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[Second Reprint]

**ASSEMBLY, No. 4316**

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**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

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INTRODUCED DECEMBER 3, 2009

**Sponsored by:**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex)**

**Assemblywoman ELEASE EVANS**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblyman Schaer, Senators Cunningham, Stack and Turner**

**SYNOPSIS**

Redirects appropriations in "Mortgage Stabilization and Relief Act" (2009) to provide more effective foreclosure relief to homeowners.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on January 7, 2010.



**(Sponsorship Updated As Of: 1/12/2010)**

1 AN ACT concerning neighborhood stabilization and amending and  
2 supplementing P.L.2008, c.127.

3

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

6

7 1. Section 3 of P.L.2008, c.127 (C.55:14K-84) is amended to  
8 read as follows:

9 3. Sections 3 through 7 of P.L.2008, c.127 (C.55:14K-84 et  
10 seq.) and sections 4 and 5 of P.L. , c. (C. ) (pending before  
11 the Legislature as this bill) shall be known and may be referred to  
12 as the "Mortgage and Neighborhood Stabilization Financing  
13 Assistance Program."

14 (cf: P.L.2008, c.127, s.3)

15

16 2. Section 4 of P.L.2008, c.127 (C.55:14K-85) is amended to  
17 read as follows:

18 4. As used in sections 4 through 7 of P.L.2008, c.127  
19 (C.55:14K-84 et seq.) and sections 4 and 5 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill):

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

28 "Agency" means the New Jersey Housing and Mortgage Finance  
29 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et  
30 seq.).

31 "Community Development Financial Institution" means any  
32 entity designated by the United States Department of the Treasury  
33 as a Community Development Financial Institution pursuant to 12  
34 CFR 1805.

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

37 "Eligible property" means any residential property that is vacant,  
38 is or has been the subject of mortgage or tax foreclosure  
39 proceedings, and is located in an area that has been impacted by  
40 foreclosures which is the subject of a program of neighborhood  
41 stabilization.

42 "Homeowner" means the individual who holds legal title to a  
43 residential real property that is the individual's principal dwelling  
44 and is in imminent danger of foreclosure.

**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 January 4, 2010.

<sup>2</sup>Assembly floor amendments adopted January 7, 2010.

1 "Lender" means any lawfully constituted mortgage lender,  
2 mortgage investor or mortgage loan servicer that owns and is  
3 willing to refinance or is authorized to negotiate the terms of the  
4 homeowner's mortgage.

5 "Maximum income limit" means a household income that does  
6 not exceed 120% of the area median income, as defined for New  
7 Jersey in guidelines published annually by the United States  
8 Department of Housing and Urban Development, or that does not  
9 exceed the New Jersey Housing and Mortgage Finance Agency's  
10 Mortgage Revenue Bond Program income limits, whichever is  
11 greater.

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

16 "Mortgage Stabilization Program" or "program" means a  
17 financing program established pursuant to section 5 of P.L.2008,  
18 c.127 (C.55:14K-86).

19 "Mortgage stabilization program loan" means the loan provided  
20 to the homeowner by the agency pursuant to section 5 of P.L.2008,  
21 c.127 (C.55:14K-86).

22 "Program of neighborhood stabilization" means a concerted  
23 program to stabilize a neighborhood which has been impacted  
24 negatively by foreclosures or by vacant property, including, but not  
25 limited to, any program being carried out with federal funds  
26 provided by the United States Department of Housing and Urban  
27 Development or that is the subject of a comprehensive  
28 neighborhood stabilization plan.

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

35 "Qualified entity" means a non-profit or public entity whose  
36 purposes include the acquisition and rehabilitation of residential  
37 property and which has demonstrated experience in carrying out  
38 such activities in the State of New Jersey.

39 (cf: P.L.2008, c.127, s.4)

40

41 3. Section 5 of P.L.2008, c.127 (C.55:14K-86) is amended to  
42 read as follows:

43 5. There is established in the New Jersey Housing and  
44 Mortgage Finance Agency a Mortgage and Neighborhood  
45 Stabilization Financing Assistance Program and Mortgage and  
46 Neighborhood Stabilization Financing Assistance Program Fund for  
47 the purpose of assisting homeowners and lenders willing to  
48 refinance covered mortgages in order to ensure that the homeowner

1 has an affordable mortgage payment and assisting Community  
2 Development Financial Institutions to finance the acquisition and  
3 rehabilitation of eligible properties. **【The program shall meet the**  
4 **following requirements:】**

5 a. **【Program assistance shall not be made available unless a**  
6 **lender modifies or refinances the homeowner's mortgage loan so**  
7 **that the new first mortgage loan amount:**

- 8 (1) results in an affordable mortgage payment; and  
9 (2) results in a new first mortgage loan amount that is less than  
10 the appraised value of the property at the time of the modification  
11 or refinancing.】 (Deleted by amendment, P.L. , c. .) (pending  
12 before the Legislature as this bill)

13 b. **【The program shall provide:**

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

21 (2) a mortgage lender loan.

22 Loans made pursuant to this subsection shall share a co-equal  
23 second mortgage position with each other.】 (Deleted by  
24 amendment, P.L. , c. .) (pending before the Legislature as this  
25 bill)

26 c. **【The mortgage stabilization program loan and the mortgage**  
27 **lender loan shall each have an interest rate and term identical to the**  
28 **interest rate and term of the new first mortgage loan.】** (Deleted by  
29 amendment, P.L. , c. .) (pending before the Legislature as this  
30 bill)

31 d. **【Mortgage stabilization program loans and mortgage lender**  
32 **loans may be prepaid at any time without penalty and shall be**  
33 **repaid on a proportional basis by the homeowner out of the net sale**  
34 **proceeds from the sale of the property.】** (Deleted by amendment,  
35 P.L. , c. .) (pending before the Legislature as this bill)

36 e. **【The homeowner shall not be permitted to take cash-out**  
37 **refinances, except for agency approved emergency repairs or unless**  
38 **the mortgage stabilization program loan and the mortgage lender**  
39 **loan are repaid in full.】** (Deleted by amendment, P.L. , c. .)  
40 (pending before the Legislature as this bill)

41 f. **【In order to be eligible to participate in the program, the**  
42 **homeowner must not exceed the maximum income limits as defined**  
43 **in section 4 of P.L.2008, c.127 (C.55:14K-85).】** (Deleted by  
44 amendment, P.L. , c. .) (pending before the Legislature as this  
45 bill)

- 1 g. **【The homeowner may not hold any interest in other**  
2 **residential real property at the time the application to participate in**  
3 **the program is made.】** (Deleted by amendment, P.L. , c. .)  
4 (pending before the Legislature as this bill)
- 5 h. **【If a homeowner has an existing subordinate mortgage loan**  
6 **held by one or more entities, the holder of the subordinate lien must**  
7 **agree to take subordinated mortgage position behind the mortgage**  
8 **stabilization program loan and the mortgage lender loan.】** (Deleted  
9 by amendment, P.L. , c. .) (pending before the Legislature as  
10 this bill)
- 11 i. **【If the property is subject to an existing subordinate**  
12 **mortgage the mortgage stabilization program loan may, at the**  
13 **discretion of the agency, be used to satisfy that mortgage, or the**  
14 **mortgage lender loan may, at the discretion of the mortgage lender,**  
15 **be used to satisfy an existing subordinate mortgage, or both.】**  
16 (Deleted by amendment, P.L. , c. .) (pending before the  
17 Legislature as this bill)
- 18 j. **【Homeowners must participate in budget counseling**  
19 **sessions approved by the agency in order to be eligible for the**  
20 **program.】** (Deleted by amendment, P.L. , c. .) (pending before  
21 the Legislature as this bill)
- 22 k. **【Repayments of mortgage stabilization program loans shall**  
23 **be deposited into the Mortgage Stabilization Program Fund.】**  
24 (Deleted by amendment, P.L. , c. .) (pending before the  
25 Legislature as this bill)
- 26 l. **【Benefits directly or indirectly received by a homeowner**  
27 **under the Mortgage Stabilization Program shall not be treated as**  
28 **income in determining eligibility requirements for other State**  
29 **programs and payments and benefits directly or indirectly received**  
30 **by a homeowner who is a taxpayer shall not be treated as income**  
31 **for New Jersey gross income tax purposes pursuant to section 2 of**  
32 **P.L.1988, c.29 (C.54A:6-22).】** (Deleted by amendment,  
33 P.L. , c. .) (pending before the Legislature as this bill)  
34 (cf: P.L.2008, c.127, s.5)
- 35
- 36 <sup>2</sup>**【4.(New section) Mortgage stabilization loans made under this**  
37 **section shall meet the following requirements:**
- 38 a. Program assistance shall not be made available unless a  
39 lender modifies or refinances the homeowner's mortgage loan so  
40 that the new first mortgage loan amount:
- 41 (1) results in an affordable mortgage payment; and  
42 (2) results in a new first mortgage loan amount that is less than  
43 the appraised value of the property at the time of the modification  
44 or refinancing.
- 45 b. The program shall provide:
- 46 (1) a mortgage stabilization program loan that is a non-  
47 amortizing (no monthly payment) second mortgage loan equal to

1 one-half of the difference between the new first mortgage loan  
2 amount and the appraised value of the subject property. The  
3 available funds for such loan shall not exceed \$25,000 per loan, and  
4 the proceeds of the loan shall be provided to the covered mortgage  
5 lender; and  
6 (2) a mortgage lender loan.  
7 Loans made pursuant to this subsection shall share a co-equal  
8 second mortgage position with each other.  
9 c. The mortgage stabilization program loan and the mortgage  
10 lender loan shall each have an interest rate and term identical to the  
11 interest rate and term of the new first mortgage loan.  
12 d. Mortgage stabilization program loans and mortgage lender  
13 loans may be prepaid at any time without penalty and shall be  
14 repaid on a proportional basis by the homeowner out of the net sale  
15 proceeds from the sale of the property.  
16 e. The homeowner shall not be permitted to take cash-out  
17 refinances, except for agency approved emergency repairs or unless  
18 the mortgage stabilization program loan and the mortgage lender  
19 loan are repaid in full.  
20 f. In order to be eligible to participate in the program, the  
21 homeowner must not exceed the maximum income limits as defined  
22 in section 4 of P.L.2008, c.127 (C.55:14K-85).  
23 g. The homeowner may not hold any interest in other  
24 residential real property at the time the application to participate in  
25 the program is made.  
26 h. If a homeowner has an existing subordinate mortgage loan  
27 held by one or more entities, the holder of the subordinate lien must  
28 agree to take subordinated mortgage position behind the mortgage  
29 stabilization program loan and the mortgage lender loan.  
30 i. If the property is subject to an existing subordinate mortgage  
31 the mortgage stabilization program loan may, at the discretion of  
32 the agency, be used to satisfy that mortgage, or the mortgage lender  
33 loan may, at the discretion of the mortgage lender, be used to satisfy  
34 an existing subordinate mortgage, or both.  
35 j. Homeowners must participate in budget counseling sessions  
36 approved by the agency in order to be eligible for the program.  
37 k. Repayments of mortgage stabilization program loans shall  
38 be deposited into the Mortgage and Neighborhood Stabilization  
39 Financing Assistance Program Fund.  
40 l. Benefits directly or indirectly received by a homeowner  
41 under the Mortgage and Neighborhood Stabilization Financing  
42 Assistance Program shall not be treated as income in determining  
43 eligibility requirements for other State programs and payments and  
44 benefits directly or indirectly received by a homeowner who is a  
45 taxpayer shall not be treated as income for New Jersey gross  
46 income tax purposes pursuant to section 2 of P.L.1988, c.29  
47 (C.54A:6-22).<sup>2</sup>



1       <sup>2</sup>[5.] 4.<sup>2</sup> (New section) The agency shall set aside all <sup>2</sup>[or  
2 part] \$10,800,000<sup>2</sup> of the funds appropriated to the Mortgage and  
3 Neighborhood Stabilization Financing Assistance Program Fund to  
4 be used for the purpose of financing the acquisition and  
5 rehabilitation of eligible properties by qualified entities subject to  
6 the following requirements:

7       a. <sup>1</sup>[No less than \$20 million] <sup>2</sup>[\$8 million<sup>1</sup>] \$8,600,000<sup>2</sup> of  
8 the funds appropriated to the Mortgage and Neighborhood  
9 Stabilization Financing Assistance Program Fund <sup>2</sup>[, or four-fifths  
10 of the remaining available balance, whichever is less,]<sup>2</sup> shall be  
11 used to provide loans or permanent loan capital to Community  
12 Development Financial Institutions for such purposes.

