary foreclosure reports required  
25 under this section.

26       e. Within six months of the effective date of this act, the  
27 Department of Banking and Insurance shall make regularly updated  
28 information on foreclosure activity for each census tract in the State  
29 available to the public on its website.

30  
31       11. (New section) a. A creditor serving a notice of intention to  
32 foreclose on a mortgage on residential property in this State shall  
33 serve the public officer of the municipality in which the property is  
34 located, or, if the municipality has not designated a public officer  
35 pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal  
36 clerk, with a copy of the notice at the same time it is served on the  
37 owner of the property. The copy served on the public officer or  
38 municipal clerk shall include the full name and contact information  
39 of an individual located within the State who is authorized to accept  
40 service on behalf of the creditor.

41       b. If a residential property becomes vacant at any point  
42 subsequent to the creditor's filing the notice of intention to  
43 foreclose, but prior to vesting of title in the creditor or any other  
44 third party, and the property is found to be a nuisance or in  
45 violation of any applicable State or local code, the local public  
46 officer or municipal clerk shall notify the creditor, which shall have  
47 the responsibility to abate the nuisance or correct the violation in  
48 the same manner and to the same extent as the title owner of the

1 property, to such standard or specification as may be required by  
2 the public officer or municipal clerk.

3 c. If the municipality expends public funds in order to abate a  
4 nuisance or correct a violation on a residential property in situations  
5 in which the creditor was given notice pursuant to the provisions of  
6 subsection b. of this section but failed to abate the nuisance or  
7 correct the violation as directed, the public officer or municipal  
8 clerk shall have the same recourse against the creditor as it would  
9 have against the title owner of the property, including but not  
10 limited to the recourse provided under section 23 of P.L.2003, c.210  
11 (C.55:19-100).

12  
13 12. (New section) A consumer reporting agency or any other  
14 business entity shall not sell to, or exchange with, a third party,  
15 unless the third party holds an existing mortgage loan on the  
16 property, the existence of a credit inquiry arising from a consumer  
17 mortgage loan application when the sale or exchange is triggered by  
18 an inquiry made in response to an application for credit. This  
19 section shall not apply to information provided by a mortgage  
20 originator or servicer to a third party providing services in  
21 connection with the mortgage loan origination or servicing; a  
22 proposed or actual securitization; secondary market sale, including  
23 sales of servicing rights; or similar transaction related to the  
24 consumer mortgage loan.

25  
26 13. a. Notwithstanding any other provision of law to the  
27 contrary, a homeowner who is a borrower under a covered mortgage  
28 loan and who loses title as a result of foreclosure may remain in  
29 possession of the property as a tenant in possession subject to the  
30 provisions of this section, unless the entity taking title through  
31 foreclosure requires the property for their personal use and  
32 occupancy, or the entity taking title through foreclosure  
33 subsequently conveys the property to another entity which requires  
34 the property for their personal use and occupancy, in which case the  
35 tenant in possession shall be required to vacate the property upon  
36 90 days notice.

37 b. A tenant in possession pursuant to subsection a. of this  
38 section shall pay the title holder a fair market rent for the property.  
39 The title holder shall provide the tenant with notice of the fair  
40 market rent for the property, and the information that the title owner  
41 used as a basis to determine the rent for the property, which shall  
42 include rental income for comparable properties in the same area.

43 c. The title holder may evict the tenant in possession for cause  
44 as set forth in the section 2 of P.L.1974, c.49 (C.2A:18-61.1 et  
45 seq.).

46 d. Simultaneously with serving the notice of intention to  
47 foreclose on a covered mortgage loan on a borrower who is the  
48 owner-occupant of the property, the creditor shall send the borrower

1 by certified mail a notice that shall identify the property and that  
2 shall include the following information prominently displayed:

3

4

NOTICE TO BORROWER:

5

6 YOU HAVE THE RIGHT TO REMAIN IN THIS PROPERTY  
7 DURING THE FORECLOSURE PROCEEDINGS AND AFTER  
8 THE SHERIFF'S SALE UNLESS THE PROPERTY IS  
9 ACQUIRED BY AN INDIVIDUAL WHO PLANS TO OCCUPY  
10 THE PROPERTY.

11

12 IF [NAME OF CREDITOR] ACQUIRES THE PROPERTY AT  
13 SHERIFF'S SALE, YOU MAY REMAIN IN THE PROPERTY AS  
14 A TENANT UNTIL [NAME OF CREDITOR] SELLS THE  
15 PROPERTY TO AN INDIVIDUAL WHO PLANS TO OCCUPY  
16 THE PROPERTY. YOU MUST PAY A FAIR MARKET RENT  
17 AND KEEP THE PROPERTY IN GOOD CONDITION.

18

19 14. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to  
20 read as follows:

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14. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to read as follows:

2. No lessee or tenant or the assigns, under-tenants or legal representatives of such lessee or tenant may be removed by the Superior Court from any house, building, mobile home or land in a mobile home park or tenement leased for residential purposes, other than (1) owner-occupied premises with not more than two rental units or a hotel, motel or other guest house or part thereof rented to a transient guest or seasonal tenant; (2) a dwelling unit which is held in trust on behalf of a member of the immediate family of the person or persons establishing the trust, provided that the member of the immediate family on whose behalf the trust is established permanently occupies the unit; and (3) a dwelling unit which is permanently occupied by a member of the immediate family of the owner of that unit, provided, however, that exception (1) shall not apply where the owner-occupant has been the subject of a foreclosure proceeding as a result of which title has passed by sheriff's sale to another party; exception (2) or (3) shall apply only in cases in which the member of the immediate family has a developmental disability, except upon establishment of one of the following grounds as good cause:

a. The person fails to pay rent due and owing under the lease whether the same be oral or written; provided that, for the purposes of this section, any portion of rent unpaid by a tenant to a landlord but utilized by the tenant to continue utility service to the rental premises after receiving notice from an electric, gas, water or sewer public utility that such service was in danger of discontinuance based on nonpayment by the landlord, shall not be deemed to be unpaid rent.

1       b. The person has continued to be, after written notice to cease,  
2 so disorderly as to destroy the peace and quiet of the occupants or  
3 other tenants living in said house or neighborhood.

4       c. The person has willfully or by reason of gross negligence  
5 caused or allowed destruction, damage or injury to the premises.

6       d. The person has continued, after written notice to cease, to  
7 substantially violate or breach any of the landlord's rules and  
8 regulations governing said premises, provided such rules and  
9 regulations are reasonable and have been accepted in writing by the  
10 tenant or made a part of the lease at the beginning of the lease term.

11       e. (1) The person has continued, after written notice to cease, to  
12 substantially violate or breach any of the covenants or agreements  
13 contained in the lease for the premises where a right of reentry is  
14 reserved to the landlord in the lease for a violation of such covenant  
15 or agreement, provided that such covenant or agreement is  
16 reasonable and was contained in the lease at the beginning of the  
17 lease term.

18       (2) In public housing under the control of a public housing  
19 authority or redevelopment agency, the person has substantially  
20 violated or breached any of the covenants or agreements contained  
21 in the lease for the premises pertaining to illegal uses of controlled  
22 dangerous substances, or other illegal activities, whether or not a  
23 right of reentry is reserved to the landlord in the lease for a  
24 violation of such covenant or agreement, provided that such  
25 covenant or agreement conforms to federal guidelines regarding  
26 such lease provisions and was contained in the lease at the  
27 beginning of the lease term.

28       f. The person has failed to pay rent after a valid notice to quit  
29 and notice of increase of said rent, provided the increase in rent is  
30 not unconscionable and complies with any and all other laws or  
31 municipal ordinances governing rent increases.

32       g. The landlord or owner (1) seeks to permanently board up or  
33 demolish the premises because he has been cited by local or State  
34 housing inspectors for substantial violations affecting the health and  
35 safety of tenants and it is economically unfeasible for the owner to  
36 eliminate the violations; (2) seeks to comply with local or State  
37 housing inspectors who have cited him for substantial violations  
38 affecting the health and safety of tenants and it is unfeasible to so  
39 comply without removing the tenant; simultaneously with service of  
40 notice of eviction pursuant to this clause, the landlord shall notify  
41 the Department of Community Affairs of the intention to institute  
42 proceedings and shall provide the department with such other  
43 information as it may require pursuant to rules and regulations. The  
44 department shall inform all parties and the court of its view with  
45 respect to the feasibility of compliance without removal of the  
46 tenant and may in its discretion appear and present evidence; (3)  
47 seeks to correct an illegal occupancy because he has been cited by  
48 local or State housing inspectors or zoning officers and it is

1 unfeasible to correct such illegal occupancy without removing the  
2 tenant; or (4) is a governmental agency which seeks to permanently  
3 retire the premises from the rental market pursuant to a  
4 redevelopment or land clearance plan in a blighted area. In those  
5 cases where the tenant is being removed for any reason specified in  
6 this subsection, no warrant for possession shall be issued until  
7 P.L.1967, c.79 (C.52:31B-1 et seq.) and P.L.1971, c.362 (C.20:4-1  
8 et seq.) have been complied with.

9 h. The owner seeks to retire permanently the residential  
10 building or the mobile home park from residential use or use as a  
11 mobile home park, provided this subsection shall not apply to  
12 circumstances covered under subsection g. of this section.

13 i. The landlord or owner proposes, at the termination of a  
14 lease, reasonable changes of substance in the terms and conditions  
15 of the lease, including specifically any change in the term thereof,  
16 which the tenant, after written notice, refuses to accept; provided  
17 that in cases where a tenant has received a notice of termination  
18 pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-  
19 61.2), or has a protected tenancy status pursuant to section 9 of the  
20 "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981,  
21 c.226 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of  
22 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or  
23 owner shall have the burden of proving that any change in the terms  
24 and conditions of the lease, rental or regulations both is reasonable  
25 and does not substantially reduce the rights and privileges to which  
26 the tenant was entitled prior to the conversion.

27 j. The person, after written notice to cease, has habitually and  
28 without legal justification failed to pay rent which is due and owing.

29 k. The landlord or owner of the building or mobile home park  
30 is converting from the rental market to a condominium, cooperative  
31 or fee simple ownership of two or more dwelling units or park sites,  
32 except as hereinafter provided in subsection l. of this section.  
33 Where the tenant is being removed pursuant to this subsection, no  
34 warrant for possession shall be issued until this act has been  
35 complied with. No action for possession shall be brought pursuant  
36 to this subsection against a senior citizen tenant or disabled tenant  
37 with protected tenancy status pursuant to the "Senior Citizens and  
38 Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22  
39 et al.), or against a qualified tenant under the "Tenant Protection  
40 Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), as long as the  
41 agency has not terminated the protected tenancy status or the  
42 protected tenancy period has not expired.

43 l. (1) The owner of a building or mobile home park, which is  
44 constructed as or being converted to a condominium, cooperative or  
45 fee simple ownership, seeks to evict a tenant or sublessee whose  
46 initial tenancy began after the master deed, agreement establishing  
47 the cooperative or subdivision plat was recorded, because the owner  
48 has contracted to sell the unit to a buyer who seeks to personally

1 occupy it and the contract for sale calls for the unit to be vacant at  
2 the time of closing. However, no action shall be brought against a  
3 tenant under this paragraph unless the tenant was given a statement  
4 in accordance with section 6 of P.L.1975, c.311 (C.2A:18-61.9);

5 (2) The owner of three or less condominium or cooperative units  
6 seeks to evict a tenant whose initial tenancy began by rental from an  
7 owner of three or less units after the master deed or agreement  
8 establishing the cooperative was recorded, because the owner seeks  
9 to personally occupy the unit, or has contracted to sell the unit to a  
10 buyer who seeks to personally occupy it and the contract for sale  
11 calls for the unit to be vacant at the time of closing;

12 (3) The owner of a building of three residential units or less  
13 seeks to personally occupy a unit, or has contracted to sell the  
14 residential unit to a buyer who wishes to personally occupy it and  
15 the contract for sale calls for the unit to be vacant at the time of  
16 closing.

17 m. The landlord or owner conditioned the tenancy upon and in  
18 consideration for the tenant's employment by the landlord or owner  
19 as superintendent, janitor or in some other capacity and such  
20 employment is being terminated.

21 n. The person has been convicted of or pleaded guilty to, or if a  
22 juvenile, has been adjudicated delinquent on the basis of an act  
23 which if committed by an adult would constitute an offense under  
24 the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et  
25 al. involving the use, possession, manufacture, dispensing or  
26 distribution of a controlled dangerous substance, controlled  
27 dangerous substance analog or drug paraphernalia within the  
28 meaning of that act within or upon the leased premises or the  
29 building or complex of buildings and land appurtenant thereto, or  
30 the mobile home park, in which those premises are located, and has  
31 not in connection with his sentence for that offense either (1)  
32 successfully completed or (2) been admitted to and continued upon  
33 probation while completing, a drug rehabilitation program pursuant  
34 to N.J.S.2C:35-14; or, being the tenant or lessee of such leased  
35 premises, knowingly harbors or harbored therein a person who has  
36 been so convicted or has so pleaded, or otherwise permits or  
37 permitted such a person to occupy those premises for residential  
38 purposes, whether continuously or intermittently, except that this  
39 subsection shall not apply to a person harboring or permitting a  
40 juvenile to occupy the premises if the juvenile has been adjudicated  
41 delinquent upon the basis of an act which if committed by an adult  
42 would constitute the offense of use or possession under the said act.  
43 No action for removal may be brought pursuant to this subsection  
44 more than two years after the date of the adjudication or conviction  
45 or more than two years after the person's release from incarceration  
46 whichever is the later.

47 o. The person has been convicted of or pleaded guilty to, or if a  
48 juvenile, has been adjudicated delinquent on the basis of an act

1 which if committed by an adult would constitute an offense under  
2 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic  
3 threats against the landlord, a member of the landlord's family or an  
4 employee of the landlord; or, being the tenant or lessee of such  
5 leased premises, knowingly harbors or harbored therein a person  
6 who has been so convicted or has so pleaded, or otherwise permits  
7 or permitted such a person to occupy those premises for residential  
8 purposes, whether continuously or intermittently. No action for  
9 removal may be brought pursuant to this subsection more than two  
10 years after the adjudication or conviction or more than two years  
11 after the person's release from incarceration whichever is the later.

12 p. The person has been found, by a preponderance of the  
13 evidence, liable in a civil action for removal commenced under this  
14 act for an offense under N.J.S.2C:20-1 et al. involving theft of  
15 property located on the leased premises from the landlord, the  
16 leased premises or other tenants residing in the leased premises, or  
17 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terroristic  
18 threats against the landlord, a member of the landlord's family or an  
19 employee of the landlord, or under the "Comprehensive Drug  
20 Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,  
21 possession, manufacture, dispensing or distribution of a controlled  
22 dangerous substance, controlled dangerous substance analog or drug  
23 paraphernalia within the meaning of that act within or upon the  
24 leased premises or the building or complex of buildings and land  
25 appurtenant thereto, or the mobile home park, in which those  
26 premises are located, and has not in connection with his sentence  
27 for that offense either (1) successfully completed or (2) been  
28 admitted to and continued upon probation while completing a drug  
29 rehabilitation program pursuant to N.J.S.2C:35-14; or, being the  
30 tenant or lessee of such leased premises, knowingly harbors or  
31 harbored therein a person who committed such an offense, or  
32 otherwise permits or permitted such a person to occupy those  
33 premises for residential purposes, whether continuously or  
34 intermittently, except that this subsection shall not apply to a person  
35 who harbors or permits a juvenile to occupy the premises if the  
36 juvenile has been adjudicated delinquent upon the basis of an act  
37 which if committed by an adult would constitute the offense of use  
38 or possession under the said "Comprehensive Drug Reform Act of  
39 1987."