13       b. In order to be eligible to receive funds under this section, a  
14 Community Development Financial Institution <sup>2</sup>[must] shall<sup>2</sup>  
15 demonstrate <sup>2</sup>to the agency, in such form and manner as the agency  
16 shall prescribe:

17       (1)<sup>2</sup> that it is financially sound <sup>2</sup>[and];

18       (2)<sup>2</sup> that it has experience financing the acquisition and  
19 rehabilitation of housing in the State of New Jersey;

20       <sup>2</sup>(3) that it has a plan for the utilization of funds received under  
21 this section compliant with the requirements of subsection c. of this  
22 section and appropriate to further the acquisition and rehabilitation  
23 of eligible properties by qualified entities; and

24       (4) any other eligibility criteria as the agency may prescribe.<sup>2</sup>

25       c. <sup>2</sup>[The agency, or any] A<sup>2</sup> Community Development  
26 Financial Institution receiving funds under this section, shall use  
27 these funds to provide direct loans, establish lines of credit, or  
28 provide credit enhancements for loan pools or loans by third parties  
29 as may be appropriate to further the acquisition and rehabilitation of  
30 eligible properties by qualified entities.

31       d. <sup>2</sup>[The agency, or any] A<sup>2</sup> Community Development  
32 Financial Institution receiving funds under this section, shall  
33 maximize the extent to which those funds will leverage private  
34 financing.

35       e. All loans <sup>2</sup>made by Community Development Financial  
36 Institutions<sup>2</sup> under this section shall be secured by a mortgage on  
37 the subject property.

38       f. Community Development Financial Institutions receiving  
39 funds under this section shall adopt written loan criteria <sup>2</sup>as the  
40 agency may prescribe<sup>2</sup> for all loans made, which shall take into  
41 account the development capacity and financial soundness of the  
42 loan recipient, market conditions in the areas in which eligible  
43 properties are located, and the reuse potential of such properties.

44       g. <sup>2</sup>A<sup>2</sup> Community Development Financial <sup>2</sup>[Institutions]  
45 Institution<sup>2</sup> receiving funds under this section shall provide semi-  
46 annual reports to the agency <sup>2</sup>, in such form and manner as the

1 agency shall prescribe,<sup>2</sup> on activities carried out with those funds  
2 <sup>2</sup>and the compliance of the institution with the requirements of this  
3 section and the regulations adopted thereunder<sup>2</sup>.  
4

5 <sup>2</sup>5. (New section) Notwithstanding any provision of P.L.1968,  
6 c.410 (C.52:14B-1 et seq.) to the contrary, the agency may adopt  
7 immediately upon filing with the Office of Administrative Law  
8 such regulations as the agency deems necessary to implement the  
9 provisions of this act, which shall be effective for a period not to  
10 exceed 180 days following enactment of P.L. , c. (C. ) (pending  
11 before the Legislature as this bill) and which may thereafter be  
12 amended, adopted or readopted by the agency in accordance with  
13 the requirements of P.L.1968, c.410.<sup>2</sup>  
14

15 6. Section 7 of P.L.2008, c.127 is amended to read as follows:

16 7. Notwithstanding the provisions of P.L.2008, c.22 (C.52:9H-  
17 2.1 et al.), there is appropriated from the Long Term Obligation and  
18 Capital Expenditure Fund the sum of <sup>1</sup>["\$25,000,000]  
19 <sup>2</sup>["\$8,000,000<sup>1</sup>] \$10,800,000<sup>2</sup> to the Mortgage and Neighborhood  
20 Stabilization Financing Assistance Program Fund for the purposes  
21 of the Mortgage and Neighborhood Stabilization Financing  
22 Assistance Program, of which five percent may be used for the  
23 purposes of administering the program.  
24

25 <sup>1</sup>["14.] 7.<sup>1</sup> (New section) In addition to the uses specified for  
26 the Mortgage and Neighborhood Stabilization Financing Program  
27 Fund created by section 5 of P.L.2008, c.127 (C.55:14K-86) <sup>1</sup>["and  
28 for the Interim Financing and Housing Assistance and Support Fund  
29 created by section 10 of P.L.2008, c.127 (C.55:14K-90),"]<sup>1</sup> the  
30 agency <sup>1</sup>["may"] shall<sup>1</sup> use up to <sup>1</sup>["\$3,000,000 from each program]  
31 <sup>2</sup>["\$2,000,000 or one-fifth of the money"] \$2,200,000<sup>2</sup> in that<sup>1</sup> fund  
32 <sup>1</sup>["for the following purposes: (1)"] <sup>2</sup>["if the total in the fund is less  
33 than \$8,000,000<sup>1</sup>"]<sup>2</sup> to make grants to qualified non-profit agencies  
34 to support counseling <sup>1</sup>["and legal assistance"]<sup>1</sup> on behalf of owner-  
35 occupant households <sup>1</sup>["in foreclosure or"]<sup>1</sup> at risk of foreclosure <sup>1</sup>[";  
36 and (2) for the Mortgage Assistance Pilot Program, to supplement  
37 funds available for that program, with the division of the funds  
38 made available under this section between these two programs to be  
39 at the discretion of the agency"]<sup>1</sup> .  
40

41 <sup>1</sup>["8. Section 9 of P.L.2008, c.127 (C.55:14K-89) is amended to  
42 read as follows:

43 9. As used in sections 9 through 14 of P.L.2008, c.127  
44 (C.55:14K-89 et seq.) and sections 10 and 12 of  
45 P.L. , c. (C. ) (pending before the Legislature as this bill):

1 "Affordable rent" means monthly rent or lease payments that do  
2 not exceed 33% of the household's monthly average gross income.

3 "Agency" means the New Jersey Housing and Mortgage Finance  
4 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et  
5 seq.).

6 "Commissioner" means the Commissioner of Community  
7 Affairs.

8 "Community Development Financial Institution" means any  
9 entity designated by the United States Department of the Treasury  
10 as a Community Development Financial Institution pursuant to 12  
11 CFR 1805.

12 "Eligible household" means a household whose incomes does not  
13 exceed the maximum income limit as defined herein.

14 "Eligible property" means any residential property that is vacant,  
15 is or has been the subject of mortgage or tax foreclosure  
16 proceedings, and is located in an area that has been impacted by  
17 foreclosures which is the subject of a program of neighborhood  
18 stabilization.

19 "HARP property" means a one-, two- or three-family dwelling  
20 that is the primary residence of the household.

21 "Homeowner" means the individual who holds legal title to a  
22 residential real property that is the individual's principal dwelling  
23 and is in imminent danger of foreclosure.

24 "Household" means a homeowner and individuals who resided  
25 with the homeowner at the time the lease-purchase agreement was  
26 executed and continue to reside with the homeowner at the time the  
27 agreement of sale is executed.

28 "HUD" means the United States Department of Housing and  
29 Urban Development.

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

36 "Fund" means the Housing Assistance and Recovery Program  
37 Support Fund established by section 10 of P.L.2008, c.127  
38 (C.55:14K-90).

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

44 "Lender" means the owner of the homeowner's mortgage.

45 "Maximum income limit" means a household income that does  
46 not exceed 120% of the area median income, as defined for New  
47 Jersey in guidelines published annually by the United States  
48 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 "Program of neighborhood stabilization" means a concerted  
9 program to stabilize a neighborhood which has been impacted  
10 negatively by foreclosures or by vacant property, including, but not  
11 limited to, any program being carried out with federal funds  
12 provided by the United States Department of Housing and Urban  
13 Development or that is the subject of a comprehensive  
14 neighborhood stabilization plan.

15 "Qualified entity" means a non-profit or public entity whose  
16 purposes include the acquisition and rehabilitation of residential  
17 property and which has demonstrated experience in carrying out  
18 such activities in the State of New Jersey.

19 "Sponsor" means a non-profit community development  
20 corporation, a non-profit housing counseling organization, or a  
21 public entity, including a municipality, county, or a municipal or  
22 county authority.

23 "Trained foreclosure prevention and default mitigation  
24 counselor" means a housing counselor employed by a HUD  
25 certified housing counseling agency who has successfully  
26 completed a foreclosure prevention and default mitigation training  
27 course provided by a nationally recognized homeownership  
28 education and counseling organization such as course HO345d-rq  
29 "Foreclosure Intervention and Default Counseling Certification Part  
30 I" provided by the NeighborWorks America Center for  
31 Homeownership Education and Counseling.

32 (cf: P.L.2008, c.127, s.9)]<sup>1</sup>

33

34 <sup>1</sup>[9. Section 10 of P.L.2008, c.127 (C.55:14K-90) is amended to  
35 read as follows:

36 10. a. There is established in the New Jersey Housing and  
37 Mortgage Finance Agency **[a] an Interim Financing and Housing**  
38 **Assistance and [Recovery Program (HARP)] Support Fund**, for the  
39 purpose of providing support and aid to any sponsor who  
40 establishes a Housing Assistance and Recovery Program which  
41 meets the **[following] requirements of sections 10 or 11 of P.L. ,**  
42 **c. (C. ) (pending before the Legislature as this bill).** **[The**  
43 **sponsor shall:**

44 (1) upon application to the commissioner, be certified by the  
45 commissioner as eligible to participate in the Housing Assistance  
46 and Recovery Program;

- 1 (2) employ trained foreclosure prevention and default mitigation  
2 counselors or contract with a HUD certified counseling agency that  
3 employs trained foreclosure prevention and default mitigation  
4 counselors;
- 5 (3) provide counseling to the homeowner both before and after  
6 the execution of a lease-purchase agreement, which shall include  
7 contact information for legal services programs within the county  
8 where the property is located;
- 9 (4) screen and assess the eligibility of homeowners to repurchase  
10 the property and sustain the homeowner's mortgage payments;
- 11 (5) have prior experience in (a) negotiating mortgage debt  
12 reduction from lenders, and (b) the purchase of distressed  
13 properties; and
- 14 (6) receive a commitment from a regulated financial institution  
15 or a government entity for a line of credit or other financing  
16 mechanism to purchase properties under a housing assistance and  
17 recovery program.】
- 18 b. 【The lease-purchase agreement shall:
- 19 (1) include terms and conditions under which the sponsor shall  
20 convey the property to the homeowner at the expiration of the  
21 agreed upon use and occupancy period;
- 22 (2) enable the homeowner to continue to live in the property  
23 during the use and occupancy period for an affordable rent; and
- 24 (3) include a provision that the property will be sold back to the  
25 homeowner at a price not to exceed the price at which the sponsor  
26 purchased the property, plus any reasonable sponsor funded repair  
27 and maintenance costs.】 (Deleted by amendment, P.L. , c. .)  
28 (pending before the Legislature as this bill)
- 29 c. 【Monies from the fund may be allocated solely for:
- 30 (1) appraisal of the property to determine current market value;
- 31 (2) construction and rehabilitation of the property to ensure  
32 compliance with all codes and standards;
- 33 (3) payment of property taxes accrued during the sponsor's  
34 ownership of the property;
- 35 (4) maintenance of property insurance, including, but not limited  
36 to landlord liability and fire insurance coverage;
- 37 (5) payment of no more than \$25,000 toward the difference  
38 between the appraised value and the purchase price of the property;  
39 and
- 40 (6) any other activity the agency deems necessary to effectuate  
41 the purposes of the program.】 (Deleted by amendment,  
42 P.L. , c. .) (pending before the Legislature as this bill)
- 43 d. 【No money allocated from the fund shall be used for the  
44 purchase of real property, other than as provided for in paragraph  
45 (5) of subsection c. of this section.】 (Deleted by amendment,  
46 P.L. , c. .) (pending before the Legislature as this bill)

1 e. [The agency shall conduct a quarterly audit of all funds  
2 received and expended for the program. The agency shall issue an  
3 annual report at the end of the State fiscal year detailing the result  
4 of the quarterly audits for the prior State fiscal year. The annual  
5 report shall be completed no more than 60 days after the end of the  
6 State fiscal year. The annual report shall be provided to the  
7 commissioner and, pursuant to section 2 of P.L.1991, c.164  
8 (C.52:14-19.1), to the Legislature and made available to the public  
9 on the Department of Community Affairs website.] (Deleted by  
10 amendment, P.L. , c. .) (pending before the Legislature as this  
11 bill)  
12 (cf: P.L.2008, c.127, s.10)]<sup>1</sup>  
13

14 <sup>1</sup>[10. (New section) a. In order to participate in the Housing  
15 Assistance and Recovery Program a sponsor shall:

16 (1) upon application to the commissioner, be certified by the  
17 commissioner as eligible to participate in the Housing Assistance  
18 and Recovery Program;

19 (2) employ trained foreclosure prevention and default mitigation  
20 counselors or contract with a HUD certified counseling agency that  
21 employs trained foreclosure prevention and default mitigation  
22 counselors;

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

27 (4) screen and assess the eligibility of homeowners to repurchase  
28 the HARP property and sustain the homeowner's mortgage  
29 payments;

30 (5) have prior experience in (a) negotiating mortgage debt  
31 reduction from lenders, and (b) the purchase of distressed  
32 properties; and

33 (6) receive a commitment from a regulated financial institution  
34 or a government entity for a line of credit or other financing  
35 mechanism to purchase properties under a housing assistance and  
36 recovery program.