40 q. The person has been convicted of or pleaded guilty to, or if a  
41 juvenile, has been adjudicated delinquent on the basis of an act  
42 which if committed by an adult would constitute an offense under  
43 N.J.S.2C:20-1 et al. involving theft of property from the landlord,  
44 the leased premises or other tenants residing in the same building or  
45 complex; or, being the tenant or lessee of such leased premises,  
46 knowingly harbors therein a person who has been so convicted or  
47 has so pleaded, or otherwise permits such a person to occupy those

1 premises for residential purposes, whether continuously or  
2 intermittently.

3 For purposes of this section, (1) "developmental disability"  
4 means any disability which is defined as such pursuant to section 3  
5 of P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate  
6 family" means a person's spouse, parent, child or sibling, or a  
7 spouse, parent, child or sibling of any of them; and (3)  
8 "permanently" occupies or occupied means that the occupant  
9 maintains no other domicile at which the occupant votes, pays rent  
10 or property taxes or at which rent or property taxes are paid on the  
11 occupant's behalf.

12 (cf: P.L.2000, c.113, s.3)

13

14 15. Immediately upon the effective date of this act, the New  
15 Jersey Housing and Mortgage Finance Agency shall provide the  
16 amount of \$1,000,000 from its reserves or administrative monies to  
17 the department for the purpose of establishing the initial revenues  
18 for the trust fund established under section 4 of this act.

19

20 16. The Department of Community Affairs, in consultation with  
21 the Department of Banking and Insurance, shall adopt, pursuant to  
22 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
23 et seq.), rules and regulations to effectuate the purposes of this act.

24

25 17. This act shall take effect immediately upon enactment.

26

27

28

#### STATEMENT

29

30 This bill, entitled the "New Jersey Homeownership Preservation  
31 Act," provides for a trust fund, the Foreclosure Prevention Revolving  
32 Trust Fund, to be established in the Department of Community Affairs  
33 for the purpose of providing relief to homeowners in this State who are  
34 at risk of mortgage foreclosure. The bill also places certain  
35 requirements on creditors who initiate foreclosure proceedings against  
36 homeowners who have "covered mortgage loans," which, as defined in  
37 the bill, are loans normally associated with the subprime lending  
38 market.

39 The trust fund established by the bill is comprised of monies  
40 collected from a \$2,000 fee applied to each creditor who initiates a  
41 foreclosure action against a borrower under a covered mortgage loan,  
42 and a \$1 million appropriation from the reserves or administrative  
43 monies of the New Jersey Housing and Mortgage Finance Agency.

44 The bill directs the department to use the trust fund to provide  
45 certain grants and loans, in accordance with a schedule set forth in the  
46 bill, to qualified counseling agencies, as defined in the bill, and non-  
47 profit agencies. Qualified counseling agencies must use the funding to  
48 assist homeowners by providing foreclosure prevention counseling



1 services and making emergency foreclosure prevention assistance  
2 loans. The non-profit agencies must use the funding to assist  
3 homeowners by restructuring covered mortgage loans acquired from  
4 creditors or restoring properties acquired from creditors. The bill  
5 applies certain conditions as to the allocated funds, including  
6 requirements for the department to use contractual guarantees and to  
7 establish procedures, to ensure that the qualified counseling agencies  
8 and non-profits use the funds to effectively assist financially distressed  
9 homeowners who are most at risk for foreclosure.

10 The bill also applies certain requirements to creditors who initiate  
11 foreclosure proceedings as to a covered mortgage loan pursuant to the  
12 “Fair Foreclosure Act” P.L.1995, c.244 (C.2A:50-53) by issuing a  
13 notice of intention to foreclose.

14 Under certain circumstances, the creditor must:

15 (1) grant the borrower, upon the borrower’s request, a six month  
16 period of forbearance so that the borrower may pursue a loan workout,  
17 loan modification, refinancing, or other alternative. During the period  
18 of forbearance, the interest rate cannot increase and the creditor cannot  
19 take any further action to foreclose on the property, beyond issuing the  
20 notice of intention; and

21 (2) file certain reports with the Department of Banking and  
22 Insurance, indicating the status of the foreclosure and any attempts to  
23 work out the mortgage payments with the borrower.

24 Further, the bill requires a creditor that issues a notice of intention  
25 to foreclose mortgage on residential property, to notify the  
26 municipality by providing a copy of the notice to the public officer or  
27 municipal clerk of the municipality. In certain circumstances, the bill  
28 makes the creditor responsible to abate any nuisance or correct any  
29 violations related to the property, and provides the municipality with  
30 recourse against the creditor for failure to do so.

31 The bill also provides that a consumer reporting agency or any  
32 other business entity may not sell to, or exchange with, a third party,  
33 unless the third party holds an existing mortgage loan on the property,  
34 the existence of a credit inquiry arising from a consumer mortgage  
35 loan application when the sale or exchange is triggered by an inquiry  
36 made in response to an application for credit. That section shall not  
37 apply to information provided by a mortgage originator or servicer to a  
38 third party providing services in connection with the mortgage loan  
39 origination or servicing; a proposed or actual securitization; secondary  
40 market sale, including sales of servicing rights; or similar transaction  
41 related to the consumer mortgage loan.

42 The bill also provides that a homeowner who is a borrower under a  
43 covered mortgage loan and who loses the home to foreclosure, may  
44 remain in possession of the property as a tenant in possession, under  
45 certain circumstances, provided the homeowner pays fair market rent  
46 to the owner of the property.

47 Finally, the bill provides that the Department of Community  
48 Affairs, in consultation with the Department of Banking and

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18

1 Insurance, shall adopt, pursuant to the “Administrative Procedure  
2 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to  
3 effectuate the purposes of the bill.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1599**

with Assembly committee amendments

# STATE OF NEW JERSEY

DATED: DECEMBER 8, 2008

The Assembly Appropriations Committee reports favorably Senate Bill No. 1599 (SCS), with committee amendments.

The bill, as amended, establishes the Mortgage Stabilization program and the Housing Assistance and Recovery Program. The bill charges the New Jersey Housing and Mortgage Finance Agency (agency) with administering both programs.

MORTGAGE STABILIZATION PROGRAM. With regard to the Mortgage Stabilization Program component of the bill, the agency is authorized to offer non-amortizing second mortgage loans, not to exceed \$25,000, to promote the refinancing of "covered mortgages." Covered mortgages are defined as a first mortgage loan in imminent danger of foreclosure.

Program assistance is contingent upon a lender agreeing to refinance a covered mortgage into a new first mortgage amount that is less than the appraised value of the property at the time of refinancing and which results in an "affordable mortgage payment" for the homeowner. An affordable mortgage payment is defined as a payment equal to 33 percent of the homeowner's monthly gross income or the applicable percentage required for loan insurance, principal, interest, tax and insurance determined using traditional underwriting standards.

The bill directs the agency to provide assistance in the form of a non-amortizing (no monthly payment) second mortgage loan equal to one-half of the difference between the new first mortgage amount and the appraised value of the property, not exceeding \$25,000. The other half of the difference between the new first mortgage amount and the appraised value of the property is to be secured by a lien held by the lender, which the bill terms a "mortgage lender loan."

The bill requires the program loan and the mortgage lender loan to have an interest rate and term identical to that of the new first mortgage loan and makes both second in priority to the new first mortgage loan. Program loans and mortgage lender loans may be prepaid without penalty at any time. The program loan and mortgage lender loan are to be repaid on a proportional basis by the homeowner out of the net sale proceeds of the property. Until the program loan

and mortgage lender loans are repaid, the homeowner will not be permitted to take cash-out refinancing, except for emergency repairs.

If a homeowner already has an existing subordinate mortgage prior to accepting program assistance, the bill makes participation contingent on the existing subordinate mortgage holders agreeing to take a subordinated mortgage position behind the program loan and mortgage lender loan. Additionally, the bill grants the agency the discretion to use the program loan to satisfy existing subordinate mortgages. The bill grants lenders similar discretion to use the mortgage lender loan to satisfy the existing subordinate mortgage.

To qualify for assistance under the Mortgage Stabilization Program a homeowner's household income may not exceed 120 percent of the area median household income or the agency's Mortgage Revenue Bond Program income limits, whichever is greater. Additionally, a homeowner may not hold an interest in other residential real property at the time a program application is made. The bill also requires homeowners accepting program assistance to participate in agency approved household budget counseling sessions.

The property at stake must be an owner-occupied primary residence that is a single-family one-unit house; an attached, semi-detached, or detached house; a condominium unit; or an owner-occupied two- or three-unit house. Additionally, the property must be the principal dwelling of a homeowner for at least one year before applying for assistance under the Mortgage Stabilization Program.

Benefits received under the Mortgage Stabilization Program are not to be considered income for purposes of other State programs or the New Jersey gross income tax.

HOUSING ASSISTANCE AND RECOVERY PROGRAM. The bill also establishes the Housing Assistance and Recovery Program. The bill authorizes the New Jersey Housing and Mortgage Finance Agency to provide financial support to certain nonprofit and public entities to execute lease-purchase agreements with homeowners meeting certain income requirements and facing imminent danger of foreclosure. The lease-purchase agreements will enable homeowners to stay in their home while paying affordable rent, until such time as they are able to buy back the property. Eligible properties under the program include one-, two- or three-family dwellings which are used as the homeowner's household's primary residence.

The bill terms those nonprofit and public entities executing lease-purchase agreements as sponsors. The bill defines "sponsors" as: nonprofit community development corporations, nonprofit housing counseling organizations or public entities, including municipalities, counties or municipal or county authorities.

To receive financial support under the program, the bill requires a sponsor to be certified by the Commissioner of the Community Affairs as meeting a series of eligibility requirements. Sponsors must have prior experience in negotiating mortgage debt reduction and

purchasing distressed properties. Sponsors are also required to have received a commitment from a regulated financial institution or government entity for a line of credit to purchase properties under a housing assistance and recovery program. Sponsors are required to screen and assess the eligibility of homeowners to repurchase property and sustain mortgage payments. Additionally, sponsors must provide counseling to homeowners before and after the execution of a lease-purchase agreement. The counseling can be provided by trained foreclosure prevention and default mitigation counselors employed by the agency or through a contract with a U.S. Department of Housing and Urban Development certified housing counseling agency.

The bill qualifies homeowner participation in the program based on a maximum income limit. A homeowner's household income may not exceed 120 percent of the area median household income or the agency's Mortgage Revenue Bond Program income limit, whichever is greater.

In creating the Housing Assistance and Recovery Program, the bill also establishes the Housing Assistance and Recovery Program Support Fund, from which the agency may allocate monies for: the appraisal, construction and rehabilitation of property; property tax and insurance payments; the difference in the purchase price and the appraised value of the property, not exceeding \$25,000; and any other activity the agency deems necessary to effectuate the program. The bill also specifies that no money from the fund is to be allocated for property purchases other than the difference in the purchase price and the appraised value of property, not exceeding \$25,000.

The bill provides that lease-purchase agreements executed using funds from the program may not exceed a term of 36 months. Lease-purchase agreements are required to permit the homeowner and household members to remain in the property in exchange for an affordable rent, which the bill defines as no more than 33 percent of the household's gross monthly income. Lease-purchase agreements must also include the terms and conditions by which the sponsor shall convey the property back to the homeowner or other member of the household. The price at which the homeowner buys back the property is not to exceed the price at which the sponsor purchased the property and sponsor funded maintenance costs.

The bill authorizes the agency to promulgate rules and regulations to effectuate the Housing Assistance and Recovery Program.

The bill also provides that consumer reporting agencies, or any other business entity, may not sell or exchange with a third party the existence of a credit inquiry arising from a consumer mortgage loan application when the sale or exchange is triggered by an inquiry made in response to an application for credit. This prohibition does not apply to third parties holding an existing mortgage loan on the property giving rise to the application.

Additionally, the bill requires that a creditor who files a complaint for foreclosure in Superior Court is subject to a six-month forbearance period which prohibits the creditor from taking any steps towards removing the borrower from the property. During this six-month period, the creditor and borrower are to participate in mediation sponsored by Administrative Office of the Courts with the goal of entering into an agreement which allows the borrower to remain in the home with an affordable monthly mortgage payment.

The bill requires the Department of Banking and Insurance to issue a report on the department's website detailing the types of mortgages that have been the subject of complaints for foreclosure.

The bill also requires creditors who initiate foreclosure proceedings through a notice of intention to foreclose, pursuant to the "Fair Foreclosure Act," to provide notice to the municipality in which the property is located. The bill authorizes municipalities to take recourse against the creditors for failing to fulfill this responsibility in the same way a municipality may take action against a title owner of property, including the placement of a lien against the property.

The programs established by bill would remain inoperative until the first day of the third month after enactment.

As amended and reported by the committee, this bill is identical to Assembly Bill No.3506, as also reported by the committee.

FISCAL IMPACT:

The bill appropriates \$40 million from the Long Term Obligation and Capital Expenditure Fund, \$25 million to the Mortgage Stabilization Program Fund and \$15 million to the Housing Assistance and Recovery Program (HARP) Support Fund. Both programs will be administered by the New Jersey Housing and Mortgage Finance Agency (NJHMFA). The OLS notes that the bill allows the NJHMFA to use five percent of the monies allocated to each program for administrative purposes. Accordingly, \$1.25 million of the funds appropriated to the Mortgage Stabilization Program and \$750,000 of the funds appropriated to the HARP Support Fund may be used for administrative purposes.

The OLS also notes that this bill will result in an indeterminate cost to municipal governments. Under the provisions of the bill establishing the HARP, a creditor serving a residential property owner with a notice of intention to foreclose on a mortgage is also required to serve a copy of the notice on the public officer of the municipality in which the real property is located, or the municipal clerk. The bill also requires the abatement of a nuisance or violation of State or local code by the creditor after notice by the municipality, and gives the municipality recourse against the creditor if a nuisance or violation is not abated after the creditor is given notice. The OLS cannot determine with any degree of certainty the possible fiscal impact to a municipality of performing any ministerial function related to

maintaining foreclosure notices on file, notifying a creditor of the need to abate a violation or nuisance, or taking recourse against a creditor that does not abate a noticed violation or nuisance.

COMMITTEE AMENDMENTS:

The amendments require a creditor that files a complaint for foreclosure in Superior Court in New Jersey to supply a report, on a quarterly basis, to the New Jersey Department of Banking and Insurance, detailing the types for mortgages foreclosed upon during the previous three month period. The Department of Banking and Insurance will promulgate rules and regulations establishing a form for use by the creditor to report the quarterly foreclosure. The department will compile the information, compile it by county, and make a compilation of all foreclosures available on its website.

The amendments require a creditor to permit a six month period of forbearance upon the filing of a complaint for foreclosure on certain mortgages. During this six month period the creditor may not take any action to remove the borrower from the home. The creditor and borrower must participate in mediation through the Administrative Office of the Courts with the goal of modifying the terms of the mortgage to provide the borrower with an affordable mortgage. During the forbearance the borrower is obligated to continue making the monthly mortgage payment. The forbearance will immediately terminate in the event the borrower ceases to reside in the residence. The opportunity for forbearance ends two years after the effective date of the bill.

The amendments require a creditor who is foreclosing on a residential unit classified as affordable housing under the "Fair Housing Act" to notify the municipality in which the unit is located of the foreclosure.

The amendments permits the New Jersey Housing and Mortgage Finance Agency to offer housing to individuals who are otherwise above the income eligibility limits if the agency determines that waiver of the income limits is necessary in order to promote the long term development and revitalization of a neighborhood.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 1599**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 9, 2008

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1599.

This bill, as amended, entitled the "New Jersey Homeownership Preservation Act," provides for a trust fund, the Foreclosure Prevention Revolving Trust Fund, to be established in the New Jersey Housing and Mortgage Finance Agency for the purpose of providing relief to homeowners in this State who are at risk of mortgage foreclosure. The trust fund shall be comprised of monies collected from a \$2,000 fee applied to each creditor who initiates a foreclosure action against a borrower under a "covered mortgage loan," which, as defined in the bill, is a loan with elements typically associated with the subprime lending market. The bill also places certain requirements on creditors who initiate foreclosure proceedings against homeowners who have covered mortgage loans.

The bill directs the agency to use the trust fund to provide certain grants and loans, in accordance with a schedule set forth in the bill, to qualified individuals, foreclosure prevention entities, which shall be non-profit, and other qualified entities, as determined by the agency. These individuals and entities shall use the funding to assist homeowners by providing foreclosure prevention counseling services and other activities to prevent foreclosure, and making emergency foreclosure prevention assistance loans. The bill applies certain conditions as to the allocated funds, including requirements for the agency to use contractual guarantees and to establish procedures, to ensure that entities use the funds to effectively assist financially distressed homeowners who are most at risk for foreclosure.

The bill also applies certain requirements to creditors who initiate foreclosure proceedings, by issuing a notice of intention to foreclose, pursuant to the "Fair Foreclosure Act" P.L.1995, c.244 (C.2A:50-53). Under certain circumstances, the creditor must:

- (1) grant the borrower, upon the borrower's request, a six month period of forbearance so that the borrower may pursue a loan workout, loan modification, refinancing, or other alternative. During the period of forbearance, the interest rate cannot increase and the creditor cannot



take any further action to foreclose on the property, beyond issuing the notice of intention; and (2) file certain reports with the Department of Banking and Insurance, indicating the status of the foreclosure and any attempts to work out the mortgage payments with the borrower.

The provisions of the bill permitting the six month period of forbearance shall no longer apply whenever the Department of Banking and Insurance determines that, for four consecutive quarters, the rate of foreclosure of covered mortgage loans with an introductory rate or prepayment penalty is equal or less than the average rate of foreclosures for the State for calendar years 2002 through 2004.

Further, the bill requires a creditor that issues a notice of intention to foreclose on a mortgage on any residential property, to notify the municipality in which the property is located by providing a copy of the notice to its designated public officer or municipal clerk. In certain circumstances, the bill makes the creditor responsible to abate any nuisance or correct any violations related to the property, and provides the municipality with recourse against the creditor for failure to do so.

The bill provides that a consumer reporting agency or any other business entity may not sell to, or exchange with, any third party, unless the third party holds an existing mortgage loan on the property, the existence of a credit inquiry arising from a consumer mortgage loan application when the sale or exchange is triggered by an inquiry made in response to an application for credit. These provisions shall not apply to information provided by a mortgage originator or servicer to a third party providing services in connection with the mortgage loan origination or servicing; a proposed or actual securitization; secondary market sale, including sales of servicing rights; or similar transaction related to the consumer mortgage loan.

The bill also provides that a homeowner who is a borrower under a covered mortgage loan and who loses the home to foreclosure, may remain in possession of the property as a tenant in possession, under certain circumstances, provided the homeowner pays fair market rent to the owner of the property.

Finally, the bill provides that the New Jersey Housing and Mortgage Finance Agency, in consultation with the Department of Banking and Insurance, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to effectuate the purposes of the bill.

The committee amendments to the bill:

- provide additional findings and declarations concerning the foreclosure problems which the bill intends to address;
- replace the Department of Community Affairs with the New Jersey Housing and Mortgage Finance Agency as the entity to oversee and distribute monies from the Foreclosure Prevention Revolving Trust Fund;
- rename "qualified counseling entities" as "qualified foreclosure prevention entities," and define these entities as nonprofit

organizations possessing the ability to provide “highly qualified assistance to homeowners to prevent foreclosures” as determined by the New Jersey Housing and Mortgage Finance Agency;

- permit grants from the trust fund to individuals for the purpose of providing emergency foreclosure prevention assistance loans;

- establish that the first \$5,000,000 collected during any fiscal year for the trust fund shall be allocated as grants to qualified foreclosure prevention entities for their activities, which may include mediation services and the provision of legal services in conjunction with loan modifications;

- establish that amounts collected above \$5,000,000 and up to \$20,000,000 during any fiscal year shall be allocated for use by the agency to make emergency foreclosure prevention assistance loans, or make grants to qualified entities to make such loans;

- establish that amounts collected in excess of \$20,000,000 during any fiscal year shall be allocated, in the form of a loan or grant, to qualified entities, which may be for-profit organizations, to acquire mortgages or properties from creditors, in order to assist homeowners in financial distress or restore the properties acquired from creditors;

- increase the maximum amount of an emergency foreclosure prevention assistance loan from \$5,000 to \$10,000, or up to \$20,000 with the written approval of the agency;

- provide that the provisions of the bill relating to a six month period of forbearance on foreclosure actions shall no longer apply whenever the department determines that, for four consecutive quarters, the rate of foreclosure of covered mortgage loans with an introductory rate or prepayment penalty is equal to or less than the average rate of foreclosures for the State for calendar years 2002 through 2004;

- require a borrower who loses title as a result of foreclosure, and who then becomes a tenant on the property as provided by the bill, to vacate the property upon two months notice, instead of 90 days, that another party acquired the property and requires the property for its own personal use and occupancy;

- eliminate section 14 of the bill, which amended existing statutory provisions of the State’s “anti-eviction law,” P.L.1974, c.49 (C.2A:18-61.1 et al.), as unnecessary to provide protections to borrowers who become tenants pursuant to the bill; and

- eliminate the \$1,000,000 appropriation to the Department of Community Affairs to establish initial revenues for the trust fund, as the department is no longer the entity overseeing the trust fund.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1599**

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 13, 2008

The Senate Budget and Appropriations Committee reports favorably the Senate Committee Substitute (SCS) for Senate Bill No. 1599.

The SCS establishes the Mortgage Stabilization program and the Housing Assistance and Recovery Program. The SCS charges the New Jersey Housing and Mortgage Finance Agency (agency) with administering both programs.

With regard to the Mortgage Stabilization Program component of the SCS, the agency is authorized to offer non-amortizing second mortgage loans, not to exceed \$25,000, to promote the refinancing of "covered mortgages." Covered mortgages are defined as a first mortgage loan in imminent danger of foreclosure.

Program assistance is contingent upon a lender agreeing to refinance a covered mortgage into a new first mortgage amount that is less than the appraised value of the property at the time of refinancing and which results in an "affordable mortgage payment" for the homeowner. An affordable mortgage payment is defined as a payment equal to 33 percent of the homeowner's monthly gross income or the applicable percentage required for loan insurance, principal, interest, tax and insurance determined using traditional underwriting standards.

The SCS directs the agency to provide assistance in the form of a non-amortizing (no monthly payment) second mortgage loan equal to one-half of the difference between the new first mortgage amount and the appraised value of the property, not exceeding \$25,000. The other half of the difference between the new first mortgage amount and the appraised value of the property is to be secured by a lien held by the lender, which the bill terms a "mortgage lender loan."

The SCS provides that the program loan and the mortgage lender loan are required to have an interest rate and term identical to that of the new first mortgage loan and are both second in priority to the new first mortgage loan. Program loans and mortgage lender loans may be prepaid without penalty at any time. The program loan and mortgage lender loan are to be repaid on a proportional basis by the homeowner out of the net sale proceeds of the property. Until the program loan

and mortgage lender loans are repaid, the homeowner will not be permitted to take cash-out refinancing, except for emergency repairs.

If a homeowner already has an existing subordinate mortgage prior to accepting program assistance, participation is contingent on the existing subordinate mortgage holders agreeing to take a subordinated mortgage position behind the program loan and mortgage lender loan. Additionally, the SCS grants the agency the discretion to use the program loan to satisfy existing subordinate mortgages. Lenders are granted similar discretion to use the mortgage lender loan to satisfy the existing subordinate mortgage.

To qualify for assistance under the Mortgage Stabilization Program a homeowner's household income may not exceed 120 percent of the area median household income or the agency's Mortgage Revenue Bond Program income limits, whichever is greater. Additionally, a homeowner may not hold an interest in other residential real property at the time a program application is made. The SCS also requires homeowners accepting program assistance to participate in agency approved household budget counseling sessions.

The property at stake must be an owner-occupied primary residence that is a single-family one-unit house; an attached, semi-detached, or detached house; a condominium unit; or an owner-occupied two- or three-unit house. Additionally, the property must be the principal dwelling of a homeowner for at least one year before applying for assistance under the Mortgage Stabilization Program.

Benefits received under the Mortgage Stabilization Program are not to be considered income for purposes of other State programs or the New Jersey gross income tax.

The SCS appropriates \$25 million from the Long Term Obligation and Capital Expenditure Fund to the Mortgage Stabilization Program Fund, which is established by this bill, for purposes of providing assistance under the mortgage stabilization program. Up to five percent of the appropriation may be used for administering the program. Repayments of mortgage stabilization program loans are to be deposited in the Mortgage Stabilization Program Fund.

The SCS also establishes the Housing Assistance and Recovery Program. The SCS authorizes the New Jersey Housing and Mortgage Finance Agency to provide financial support to certain nonprofit and public entities to execute lease-purchase agreements with homeowners meeting certain income requirements and facing imminent danger of foreclosure. The lease-purchase agreements will enable homeowners to stay in their home while paying affordable rent, until such time as they are able to buy back the property. Eligible properties under the program include one-, two- or three-family dwellings which are used as the homeowner's household's primary residence.

The SCS terms those nonprofit and public entities executing lease-purchase agreements as sponsors. The SCS defines "sponsors" as: non-profit community development corporations, non-profit housing

counseling organizations or public entities, including municipalities, counties or municipal or county authorities.

To receive financial support under the program a sponsor must be certified by the Commissioner of the Department of Community Affairs (DCA) as meeting a series of eligibility requirements. Sponsors must have prior experience in negotiating mortgage debt reduction and purchasing distressed properties. Sponsors are also required to have received a commitment from a regulated financial institution or government entity for a line of credit to purchase properties under a housing assistance and recovery program. Sponsors are required to screen and assess the eligibility of homeowners to repurchase property and sustain mortgage payments. Additionally, sponsors must provide counseling to homeowners before and after the execution of a lease-purchase agreement. The counseling can be provided by trained foreclosure prevention and default mitigation counselors employed by the agency or through a contract with a U.S. Department of Housing and Urban Development (HUD) certified housing counseling agency.

The SCS qualifies homeowner participation in the program based on a maximum income limit. A homeowner's household income may not exceed 120 percent of the area median household income or the agency's Mortgage Revenue Bond Program income limit, whichever is greater.

In creating the Housing Assistance and Recovery Program, the SCS also establishes the Housing Assistance and Recovery Program Support Fund, from which the agency may allocate monies for: the appraisal, construction and rehabilitation of property; property tax and insurance payments; the difference in the purchase price and the appraised value of the property, not exceeding \$25,000; and any other activity the agency deems necessary to effectuate the program. The SCS also specifies that no money from the fund is to be allocated for property purchases other than the difference in the purchase price and the appraised value of property, not exceeding \$25,000.

The SCS appropriates \$15 million, from the Long Term Obligation and Capital Expenditure Fund, to the Housing Assistance and Recovery Program Support Fund for purposes of effectuating the program, of which five percent may be used for administering the program. The SCS also directs the agency to conduct quarterly audits of all funds received and expended for the program. Within 60 days of the end of each State fiscal year, the agency is required to issue a year-end report that is to be provided to the commissioner of the DCA and the Legislature. The report is also to be made available on the DCA website.

The SCS provides that lease-purchase agreements executed using funds from the program may not exceed a term of 36 months. Lease-purchase agreements are required to permit the homeowner and household members to remain in the property in exchange for an

affordable rent, which is defined as no more than 33 percent of the household's gross monthly income. Lease-purchase agreements must also include the terms and conditions by which the sponsor shall convey the property back to the homeowner or other member of the household. The price at which the homeowner buys back the property is not to exceed the price at which the sponsor purchased the property and sponsor funded maintenance costs.

The SCS authorizes the agency to promulgate rules and regulations to effectuate the Housing Assistance and Recovery Program.

The SCS also provides that consumer reporting agencies, or any other business entity, may not sell or exchange with a third party the existence of a credit inquiry arising from a consumer mortgage loan application when the sale or exchange is triggered by an inquiry made in response to an application for credit. This prohibition does not apply to third parties holding an existing mortgage loan on the property giving rise to the application.

Additionally, the SCS requires a creditor that issues a notice of intention to foreclose on a mortgage on a residential property, to provide a copy of the notice to the municipality's designated public officer or municipal clerk. If the property becomes vacant at any point subsequent to the filing of the notice of intention to foreclose, but prior to vesting of title in the creditor or a third party, and the property is found to be a nuisance or in violation of law, the municipality's local public officer or municipal clerk shall notify the creditor. The creditor is required to abate the nuisance or correct the violation in the same manner and to the same extent as the title owner of the property would. The SCS authorizes municipalities to take recourse against the creditors for failing to fulfill this responsibility in the same way a municipality may take action against a title owner of property, including the placement of a lien against the property.

The SCS also requires creditors who initiate foreclosure proceedings through a notice of intention to foreclose, pursuant to the "Fair Foreclosure Act," to provide an initial and quarterly supplemental foreclosure report to the Department of Banking and Insurance. Copies of the reports are also to be provided to the court, the borrower and, if the borrower consents, to a qualified counseling entity. Additionally, the SCS authorizes the Department of Banking and Insurance to promulgate forms for the initial and quarterly foreclosure reports.

The SCS takes effect immediately for purposes of authorizing the New Jersey Housing and Mortgage Finance Agency to promulgate rules and regulations to effectuate the mortgage stabilization program and housing assistance recover program. The rest of the SCS, not including the findings and declarations and an act citation, remain inoperative until the first day of the third month after enactment.

FISCAL IMPACT:

The SCS appropriates a total of \$40 million from the Long Term Obligation and Capital Expenditure Fund for the programs established under the SCS. The Mortgage Stabilization Program is appropriated \$25 million, of which up to five percent may be expended upon administrative costs. The Housing Assistance and Recovery Program is appropriated \$15 million, of which up to five percent may be expended upon administrative costs.

The OLS notes that it does not have information on how the appropriations would be budgeted within each program.