37 b. The lease-purchase agreement shall:

38 (1) include terms and conditions under which the sponsor shall  
39 convey the HARP property to the homeowner at the expiration of  
40 the agreed upon use and occupancy period;

41 (2) enable the homeowner to continue to live in the HARP  
42 property during the use and occupancy period for an affordable  
43 rent; and

44 (3) include a provision that the HARP property will be sold back  
45 to the homeowner at a price not to exceed the price at which the  
46 sponsor purchased the property, plus any reasonable sponsor funded  
47 repair and maintenance costs.

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

- 1 (1) appraisal of the HARP property to determine current market
  - 2 value;
  - 3 (2) construction and rehabilitation of the HARP property to
  - 4 ensure compliance with all codes and standards;
  - 5 (3) payment of property taxes accrued during the sponsor's
  - 6 ownership of the HARP property;
  - 7 (4) maintenance of property insurance, including, but not limited
  - 8 to landlord liability and fire insurance coverage;
  - 9 (5) payment of no more than \$25,000 toward the difference
  - 10 between the appraised value and the purchase price of the HARP
  - 11 property; and
  - 12 (6) any other activity the agency deems necessary to effectuate
  - 13 the purposes of the program.
- 14 d. No money allocated from the fund shall be used for the
- 15 purchase of real property, other than as provided for in paragraph
- 16 (5) of subsection c. of this section.
- 17 e. The agency shall conduct a quarterly audit of all funds
- 18 received and expended for the program. The agency shall issue an
- 19 annual report at the end of the State fiscal year detailing the result
- 20 of the quarterly audits for the prior State fiscal year. The annual
- 21 report shall be completed no more than 60 days after the end of the
- 22 State fiscal year. The annual report shall be provided to the
- 23 commissioner and, pursuant to section 2 of P.L.1991, c.164
- 24 (C.52:14-19.1), to the Legislature and made available to the public
- 25 on the Department of Community Affairs website.】<sup>1</sup>

26

27 <sup>1</sup>【11. Section 11 of P.L.2008, c.127 (C.55:14K-91) is amended

28 to read as follows:

29 A sponsor who receives monies from the fund for a Housing

30 Assistance and Recovery Program and the homeowner shall execute

31 a lease-purchase agreement, not to exceed a term of 36 months, that

32 includes the following:

- 33 a. The terms and conditions under which the sponsor shall
- 34 convey the HARP property to the homeowner or other member of
- 35 the household upon termination of the use and occupancy period;
- 36 b. Provisions permitting the homeowner and other members of
- 37 the household to remain in the HARP property during the use and
- 38 occupancy period in exchange for an affordable rent; and
- 39 c. A provision that the HARP property will be sold back to the
- 40 homeowner or to another member of the household at a price not to
- 41 exceed the price at which the sponsor purchased the property plus
- 42 reasonable sponsor maintenance costs.

43 (cf: P.L.2008, c.127, s.11)】<sup>1</sup>

44

45 <sup>1</sup>【12. (New section) The agency shall set aside all or part of the

46 funds appropriated to the Housing Assistance and Interim Financing

47 Support Fund to be used for the purpose of providing interim

48 financing loans to qualified entities on eligible properties that have

1 been rehabilitated under a program of neighborhood stabilization  
2 and which are to be rented to eligible households either under a  
3 rental leasehold or a lease-purchase agreement.

4 a. No less than \$12 million of the funds appropriated to the  
5 Housing Assistance and Interim Financing Support Fund, or four-  
6 fifths of the remaining balance, whichever is less, shall be used to  
7 provide loans or permanent loan capital to Community  
8 Development Financial Institutions for such purposes.

9 b. In order to be eligible to receive funds under this section, the  
10 Community Development Financial Institution must demonstrate  
11 that it is financially sound and that it has experience financing  
12 housing in the State of New Jersey;

13 c. The agency or any Community Development Financial  
14 Institution receiving funds under this section shall use the funds to  
15 provide direct loans to qualified entities or provide credit  
16 enhancements for loan pools or loans by third parties to qualified  
17 entities as may be appropriate to ensure that interim financing is  
18 available upon the completion of rehabilitation for eligible  
19 properties rehabilitated as part of a program of neighborhood  
20 stabilization and which are to be rented to eligible households either  
21 under a rental leasehold or a lease-purchase agreement.

22 d. The agency or any Community Development Financial  
23 Institution receiving funds under this section shall maximize the  
24 extent to which those funds will leverage private financing.

25 e. All loans made under this section shall be secured by a  
26 mortgage on the subject property and shall carry a term of no more  
27 than three years.

28 f. Community Development Financial Institutions receiving  
29 funds under this section shall adopt written loan criteria for all loans  
30 made or credit enhancements provided, which shall take into  
31 account the development capacity and financial soundness of the  
32 loan recipient, market conditions in the areas in which eligible  
33 properties are located, cash flow during the term of the loan, and the  
34 likelihood of refinancing at the end of the term either from sale of  
35 the property or refinancing of the loan.

36 g. Community Development Financial Institutions receiving  
37 funds under this section shall provide semi-annual reports to the  
38 agency on activities carried out with those funds.】<sup>1</sup>

39

40 <sup>1</sup>【13. Section 14 of P.L.2008, c.127 is amended to read as  
41 follows:

42 14. Notwithstanding the provisions of P.L.2008, c.22 (C.52:9H-  
43 2.1 et al.), there is appropriated from the Long Term Obligation and  
44 Capital Expenditure Fund the sum of \$15,000,000 to the Interim  
45 Financing and Housing Assistance and **【Recovery Program**  
46 **(HARP)】** Support Fund, for the purposes of effectuating the New  
47 Jersey Housing Assistance and Recovery or Interim Financing



**A4316 [2R] JASEY, EVANS**

15

1 Program, of which five percent may be used for the purposes of  
2 administering the program.]'

3

4 '[15.] 8.' This act shall take effect immediately.

# ASSEMBLY, No. 4316

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 3, 2009

**Sponsored by:**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex)**

**Assemblywoman ELEASE EVANS**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

Redirects appropriations in "Mortgage Stabilization and Relief Act" (2009) to provide more effective foreclosure relief to homeowners.

**CURRENT VERSION OF TEXT**

As introduced.



A4316 JASEY, EVANS

2

1 AN ACT concerning neighborhood stabilization and amending and  
2 supplementing P.L.2008, c.127.

3

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

6

7 1. Section 3 of P.L.2008, c.127 (C.55:14K-84) is amended to  
8 read as follows:

9 3. Sections 3 through 7 of P.L.2008, c.127 (C.55:14K-84 et seq.)  
10 and sections 4 and 5 of P.L. , c. (C. ) (pending before the  
11 Legislature as this bill) shall be known and may be referred to as  
12 the "Mortgage and Neighborhood Stabilization Financing  
13 Assistance Program."

14 (cf: P.L.2008, c.127, s.3)

15

16 2. Section 4 of P.L.2008, c.127 (C.55:14K-85) is amended to  
17 read as follows:

18 4. As used in sections 4 through 7 of P.L.2008, c.127  
19 (C.55:14K-84 et seq.) and sections 4 and 5 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill):

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

28 "Agency" means the New Jersey Housing and Mortgage Finance  
29 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et  
30 seq.).

31 "Community Development Financial Institution" means any  
32 entity designated by the United States Department of the Treasury  
33 as a Community Development Financial Institution pursuant to 12  
34 CFR 1805.

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

37 "Eligible property" means any residential property that is vacant,  
38 is or has been the subject of mortgage or tax foreclosure  
39 proceedings, and is located in an area that has been impacted by  
40 foreclosures which is the subject of a program of neighborhood  
41 stabilization.

42 "Homeowner" means the individual who holds legal title to a  
43 residential real property that is the individual's principal dwelling  
44 and is in imminent danger of foreclosure.

**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 "Lender" means any lawfully constituted mortgage lender,  
2 mortgage investor or mortgage loan servicer that owns and is  
3 willing to refinance or is authorized to negotiate the terms of the  
4 homeowner's mortgage.

5 "Maximum income limit" means a household income that does  
6 not exceed 120% of the area median income, as defined for New  
7 Jersey in guidelines published annually by the United States  
8 Department of Housing and Urban Development, or that does not  
9 exceed the New Jersey Housing and Mortgage Finance Agency's  
10 Mortgage Revenue Bond Program income limits, whichever is  
11 greater.

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

16 "Mortgage Stabilization Program" or "program" means a  
17 financing program established pursuant to section 5 of P.L.2008,  
18 c.127 (C.55:14K-86).

19 "Mortgage stabilization program loan" means the loan provided  
20 to the homeowner by the agency pursuant to section 5 of P.L.2008,  
21 c.127 (C.55:14K-86).

22 "Program of neighborhood stabilization" means a concerted  
23 program to stabilize a neighborhood which has been impacted  
24 negatively by foreclosures or by vacant property, including, but not  
25 limited to, any program being carried out with federal funds  
26 provided by the United States Department of Housing and Urban  
27 Development or that is the subject of a comprehensive  
28 neighborhood stabilization plan.

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

35 "Qualified entity" means a non-profit or public entity whose  
36 purposes include the acquisition and rehabilitation of residential  
37 property and which has demonstrated experience in carrying out  
38 such activities in the State of New Jersey.

39 (cf: P.L.2008, c.127, s.4)

40

41 3. Section 5 of P.L.2008, c.127 (C.55:14K-86) is amended to  
42 read as follows:

43 5. There is established in the New Jersey Housing and Mortgage  
44 Finance Agency a Mortgage and Neighborhood Stabilization  
45 Financing Assistance Program and Mortgage and Neighborhood  
46 Stabilization Financing Assistance Program Fund for the purpose of  
47 assisting homeowners and lenders willing to refinance covered  
48 mortgages in order to ensure that the homeowner has an affordable

1 mortgage payment and assisting Community Development  
2 Financial Institutions to finance the acquisition and rehabilitation of  
3 eligible properties. **【The program shall meet the following**  
4 **requirements:】**

5 a. **【Program assistance shall not be made available unless a**  
6 **lender modifies or refinances the homeowner's mortgage loan so**  
7 **that the new first mortgage loan amount:**

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

9 (2) results in a new first mortgage loan amount that is less than  
10 the appraised value of the property at the time of the modification  
11 or refinancing. **】** (Deleted by amendment, P.L. , c. .) (pending  
12 before the Legislature as this bill)

13 b. **【The program shall provide:**

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

21 (2) a mortgage lender loan.