The SCS may also have an associated cost for municipalities for the additional administrative responsibilities created for municipal clerks or designated public officers related to the receipt of notices of an intention to foreclose. The extent of potential costs and the effectiveness of the potential cost recovery mechanisms provided are unknown.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 1599 STATE OF NEW JERSEY 213th LEGISLATURE

DATED: NOVEMBER 7, 2008

### SUMMARY

- Synopsis:** The “New Jersey Homeownership Preservation Act.”
- Type of Impact:** Indeterminate Revenue Impact; Establishes Foreclosure Prevention Revolving Trust Fund.
- Agencies Affected:** Department of Banking and Insurance and the New Jersey Housing and Mortgage Finance Agency (NJHMFA).

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>NJHMFA Cost</b>	\$675,000	\$495,000	\$495,000
<b>NJHMFA Revenue</b>	Indeterminate increase - See comments below		

- The Office of Legislative Services (OLS) cannot determine the fiscal impact of Senate Bill 1599 (1R) because it does not have complete information regarding the number of foreclosure actions to which the fee established by this bill would be applied. New Jersey loan performance data compiled by the Federal Reserve Bank of New York and the NJMHFA indicate that there are approximately 135,000 subprime residential mortgage loans “on the books” in New Jersey.
- The OLS notes that 10,000 to 20,000 loans will become seriously delinquent and possibly subject to foreclosure through 2010 if subprime delinquency and default trends continue on their current course. At \$2,000 per foreclosure the fee would generate between \$20 million and \$40 million to be deposited into the Foreclosure Prevention Revolving Trust Fund for activities to be administered the NJHMFA.
- The OLS notes that the NJHMFA has indicated that the estimated costs of administering the Trust Fund would be \$180,000 in up front startup costs and \$495,000 in annual administrative costs.



## **BILL DESCRIPTION**

Senate Bill No. 1599 (1R) of 2008, The “New Jersey Homeownership Preservation Act,” provides for a trust fund, the Foreclosure Prevention Revolving Trust Fund, to be established in the NJHMFA for the purpose of providing relief to homeowners in this State who are at risk of mortgage foreclosure. The trust fund shall be comprised of monies collected from a \$2,000 fee applied to each creditor who initiates a foreclosure action against a borrower under a “covered mortgage loan,” which as defined in the bill, is a loan with elements typically associated with the subprime lending market.

The bill directs the NJHMFA to use the trust fund to provide certain grants and loans, in accordance with a schedule set forth in the bill, to qualified individuals, non-profit foreclosure prevention entities, and other qualified entities, as determined by the agency. These individuals and entities shall use the funding to assist homeowners by providing foreclosure prevention counseling services and other activities to prevent foreclosure, and making emergency foreclosure prevention assistance loans. The bill applies certain conditions on the allocation of the funds. The NJHMFA is required to use contractual guarantees and establish procedures to ensure that entities use the funds effectively assist financially distressed homeowners who are most at risk for foreclosure. The maximum amount of an emergency foreclosure prevention assistance loan is \$10,000 and may be increased to \$20,000 with the written approval of the agency. The bill also permits grants from the trust fund to individuals for the purpose of providing emergency foreclosure prevention assistance loans.

Pursuant to the schedule set forth in the bill, monies deposited in the Foreclosure Prevention Revolving Trust Fund shall be allocated as follows:

- the first \$5,000,000 collected during any fiscal year for the trust fund shall be allocated as grants to qualified foreclosure prevention entities for their activities, which may include medication services and the provision of legal services in conjunction with loan modifications;

- amounts collected above \$5,000,000 and up to \$20,000,000 during any fiscal year shall be allocated for use by the agency to make emergency foreclosure prevention loans, or make grants to qualified entities to make such loans; and

- amounts collected in excess of \$20,000,000 during any fiscal year shall be allocated in the form of a loan or grant, to qualified entities, which may be for-profit organizations, to acquire mortgages or properties from creditors, in order to assist homeowners in financial distress or restore the properties acquired from creditors.

The NJHMFA is authorized to use the lesser of either \$500,000 or 5 percent of the revenues in the trust fund for the purpose of contracting with appropriate qualified vendors to provide training for foreclosure prevention specialists and provide information, outreach, and educational programs for borrowers potentially at risk of foreclosure.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The New Jersey Housing Mortgage and Finance Agency has indicated that the exact number of covered mortgages is unknown, but the Mortgage Bankers Association National Delinquency Survey states that there are 134,024 subprime residential mortgage loans on the books in New Jersey as of June 30, 2008. Subprime loans share most, if not all, of the characteristics of covered mortgages and therefore are a fair estimate of the number of loans that fall into this category. Of the 134,024 subprime loans, 19.02 percent were seriously delinquent and 13.52

percent were in actual foreclosure as of June 30, 2008. Assuming that Notices of Intent to Foreclose were delivered in each case, there would be 18,120 loans affected by the legislation at this time. It can be estimated that another 10,000 to 20,000 loans will become seriously delinquent and possibly subject to foreclosure through 2010 if subprime delinquencies and defaults continue on their current course. At \$2,000 per foreclosure, the fee would generate between \$20 million and \$40 million to be deposited into the Foreclosure Prevention Revolving Trust Fund for activities to be administered by the NJHMFA.

The cost of administering the programs established by this bill would depend in part on the volume of loans that will be affected. It is possible that the NJHMFA will be dealing with hundreds of vendors and over 5,000 transactions per year. It is also possible, in fact likely, that because the NJHMFA is the only legally authorized lending entity mentioned in the bill, the NJHMFA will become a direct lender, following procedures similar to the current Mortgage Assistance Program, a pilot program administered by the NJHMFA under the Homelessness Prevention Program, which is very staff intensive.

#### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS cannot determine the fiscal impact of Senate Bill 1599 (1R) because it does not have complete information regarding the number of foreclosure actions to which the fee established by this bill would be applied. Under the bill, a fee of \$2,000 would be applied to each creditor who initiates a foreclosure action against a borrower under a “covered mortgage loan.” Covered mortgage loans are loans normally associated with the subprime lending market.

Using data available on the website of the Federal Reserve Bank of New York (New York Fed), the OLS is able to estimate the number of subprime loans that may be affected by this bill. According to the New York Fed, subprime mortgages are typically made to borrowers with blemished credit history or who provide only limited documentations of their income or assets. Originations of subprime mortgages fell sharply in the second half of 2007 and have been extremely light in 2008. Of the 2.9 million subprime loans that were active as of August 1, 2008 there were some 2.65 million loans for owner-occupied units with an average outstanding loan balance of \$183,000. This analysis is restricted to first-lien, owner-occupied, active loans. Second mortgages and home equity lines of credit are not counted here due to insufficient data.

New Jersey loan performance data compiled by the New York Fed displays first-lien only data for loans in Alt-A pools and subprime pools. Alt-A mortgages are typically higher balance loans made to borrowers who might have past credit problems-but not severe enough to drop them into subprime territory-or who, for some reason choose not to obtain a prime mortgage. There are currently 61,974 loans in New Jersey that are in Alt-A pools; they have an average loan balance of \$323,396. Approximately 85 percent of these loans are current while 8 percent, or about 4,700 are in foreclosure. The majority of these loans have been used to purchase single family residences. Data for loans in subprime pools indicate that there are currently 61,066 loans in New Jersey that are in subprime pools; they have an average loan balance of \$250,807. Approximately 60 percent of the loans in subprime pools are current while 19 percent are in foreclosure.

The OLS is not able to determine what portion the loans that serve as the basis for statistics produced by the New York Fed would be considered, in part or in whole, a covered mortgage loan as defined by the bill. If the \$2,000 fee were applied to the actions that have been initiated against the 16,533, loans that are currently in foreclosure, the State would raise over \$33 million in revenue. However, the OLS notes that there has been a significant slowdown in the housing market and in the number of subprime mortgages that have been issued in 2008. Accordingly,

the fee may not generate enough revenue to meet the stated purposes of this legislation. Finally, this estimate does not take into account the impact of any action that may be taken by the federal government to provide assistance to holders of covered mortgage loans.

*Section: Local Government*

*Analyst: Scott A. Brodsky  
Assistant Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, No. 1599**  
**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

DATED: NOVEMBER 26, 2008

**SUMMARY**

- Synopsis:** “Mortgage Stabilization and Relief Act”; creates Mortgage Stabilization Program and Housing Assistance and Recovery Program; imposes additional requirements on lender foreclosing mortgage; appropriates \$40 million from the “Long Term Funding Obligation and Capital Expenditure Fund.”
- Type of Impact:** Decrease in appropriation for “Long Term Funding Obligation and Capital Expenditure Fund”
- Agencies Affected:** New Jersey Housing and Mortgage Finance Agency (NJHMFA), Long Term Obligation and Capital Expenditure Fund

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>		\$40 million	
<b>Local Cost</b>		Possible Indeterminate Cost.	

- The Office of Legislative Services (OLS) has determined that this bill would result in a cost of \$40 million from the Long Term Obligation and Capital Expenditure Fund.
- Under the bill, \$25 million would be used to establish the Mortgage Stabilization Program and \$15 million would be used to establish the Housing Assistance and Recovery Program (HARP). Both of these programs would be administered by the New Jersey Housing and Mortgage Finance Agency (NJHMFA).
- The bill allows the NJMFA to use five percent of the monies allocated to each program for administrative purposes. Accordingly, \$1.25 million of the funds appropriated to the Mortgage Stabilization Program and \$750,000 of the funds appropriated to the HARP may be used for administrative purposes.
- The Mortgage Stabilization Program would assist homeowners and lenders willing to refinance covered mortgages in order to ensure that the homeowner has an affordable mortgage payment. Assistance would be provided in the form of a non-amortizing (no

monthly payment) second mortgage loan equal to one-half of the difference between the new first mortgage amount and the appraised value of the property, not exceeding \$25,000. The other half of the difference between the new first mortgage amount and the appraised value of the property is to be secured by a lien held by the lender.

- The HARP would provide financial support to certain nonprofit and public entities to execute lease-purchase agreements with homeowners that meet certain income requirements and face imminent danger of foreclosure, to enable homeowners to stay in their homes while paying affordable rent until such time as they are able to buy back the property.
- The OLS also notes that, under the provisions of the bill establishing the HARP, a creditor serving a residential property owner with a notice of intention to foreclose on a mortgage is also required to serve a copy of the notice on the public officer of the municipality in which the real property is located, or the municipal clerk. The bill also requires the abatement of a nuisance or violation of State or local code by the creditor after notice by the municipality, and gives the municipality recourse against the creditor if a nuisance or violation is not abated after the creditor is given notice. The OLS cannot determine with any degree of plausibility or certainty the possible fiscal impact to a municipality of performing any ministerial function related to maintaining foreclosure notices on file, notifying a creditor of the need to abate a violation or nuisance, or taking recourse against a creditor that does not abate a noticed violation or nuisance.

## **BILL DESCRIPTION**

Senate Committee Substitute for Senate Bill No. 1599 of 2008 establishes the Mortgage Stabilization Program and the HARP, to be administered by the NJHMFA. The bill appropriates a total of \$40 million from the “Long Term Obligation and Capital Expenditure Fund for both programs; \$25 million for the Mortgage Stabilization Program and \$15 million for the HARP. The goal of the Mortgage Stabilization Program is to assist homeowners and lenders willing to refinance covered mortgages in order to ensure that the homeowner has an affordable mortgage payment. Assistance would be provided in the form of a non-amortizing (no monthly payment) second mortgage loan equal to one-half of the difference between the new first mortgage amount and the appraised value of the property, not exceeding \$25,000. The other half of the difference between the new first mortgage amount and the appraised value of the property would be secured by a lien held by the lender.

The HARP would provide financial support to certain nonprofit and public entities to execute lease-purchase agreements with homeowners that meet certain income requirements and face imminent danger of foreclosure. The lease-purchase agreements will enable homeowners to stay in their homes while paying affordable rent until such time as they are able to buy back the property. The nonprofit and public entities must meet a series of eligibility requirements in order to receive financial support from the HARP. The HARP monies may be used for the appraisal, construction, and rehabilitation of the property, property tax and insurance payments, the difference in the purchase price and the appraised value of the property, (not exceeding \$25,000), and any other activity the agency deems necessary to effectuate the program.

In order to qualify for assistance from either the Mortgage Stabilization Program or the HARP, a homeowner’s household income may not exceed 120 percent of the area median household income or the agency’s Mortgage Revenue Bond Program income limit, whichever is greater.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS has determined that this bill would result in a cost of \$40 million from the Long Term Obligation and Capital Expenditure Fund. Of these funds, \$25 million would be used to establish the Mortgage Stabilization Program and \$15 million would be used to establish the HARP, which would be administered by the NJHMFA. The OLS notes that the bill allows the NJMFA to use five percent of the monies allocated to each program for administrative purposes. Accordingly, \$1.25 million of the funds appropriated to the Mortgage Stabilization Program and \$750,000 of the funds appropriated to the HARP may be used for administrative purposes.

The OLS also notes that, under the provisions of the bill establishing the HARP, a creditor serving a residential property owner with a notice of intention to foreclose on a mortgage is also required to serve a copy of the notice on the public officer of the municipality in which the real property is located, or the municipal clerk. The bill also requires the abatement of a nuisance or violation of State or local code by the creditor after notice by the municipality, and gives the municipality recourse against the creditor if a nuisance or violation is not abated after the creditor is given notice. However, the OLS cannot determine with any degree of plausibility or certainty the possible fiscal impact to a municipality of performing any ministerial function related to maintaining foreclosure notices on file, notifying a creditor of the need to abate a violation or nuisance, or taking recourse against a creditor that does not abate a noticed violation or nuisance.

*Section: Local Government*

*Analyst: Scott A. Brodsky  
Assistant Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

**LEGISLATIVE FISCAL ESTIMATE**  
 [First Reprint]  
 SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1599**  
**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

DATED: DECEMBER 18, 2008

**SUMMARY**

- Synopsis:** “Mortgage Stabilization and Relief Act”; creates Mortgage Stabilization Program and Housing Assistance and Recovery Program; imposes additional requirements on lender foreclosing mortgage; appropriates \$40 million from the “Long Term Obligation and Capital Expenditure Fund.”
- Type of Impact:** Decrease in appropriation to the “Long Term Obligation and Capital Expenditure Fund” and indeterminate municipal cost.
- Agencies Affected:** New Jersey Housing and Mortgage Finance Agency and municipal governments

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>		\$40 million	
<b>Local Cost</b>		Indeterminate municipal cost.	

- The Office of Legislative Services (OLS) has determined that this committee substitute would result in a cost of \$40 million from the “Long Term Obligation and Capital Expenditure Fund.” Under the committee substitute, \$25 million would be used to establish the Mortgage Stabilization Program and \$15 million would be used to establish the Housing Assistance and Recovery Program (HARP). Both of these programs would administered by the New Jersey Housing and Mortgage Finance Agency (NJHMFA).
- The committee substitute allows the NJHMFA to use five percent of the monies allocated to each program for administrative purposes. Accordingly, \$1.25 million of the funds appropriated to the Mortgage Stabilization Program and \$750,000 of the funds appropriated to the HARP may be used for administrative purposes.
- The OLS cannot determine with any degree of plausibility or certainty the possible fiscal impact to a municipality of performing any ministerial function related to maintaining

foreclosure notices on file, notifying a creditor of the need to abate a violation or nuisance, or taking recourse against a creditor that does not abate a noticed violation or nuisance.

## **BILL DESCRIPTION**

Senate Committee Substitute (1R) for Senate Bill No. 1599 of 2008 establishes the Mortgage Stabilization Program and the HARP, to be administered by the NJHMFA. The committee substitute appropriates a total of \$40 million from the “Long Term Obligation and Capital Expenditure Fund” for both programs; \$25 million for the Mortgage Stabilization Program and \$15 million for the HARP. The goal of the Mortgage Stabilization Program is to assist homeowners and lenders willing to refinance covered mortgages in order to ensure that the homeowner has an affordable mortgage payment. Assistance would be provided in the form of a non-amortizing (no monthly payment) second mortgage loan equal to one-half of the difference between the new first mortgage amount and the appraised value of the property, not exceeding \$25,000. The other half of the difference between the new first mortgage amount and the appraised value of the property would be secured by a lien held by the lender.

The HARP would provide financial support to certain nonprofit and public entities to execute lease-purchase agreements with homeowners who meet certain income requirements and face imminent danger of foreclosure. The lease-purchase agreements will enable homeowners to stay in their homes while paying affordable rent until such time as they are able to buy back the property. The nonprofit and public entities must meet a series of eligibility requirements in order to receive financial support from the HARP. The HARP monies may be used for the appraisal, construction, and rehabilitation of the property, property tax and insurance payments, the difference in the purchase price and the appraised value of the property (not exceeding \$25,000), and any other activity the agency deems necessary to effectuate the program.

In order to qualify for assistance from either the Mortgage Stabilization Program or the HARP, a homeowner’s household income may not exceed 120 percent of the area median household income or the agency’s Mortgage Revenue Bond Program income limit, whichever is greater. Finally, this bill extends the “six times” test regarding the income eligibility of families admitted to housing programs constructed, improved, or rehabilitated pursuant to section 8 of P.L.1983, c.530 (C.55:14K-8), the “New Jersey Housing and Mortgage Finance Law of 1983,” to any housing project the NJHMFA determines is necessary to promote the long term development and viability of a neighborhood and spur its revitalization.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS has determined that this committee substitute would result in a cost of \$40 million from the “Long Term Obligation and Capital Expenditure Fund.” Of these funds, \$25 million would be used to establish the Mortgage Stabilization Program and \$15 million would be used to establish the HARP. Both programs would be administered by the NJHMFA. The OLS notes that the bill allows the NJHMFA to use five percent of the monies allocated to each program for



administrative purposes. Accordingly \$1.25 million of the funds appropriated to the Mortgage Stabilization Program and \$750,000 of the funds appropriated to the HARP Support Fund may be used for administrative purposes. The OLS anticipates that some portion of the funds appropriated by this committee substitute and awarded to program participants in the form of a loan will be repaid by program participants at some future time.

The OLS also notes that this committee substitute would result in an indeterminate cost to municipal governments. Under the provisions of the bill establishing the HARP, a creditor serving a residential property owner with a notice of intention to foreclose on a mortgage is also required to serve a copy of the notice on the designated public officer of the municipality in which the real property is located, or the municipal clerk. The committee substitute also requires the abatement of a nuisance or violation of State or local code by the creditor after notice by the municipality, and gives the municipality recourse against the creditor if a nuisance or violation is not abated after the creditor is given notice. The OLS cannot determine with any degree of plausibility or certainty the possible fiscal impact to a municipality of performing any ministerial function related to maintaining foreclosure notices on file, notifying a creditor of the need to abate a violation or nuisance, or taking recourse against a creditor that does not abate a noticed violation or nuisance.

*Section: Local Government*

*Analyst: Scott A. Brodsky  
Assistant Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

# ASSEMBLY, No. 3506

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 8, 2008

**Sponsored by:**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**Assemblyman JERRY GREEN**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman RALPH R. CAPUTO**

**District 28 (Essex)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex)**

**Assemblywoman NELLIE POU**

**District 35 (Bergen and Passaic)**

**Assemblyman RUBEN J. RAMOS, JR.**

**District 33 (Hudson)**

**Assemblyman JOSEPH VAS**

**District 19 (Middlesex)**

**Assemblyman L. HARVEY SMITH**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Assemblymen Prieto, Chivukula, Assemblywomen Greenstein and Tucker**

**SYNOPSIS**

Mortgage Stabilization and Relief Act"; creates Mortgage Stabilization Program and Housing Assistance and Recovery Program; imposes additional requirements on lender foreclosing mortgage; appropriates \$40 million from the "Long Term Obligation and Capital Expenditure Fund."

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 12/16/2008)

1 AN ACT providing residential mortgage assistance under certain  
2 circumstances, supplementing Title 46 and Title 55 of the  
3 Revised Statutes, amending P.L.1983, c.530, and P.L.1988, c.29;  
4 and making appropriations.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. (New section) This act shall be known and may be cited as the  
10 “Mortgage Stabilization and Relief Act.”

11  
12 2. (New section) The Legislature finds and declares that:

13 a. Many thousands of New Jersey homeowners are at risk of  
14 losing their homes as a result of mortgage foreclosures.

15 b. Foreclosures involve the loss of a family’s home, often the  
16 family’s most valuable financial asset, and foreclosures especially  
17 undermine the health and economic vitality of the urban  
18 neighborhoods in which a disproportionate share of foreclosures  
19 take place.

20 c. Foreclosures result in the loss of millions of dollars in assets,  
21 not only those of the homeowners who are the victims of  
22 foreclosure, but also adversely affect the property values of homes  
23 located in the vicinity of foreclosed properties.

24 d. The loss of a house often results in abandonment of properties,  
25 leading to significant costs and lost revenue for local governments,  
26 as well as harm to the neighborhoods in which properties are  
27 abandoned.

28 e. Many of these foreclosures could be avoided if homeowners  
29 had greater access to high-quality, in-person foreclosure prevention  
30 counseling, emergency financial assistance, or additional time  
31 during which to negotiate loan modifications or obtain refinancing.

32 f. There is a compelling public policy need for the State of New  
33 Jersey to provide the means by which homeowners can obtain  
34 mortgage related counseling, emergency financial assistance, and  
35 time to adjust their finances in order to increase their ability to  
36 retain their homes, and to protect local governments and  
37 neighborhoods from the negative social, economic, and fiscal  
38 consequences of foreclosure and property abandonment.

39 g. New Jersey must ensure that neighborhoods are not adversely  
40 affected by properties that are abandoned as a result of foreclosure  
41 and become dilapidated eyesores on the community.

42 h. The Legislature recognizes that the difficulties encountered by  
43 homeowners who are delinquent, or are in danger of becoming  
44 delinquent, on their mortgage payment does not lend itself to a “one

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

**Matter underlined thus is new matter.**

1 size fits all” solution and therefore it is necessary to establish a  
2 number of programs to assist these homeowners.

3

4 3. (New section) Sections 3 through 7 of P.L. , c. (C. )  
5 (pending before the Legislature as this bill) shall be known and may  
6 be referred to as the “Mortgage Stabilization Program.”

7

8 4. (New section) As used in sections 4 through 7 of P.L. c.  
9 (C. ) (pending before the Legislature as this bill):

10 “Affordable mortgage payment” means a monthly mortgage  
11 payment that does not exceed the greater of either 33% or the  
12 applicable percentage required by governmental or private first  
13 mortgage loan insurance, of the household’s monthly average  
14 annual gross income, towards the payment of principal, interest,  
15 taxes, and insurance (PITI) which is determined using traditional  
16 underwriting standards.

17 “Agency” means the New Jersey Housing and Mortgage Finance  
18 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et  
19 seq.).

20 “Covered Mortgage” means a first mortgage loan that is in  
21 imminent danger of foreclosure.

22 “Homeowner” means the individual who holds legal title to a  
23 residential real property that is the individual’s principal dwelling  
24 and is in imminent danger of foreclosure.

25 “Lender” means any lawfully constituted mortgage lender,  
26 mortgage investor or mortgage loan servicer that owns and is  
27 willing to refinance or is authorized to negotiate the terms of the  
28 homeowner’s mortgage.

29 “Maximum income limit” means a household income that does  
30 not exceed 120% of the area median income, as defined for New  
31 Jersey in guidelines published annually by the United States  
32 Department of Housing and Urban Development, or that does not  
33 exceed the New Jersey Housing and Mortgage Finance Agency’s  
34 Mortgage Revenue Bond Program income limits, whichever is  
35 greater.

36 “Mortgage lender loan” means a loan provided by a lender that is  
37 secured by a lien holding second priority and equal to one-half of  
38 the difference between the new first mortgage loan and the current  
39 appraised value of the property.

40 “Mortgage Stabilization Program” or “program” means a  
41 financing program established pursuant to section 5 of P.L. , c.  
42 (C. ) (pending before the Legislature as this bill).

43 “Mortgage stabilization program loan” means the loan provided  
44 to the homeowner by the agency pursuant to section 5 of P.L. , c.  
45 (C. ) (pending before the Legislature as this bill).

46 “Property” means an owner-occupied primary residence, (1) that  
47 is either a single-family one-unit house; an attached, semi-detached,  
48 or detached house; a condominium unit; or an owner-occupied two-

1 or three-unit house, and (2) that is the principal dwelling of a  
2 homeowner who has resided in the property for at least one year  
3 prior to applying for assistance.

4

5 5. (New section) There is established in the New Jersey Housing  
6 and Mortgage Finance Agency a Mortgage Stabilization Program  
7 and Mortgage Stabilization Program Fund for the purpose of  
8 assisting homeowners and lenders willing to refinance covered  
9 mortgages in order to ensure that the homeowner has an affordable  
10 mortgage payment. The program shall meet the following  
11 requirements:

12 a. Program assistance shall not be made available unless a lender  
13 modifies or refinances the homeowner's mortgage loan so that the  
14 new first mortgage loan amount:

15 (1) results in an affordable mortgage payment; and

16 (2) results in a new first mortgage loan amount that is less than  
17 the appraised value of the property at the time of the modification  
18 or refinancing.

19 b. The program shall provide:

20 (1) a mortgage stabilization program loan that is a non-  
21 amortizing (no monthly payment) second mortgage loan equal to  
22 one-half of the difference between the new first mortgage loan  
23 amount and the appraised value of the subject property. The  
24 available funds for such loan shall not exceed \$25,000 per loan, and  
25 the proceeds of the loan shall be provided to the covered mortgage  
26 lender; and

27 (2) a mortgage lender loan.

28 Loans made pursuant to this subsection shall share a co-equal  
29 second mortgage position with each other.

30 c. The mortgage stabilization program loan and the mortgage  
31 lender loan shall each have an interest rate and term identical to the  
32 interest rate and term of the new first mortgage loan.

33 d. Mortgage stabilization program loans and mortgage lender  
34 loans may be prepaid at any time without penalty and shall be  
35 repaid on a proportional basis by the homeowner out of the net sale  
36 proceeds from the sale of the property.

37 e. The homeowner shall not be permitted to take cash-out  
38 refinances, except for agency approved emergency repairs or unless  
39 the mortgage stabilization program loan and the mortgage lender  
40 loan are repaid in full.

41 f. In order to be eligible to participate in the program, the  
42 homeowner must not exceed the maximum income limit as defined  
43 in section 4 of P.L. , c. (C. ) (pending before the Legislature  
44 as this bill).

45 g. The homeowner may not hold any interest in other residential  
46 real property at the time the application to participate in the  
47 program is made.

- 1 h. If a homeowner has an existing subordinate mortgage loan  
2 held by one or more entities, the holder of the subordinate lien must  
3 agree to take subordinated mortgage position behind the mortgage  
4 stabilization program loan and the mortgage lender loan.
- 5 i. If the property is subject to an existing subordinate mortgage  
6 the mortgage stabilization program loan may, at the discretion of  
7 the agency, be used to satisfy that mortgage, or the mortgage lender  
8 loan may, at the discretion of the mortgage lender, be used to satisfy  
9 an existing subordinate mortgage, or both.
- 10 j. Homeowners must participate in budget counseling sessions  
11 approved by the agency in order to be eligible for the program.
- 12 k. Repayments of mortgage stabilization program loans shall be  
13 deposited into the Mortgage Stabilization Program Fund.
- 14 l. Benefits directly or indirectly received by a homeowner under  
15 the Mortgage Stabilization Program shall not be treated as income  
16 in determining eligibility requirements for other State programs and  
17 payments and benefits directly or indirectly received by a  
18 homeowner who is a taxpayer shall not be treated as income for  
19 New Jersey gross income tax purposes pursuant to section 2 of  
20 P.L.1988, c.29 (C.54A:6-22).
- 21
- 22 6. (New section) The agency is authorized to promulgate rules  
23 and regulations, pursuant to the provisions of the “Administrative  
24 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate  
25 this program.
- 26
- 27 7. (New section) Notwithstanding the provisions of P.L.2008,  
28 c.22 (C.52:9H-2.1 et al.), there is appropriated from the Long Term  
29 Obligation and Capital Expenditure Fund the sum of \$25,000,000 to  
30 the Mortgage Stabilization Program Fund for the purposes of the  
31 Mortgage Stabilization Program, of which five percent may be used  
32 for the purposes of administering the program.
- 33
- 34 8. (New section) Sections 8 through 14 of P.L. , c. (C. )  
35 (pending before the Legislature as this bill) shall be known and may  
36 be referred to as the “New Jersey Housing Assistance and Recovery  
37 Program.”
- 38
- 39 9. (New section) As used in sections 9 through 14 of P.L. , c.  
40 (C. ) (pending before the Legislature as this bill):
- 41 “Affordable rent” means monthly rent or lease payments that do  
42 not exceed 33% of the household’s monthly average gross income.
- 43 “Agency” means the New Jersey Housing and Mortgage Finance  
44 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et  
45 seq.).
- 46 “Commissioner” means the Commissioner of Community  
47 Affairs.

1 “Homeowner” means the individual who holds legal title to a  
2 residential real property that is the individual’s principal dwelling  
3 and is in imminent danger of foreclosure.

4 “Household” means a homeowner and individuals who resided  
5 with the homeowner at the time the lease-purchase agreement was  
6 executed and continue to reside with the homeowner at the time the  
7 agreement of sale is executed.

8 “HUD” means the United States Department of Housing and  
9 Urban Development.

10 “HUD certified housing counseling agency” means a  
11 community-based non-profit organization, as demonstrated by  
12 section 501 (c)(3) of the Internal Revenue Code of 1986, 26 U.S.C.  
13 s.501(c)(3), which has been certified by the United States  
14 Department of Housing and Urban Development as experienced in  
15 housing counseling for at least one year prior to receiving  
16 certification.

17 “Fund” means the Housing Assistance and Recovery Program  
18 Support Fund established by section 10 of P.L. , c. (C. )  
19 (pending before the Legislature as this bill).

20 “Lease-purchase agreement” means a use and occupancy  
21 agreement approved by the agency whereby the sponsor acquires  
22 title to the homeowner’s property and agrees to permit the former  
23 homeowner to use and occupy the property for a period not to  
24 exceed 36 months at an affordable rent.

25 “Lender” means the owner of the homeowner’s mortgage.