22 Loans made pursuant to this subsection shall share a co-equal  
23 second mortgage position with each other. **】** (Deleted by  
24 amendment, P.L. , c. .) (pending before the Legislature as this  
25 bill)

26 c. **【The mortgage stabilization program loan and the mortgage**  
27 **lender loan shall each have an interest rate and term identical to the**  
28 **interest rate and term of the new first mortgage loan.】** (Deleted by  
29 amendment, P.L. , c. .) (pending before the Legislature as this  
30 bill)

31 d. **【Mortgage stabilization program loans and mortgage lender**  
32 **loans may be prepaid at any time without penalty and shall be**  
33 **repaid on a proportional basis by the homeowner out of the net sale**  
34 **proceeds from the sale of the property.】** (Deleted by amendment,  
35 P.L. , c. .) (pending before the Legislature as this bill)

36 e. **【The homeowner shall not be permitted to take cash-out**  
37 **refinances, except for agency approved emergency repairs or unless**  
38 **the mortgage stabilization program loan and the mortgage lender**  
39 **loan are repaid in full.】** (Deleted by amendment, P.L. , c. .)  
40 (pending before the Legislature as this bill)

41 f. **【In order to be eligible to participate in the program, the**  
42 **homeowner must not exceed the maximum income limits as defined**  
43 **in section 4 of P.L.2008, c.127 (C.55:14K-85).】** (Deleted by  
44 amendment, P.L. , c. .) (pending before the Legislature as this  
45 bill)

- 1 g. **【The homeowner may not hold any interest in other**  
2 **residential real property at the time the application to participate in**  
3 **the program is made.】** (Deleted by amendment, P.L. , c. .)  
4 (pending before the Legislature as this bill)
- 5 h. **【If a homeowner has an existing subordinate mortgage loan**  
6 **held by one or more entities, the holder of the subordinate lien must**  
7 **agree to take subordinated mortgage position behind the mortgage**  
8 **stabilization program loan and the mortgage lender loan.】** (Deleted  
9 by amendment, P.L. , c. .) (pending before the Legislature as  
10 this bill)
- 11 i. **【If the property is subject to an existing subordinate mortgage**  
12 **the mortgage stabilization program loan may, at the discretion of**  
13 **the agency, be used to satisfy that mortgage, or the mortgage lender**  
14 **loan may, at the discretion of the mortgage lender, be used to satisfy**  
15 **an existing subordinate mortgage, or both.】** (Deleted by  
16 amendment, P.L. , c. .) (pending before the Legislature as this  
17 bill)
- 18 j. **【Homeowners must participate in budget counseling sessions**  
19 **approved by the agency in order to be eligible for the program.】**  
20 (Deleted by amendment, P.L. , c. .) (pending before the  
21 Legislature as this bill)
- 22 k. **【Repayments of mortgage stabilization program loans shall**  
23 **be deposited into the Mortgage Stabilization Program Fund.】**  
24 (Deleted by amendment, P.L. , c. .) (pending before the  
25 Legislature as this bill)
- 26 l. **【Benefits directly or indirectly received by a homeowner**  
27 **under the Mortgage Stabilization Program shall not be treated as**  
28 **income in determining eligibility requirements for other State**  
29 **programs and payments and benefits directly or indirectly received**  
30 **by a homeowner who is a taxpayer shall not be treated as income**  
31 **for New Jersey gross income tax purposes pursuant to section 2 of**  
32 **P.L.1988, c.29 (C.54A:6-22).】** (Deleted by amendment, P.L. ,  
33 c. .) (pending before the Legislature as this bill)  
34 (cf: P.L.2008, c.127, s.5)
- 35
- 36 4. (New section) Mortgage stabilization loans made under this  
37 section shall meet the following requirements:
- 38 a. Program assistance shall not be made available unless a  
39 lender modifies or refinances the homeowner's mortgage loan so  
40 that the new first mortgage loan amount:
- 41 (1) results in an affordable mortgage payment; and  
42 (2) results in a new first mortgage loan amount that is less than  
43 the appraised value of the property at the time of the modification  
44 or refinancing.
- 45 b. The program shall provide:
- 46 (1) a mortgage stabilization program loan that is a non-  
47 amortizing (no monthly payment) second mortgage loan equal to

1 one-half of the difference between the new first mortgage loan  
2 amount and the appraised value of the subject property. The  
3 available funds for such loan shall not exceed \$25,000 per loan, and  
4 the proceeds of the loan shall be provided to the covered mortgage  
5 lender; and

6 (2) a mortgage lender loan.

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

9 c. The mortgage stabilization program loan and the mortgage  
10 lender loan shall each have an interest rate and term identical to the  
11 interest rate and term of the new first mortgage loan.

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

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

20 f. In order to be eligible to participate in the program, the  
21 homeowner must not exceed the maximum income limits as defined  
22 in section 4 of P.L.2008, c.127 (C.55:14K-85).

23 g. The homeowner may not hold any interest in other residential  
24 real property at the time the application to participate in the  
25 program is made.

26 h. If a homeowner has an existing subordinate mortgage loan  
27 held by one or more entities, the holder of the subordinate lien must  
28 agree to take subordinated mortgage position behind the mortgage  
29 stabilization program loan and the mortgage lender loan.

30 i. If the property is subject to an existing subordinate mortgage  
31 the mortgage stabilization program loan may, at the discretion of  
32 the agency, be used to satisfy that mortgage, or the mortgage lender  
33 loan may, at the discretion of the mortgage lender, be used to satisfy  
34 an existing subordinate mortgage, or both.

35 j. Homeowners must participate in budget counseling sessions  
36 approved by the agency in order to be eligible for the program.

37 k. Repayments of mortgage stabilization program loans shall be  
38 deposited into the Mortgage and Neighborhood Stabilization  
39 Financing Assistance Program Fund.

40 l. Benefits directly or indirectly received by a homeowner under  
41 the Mortgage and Neighborhood Stabilization Financing Assistance  
42 Program shall not be treated as income in determining eligibility  
43 requirements for other State programs and payments and benefits  
44 directly or indirectly received by a homeowner who is a taxpayer  
45 shall not be treated as income for New Jersey gross income tax  
46 purposes pursuant to section 2 of P.L.1988, c.29 (C.54A:6-22).

1       5. (New section) The agency shall set aside all or part of the  
2 funds appropriated to the Mortgage and Neighborhood Stabilization  
3 Financing Assistance Program Fund to be used for the purpose of  
4 financing the acquisition and rehabilitation of eligible properties by  
5 qualified entities subject to the following requirements:

6       a. No less than \$20 million of the funds appropriated to the  
7 Mortgage and Neighborhood Stabilization Financing Assistance  
8 Program Fund, or four-fifths of the remaining available balance,  
9 whichever is less, shall be used to provide loans or permanent loan  
10 capital to Community Development Financial Institutions for such  
11 purposes.

12       b. In order to be eligible to receive funds under this section, a  
13 Community Development Financial Institution must demonstrate  
14 that it is financially sound and that it has experience financing the  
15 acquisition and rehabilitation of housing in the State of New Jersey;

16       c. The agency, or any Community Development Financial  
17 Institution receiving funds under this section, shall use these funds  
18 to provide direct loans, establish lines of credit, or provide credit  
19 enhancements for loan pools or loans by third parties as may be  
20 appropriate to further the acquisition and rehabilitation of eligible  
21 properties by qualified entities.

22       d. The agency, or any Community Development Financial  
23 Institution receiving funds under this section, shall maximize the  
24 extent to which those funds will leverage private financing.

25       e. All loans made under this section shall be secured by a  
26 mortgage on the subject property.

27       f. Community Development Financial Institutions receiving  
28 funds under this section shall adopt written loan criteria for all loans  
29 made, which shall take into account the development capacity and  
30 financial soundness of the loan recipient, market conditions in the  
31 areas in which eligible properties are located, and the reuse  
32 potential of such properties.

33       g. Community Development Financial Institutions receiving  
34 funds under this section shall provide semi-annual reports to the  
35 agency on activities carried out with those funds.

36

37       6. Section 7 of P.L.2008, c.127 is amended to read as follows:

38       7. Notwithstanding the provisions of P.L.2008, c.22 (C.52:9H-  
39 2.1 et al.), there is appropriated from the Long Term Obligation and  
40 Capital Expenditure Fund the sum of \$25,000,000 to the Mortgage  
41 and Neighborhood Stabilization Financing Assistance Program  
42 Fund for the purposes of the Mortgage and Neighborhood  
43 Stabilization Financing Assistance Program, of which five percent  
44 may be used for the purposes of administering the program.

45

46       7. Section 8 of P.L.2008, c.127 (C.55:14K-88) is amended to  
47 read as follows:



1       8. Sections 8 through 14 of P.L.2008, c.127 (C.55:14K-88 et  
2 seq.) and sections 10 and 12 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending  
3 before the Legislature as this bill) shall be known and may be  
4 referred to as the "New Jersey Interim Financing and Housing  
5 Assistance and Recovery Program."  
6 (cf: P.L.2008, c.127, s.8)

7  
8       8. Section 9 of P.L.2008, c.127 (C.55:14K-89) is amended to  
9 read as follows:

10       9. As used in sections 9 through 14 of P.L.2008, c.127  
11 (C.55:14K-89 et seq.) and sections 10 and 12 of P.L. \_\_\_\_\_,  
12 c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill):

13       "Affordable rent" means monthly rent or lease payments that do  
14 not exceed 33% of the household's monthly average gross income.

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

18       "Commissioner" means the Commissioner of Community  
19 Affairs.

20       "Community Development Financial Institution" means any  
21 entity designated by the United States Department of the Treasury  
22 as a Community Development Financial Institution pursuant to 12  
23 CFR 1805.

24       "Eligible household" means a household whose incomes does not  
25 exceed the maximum income limit as defined herein.

26       "Eligible property" means any residential property that is vacant,  
27 is or has been the subject of mortgage or tax foreclosure  
28 proceedings, and is located in an area that has been impacted by  
29 foreclosures which is the subject of a program of neighborhood  
30 stabilization.

31       "HARP property" means a one-, two- or three-family dwelling  
32 that is the primary residence of the household.

33       "Homeowner" means the individual who holds legal title to a  
34 residential real property that is the individual's principal dwelling  
35 and is in imminent danger of foreclosure.

36       "Household" means a homeowner and individuals who resided  
37 with the homeowner at the time the lease-purchase agreement was  
38 executed and continue to reside with the homeowner at the time the  
39 agreement of sale is executed.

40       "HUD" means the United States Department of Housing and  
41 Urban Development.

42       "HUD certified housing counseling agency" means a community-  
43 based non-profit organization, as demonstrated by section 501(c)(3)  
44 of the Internal Revenue Code of 1986, 26 U.S.C. s.501(c)(3), which  
45 has been certified by the United States Department of Housing and  
46 Urban Development as experienced in housing counseling for at  
47 least one year prior to receiving certification.

1 "Fund" means the Housing Assistance and Recovery Program  
2 Support Fund established by section 10 of P.L.2008, c.127  
3 (C.55:14K-90).

4 "Lease-purchase agreement" means a use and occupancy  
5 agreement approved by the agency whereby the sponsor acquires  
6 title to the homeowner's property and agrees to permit the former  
7 homeowner to use and occupy the property for a period not to  
8 exceed 36 months at an affordable rent.

9 "Lender" means the owner of the homeowner's mortgage.

10 "Maximum income limit" means a household income that does  
11 not exceed 120% of the area median income, as defined for New  
12 Jersey in guidelines published annually by the United States  
13 Department of Housing and Urban Development, or that does not  
14 exceed the New Jersey Housing and Mortgage Finance Agency's  
15 Mortgage Revenue Bond Program income limits, whichever is  
16 greater.

17 "Program" means the "New Jersey Housing Assistance and  
18 Recovery Program."

19 **["Property" means a one-, two- or three-family dwelling that is  
20 the primary residence of the household.]**

21 "Program of neighborhood stabilization" means a concerted  
22 program to stabilize a neighborhood which has been impacted  
23 negatively by foreclosures or by vacant property, including, but not  
24 limited to, any program being carried out with federal funds  
25 provided by the United States Department of Housing and Urban  
26 Development or that is the subject of a comprehensive  
27 neighborhood stabilization plan.

28 "Qualified entity" means a non-profit or public entity whose  
29 purposes include the acquisition and rehabilitation of residential  
30 property and which has demonstrated experience in carrying out  
31 such activities in the State of New Jersey.