26 “Maximum income limit” means a household income that does  
27 not exceed 120% of the area median income, as defined for New  
28 Jersey in guidelines published annually by the United States  
29 Department of Housing and Urban Development, or that does not  
30 exceed the New Jersey Housing and Mortgage Finance Agency’s  
31 Mortgage Revenue Bond Program income limits, whichever is  
32 greater.

33 “Program” means the “New Jersey Housing Assistance and  
34 Recovery Program.”

35 “Property” means a one-, two- or three-family dwelling that is  
36 the primary residence of the household.

37 “Sponsor” means a non-profit community development  
38 corporation, a non-profit housing counseling organization, or a  
39 public entity, including a municipality, county, or a municipal or  
40 county authority.

41 “Trained foreclosure prevention and default mitigation  
42 counselor” means a housing counselor employed by a HUD  
43 certified housing counseling agency who has successfully  
44 completed a foreclosure prevention and default mitigation training  
45 course provided by a nationally recognized homeownership  
46 education and counseling organization such as course HO345d-rq  
47 “Foreclosure Intervention and Default Counseling Certification Part

1 I” provided by the NeighborWorks America Center for  
2 Homeownership Education and Counseling.

3

4 10. (New section) a. There is established in the New Jersey  
5 Housing and Mortgage Finance Agency a Housing Assistance and  
6 Recovery Program (HARP) Support Fund, for the purpose of  
7 providing support and aid to any sponsor who establishes a Housing  
8 Assistance and Recovery Program which meets the following  
9 requirements. The sponsor shall:

10 (1) upon application to the commissioner, be certified by the  
11 commissioner as eligible to participate in the Housing Assistance  
12 and Recovery Program by the commissioner;

13 (2) employ trained foreclosure prevention and default mitigation  
14 counselors or contract with a HUD certified counseling agency that  
15 employs trained foreclosure prevention and default mitigation  
16 counselors;

17 (3) provide counseling to the homeowner both before and after  
18 the execution of a lease-purchase agreement, which shall include  
19 contact information for legal services programs within the county  
20 where the property is located;

21 (4) screen and assess the eligibility of homeowners to repurchase  
22 the property and sustain the homeowner’s mortgage payments;

23 (5) have prior experience in (a) negotiating mortgage debt  
24 reduction from lenders, and (b) the purchase of distressed  
25 properties; and

26 (6) receive a commitment from a regulated financial institution  
27 or a government entity for a line of credit or other financing  
28 mechanism to purchase properties under a housing assistance and  
29 recovery program.

30 b. The lease-purchase agreement shall:

31 (1) include terms and conditions under which the sponsor shall  
32 convey the property to the homeowner at the expiration of the  
33 agreed upon use and occupancy period;

34 (2) enable the homeowner to continue to live in the property  
35 during the use and occupancy period for an affordable rent; and

36 (3) include a provision that the property will be sold back to the  
37 homeowner at a price not to exceed the price at which the sponsor  
38 purchased the property, plus any reasonable sponsor funded repair  
39 and maintenance costs.

40 c. Monies from the fund may be allocated solely for:

41 (1) appraisal of the property to determine current market value;

42 (2) construction and rehabilitation of the property to ensure  
43 compliance with all codes and standards;

44 (3) payment of property taxes accrued during sponsor’s  
45 ownership of the property;

46 (4) maintenance of property insurance, including, but not limited  
47 to landlord liability and fire insurance coverage;



1 (5) payment of no more than \$25,000 toward the difference  
2 between the appraised value and the purchase price of the property;  
3 and

4 (6) any other activity the agency deems necessary to effectuate  
5 the purposes of the program.

6 d. No money allocated from the fund shall be used for the  
7 purchase of real property, other than as provided for in paragraph  
8 (5) of subsection c. of this section.

9 e. The agency shall conduct a quarterly audit of all funds  
10 received and expended for the program. The agency shall issue an  
11 annual report at the end of State fiscal year detailing the result of  
12 the quarterly audits for the prior State fiscal year. The annual report  
13 shall be completed no more than 60 day after the end of the State  
14 fiscal year. The annual report shall be provided to the  
15 commissioner and, pursuant to section 2 of P.L.1991, c.164  
16 (C.52:14-19.1), to the Legislature and made available to the public  
17 on the Department of Community Affairs website.

18

19 11. (New section) A sponsor who receives monies from the  
20 fund and the homeowner shall execute a lease-purchase agreement,  
21 not to exceed a term of 36 months, that includes the following:

22 a. The terms and conditions under which the sponsor shall  
23 convey the property to the homeowner or other member of the  
24 household upon termination of the use and occupancy period;

25 b. Provisions permitting the homeowner and other members of  
26 the household to remain in the property during the use and  
27 occupancy period in exchange for an affordable rent; and

28 c. A provision that the property will be sold back to the  
29 homeowner or to another member of the household at a price not to  
30 exceed the price at which the sponsor purchased the property plus  
31 reasonable sponsor maintenance costs.

32

33 12. (New section) The Department of Community Affairs shall  
34 notify the agency in the event a sponsor fails to maintain  
35 compliance with the department's certification process.

36

37 13. (New section) The commissioner and the agency are  
38 authorized to promulgate rules and regulations, pursuant to the  
39 provisions of the "Administrative Procedure Act," P.L.1968, c.410  
40 (C.52:14B-1 et seq.), to effectuate this program.

41

42 14. (New section) Notwithstanding the provisions of P.L.2008,  
43 c.22 (C.52:9H-2.1 et al.), there is appropriated from the Long Term  
44 Obligation and Capital Expenditure Fund the sum of \$15,000,000 to  
45 the Housing Assistance and Recovery Program (HARP) Support  
46 Fund, for the purposes of effectuating the New Jersey Housing  
47 Assistance and Recovery Program, of which five percent may be  
48 used for the purposes of administering the program.

1       15. (New section) a. A creditor that institutes a mortgage  
2 foreclosure action in the Superior Court of New Jersey shall report  
3 to the Department of Banking and Insurance, on a quarterly basis  
4 and on a form promulgated by the department, information about  
5 the number of mortgage foreclosure actions filed by the creditor in  
6 the State.

7       b. The Department of Banking and Insurance shall produce a  
8 report, on a quarterly basis; detailing information about mortgage  
9 foreclosures filed by creditors in each county of the State, and shall  
10 make the report available to the public on its website. The report  
11 shall describe the type of mortgage being foreclosed on based on  
12 the following categories:

- 13       (1) prime rate mortgages foreclosed upon;
- 14       (2) subprime rate mortgage foreclosed upon;
- 15       (3) fixed rate mortgages foreclosed upon;
- 16       (4) adjustable rate mortgages foreclosed upon;
- 17       (5) nonconforming mortgages, as defined by Fannie Mae,  
18 Freddie Mac, or their successors;
- 19       (6) mortgages insured by the Federal Housing Administration  
20 foreclosed upon;
- 21       (7) mortgages insured by the Veteran's Administration  
22 foreclosed upon; and
- 23       (8) any other category of classification the department deems  
24 appropriate to effectuate the purpose of this section.

25       c. The Department of Banking and Insurance, pursuant to the  
26 Administrative Procedure Act," P.L.1986, c.410 (C.52:14B-1, et  
27 seq) shall adopt regulations necessary to effectuate the purpose of  
28 this section.

29  
30       16. (New section) a. A creditor that files, pursuant to the "Fair  
31 Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et seq.), a complaint  
32 of foreclosure on a high risk mortgage loan, shall grant the  
33 borrower a six month period of forbearance to pursue a loan  
34 workout, loan modification, refinancing, or other alternative  
35 through mediation sponsored by the Administrative Office of the  
36 Courts. During the six month forbearance period, the interest rate  
37 on the covered mortgage loan shall not increase and the creditor  
38 shall take no further action to pursue foreclosure of the property.  
39 Nothing in this subsection shall constitute a limitation on the ability  
40 of the creditor and borrower to participate in mediation sponsored  
41 by the Administrative Office of the Courts or enter into an  
42 agreement as a result of that mediation pursuant to subsection b. of  
43 this section.

44       As used in this section:

45       "Forbearance" means a period of six months during which the  
46 judicial foreclosure proceedings filed by the creditor against the  
47 borrower are suspended; however the borrower is obligated to  
48 continue making monthly mortgage payments.

1       “High risk mortgage” means the first mortgage loan that has one  
2 or more of the following characteristics:  
3       is an interest only mortgage with a future interest reset rate;  
4       has a reset mortgage interest rate that increases the interest rate;  
5       contains a payment option plan or a “pick a payment” plan;  
6       contains a negative amortization schedule;  
7       is a subprime mortgage;  
8       contains an enforceable prepayment penalty; or  
9       is a high cost home loan as defined by the “New Jersey Home  
10 Ownership Security Act of 2002,” P.L.2003, c.64 (C.46:10B-28).

11       b. Upon filing of a complaint for foreclosure, and the beginning  
12 of the six month forbearance period, the borrower and creditor shall  
13 participate in mediation sponsored by the Administrative Office of  
14 the Courts.

15       c. If the borrower ceases to occupy the property at any time  
16 subsequent to the period of forbearance under this section, the  
17 creditor may notify the court, and upon notification the period of  
18 forbearance shall be deemed to have ended.

19       d. The provisions of this section shall expire two years  
20 following the effective date of P.L.     , c.     (pending before the  
21 Legislature as this bill).

22  
23       17. (New section) a. A creditor serving a notice of intention to  
24 foreclose on a mortgage on residential property in this State shall  
25 serve the public officer of the municipality in which the property is  
26 located, or, if the municipality has not designated a public officer  
27 pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal  
28 clerk, with a copy of the notice at the same time it is served on the  
29 owner of the property. In the event that the property being  
30 foreclosed is an affordable unit pursuant to the “Fair Housing Act,”  
31 then the creditor shall identify that the property is subject to the  
32 “Fair Housing Act.” The copy served on the public officer or  
33 municipal clerk shall include the full name and contact information  
34 of an individual located within the State who is authorized to accept  
35 service on behalf of the creditor.

36       b. If a residential property becomes vacant at any point  
37 subsequent to the creditor’s filing the notice of intention to  
38 foreclose, but prior to vesting of title in the creditor or any other  
39 third party, and the property is found to be a nuisance or in  
40 violation of any applicable State or local code, the local public  
41 officer or municipal clerk shall notify the creditor, which shall have  
42 the responsibility to abate the nuisance or correct the violation in  
43 the same manner and to the same extent as the title owner of the  
44 property, to such standard or specification as may be required by  
45 the public officer or municipal clerk.

46       c. If the municipality expends public funds in order to abate a  
47 nuisance or correct a violation on a residential property in situations  
48 in which the creditor was given notice pursuant to the provisions of

1 subsection b. of this section but failed to abate the nuisance or  
2 correct the violation as directed, the public officer or municipal  
3 clerk shall have the same recourse against the creditor as it would  
4 have against the title owner of the property, including but not  
5 limited to the recourse provided under section 23 of P.L.2003, c.210  
6 (C.55:19-100).

7  
8 18. (New section) A consumer reporting agency or any other  
9 business entity shall not sell to, or exchange with, a third party,  
10 unless the third party holds an existing mortgage loan on the  
11 property, the existence of a credit inquiry arising from a consumer  
12 mortgage loan application when the sale or exchange is triggered by  
13 an inquiry made in response to an application for credit. This  
14 section shall not apply to information provided by a mortgage  
15 originator or servicer to a third party providing services in  
16 connection with the mortgage loan origination or servicing; a  
17 proposed or actual securitization; secondary market sale, including  
18 sales of servicing rights; or similar transaction related to the  
19 consumer mortgage loan.

20  
21 19. Section 8 of P.L.1983, c.530 (C.55:14K-8) is amended to  
22 read as follows:

23 8. a. Admission to housing projects constructed, improved or  
24 rehabilitated under this act shall be limited to families whose gross  
25 aggregate family income at the time of admission does not exceed  
26 six times the annual rental or carrying charges, including the value  
27 or cost to them of heat, light, water, sewerage, parking facilities and  
28 cooking fuel, of the dwellings that may be furnished to such  
29 families, or seven times those charges if there are three or more  
30 dependents. There may be included in the carrying charges to any  
31 family for residence in any mutual housing project constructed,  
32 improved or rehabilitated with a loan from the agency an amount  
33 equal to 6% of the original cash investment of the family in the  
34 mutual housing project and, to the extent authorized by the agency  
35 where not included in the carrying charges, the value or cost of  
36 repainting the apartment and replacing any fixtures or appliances.  
37 Notwithstanding the provisions of this section, no family or  
38 individual shall be eligible for admission to any housing project  
39 constructed, improved or rehabilitated with a loan from the agency,  
40 whose gross aggregate family income exceeds such amount as shall  
41 be established from time to time by the agency, by rules or  
42 regulations promulgated hereunder; except that with respect to any  
43 project financed by an agency loan insured or guaranteed by the  
44 United States of America or any agency or instrumentality thereof,  
45 the agency may adopt the admission standards for such projects  
46 then currently utilized or required by the guarantor or insurer.

47 The provisions of this subsection shall not apply to any housing  
48 project that the agency determines is necessary to promote the long

1 term development and viability of a neighborhood and spur its  
2 revitalization or is situated in a qualified municipality that is  
3 constructed, improved or rehabilitated on or after the date upon  
4 which the commissioner determines that the municipality fulfills the  
5 definition of a qualified municipality pursuant to section 4 of  
6 P.L.2002, c.43 (C.52:27BBB-4).

7 b. The agency shall by rules and regulations provide for the  
8 periodic examination of the income of any person or family residing  
9 in any housing project constructed, improved or rehabilitated with a  
10 loan from the agency. If the gross aggregate family income of a  
11 family residing in a housing project increases and the ratio to the  
12 current rental or carrying charges of the dwelling unit becomes  
13 greater than the ratio prescribed for admission in subsection a. of  
14 this section but is not more than 25% above the family income so  
15 prescribed for admission to the project, the owner or managing  
16 agent of the housing project shall permit the family to continue to  
17 occupy the unit. The agency or (with the approval of the agency)  
18 the housing sponsor of any housing project constructed, improved  
19 or rehabilitated with a loan from the agency, may terminate the  
20 tenancy or interest of any family residing in the housing project  
21 whose gross aggregate family income exceeds by 25% or more the  
22 amount prescribed herein and which continues to do so for a period  
23 of six months or more; but no tenancy or interest of any such family  
24 in any such housing project shall be terminated except upon  
25 reasonable notice and opportunity to obtain suitable alternate  
26 housing, in accordance with rules and regulations of the agency;  
27 and any such family, with the approval of the agency, may be  
28 permitted to continue to occupy the unit, subject to payment of a  
29 rent or carrying charge surcharge to the housing sponsor in  
30 accordance with a schedule of surcharges fixed by the agency. The  
31 housing sponsor shall pay the surcharge to the municipality granting  
32 tax exemption, but only up to an amount that together with  
33 payments made to the municipality in lieu of taxes and for any land  
34 taxes equals 25% of the total rents or carrying charges of the  
35 housing project for the current and any prior years that the project  
36 has been in operation.

37 The provisions of this subsection shall not apply to any housing  
38 project situated in a qualified municipality that is constructed,  
39 improved or rehabilitated on or after the date upon which the  
40 commissioner determines that the municipality fulfills the definition  
41 of a qualified municipality pursuant to section 4 of P.L.2002, c.43  
42 (C.52:27BBB-4).