32 "Sponsor" means a non-profit community development  
33 corporation, a non-profit housing counseling organization, or a  
34 public entity, including a municipality, county, or a municipal or  
35 county authority.

36 "Trained foreclosure prevention and default mitigation  
37 counselor" means a housing counselor employed by a HUD  
38 certified housing counseling agency who has successfully  
39 completed a foreclosure prevention and default mitigation training  
40 course provided by a nationally recognized homeownership  
41 education and counseling organization such as course HO345d-rq  
42 "Foreclosure Intervention and Default Counseling Certification Part  
43 I" provided by the NeighborWorks America Center for  
44 Homeownership Education and Counseling.

45 (cf: P.L.2008, c.127, s.9)

46

47 9. Section 10 of P.L.2008, c.127 (C.55:14K-90) is amended to  
48 read as follows:

1       10. a. There is established in the New Jersey Housing and  
2 Mortgage Finance Agency **[a]** an Interim Financing and Housing  
3 Assistance and **[Recovery Program (HARP)]** Support Fund, for the  
4 purpose of providing support and aid to any sponsor who  
5 establishes a Housing Assistance and Recovery Program which  
6 meets the **[following]** requirements of sections 10 or 11 of P.L. ,  
7 c. (C. ) (pending before the Legislature as this bill). **[The**  
8 sponsor shall:

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

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

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

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

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

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

29       b. **[The lease-purchase agreement shall:**

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

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

35       (3) include a provision that the property will be sold back to the  
36 homeowner at a price not to exceed the price at which the sponsor  
37 purchased the property, plus any reasonable sponsor funded repair  
38 and maintenance costs.] (Deleted by amendment, P.L. , c. )  
39 (pending before the Legislature as this bill)

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 the 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.】 (Deleted by amendment, P.L. ,  
6 c. .) (pending before the Legislature as this bill)  
7 d. 【No money allocated from the fund shall be used for the  
8 purchase of real property, other than as provided for in paragraph  
9 (5) of subsection c. of this section.】 (Deleted by amendment,  
10 P.L. , c. .) (pending before the Legislature as this bill)  
11 e. 【The agency shall conduct a quarterly audit of all funds  
12 received and expended for the program. The agency shall issue an  
13 annual report at the end of the State fiscal year detailing the result  
14 of the quarterly audits for the prior State fiscal year. The annual  
15 report shall be completed no more than 60 days after the end of the  
16 State fiscal year. The annual report shall be provided to the  
17 commissioner and, pursuant to section 2 of P.L.1991, c.164  
18 (C.52:14-19.1), to the Legislature and made available to the public  
19 on the Department of Community Affairs website.】 (Deleted by  
20 amendment, P.L. , c. .) (pending before the Legislature as this  
21 bill)  
22 (cf: P.L.2008, c.127, s.10)  
23  
24 10. (New section) a. In order to participate in the Housing  
25 Assistance and Recovery Program a sponsor shall:  
26 (1) upon application to the commissioner, be certified by the  
27 commissioner as eligible to participate in the Housing Assistance  
28 and Recovery Program;  
29 (2) employ trained foreclosure prevention and default mitigation  
30 counselors or contract with a HUD certified counseling agency that  
31 employs trained foreclosure prevention and default mitigation  
32 counselors;  
33 (3) provide counseling to the homeowner both before and after  
34 the execution of a lease-purchase agreement, which shall include  
35 contact information for legal services programs within the county  
36 where the HARP property is located;  
37 (4) screen and assess the eligibility of homeowners to repurchase  
38 the HARP property and sustain the homeowner's mortgage  
39 payments;  
40 (5) have prior experience in (a) negotiating mortgage debt  
41 reduction from lenders, and (b) the purchase of distressed  
42 properties; and  
43 (6) receive a commitment from a regulated financial institution  
44 or a government entity for a line of credit or other financing  
45 mechanism to purchase properties under a housing assistance and  
46 recovery program.  
47 b. The lease-purchase agreement shall:

- 1 (1) include terms and conditions under which the sponsor shall  
2 convey the HARP property to the homeowner at the expiration of  
3 the agreed upon use and occupancy period;
- 4 (2) enable the homeowner to continue to live in the HARP  
5 property during the use and occupancy period for an affordable  
6 rent; and
- 7 (3) include a provision that the HARP property will be sold back  
8 to the homeowner at a price not to exceed the price at which the  
9 sponsor purchased the property, plus any reasonable sponsor funded  
10 repair and maintenance costs.
- 11 c. Monies from the fund may be allocated solely for:
- 12 (1) appraisal of the HARP property to determine current market  
13 value;
- 14 (2) construction and rehabilitation of the HARP property to  
15 ensure compliance with all codes and standards;
- 16 (3) payment of property taxes accrued during the sponsor's  
17 ownership of the HARP property;
- 18 (4) maintenance of property insurance, including, but not limited  
19 to landlord liability and fire insurance coverage;
- 20 (5) payment of no more than \$25,000 toward the difference  
21 between the appraised value and the purchase price of the HARP  
22 property; and
- 23 (6) any other activity the agency deems necessary to effectuate  
24 the purposes of the program.
- 25 d. No money allocated from the fund shall be used for the  
26 purchase of real property, other than as provided for in paragraph  
27 (5) of subsection c. of this section.
- 28 e. The agency shall conduct a quarterly audit of all funds  
29 received and expended for the program. The agency shall issue an  
30 annual report at the end of the State fiscal year detailing the result  
31 of the quarterly audits for the prior State fiscal year. The annual  
32 report shall be completed no more than 60 days after the end of the  
33 State fiscal year. The annual report shall be provided to the  
34 commissioner and, pursuant to section 2 of P.L.1991, c.164  
35 (C.52:14-19.1), to the Legislature and made available to the public  
36 on the Department of Community Affairs website.
- 37
- 38 11. Section 11 of P.L.2008, c.127 (C.55:14K-91) is amended to  
39 read as follows:
- 40 A sponsor who receives monies from the fund for a Housing  
41 Assistance and Recovery Program and the homeowner shall execute  
42 a lease-purchase agreement, not to exceed a term of 36 months, that  
43 includes the following:
- 44 a. The terms and conditions under which the sponsor shall  
45 convey the HARP property to the homeowner or other member of  
46 the household upon termination of the use and occupancy period;

1       b. Provisions permitting the homeowner and other members of  
2 the household to remain in the HARP property during the use and  
3 occupancy period in exchange for an affordable rent; and

4       c. A provision that the HARP property will be sold back to the  
5 homeowner or to another member of the household at a price not to  
6 exceed the price at which the sponsor purchased the property plus  
7 reasonable sponsor maintenance costs.

8 (cf: P.L.2008, c.127, s.11)

9

10       12. (New section) The agency shall set aside all or part of the  
11 funds appropriated to the Housing Assistance and Interim Financing  
12 Support Fund to be used for the purpose of providing interim  
13 financing loans to qualified entities on eligible properties that have  
14 been rehabilitated under a program of neighborhood stabilization  
15 and which are to be rented to eligible households either under a  
16 rental leasehold or a lease-purchase agreement.

17       a. No less than \$12 million of the funds appropriated to the  
18 Housing Assistance and Interim Financing Support Fund, or four-  
19 fifths of the remaining balance, whichever is less, shall be used to  
20 provide loans or permanent loan capital to Community  
21 Development Financial Institutions for such purposes.

22       b. In order to be eligible to receive funds under this section, the  
23 Community Development Financial Institution must demonstrate  
24 that it is financially sound and that it has experience financing  
25 housing in the State of New Jersey;

26       c. The agency or any Community Development Financial  
27 Institution receiving funds under this section shall use the funds to  
28 provide direct loans to qualified entities or provide credit  
29 enhancements for loan pools or loans by third parties to qualified  
30 entities as may be appropriate to ensure that interim financing is  
31 available upon the completion of rehabilitation for eligible  
32 properties rehabilitated as part of a program of neighborhood  
33 stabilization and which are to be rented to eligible households either  
34 under a rental leasehold or a lease-purchase agreement.

35       d. The agency or any Community Development Financial  
36 Institution receiving funds under this section shall maximize the  
37 extent to which those funds will leverage private financing.

38       e. All loans made under this section shall be secured by a  
39 mortgage on the subject property and shall carry a term of no more  
40 than three years.

41       f. Community Development Financial Institutions receiving  
42 funds under this section shall adopt written loan criteria for all loans  
43 made or credit enhancements provided, which shall take into  
44 account the development capacity and financial soundness of the  
45 loan recipient, market conditions in the areas in which eligible  
46 properties are located, cash flow during the term of the loan, and the  
47 likelihood of refinancing at the end of the term either from sale of  
48 the property or refinancing of the loan.

1 g. Community Development Financial Institutions receiving  
2 funds under this section shall provide semi-annual reports to the  
3 agency on activities carried out with those funds.

4  
5 13. Section 14 of P.L.2008, c.127 is amended to read as follows:

6 14. Notwithstanding the provisions of P.L.2008, c.22 (C.52:9H-  
7 2.1 et al.), there is appropriated from the Long Term Obligation and  
8 Capital Expenditure Fund the sum of \$15,000,000 to the Interim  
9 Financing and Housing Assistance and **[Recovery Program**  
10 **(HARP)]** Support Fund, for the purposes of effectuating the New  
11 Jersey Housing Assistance and Recovery or Interim Financing  
12 Program, of which five percent may be used for the purposes of  
13 administering the program.

14  
15 14. (New section) In addition to the uses specified for the  
16 Mortgage and Neighborhood Stabilization Financing Program Fund  
17 created by section 5 of P.L.2008, c.127 (C.55:14K-86) and for the  
18 Interim Financing and Housing Assistance and Support Fund  
19 created by section 10 of P.L.2008, c.127 (C.55:14K-90), the agency  
20 may use up to \$3,000,000 from each program fund for the following  
21 purposes: (1) to make grants to qualified non-profit agencies to  
22 support counseling and legal assistance on behalf of owner-  
23 occupant households in foreclosure or at risk of foreclosure; and (2)  
24 for the Mortgage Assistance Pilot Program, to supplement funds  
25 available for that program, with the division of the funds made  
26 available under this section between these two programs to be at the  
27 discretion of the agency.

28  
29 15. This act shall take effect immediately.

30  
31  
32 STATEMENT

33  
34 The purpose of this bill is to make the \$40 million appropriated  
35 to the Mortgage Stabilization Program and the HARP programs  
36 available for other programs that are currently assisting  
37 homeowners. The MSP and HARP programs have failed to live up  
38 to their initial expectations due to technical problems with those  
39 programs. As a result, the appropriation is largely intact and is not  
40 being used for the intended purposes.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4316**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 4, 2010

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4316, with committee amendments.

The bill, as amended, makes \$8 million of the \$40 million appropriated to the Mortgage Stabilization Program (MSP) available for other programs that are currently assisting homeowners. The MSP and HARP programs have failed to live up to their initial expectations due to technical problems with those programs. As a result, the appropriation is currently largely intact and is not being used for the intended purposes.

#### FISCAL IMPACT:

P.L.2008, c.127 appropriated \$40 million, \$25 million allocated to the MSP and \$15 million allocated to the HARP. The New Jersey Housing and Mortgage Finance Agency has indicated that none of the appropriation for MSP has been expended and that \$200,000 has been spent by HARP. This decreases the appropriation to the MSP to \$8 million and directs it to the Mortgage and Neighborhood Stabilization Financing Assistance Program Up to 5% of that amount, or \$400,000, may be used for administrative costs.

The bill requires that up to \$2,000,000 of that amount be used to make grants to qualified non-profit agencies to support counseling and legal assistance on behalf of owner-occupant households at risk of foreclosure.

#### COMMITTEE AMENDMENTS:

The amendments change the amount of the original appropriation to the MSP from \$25 million to \$8 million, decrease the amount of that appropriation to be used to make grants to qualified non-profit agencies from \$3 million to \$2 million, and omit reallocations and program changes that otherwise would have affected the HARP program.



**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4316**  
**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

DATED: JANUARY 7, 2010

**SUMMARY**

**Synopsis:** Redirects appropriations in “Mortgage Stabilization and Relief Act” (2009) to provide more effective foreclosure relief to homeowners.