43 c. For projects on which the agency has made a loan and  
44 financed the loan with the proceeds of bonds issued prior to January  
45 1, 1973, any remainder of the surcharge, or the total surcharge if tax  
46 exemption has not been granted, shall be paid into the housing  
47 finance fund securing the bonds issued to finance the project for the  
48 use of the agency; for projects financed on or after January 1, 1973,

1 any remainder of the surcharge, or the total surcharge if tax  
2 exemption has not been granted, shall be paid to the agency.

3 d. Any family residing in a mutual housing project required to  
4 remove from the project because of excessive income as herein  
5 provided shall be discharged from liability on any note, bond or  
6 other evidence of indebtedness relating thereto and shall be  
7 reimbursed, in accordance with the rules of the agency, for all sums  
8 paid by the family to the housing sponsor on account of the  
9 purchase of stock or debentures as a condition of occupancy or on  
10 account of the acquisition of title for such purpose.

11 The provisions of this subsection shall not apply to any housing  
12 project situated in a qualified municipality that is constructed,  
13 improved or rehabilitated on or after the date upon which the  
14 commissioner determines that the municipality fulfills the definition  
15 of a qualified municipality pursuant to section 4 of P.L.2002, c.43  
16 (C.52:27BBB-4).

17 e. The agency shall establish admission rules and regulations  
18 for any housing project financed in whole or in part by loans  
19 authorized hereunder which shall provide priority categories for  
20 persons displaced by urban renewal projects, highway programs or  
21 other public works, persons living in substandard housing, persons  
22 and families who, by reason of family income, family size or  
23 disabilities, have special needs, elderly persons and families living  
24 under conditions violative of minimum health and safety standards.

25 The provisions of this subsection shall not apply to any housing  
26 project situated in a qualified municipality that is constructed,  
27 improved or rehabilitated on or after the date upon which the  
28 commissioner determines that the municipality fulfills the definition  
29 of a qualified municipality pursuant to section 4 of P.L.2002, c.43  
30 (C.52:27BBB-4).

31 (cf: P.L.2002, c.108, s.15)

32

33 20. Section 2 of P.L.1988, c.29 (C.54A:6-22) is amended to read  
34 as follows:

35 2. Gross income shall not include payments and benefits directly  
36 received by a taxpayer under homeless persons' assistance  
37 programs, including but not limited to assistance in obtaining  
38 housing, temporary shelter and short-term financial assistance, as  
39 may be established pursuant to subsection h. of section 24 of P.L.  
40 1944, c. 85 (C. 52:27C-24), or benefits, including imputed income,  
41 received pursuant to the "Mortgage Stabilization and Relief Act,"  
42 P.L. , c. (C. ) (pending before the Legislature as this bill).

43 (cf: P.L.1988, c.29, s.2)

44

45 21. This act shall take effect immediately, but sections 3 through  
46 5, sections 7 through 12, and sections 14 through 20 shall remain  
47 inoperative until the first day of the third month next following the  
48 date of enactment.

STATEMENT

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The bill establishes the Mortgage Stabilization program and the Housing Assistance and Recovery Program. The bill charges the New Jersey Housing and Mortgage Finance Agency (agency) with administering both programs.

With regard to the Mortgage Stabilization Program component of the bill, the agency is authorized to offer non-amortizing second mortgage loans, not to exceed \$25,000, to promote the refinancing of "covered mortgages." Covered mortgages are defined as a first mortgage loan in imminent danger of foreclosure.

Program assistance is contingent upon a lender agreeing to refinance a covered mortgage into a new first mortgage amount that is less than the appraised value of the property at the time of refinancing and which results in an "affordable mortgage payment" for the homeowner. An affordable mortgage payment is defined as a payment equal to 33 percent of the homeowner's monthly gross income or the applicable percentage required for loan insurance, principal, interest, tax and insurance determined using traditional underwriting standards.

The bill directs the agency to provide assistance in the form of a non-amortizing (no monthly payment) second mortgage loan equal to one-half of the difference between the new first mortgage amount and the appraised value of the property, not exceeding \$25,000. The other half of the difference between the new first mortgage amount and the appraised value of the property is to be secured by a lien held by the lender, which the bill terms a "mortgage lender loan."

The bill provides that the program loan and the mortgage lender loan are required to have an interest rate and term identical to that of the new first mortgage loan and are both second in priority to the new first mortgage loan. Program loans and mortgage lender loans may be prepaid without penalty at any time. The program loan and mortgage lender loan are to be repaid on a proportional basis by the homeowner out of the net sale proceeds of the property. Until the program loan and mortgage lender loans are repaid, the homeowner will not be permitted to take cash-out refinancing, except for emergency repairs.

If a homeowner already has an existing subordinate mortgage prior to accepting program assistance, participation is contingent on the existing subordinate mortgage holders agreeing to take a subordinated mortgage position behind the program loan and mortgage lender loan. Additionally, the bill grants the agency the discretion to use the program loan to satisfy existing subordinate mortgages. Lenders are granted similar discretion to use the mortgage lender loan to satisfy the existing subordinate mortgage.

To qualify for assistance under the Mortgage Stabilization Program a homeowner's household income may not exceed 120

1 percent of the area median household income or the agency's  
2 Mortgage Revenue Bond Program income limits, whichever is  
3 greater. Additionally, a homeowner may not hold an interest in  
4 other residential real property at the time a program application is  
5 made. The bill also requires homeowners accepting program  
6 assistance to participate in agency approved household budget  
7 counseling sessions.

8 The property at stake must be an owner-occupied primary  
9 residence that is a single-family one-unit house; an attached, semi-  
10 detached, or detached house; a condominium unit; or an owner-  
11 occupied two- or three-unit house. Additionally, the property must  
12 be the principal dwelling of a homeowner for at least one year  
13 before applying for assistance under the Mortgage Stabilization  
14 Program.

15 Benefits received under the Mortgage Stabilization Program are  
16 not to be considered income for purposes of other State programs or  
17 the New Jersey gross income tax.

18 The bill appropriates \$25 million from the Long Term Obligation  
19 and Capital Expenditure Fund to the Mortgage Stabilization  
20 Program Fund, which is established by this bill, for purposes of  
21 providing assistance under the mortgage stabilization program. Up  
22 to five percent of the appropriation may be used for administering  
23 the program. Repayments of mortgage stabilization program loans  
24 are to be deposited in the Mortgage Stabilization Program Fund.

25 The bill also establishes the Housing Assistance and Recovery  
26 Program. The bill authorizes the New Jersey Housing and  
27 Mortgage Finance Agency to provide financial support to certain  
28 nonprofit and public entities to execute lease-purchase agreements  
29 with homeowners meeting certain income requirements and facing  
30 imminent danger of foreclosure. The lease-purchase agreements  
31 will enable homeowners to stay in their home while paying  
32 affordable rent, until such time as they are able to buy back the  
33 property. Eligible properties under the program include one-, two-  
34 or three-family dwellings which are used as the homeowner's  
35 household's primary residence.

36 The bill terms those nonprofit and public entities executing  
37 lease-purchase agreements as sponsors. The bill defines "sponsors"  
38 as: non-profit community development corporations, non-profit  
39 housing counseling organizations or public entities, including  
40 municipalities, counties or municipal or county authorities.

41 To receive financial support under the program a sponsor must  
42 be certified by the Commissioner of the Community Affairs as  
43 meeting a series of eligibility requirements. Sponsors must have  
44 prior experience in negotiating mortgage debt reduction and  
45 purchasing distressed properties. Sponsors are also required to have  
46 received a commitment from a regulated financial institution or  
47 government entity for a line of credit to purchase properties under a  
48 housing assistance and recovery program. Sponsors are required to



1 screen and assess the eligibility of homeowners to repurchase  
2 property and sustain mortgage payments. Additionally, sponsors  
3 must provide counseling to homeowners before and after the  
4 execution of a lease-purchase agreement. The counseling can be  
5 provided by trained foreclosure prevention and default mitigation  
6 counselors employed by the agency or through a contract with a  
7 U.S. Department of Housing and Urban Development (HUD)  
8 certified housing counseling agency.

9 The bill qualifies homeowner participation in the program based  
10 on a maximum income limit. A homeowner's household income  
11 may not exceed 120 percent of the area median household income  
12 or the agency's Mortgage Revenue Bond Program income limit,  
13 whichever is greater.

14 In creating the Housing Assistance and Recovery Program, the  
15 bill also establishes the Housing Assistance and Recovery Program  
16 Support Fund, from which the agency may allocate monies for: the  
17 appraisal, construction and rehabilitation of property; property tax  
18 and insurance payments; the difference in the purchase price and  
19 the appraised value of the property, not exceeding \$25,000; and any  
20 other activity the agency deems necessary to effectuate the  
21 program. The bill also specifies that no money from the fund is to  
22 be allocated for property purchases other than the difference in the  
23 purchase price and the appraised value of property, not exceeding  
24 \$25,000.

25 The bill appropriates \$15 million, from the Long Term  
26 Obligation and Capital Expenditure Fund, to the Housing  
27 Assistance and Recovery Program Support Fund for purposes of  
28 effectuating the program, of which five percent may be used for  
29 administering the program. The bill also directs the agency to  
30 conduct quarterly audits of all funds received and expended for the  
31 program. Within 60 days of the end of each State fiscal year, the  
32 agency is required to issue a year-end report that is to be provided  
33 to the commissioner of the DCA and the Legislature. The report is  
34 also to be made available on the DCA website.

35 The bill provides that lease-purchase agreements executed using  
36 funds from the program may not exceed a term of 36 months.  
37 Lease-purchase agreements are required to permit the homeowner  
38 and household members to remain in the property in exchange for  
39 an affordable rent, which is defined as no more than 33 percent of  
40 the household's gross monthly income. Lease-purchase agreements  
41 must also include the terms and conditions by which the sponsor  
42 shall convey the property back to the homeowner or other member  
43 of the household. The price at which the homeowner buys back the  
44 property is not to exceed the price at which the sponsor purchased  
45 the property and sponsor funded maintenance costs.

46 The bill authorizes the agency to promulgate rules and  
47 regulations to effectuate the Housing Assistance and Recovery  
48 Program.

1       The bill also provides that consumer reporting agencies, or any  
2 other business entity, may not sell or exchange with a third party  
3 the existence of a credit inquiry arising from a consumer mortgage  
4 loan application when the sale or exchange is triggered by an  
5 inquiry made in response to an application for credit. This  
6 prohibition does not apply to third parties holding an existing  
7 mortgage loan on the property giving rise to the application.

8       Additionally, the bill requires that a creditor who files a  
9 complaint for foreclosure in Superior Court is subject to a six-  
10 month forbearance period which prohibits the creditor from taking  
11 any steps towards removing the borrower from the property.  
12 During this six-month period, the creditor and borrower are to  
13 participate in mediation sponsored by Administrative Office of the  
14 Courts with the goal of entering into an agreement which allows the  
15 borrower to remain in the home with and affordable monthly  
16 mortgage payment.

17       The Department of Banking and Insurance is tasked with issuing  
18 a report on the department's website detailing the types of  
19 mortgages that have been the subject of complaints for foreclosure.

20       The bill also requires creditors who initiate foreclosure  
21 proceedings through a notice of intention to foreclose, pursuant to  
22 the "Fair Foreclosure Act," to provide notice to the municipality in  
23 which the property is located. The bill authorizes municipalities to  
24 take recourse against the creditors for failing to fulfill this  
25 responsibility in the same way a municipality may take action  
26 against a title owner of property, including the placement of a lien  
27 against the property.

28       The programs established by bill would remain inoperative until  
29 the first day of the third month after enactment.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3506

# STATE OF NEW JERSEY

DATED: DECEMBER 8, 2008

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3506.

The bill establishes the Mortgage Stabilization program and the Housing Assistance and Recovery Program. The bill charges the New Jersey Housing and Mortgage Finance Agency (agency) with administering both programs.

MORTGAGE STABILIZATION PROGRAM. With regard to the Mortgage Stabilization Program component of the bill, the agency is authorized to offer non-amortizing second mortgage loans, not to exceed \$25,000, to promote the refinancing of "covered mortgages." Covered mortgages are defined as a first mortgage loan in imminent danger of foreclosure.

Program assistance is contingent upon a lender agreeing to refinance a covered mortgage into a new first mortgage amount that is less than the appraised value of the property at the time of refinancing and which results in an "affordable mortgage payment" for the homeowner. An affordable mortgage payment is defined as a payment equal to 33 percent of the homeowner's monthly gross income or the applicable percentage required for loan insurance, principal, interest, tax and insurance determined using traditional underwriting standards.

The bill directs the agency to provide assistance in the form of a non-amortizing (no monthly payment) second mortgage loan equal to one-half of the difference between the new first mortgage amount and the appraised value of the property, not exceeding \$25,000. The other half of the difference between the new first mortgage amount and the appraised value of the property is to be secured by a lien held by the lender, which the bill terms a "mortgage lender loan."

The bill requires the program loan and the mortgage lender loan to have an interest rate and term identical to that of the new first mortgage loan and makes both second in priority to the new first mortgage loan. Program loans and mortgage lender loans may be prepaid without penalty at any time. The program loan and mortgage lender loan are to be repaid on a proportional basis by the homeowner out of the net sale proceeds of the property. Until the program loan and mortgage lender loans are repaid, the homeowner will not be permitted to take cash-out refinancing, except for emergency repairs.

If a homeowner already has an existing subordinate mortgage prior to accepting program assistance, the bill makes participation contingent on the existing subordinate mortgage holders agreeing to take a subordinated mortgage position behind the program loan and mortgage lender loan. Additionally, the bill grants the agency the discretion to use the program loan to satisfy existing subordinate mortgages. The bill grants lenders similar discretion to use the mortgage lender loan to satisfy the existing subordinate mortgage.

To qualify for assistance under the Mortgage Stabilization Program a homeowner's household income may not exceed 120 percent of the area median household income or the agency's Mortgage Revenue Bond Program income limits, whichever is greater. Additionally, a homeowner may not hold an interest in other residential real property at the time a program application is made. The bill also requires homeowners accepting program assistance to participate in agency approved household budget counseling sessions.

The property at stake must be an owner-occupied primary residence that is a single-family one-unit house; an attached, semi-detached, or detached house; a condominium unit; or an owner-occupied two- or three-unit house. Additionally, the property must be the principal dwelling of a homeowner for at least one year before applying for assistance under the Mortgage Stabilization Program.

Benefits received under the Mortgage Stabilization Program are not to be considered income for purposes of other State programs or the New Jersey gross income tax.

HOUSING ASSISTANCE AND RECOVERY PROGRAM. The bill also establishes the Housing Assistance and Recovery Program. The bill authorizes the New Jersey Housing and Mortgage Finance Agency to provide financial support to certain nonprofit and public entities to execute lease-purchase agreements with homeowners meeting certain income requirements and facing imminent danger of foreclosure. The lease-purchase agreements will enable homeowners to stay in their home while paying affordable rent, until such time as they are able to buy back the property. Eligible properties under the program include one-, two- or three-family dwellings which are used as the homeowner's household's primary residence.

The bill terms those nonprofit and public entities executing lease-purchase agreements as sponsors. The bill defines "sponsors" as: nonprofit community development corporations, non-profit housing counseling organizations or public entities, including municipalities, counties or municipal or county authorities.