**Type of Impact:** No fiscal impact.

**Agencies Affected:** New Jersey Housing and Mortgage Finance Agency

**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>	No fiscal impact - See comments below		

- The Office of Legislative Services (OLS) notes that the enactment of Assembly Bill No. 4316 would not have any fiscal impact on either the State or local governments. The bill would clarify and redesignate how previously appropriated funds are to be expended.
- The bill also permits up to \$3 million of the original \$40 million appropriation to be used for the following purposes: (1) to make grants to qualified non-profit agencies to support counseling and legal assistance on behalf of owner-occupant households in foreclosure or at risk of foreclosure; and (2) to supplement funds available for the Mortgage Assistance Pilot Program.
- A portion of the unexpended balance of the funds appropriated pursuant to P.L.2008, c.127, the “Mortgage and Stabilization and Relief Act” in the amount of \$29 million was listed on a summary of Fiscal Year 2010 budget reductions issued by the Governor’s Office on December 22, 2009.

**BILL DESCRIPTION**

Assembly Bill No. 4316 of 2009 would allow State funds appropriated to the Mortgage Stabilization and Assistance Program and the Housing Assistance and Recovery Program (HARP) to be made available for other programs that are currently assisting homeowners. Both of these programs are administered by the New Jersey Housing and Mortgage and Finance Agency (NJHMFA). The bill also renames the Mortgage Stabilization Program as the Mortgage

and Neighborhood Stabilization Financing Assistance Program and the HARP as the New Jersey Interim Financing and Housing and Assistance Recovery Program. According to the sponsor's statement, technical problems with the current programs have caused them to fail to meet initial expectations.

The goal of the Mortgage and Neighborhood Stabilization Financing Assistance 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 bill requires no less than \$20 million of the funds appropriated for this program, or four-fifths of the remaining balance, to be used to provide loans or permanent loan capital for the financing the acquisition and rehabilitation of eligible properties by qualified entities.

The New Jersey Interim Financing and 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 program. 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.

Finally, the bill permits the NJHMFA to use up to \$3 million from each program to make grants to qualified non-profit agencies to support counseling and legal assistance on behalf of owner-occupant households in foreclosure or at risk of foreclosure and to supplement funds available for the Mortgage Assistance Pilot Program.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

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

The OLS notes that the enactment of Assembly Bill No. 4316 would not have any fiscal impact on either the State or local governments. The bill would clarify and redesignate how previously appropriated funds are to be expended. The funds appropriated by P.L.2008, c.127 for the Mortgage Stabilization Program and the HARP have been transferred to the NJHMFA. Of the original appropriation of \$40 million, \$25 million was designated for the Mortgage Stabilization Program and \$15 million was designated for the HARP. The NJHMFA has indicated that none of the funding appropriated for the Mortgage Stabilization Program has been expended. \$200,000 has been spent by the HARP.

No less than \$20 million of the funds appropriated for the Mortgage and Neighborhood Stabilization Financing Assistance Program (currently named the Mortgage Stabilization

Program), or four-fifths of the remaining balance, shall be used to provide loans or permanent loan capital for the financing the acquisition and rehabilitation of eligible properties by qualified entities. At least \$12 million of the funds appropriated for the New Jersey Interim Financing and Housing Assistance and Recovery Program (currently known as HARP), or four-fifths of the remaining balance, shall be used for the purpose of providing interim financing loans to qualified entities on eligible properties that have been rehabilitated under a program of neighborhood stabilization and which are to be rented to eligible households either under a rental household or a lease-purchase agreement. The loans would be provided by federally-designated entities known as Community Development Financial Institutions.

The bill also permits up to \$3 million of the original \$40 million appropriation to be used for the following purposes: (1) to make grants to qualified non-profit agencies to support counseling and legal assistance on behalf of owner-occupant households in foreclosure or at risk of foreclosure; and (2) to supplement funds available for the Mortgage Assistance Pilot Program. The division of the funds made available for these purposes may be made at the discretion of the NJHMFA.

The original legislation allows the NJHMFA to use five percent of the monies allocated to each program for administrative purposes. Accordingly \$1.25 million of the funds appropriation to the Mortgage Stabilization Program and \$750,000 of the funds appropriated to the HARP Support Fund may be used for administrative purposes. Finally, the OLS notes that a portion of the unexpended balance of the funds appropriated pursuant to P.L.2008, c.127, the "Mortgage and Stabilization and Relief Act" in the amount of \$29 million was listed on a summary of Fiscal Year 2010 budget reductions issued by the Governor's Office on December 22, 2009.

*Section: Local Government*

*Analyst: Scott A. Brodsky  
Associate 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-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## ASSEMBLY, No. 4316

### STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JANUARY 15, 2010

#### SUMMARY

- Synopsis:** Redirects appropriations in “Mortgage Stabilization and Relief Act” (2009) to provide more effective foreclosure relief to homeowners.
- Type of Impact:** No Fiscal Impact.
- Agencies Affected:** New Jersey Housing and Mortgage Finance Agency

#### 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>State Cost</b>	No fiscal impact - See comments below		

- The Office of Legislative Services notes that the enactment of Assembly Bill No. 4316 (2R) would not have any fiscal impact on either the State or local governments. The bill would clarify and redesignate how previously appropriated funds are to be expended.
- The bill reduces the original appropriation to the Mortgage Stabilization Fund from \$25 million to \$10.8 million, of which \$8.6 million must be used to provide loans or permanent loan capital for the purpose of financing the acquisition and rehabilitation of eligible properties by community development financial institutions.
- The bill permits up to \$2.2 million of the \$10.8 million appropriation to the Mortgage and Neighborhood Stabilization Financing Assistance Program to be used to make grants to qualified non-profit agencies to support counseling and legal assistance on behalf of owner-occupant households at risk of foreclosure.

#### BILL DESCRIPTION

Assembly Bill No. 4316 (2R) of 2009 would establish a program to assist community development financial institutions to finance the acquisition and rehabilitation of certain properties and utilizes unexpended balances for two programs that were designed to assist homeowners in foreclosure, but which have not been successful for this purpose. “The Mortgage

Stabilization and Relief Act,” P.L.2008, c.127 (C.55:14K-82 et al.) established the Mortgage Stabilization Program (MSP) and the Housing Assistance and Recovery Program (HARP). Technical problems with these programs have caused them to fail to meet initial expectations.

This bill renames the MSP the “Mortgage and Neighborhood Stabilization Financing Assistance Program” and revises the amount of the appropriation to the renamed Mortgage and Neighborhood Stabilization Financing Assistance Program from the original amount of \$25 million to \$10.8 million.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

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

The Office of Legislative Services notes that the enactment of Assembly Bill No. 4316 (2R) would not have any fiscal impact on either the State or local governments. The bill would clarify and redesignate how previously appropriated funds are to be expended. The funds appropriated by P.L.2008, c.127 for the Mortgage Stabilization Program (MSP) and the Housing Assistance and Recovery Program (HARP) have been transferred to the New Jersey Housing and Mortgage Finance Agency (NJHMFA). Of the original appropriation of \$40 million, \$25 million was designated for the MSP \$15 million was designated for the HARP.

The appropriation for the MSP, which is renamed the Mortgage and Neighborhood Stabilization Financing Assistance Program, would be reduced to \$10.8 million. The funds must be used to provide loans or permanent loan capital for the purpose of financing the acquisition and rehabilitation of eligible properties by qualified entities. \$8.6 million of the \$10.8 million appropriation must be used to provide loans or permanent loan capital to community development financial institutions for such purposes. The bill permits up to \$2.2 million of the \$10.8 million appropriation to the Mortgage and Neighborhood Stabilization Financing Assistance Program to be used to make grants to qualified non-profit agencies to support counseling and legal assistance on behalf of owner-occupant households at risk of foreclosure.

The original legislation allows the NJHMFA to use five percent of the monies allocated to each program for administrative purposes. Accordingly \$540,000 of the funds appropriation to the Mortgage and Neighborhood Stabilization Financing Assistance Program may be used for administrative purposes.

*Section:* Local Government

*Analyst:* Scott A. Brodsky  
Associate 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-6 et seq.).

# SENATE, No. 3165

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JANUARY 7, 2010

**Sponsored by:**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**SYNOPSIS**

Redirects appropriations in "Mortgage Stabilization and Relief Act" (2009) to provide more effective foreclosure relief to homeowners.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/8/2010)**

1 AN ACT concerning neighborhood stabilization and amending and  
2 supplementing P.L.2008, c.127.

3

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

6

7 1. Section 3 of P.L.2008, c.127 (C.55:14K-84) is amended to  
8 read as follows:

9 3. Sections 3 through 7 of P.L.2008, c.127 (C.55:14K-84 et  
10 seq.) and sections 4 and 5 of P.L. , c. (C. ) (pending before  
11 the Legislature as this bill) shall be known and may be referred to  
12 as the "Mortgage and Neighborhood Stabilization Financing  
13 Assistance Program."

14 (cf: P.L.2008, c.127, s.3)

15

16 2. Section 4 of P.L.2008, c.127 (C.55:14K-85) is amended to  
17 read as follows:

18 4. As used in sections 4 through 7 of P.L.2008, c.127  
19 (C.55:14K-84 et seq.) and sections 4 and 5 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill):

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

28 "Agency" means the New Jersey Housing and Mortgage Finance  
29 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et  
30 seq.).

31 "Community Development Financial Institution" means any  
32 entity designated by the United States Department of the Treasury  
33 as a Community Development Financial Institution pursuant to 12  
34 CFR 1805.

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

37 "Eligible property" means any residential property that is vacant,  
38 is or has been the subject of mortgage or tax foreclosure  
39 proceedings, and is located in an area that has been impacted by  
40 foreclosures which is the subject of a program of neighborhood  
41 stabilization.

42 "Homeowner" means the individual who holds legal title to a  
43 residential real property that is the individual's principal dwelling  
44 and is in imminent danger of foreclosure.

**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.

S3165 CUNNINGHAM, STACK

3

1 "Lender" means any lawfully constituted mortgage lender,  
2 mortgage investor or mortgage loan servicer that owns and is  
3 willing to refinance or is authorized to negotiate the terms of the  
4 homeowner's mortgage.

5 "Maximum income limit" means a household income that does  
6 not exceed 120% of the area median income, as defined for New  
7 Jersey in guidelines published annually by the United States  
8 Department of Housing and Urban Development, or that does not  
9 exceed the New Jersey Housing and Mortgage Finance Agency's  
10 Mortgage Revenue Bond Program income limits, whichever is  
11 greater.

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

16 "Mortgage Stabilization Program" or "program" means a  
17 financing program established pursuant to section 5 of P.L.2008,  
18 c.127 (C.55:14K-86).

19 "Mortgage stabilization program loan" means the loan provided  
20 to the homeowner by the agency pursuant to section 5 of P.L.2008,  
21 c.127 (C.55:14K-86).

22 "Program of neighborhood stabilization" means a concerted  
23 program to stabilize a neighborhood which has been impacted  
24 negatively by foreclosures or by vacant property, including, but not  
25 limited to, any program being carried out with federal funds  
26 provided by the United States Department of Housing and Urban  
27 Development or that is the subject of a comprehensive  
28 neighborhood stabilization plan.

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

35 "Qualified entity" means a non-profit or public entity whose  
36 purposes include the acquisition and rehabilitation of residential  
37 property and which has demonstrated experience in carrying out  
38 such activities in the State of New Jersey.

39 (cf: P.L.2008, c.127, s.4)

40

41 3. Section 5 of P.L.2008, c.127 (C.55:14K-86) is amended to  
42 read as follows:

43 5. There is established in the New Jersey Housing and  
44 Mortgage Finance Agency a Mortgage and Neighborhood  
45 Stabilization Financing Assistance Program and Mortgage and  
46 Neighborhood Stabilization Financing Assistance Program Fund for  
47 the purpose of assisting homeowners and lenders willing to  
48 refinance covered mortgages in order to ensure that the homeowner



1 has an affordable mortgage payment and assisting Community  
2 Development Financial Institutions to finance the acquisition and  
3 rehabilitation of eligible properties. **【The program shall meet the**  
4 **following requirements:】**

5 a. **【Program assistance shall not be made available unless a**  
6 **lender modifies or refinances the homeowner's mortgage loan so**  
7 **that the new first mortgage loan amount:**

8 (1) results in an affordable mortgage payment; and  
9 (2) results in a new first mortgage loan amount that is less than  
10 the appraised value of the property at the time of the modification  
11 or refinancing. **】** (Deleted by amendment, P.L. , c. .) (pending  
12 before the Legislature as this bill)

13 b. **【The program shall provide:**

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

21 (2) a mortgage lender loan.

22 Loans made pursuant to this subsection shall share a co-equal  
23 second mortgage position with each other. **】** (Deleted by  
24 amendment, P.L. , c. .) (pending before the Legislature as this  
25 bill)

26 c. **【The mortgage stabilization program loan and the mortgage**  
27 **lender loan shall each have an interest rate and term identical to the**  
28 **interest rate and term of the new first mortgage loan.】** (Deleted by  
29 amendment, P.L. , c. .) (pending before the Legislature as this  
30 bill)

31 d. **【Mortgage stabilization program loans and mortgage lender**  
32 **loans may be prepaid at any time without penalty and shall be**  
33 **repaid on a proportional basis by the homeowner out of the net sale**  
34 **proceeds from the sale of the property.】** (Deleted by amendment,  
35 P.L. , c. .) (pending before the Legislature as this bill)

36 e. **【The homeowner shall not be permitted to take cash-out**  
37 **refinances, except for agency approved emergency repairs or unless**  
38 **the mortgage stabilization program loan and the mortgage lender**  
39 **loan are repaid in full.】** (Deleted by amendment, P.L. , c. .)  
40 (pending before the Legislature as this bill)

41 f. **【In order to be eligible to participate in the program, the**  
42 **homeowner must not exceed the maximum income limits as defined**  
43 **in section 4 of P.L.2008, c.127 (C.55:14K-85).】** (Deleted by  
44 amendment, P.L. , c. .) (pending before the Legislature as this  
45 bill)

- 1 g. **【The homeowner may not hold any interest in other**  
2 **residential real property at the time the application to participate in**  
3 **the program is made.】** (Deleted by amendment, P.L. , c. .)  
4 (pending before the Legislature as this bill)
- 5 h. **【If a homeowner has an existing subordinate mortgage loan**  
6 **held by one or more entities, the holder of the subordinate lien must**  
7 **agree to take subordinated mortgage position behind the mortgage**  
8 **stabilization program loan and the mortgage lender loan.】** (Deleted  
9 by amendment, P.L. , c. .) (pending before the Legislature as  
10 this bill)
- 11 i. **【If the property is subject to an existing subordinate**  
12 **mortgage the mortgage stabilization program loan may, at the**  
13 **discretion of the agency, be used to satisfy that mortgage, or the**  
14 **mortgage lender loan may, at the discretion of the mortgage lender,**  
15 **be used to satisfy an existing subordinate mortgage, or both.】**  
16 (Deleted by amendment, P.L. , c. .) (pending before the  
17 Legislature as this bill)
- 18 j. **【Homeowners must participate in budget counseling**  
19 **sessions approved by the agency in order to be eligible for the**  
20 **program.】** (Deleted by amendment, P.L. , c. .) (pending before  
21 the Legislature as this bill)
- 22 k. **【Repayments of mortgage stabilization program loans shall**  
23 **be deposited into the Mortgage Stabilization Program Fund.】**  
24 (Deleted by amendment, P.L. , c. .) (pending before the  
25 Legislature as this bill)
- 26 l. **【Benefits directly or indirectly received by a homeowner**  
27 **under the Mortgage Stabilization Program shall not be treated as**  
28 **income in determining eligibility requirements for other State**  
29 **programs and payments and benefits directly or indirectly received**  
30 **by a homeowner who is a taxpayer shall not be treated as income**  
31 **for New Jersey gross income tax purposes pursuant to section 2 of**  
32 **P.L.1988, c.29 (C.54A:6-22).】** (Deleted by amendment,  
33 P.L. , c. .) (pending before the Legislature as this bill)  
34 (cf: P.L.2008, c.127, s.5)
- 35
- 36 4. (New section) Mortgage stabilization loans made under this  
37 section shall meet the following requirements:
- 38 a. Program assistance shall not be made available unless a  
39 lender modifies or refinances the homeowner's mortgage loan so  
40 that the new first mortgage loan amount:
- 41 (1) results in an affordable mortgage payment; and  
42 (2) results in a new first mortgage loan amount that is less than  
43 the appraised value of the property at the time of the modification  
44 or refinancing.
- 45 b. The program shall provide:
- 46 (1) a mortgage stabilization program loan that is a non-  
47 amortizing (no monthly payment) second mortgage loan equal to

1 one-half of the difference between the new first mortgage loan  
2 amount and the appraised value of the subject property. The  
3 available funds for such loan shall not exceed \$25,000 per loan, and  
4 the proceeds of the loan shall be provided to the covered mortgage  
5 lender; and

6 (2) a mortgage lender loan.

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

9 c. The mortgage stabilization program loan and the mortgage  
10 lender loan shall each have an interest rate and term identical to the  
11 interest rate and term of the new first mortgage loan.

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

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

20 f. In order to be eligible to participate in the program, the  
21 homeowner must not exceed the maximum income limits as defined  
22 in section 4 of P.L.2008, c.127 (C.55:14K-85).

23 g. The homeowner may not hold any interest in other  
24 residential real property at the time the application to participate in  
25 the program is made.

26 h. If a homeowner has an existing subordinate mortgage loan  
27 held by one or more entities, the holder of the subordinate lien must  
28 agree to take subordinated mortgage position behind the mortgage  
29 stabilization program loan and the mortgage lender loan.

30 i. If the property is subject to an existing subordinate mortgage  
31 the mortgage stabilization program loan may, at the discretion of  
32 the agency, be used to satisfy that mortgage, or the mortgage lender  
33 loan may, at the discretion of the mortgage lender, be used to satisfy  
34 an existing subordinate mortgage, or both.

35 j. Homeowners must participate in budget counseling sessions  
36 approved by the agency in order to be eligible for the program.

37 k. Repayments of mortgage stabilization program loans shall  
38 be deposited into the Mortgage and Neighborhood Stabilization  
39 Financing Assistance Program Fund.

40 l. Benefits directly or indirectly received by a homeowner  
41 under the Mortgage and Neighborhood Stabilization Financing  
42 Assistance Program shall not be treated as income in determining  
43 eligibility requirements for other State programs and payments and  
44 benefits directly or indirectly received by a homeowner who is a  
45 taxpayer shall not be treated as income for New Jersey gross  
46 income tax purposes pursuant to section 2 of P.L.1988, c.29  
47 (C.54A:6-22).

1       5. (New section) The agency shall set aside all \$10,800,000 of  
2 the funds appropriated to the Mortgage and Neighborhood  
3 Stabilization Financing Assistance Program Fund to be used for the  
4 purpose of financing the acquisition and rehabilitation of eligible  
5 properties by qualified entities subject to the following  
6 requirements:

7       a. \$8,600,000 of the funds appropriated to the Mortgage and  
8 Neighborhood Stabilization Financing Assistance Program Fund  
9 shall be used to provide loans or permanent loan capital to  
10 Community Development Financial Institutions for such purposes.

11       b. In order to be eligible to receive funds under this section, a  
12 Community Development Financial Institution must demonstrate  
13 that it is financially sound and that it has experience financing the  
14 acquisition and rehabilitation of housing in the State of New Jersey;

15       c. A Community Development Financial Institution receiving  
16 funds under this section, shall use these funds to provide direct  
17 loans, establish lines of credit, or provide credit enhancements for  
18 loan pools or loans by third parties as may be appropriate to further  
19 the acquisition and rehabilitation of eligible properties by qualified  
20 entities.

21       d. A Community Development Financial Institution receiving  
22 funds under this section, shall maximize the extent to which those  
23 funds will leverage private financing.

24       e. All loans made by Community Development Financial  
25 Institutions under this section shall be secured by a mortgage on the  
26 subject property.

27       f. Community Development Financial Institutions receiving  
28 funds under this section shall adopt written loan criteria for all loans  
29 made, which shall take into account the development capacity and  
30 financial soundness of the loan recipient, market conditions in the  
31 areas in which eligible properties are located, and the reuse  
32 potential of such properties.

33       g. Community Development Financial Institutions receiving  
34 funds under this section shall provide semi-annual reports to the  
35 agency on activities carried out with those funds.

36

37       6. Section 7 of P.L.2008, c.127 is amended to read as follows:

38       7. Notwithstanding the provisions of P.L.2008, c.22 (C.52:9H-  
39 2.1 et al.), there is appropriated from the Long Term Obligation and  
40 Capital Expenditure Fund the sum of ~~【\$25,000,000】~~ \$10,800,000 to  
41 the Mortgage and Neighborhood Stabilization Financing Assistance  
42 Program Fund for the purposes of the Mortgage and Neighborhood  
43 Stabilization Financing Assistance Program, of which five percent  
44 may be used for the purposes of administering the program.

45

46       7. (New section) In addition to the uses specified for the  
47 Mortgage and Neighborhood Stabilization Financing Program Fund  
48 created by section 5 of P.L.2008, c.127 (C.55:14K-86) the agency

1 shall use up to \$2,200,000 in that fund to make grants to qualified  
2 non-profit agencies to support counseling on behalf of owner-  
3 occupant households at risk of foreclosure.

4

5 8. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 P.L.2008, c.127 appropriated \$40 million, \$25 million allocated  
11 to the Mortgage Stabilization Program (MSP) and \$15 million  
12 allocated to the Housing Assistance and Recovery Program  
13 (HARP). The New Jersey Housing and Mortgage Finance Agency  
14 has indicated that none of the appropriation for the MSP has been  
15 expended and that \$200,000 has been spent by HARP. A portion of  
16 the unexpended balance of the funds appropriated in the amount of  
17 \$29 million was listed on a summary of Fiscal Year 2010 budget  
18 reductions issued by the Governor's Office on December 22, 2009.

19 The MSP and HARP programs have failed to live up to their  
20 initial expectations due to technical problems with those programs.  
21 This bill makes parts of the remaining balance appropriated to the  
22 MSP available for other programs that are currently assisting  
23 homeowners.

24 This bill revises the amount of the appropriation to the renamed  
25 Mortgage and Neighborhood Stabilization Financing Assistance  
26 Program Fund to \$10.8 million, allocates \$8.6 million to provide  
27 loans or permanent loan capital to community development finance  
28 institutions for such purposes, and allocates up to \$2.2 million of to  
29 make grants to qualified non-profit agencies for counseling on  
30 behalf of owner-occupant households at risk of foreclosure.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### **SENATE, No. 3165**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 7, 2010

The Senate Community and Urban Affairs Committee reports without recommendation and with committee amendments Senate Bill No. 3165.

This bill, as amended by the committee, would establish a program to assist community development financial institutions to finance the acquisition and rehabilitation of certain properties and utilizes unexpended balances from appropriations for two programs that were designed to assist homeowners in danger of foreclosure, but which have not been successful, for this purpose.

A 2008 law, P.L.2008, c.127, appropriated \$40 million, allocating \$25 million to the Mortgage Stabilization Program (MSP) and \$15 million to the Housing Assistance and Recovery Program (HARP). From that appropriation, no funds were expended for the MSP and only \$200,000 were expended for HARP. \$29 million of the unexpended balance of the funds appropriated was listed on a summary of Fiscal Year 2010 budget reductions issued by the Governor's Office on December 22, 2009.

This bill renames the MSP the "Mortgage and Neighborhood Stabilization Financing Assistance Program." The bill revises the amount of the appropriation to the renamed Mortgage and Neighborhood Stabilization Financing Assistance Program Fund to \$10.8 million, allocates \$8.6 million to provide loans or permanent loan capital to community development finance institutions for such purposes, and allocates up to \$2.2 million to make grants to qualified non-profit agencies for counseling on behalf of owner-occupant households at risk of foreclosure.