To receive financial support under the program, the bill requires a sponsor to be certified by the Commissioner of the Community Affairs as meeting a series of eligibility requirements. Sponsors must have prior experience in negotiating mortgage debt reduction and purchasing distressed properties. Sponsors are also required to have received a commitment from a regulated financial institution or

government entity for a line of credit to purchase properties under a housing assistance and recovery program. Sponsors are required to screen and assess the eligibility of homeowners to repurchase property and sustain mortgage payments. Additionally, sponsors must provide counseling to homeowners before and after the execution of a lease-purchase agreement. The counseling can be provided by trained foreclosure prevention and default mitigation counselors employed by the agency or through a contract with a U.S. Department of Housing and Urban Development certified housing counseling agency.

The bill qualifies homeowner participation in the program based on a maximum income limit. A homeowner's household income may not exceed 120 percent of the area median household income or the agency's Mortgage Revenue Bond Program income limit, whichever is greater.

In creating the Housing Assistance and Recovery Program, the bill also establishes the Housing Assistance and Recovery Program Support Fund, from which the agency may allocate monies for: the appraisal, construction and rehabilitation of property; property tax and insurance payments; the difference in the purchase price and the appraised value of the property, not exceeding \$25,000; and any other activity the agency deems necessary to effectuate the program. The bill also specifies that no money from the fund is to be allocated for property purchases other than the difference in the purchase price and the appraised value of property, not exceeding \$25,000.

The bill provides that lease-purchase agreements executed using funds from the program may not exceed a term of 36 months. Lease-purchase agreements are required to permit the homeowner and household members to remain in the property in exchange for an affordable rent, which the bill defines as no more than 33 percent of the household's gross monthly income. Lease-purchase agreements must also include the terms and conditions by which the sponsor shall convey the property back to the homeowner or other member of the household. The price at which the homeowner buys back the property is not to exceed the price at which the sponsor purchased the property and sponsor funded maintenance costs.

The bill authorizes the agency to promulgate rules and regulations to effectuate the Housing Assistance and Recovery Program.

The bill also provides that consumer reporting agencies, or any other business entity, may not sell or exchange with a third party the existence of a credit inquiry arising from a consumer mortgage loan application when the sale or exchange is triggered by an inquiry made in response to an application for credit. This prohibition does not apply to third parties holding an existing mortgage loan on the property giving rise to the application.

Additionally, the bill requires that a creditor who files a complaint for foreclosure in Superior Court is subject to a six-month forbearance period which prohibits the creditor from taking any steps towards

removing the borrower from the property. During this six-month period, the creditor and borrower are to participate in mediation sponsored by Administrative Office of the Courts with the goal of entering into an agreement which allows the borrower to remain in the home with an affordable monthly mortgage payment.

The bill requires the Department of Banking and Insurance to issue a report on the department's website detailing the types of mortgages that have been the subject of complaints for foreclosure.

The bill also requires creditors who initiate foreclosure proceedings through a notice of intention to foreclose, pursuant to the "Fair Foreclosure Act," to provide notice to the municipality in which the property is located. The bill authorizes municipalities to take recourse against the creditors for failing to fulfill this responsibility in the same way a municipality may take action against a title owner of property, including the placement of a lien against the property.

The programs established by bill would remain inoperative until the first day of the third month after enactment.

As reported by the committee, this bill is identical to Senate Bill No.1599 (SCS), as amended and reported by the committee.

**FISCAL IMPACT:**

The bill appropriates \$40 million from the Long Term Obligation and Capital Expenditure Fund, \$25 million to the Mortgage Stabilization Program Fund and \$15 million to the Housing Assistance and Recovery Program (HARP) Support Fund. Both programs will be administered by the New Jersey Housing and Mortgage Finance Agency (NJHMFA). The OLS notes that the bill allows the NJHMFA to use five percent of the monies allocated to each program for administrative purposes. Accordingly, \$1.25 million of the funds appropriated to the Mortgage Stabilization Program and \$750,000 of the funds appropriated to the HARP Support Fund may be used for administrative purposes.

The OLS also notes that this bill will result in an indeterminate cost to municipal governments. Under the provisions of the bill establishing the HARP, a creditor serving a residential property owner with a notice of intention to foreclose on a mortgage is also required to serve a copy of the notice on the public officer of the municipality in which the real property is located, or the municipal clerk. The bill also requires the abatement of a nuisance or violation of State or local code by the creditor after notice by the municipality, and gives the municipality recourse against the creditor if a nuisance or violation is not abated after the creditor is given notice. The OLS cannot determine with any degree of certainty the possible fiscal impact to a municipality of performing any ministerial function related to maintaining foreclosure notices on file, notifying a creditor of the need to abate a violation or nuisance, or taking recourse against a creditor that does not abate a noticed violation or nuisance.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 3506**  
**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

DATED: DECEMBER 17, 2008

**SUMMARY**

- Synopsis:** “Mortgage Stabilization and Relief Act”; creates Mortgage Stabilization and Relief Program and Housing Assistance and Recovery Program; creates additional requirements on creditor foreclosing mortgage; appropriates \$40 million from “Long Term Obligation and Capital Expenditure Fund.”
- Type of Impact:** Decrease in appropriation for “Long Term Obligation and Capital Expenditure Fund” and indeterminate municipal cost.
- Agencies Affected:** New Jersey Housing and Mortgage Finance Agency and municipal governments.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>		\$40 million	
<b>Local Cost</b>		Indeterminate municipal cost	

- The Office of Legislative Services (OLS) has determined that this bill would result in a cost of \$40 million from the “Long Term Obligation and Capital Expenditure Fund.” Under the bill, \$25 million would be used to establish the Mortgage Stabilization Program and \$15 million would be used to establish the Housing Assistance and Recovery Program (HARP). Both of these programs would administered by the New Jersey Housing and Mortgage Finance Agency (NJHMFA).
- The bill allows the NJMFA to use five percent of the monies allocated to each program for administrative purposes. Accordingly, \$1.25 million of the funds appropriated to the Mortgage Stabilization Program and \$750,000 of the funds appropriated to the HARP may be used for administrative purposes.
- The OLS cannot determine with any degree of plausibility or certainty the possible fiscal impact to a municipality of performing any ministerial function related to maintaining foreclosure notices on file, notifying a creditor of the need to abate a violation or nuisance, or taking recourse against a creditor that does not abate a noticed violation or nuisance.

## **BILL DESCRIPTION**

Assembly Bill No. 3506 of 2008 establishes the Mortgage Stabilization Program and the HARP, to be administered by the NJHMFA. The bill appropriates a total of \$40 million from the “Long Term Obligation and Capital Expenditure Fund” for both programs; \$25 million for the Mortgage Stabilization Program and \$15 million for the HARP. The goal of the Mortgage Stabilization Program is to assist homeowners and lenders willing to refinance covered mortgages in order to ensure that the homeowner has an affordable mortgage payment. Assistance would be provided in the form of a non-amortizing (no monthly payment) second mortgage loan equal to one-half of the difference between the new first mortgage amount and the appraised value of the property, not exceeding \$25,000. The other half of the difference between the new first mortgage amount and the appraised value of the property would be secured by a lien held by the lender.

The HARP would provide financial support to certain nonprofit and public entities to execute lease-purchase agreements with homeowners who meet certain income requirements and face imminent danger of foreclosure. The lease-purchase agreements will enable homeowners to stay in their homes while paying affordable rent until such time as they are able to buy back the property. The nonprofit and public entities must meet a series of eligibility requirements in order to receive financial support from the HARP. HARP monies may be used for the appraisal, construction, and rehabilitation of the property, property tax and insurance payments, the difference in the purchase price and the appraised value of the property (not exceeding \$25,000), and any other activity the agency deems necessary to effectuate the program.

In order to qualify for assistance from either the Mortgage Stabilization Program or the HARP, a homeowner’s household income may not exceed 120 percent of the area median household income or the agency’s Mortgage Revenue Bond Program income limit, whichever is greater. Finally, this bill extends the “six times” test regarding the income eligibility of families admitted to housing programs constructed, improved, or rehabilitated pursuant to section 8 of P.L.1983, c.530, the “New Jersey Housing and Mortgage Finance Law of 1983,” to any housing project the NJHMFA determines is necessary to promote the long term development and viability of a neighborhood and spur its revitalization.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS has determined that this bill would result in a cost of \$40 million from the “Long Term Obligation and Capital Expenditure Fund.” Of these funds, \$25 million would be used to establish the Mortgage Stabilization Program and \$15 million would be used to establish the HARP. Both programs would be administered by the NJHMFA. The OLS notes that the bill allows the NJHMFA to use five percent of the monies allocated to each program for administrative purposes. Accordingly \$1.25 million of the funds appropriated to the Mortgage Stabilization Program and \$750,000 of the funds appropriated to the HARP Support Fund may be used for administrative purposes. The OLS anticipates that some portion of the funds appropriated by this bill and awarded to program participants in the form of a loan will be repaid by program participants at some future time.



The OLS also notes that this bill would result in an indeterminate cost to municipal governments. Under the provisions of the bill establishing the HARP, a creditor serving a residential property owner with a notice of intention to foreclose on a mortgage is also required to serve a copy of the notice on the designated public officer of the municipality in which the real property is located, or the municipal clerk. The bill also requires the abatement of a nuisance or violation of State or local code by the creditor after notice by the municipality, and gives the municipality recourse against the creditor if a nuisance or violation is not abated after the creditor is given notice. The OLS cannot determine with any degree of plausibility or certainty the possible fiscal impact to a municipality of performing any ministerial function related to maintaining foreclosure notices on file, notifying a creditor of the need to abate a violation or nuisance, or taking recourse against a creditor that does not abate a noticed violation or nuisance.

*Section: Local Government*

*Analyst: Scott A. Brodsky  
Assistant Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).



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JON S. CORZINE  
*Governor*

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**For Immediate Release: For More Information:**

**Date:** January 09, 2009

Robert Corrales

**Phone:** 609-777-2600

Governor Corzine Signs Mortgage Stabilization Measures to Help Stem Foreclosures

*New programs aimed at keeping families in their homes*

**Trenton** - To reduce foreclosures and further assist New Jersey homeowners at risk of losing their homes, Governor Jon S. Corzine today signed the Mortgage Stabilization and Relief Act into law. The legislation, (S-1599/A3506), which is another component of the Governor's Economic Assistance and Recovery Plan, establishes the Mortgage Stabilization Program and the Housing Assistance and Recovery Program. It also imposes additional requirements on lenders foreclosing on mortgages. The New Jersey Housing and Mortgage Finance Agency (HMFA) will be responsible for the administration of the two new programs.

"The magnitude of the foreclosure crisis has made many New Jerseyans feel that maintaining their dream of homeownership is beyond their control. It shouldn't be," said Governor Corzine. "The deep recession has caused some New Jerseyans to lose their jobs and their ability to pay their mortgages, creating the all-too-inevitable march toward

foreclosure.

"We must have options for the sake of stabilizing the entire financial system as well as individual homeowners. The programs established through this bill signing, build upon the actions we have taken in partnership with the Legislature and reaffirm our commitment to keeping homeowners and their families in their homes where they belong."

Through the Mortgage Stabilization Program, HMFA will promote modifying or refinancing of first mortgage loans in imminent danger of foreclosure to qualified homeowners by offering non-amortizing (no monthly payment) second mortgage loans. The State will provide a mortgage stabilization loan of up to \$25,000 to match the lender's contribution in an effort to bring the mortgage payment down to an amount that the borrower can afford. Both the State's and lender's assistance loans will be repaid by the homeowner upon sale of the property.

To qualify for assistance, a homeowner's household income may not exceed 120 percent of the area median household income or the HMFA's Mortgage Program income limits, which vary by County, but are as high as \$135,380. The lender must agree to write the mortgage down to the current value of the home. Homeowners who accept program assistance are required to participate in agency approved household budget counseling sessions. Funding for the Mortgage Stabilization Program is appropriated at \$25 million through Long Term Obligation and Capital Expenditure Fund.

"There are an increasing number of households that are becoming victims of foreclosures," said Senator Ronald L. Rice, (D-Essex). "These foreclosures have created an economic downturn in New Jersey. When a home is foreclosed upon, it isn't just families who are affected. We have seen, first hand, that the negative impact creates a domino effect that leads to an increase in crime and a decrease in area property values."

A second program, the Housing Assistance and Recovery Program (HARP), will help homeowners who face imminent foreclosure stay in their home while paying affordable rent until the homeowner is able to buy back the property. HMFA will provide financial support through the Housing Assistance and Recovery Program Support Fund to certain nonprofit and public entities to execute lease-purchase agreements with existing homeowners who meet program requirements. \$15 million from the Long Term Obligation and Capital Expenditure Fund is appropriated for the program.

"New Jersey's deepening mortgage crisis makes it imperative that we provide direct assistance to ensure families can stay in their homes and out of foreclosure," said Assembly Majority Leader Bonnie Watson Coleman (D-Mercer). "We need to open lines for borrowers and lenders to work together to preserve the dream of homeownership that is quickly becoming a nightmare for too many families."

Following separate legislation that the Governor signed last month, the Administrative Office of the Courts will provide mediation services between the homeowner and the creditor to assist the parties with entering into an agreement that allows the borrower to remain in the home with an affordable monthly mortgage payment.

Other new requirements will prohibit consumer reporting agencies from selling credit inquiries from consumer mortgage loan applications to third party entities. It does not apply to third parties holding an existing mortgage loan on a property.

"As the number of New Jersey homeowners facing foreclosure increases, so must our vigilance to provide a means for these families to keep their homes," said Assemblyman Jerry Green (D-Union).

The legislation also protects neighborhoods by requiring creditors who initiate foreclosure proceedings to notify municipalities where the foreclosed property is located. As a result, municipalities now have recourse against those creditors who fail to comply. In addition, the legislation supports a six-month forbearance period prohibiting creditors from taking steps to remove the borrower/homeowner from a property.

"The worsening mortgage crisis is forcing the state to navigate uncharted and increasingly turbulent waters," said Assemblyman Ralph Caputo (D-Essex). "It would be a failure of leadership to sit idly by and let entire neighborhoods

fall overboard."

"Governor Corzine, with assistance from the Legislature, has taken a much needed step today in assisting New Jersey residents during these difficult times," said Department of Community Affairs Commissioner Joseph Doria. "HMFA, under the leadership of Marge Della Vecchia, will continue its great work on foreclosure assistance and prevention through these programs."

Primary sponsors of S-1599 were Senator Ronald L. Rice (D-Essex) and Senator Dana L. Redd (D-Camden, Gloucester).

In the Assembly, A-3506 sponsors included Assembly Majority Leader Bonnie Watson Coleman (D-Mercer), Assemblymen Jerry Green (D-Middlesex, Somerset, Union), Ralph R. Caputo (D-Essex), Ruben J. Ramos, Jr., (D-Hudson), Joseph Vas (D-Middlesex) and L. Harvey Smith (D-Hudson) and Assemblywomen Mila M. Jasey (D-Essex) and Nellie Pou (D-Bergen, Passaic)

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Photos from Governor Corzine's public events are available in the Governor's Newsroom section on the State of New Jersey web page, <http://www.nj.gov/governor/news/>

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