The committee amended the bill to clarify the New Jersey Housing and Mortgage Finance Agency's oversight of the new program and over community development financial institutions participating in the new program. The amendments authorize the agency emergency rule making powers for the first 180 days following the bill's enactment in order to allow for the program to be instituted more quickly.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 3165 STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JANUARY 19, 2010

### SUMMARY

- Synopsis:** Redirects appropriations in “Mortgage Stabilization and Relief Act” (2009) to provide more effective foreclosure relief to homeowners.
- Type of Impact:** No Fiscal Impact.
- Agencies Affected:** New Jersey Housing and Mortgage Finance Authority

#### 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>State Cost</b>	No fiscal impact - See comments below		

- The Office of Legislative Services notes that the enactment of Senate Bill No. 3165 (1R) would not have any fiscal impact on either the State or local governments. The bill would clarify and redesignate how previously appropriated funds are to be expended.
- The bill reduces the original appropriation to the Mortgage Stabilization Fund from \$25 million to \$10.8 million, of which \$8.6 million must be used to provide loans or permanent loan capital for the purpose of financing the acquisition and rehabilitation of eligible properties by community development financial institutions.
- The bill permits up to \$2.2 million of the \$10.8 million appropriation to the Mortgage and Neighborhood Stabilization Financing Assistance Program to be used to make grants to qualified non-profit agencies to support counseling and legal assistance on behalf of owner-occupant households at risk of foreclosure.

### BILL DESCRIPTION

Senate Bill No. 3165 (1R) of 2009 would establish a program to assist community development financial institutions to finance the acquisition and rehabilitation of certain properties and utilizes unexpended balances for two programs that were designed to assist

homeowners in foreclosure, but which have not been successful for this purpose. “The Mortgage Stabilization and Relief Act,” P.L.2008, c.127 (C.55:14K-82 et al.) established the Mortgage Stabilization Program (MSP) and the Housing Assistance and Recovery Program (HARP). Technical problems with these programs have caused them to fail to meet initial expectations.

This bill renames the MSP the “Mortgage and Neighborhood Stabilization Financing Assistance Program” and revises the amount of the appropriation to the renamed Mortgage and Neighborhood Stabilization Financing Assistance Program from the original amount of \$25 million to \$10.8 million.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

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

The Office of Legislative Services notes that the enactment of Senate Bill No. 3165 (1R) would not have any fiscal impact on either the State or local governments. The bill would clarify and redesignate how previously appropriated funds are to be expended. The funds appropriated by P.L.2008, c.127 for the Mortgage Stabilization Program (MSP) and the Housing Assistance and Recovery Program (HARP) have been transferred to the New Jersey Housing and Mortgage Finance Agency (NJHMFA). Of the original appropriation of \$40 million, \$25 million was designated for the MSP \$15 million was designated for the HARP.

The appropriation for the MSP, which is renamed the Mortgage and Neighborhood Stabilization Financing Assistance Program, would be reduced to \$10.8 million. The funds must be used to provide loans or permanent loan capital for the purpose of financing the acquisition and rehabilitation of eligible properties by qualified entities. \$8.6 million of the \$10.8 million appropriation must be used to provide loans or permanent loan capital to community development financial institutions for such purposes. The bill permits up to \$2.2 million of the \$10.8 million appropriation to the Mortgage and Neighborhood Stabilization Financing Assistance Program to be used to make grants to qualified non-profit agencies to support counseling and legal assistance on behalf of owner-occupant households at risk of foreclosure.

The original legislation allows the NJHMFA to use five percent of the monies allocated to each program for administrative purposes. Accordingly \$540,000 of the funds appropriation to the Mortgage and Neighborhood Stabilization Financing Assistance Program may be used for administrative purposes.

*Section:* Local Government

*Analyst:* Scott Brodsky  
Associate 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-6 et seq.).



[First Reprint]

**SENATE, No. 3165**

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**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

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INTRODUCED JANUARY 7, 2010

**Sponsored by:**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Co-Sponsored by:**

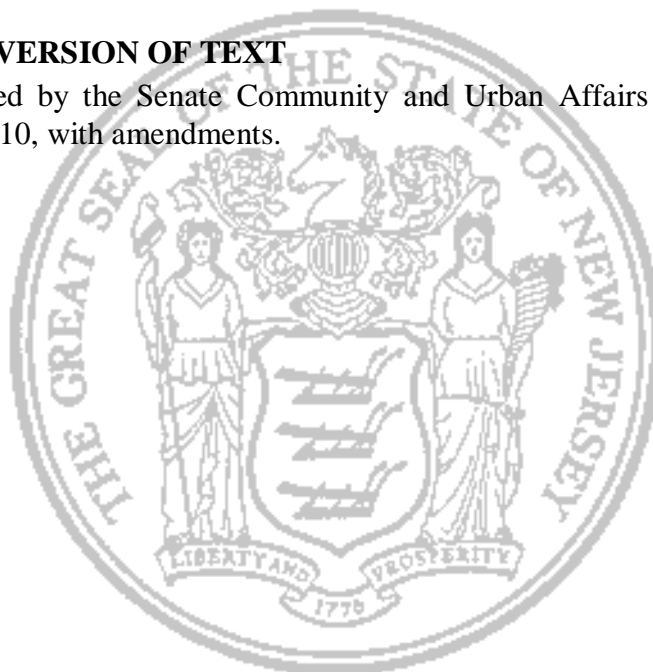
**Senator Turner**

**SYNOPSIS**

Redirects appropriations in "Mortgage Stabilization and Relief Act" (2009) to provide more effective foreclosure relief to homeowners.

**CURRENT VERSION OF TEXT**

As reported by the Senate Community and Urban Affairs Committee on January 7, 2010, with amendments.



**(Sponsorship Updated As Of: 1/12/2010)**

1 AN ACT concerning neighborhood stabilization and amending and  
2 supplementing P.L.2008, c.127.

3

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

6

7 1. Section 3 of P.L.2008, c.127 (C.55:14K-84) is amended to  
8 read as follows:

9 3. Sections 3 through 7 of P.L.2008, c.127 (C.55:14K-84 et  
10 seq.) and sections 4 and 5 of P.L. , c. (C. ) (pending before  
11 the Legislature as this bill) shall be known and may be referred to  
12 as the "Mortgage and Neighborhood Stabilization Financing  
13 Assistance Program."

14 (cf: P.L.2008, c.127, s.3)

15

16 2. Section 4 of P.L.2008, c.127 (C.55:14K-85) is amended to  
17 read as follows:

18 4. As used in sections 4 through 7 of P.L.2008, c.127  
19 (C.55:14K-84 et seq.) and sections 4 and 5 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill):

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

28 "Agency" means the New Jersey Housing and Mortgage Finance  
29 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et  
30 seq.).

31 "Community Development Financial Institution" means any  
32 entity designated by the United States Department of the Treasury  
33 as a Community Development Financial Institution pursuant to 12  
34 CFR 1805.

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

37 "Eligible property" means any residential property that is vacant,  
38 is or has been the subject of mortgage or tax foreclosure  
39 proceedings, and is located in an area that has been impacted by  
40 foreclosures which is the subject of a program of neighborhood  
41 stabilization.

42 "Homeowner" means the individual who holds legal title to a  
43 residential real property that is the individual's principal dwelling  
44 and is in imminent danger of foreclosure.

**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>Senate SCU committee amendments adopted January 7, 2010.

1 "Lender" means any lawfully constituted mortgage lender,  
2 mortgage investor or mortgage loan servicer that owns and is  
3 willing to refinance or is authorized to negotiate the terms of the  
4 homeowner's mortgage.

5 "Maximum income limit" means a household income that does  
6 not exceed 120% of the area median income, as defined for New  
7 Jersey in guidelines published annually by the United States  
8 Department of Housing and Urban Development, or that does not  
9 exceed the New Jersey Housing and Mortgage Finance Agency's  
10 Mortgage Revenue Bond Program income limits, whichever is  
11 greater.

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

16 "Mortgage Stabilization Program" or "program" means a  
17 financing program established pursuant to section 5 of P.L.2008,  
18 c.127 (C.55:14K-86).

19 "Mortgage stabilization program loan" means the loan provided  
20 to the homeowner by the agency pursuant to section 5 of P.L.2008,  
21 c.127 (C.55:14K-86).

22 "Program of neighborhood stabilization" means a concerted  
23 program to stabilize a neighborhood which has been impacted  
24 negatively by foreclosures or by vacant property, including, but not  
25 limited to, any program being carried out with federal funds  
26 provided by the United States Department of Housing and Urban  
27 Development or that is the subject of a comprehensive  
28 neighborhood stabilization plan.

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

35 "Qualified entity" means a non-profit or public entity whose  
36 purposes include the acquisition and rehabilitation of residential  
37 property and which has demonstrated experience in carrying out  
38 such activities in the State of New Jersey.

39 (cf: P.L.2008, c.127, s.4)

40

41 3. Section 5 of P.L.2008, c.127 (C.55:14K-86) is amended to  
42 read as follows:

43 5. There is established in the New Jersey Housing and  
44 Mortgage Finance Agency a Mortgage and Neighborhood  
45 Stabilization Financing Assistance Program and Mortgage and  
46 Neighborhood Stabilization Financing Assistance Program Fund for  
47 the purpose of assisting homeowners and lenders willing to  
48 refinance covered mortgages in order to ensure that the homeowner

1 has an affordable mortgage payment and assisting Community  
2 Development Financial Institutions to finance the acquisition and  
3 rehabilitation of eligible properties. **【The program shall meet the**  
4 **following requirements:】**

5 a. **【Program assistance shall not be made available unless a**  
6 **lender modifies or refinances the homeowner's mortgage loan so**  
7 **that the new first mortgage loan amount:**

- 8 (1) results in an affordable mortgage payment; and  
9 (2) results in a new first mortgage loan amount that is less than  
10 the appraised value of the property at the time of the modification  
11 or refinancing.】 (Deleted by amendment, P.L. , c. .) (pending  
12 before the Legislature as this bill)

13 b. **【The program shall provide:**

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

21 (2) a mortgage lender loan.

22 Loans made pursuant to this subsection shall share a co-equal  
23 second mortgage position with each other.】 (Deleted by  
24 amendment, P.L. , c. .) (pending before the Legislature as this  
25 bill)

26 c. **【The mortgage stabilization program loan and the mortgage**  
27 **lender loan shall each have an interest rate and term identical to the**  
28 **interest rate and term of the new first mortgage loan.】** (Deleted by  
29 amendment, P.L. , c. .) (pending before the Legislature as this  
30 bill)

31 d. **【Mortgage stabilization program loans and mortgage lender**  
32 **loans may be prepaid at any time without penalty and shall be**  
33 **repaid on a proportional basis by the homeowner out of the net sale**  
34 **proceeds from the sale of the property.】** (Deleted by amendment,  
35 P.L. , c. .) (pending before the Legislature as this bill)

36 e. **【The homeowner shall not be permitted to take cash-out**  
37 **refinances, except for agency approved emergency repairs or unless**  
38 **the mortgage stabilization program loan and the mortgage lender**  
39 **loan are repaid in full.】** (Deleted by amendment, P.L. , c. .)  
40 (pending before the Legislature as this bill)

41 f. **【In order to be eligible to participate in the program, the**  
42 **homeowner must not exceed the maximum income limits as defined**  
43 **in section 4 of P.L.2008, c.127 (C.55:14K-85).】** (Deleted by  
44 amendment, P.L. , c. .) (pending before the Legislature as this  
45 bill)

- 1 g. **【The homeowner may not hold any interest in other**  
2 **residential real property at the time the application to participate in**  
3 **the program is made.】** (Deleted by amendment, P.L. , c. .)  
4 (pending before the Legislature as this bill)
- 5 h. **【If a homeowner has an existing subordinate mortgage loan**  
6 **held by one or more entities, the holder of the subordinate lien must**  
7 **agree to take subordinated mortgage position behind the mortgage**  
8 **stabilization program loan and the mortgage lender loan.】** (Deleted  
9 by amendment, P.L. , c. .) (pending before the Legislature as  
10 this bill)
- 11 i. **【If the property is subject to an existing subordinate**  
12 **mortgage the mortgage stabilization program loan may, at the**  
13 **discretion of the agency, be used to satisfy that mortgage, or the**  
14 **mortgage lender loan may, at the discretion of the mortgage lender,**  
15 **be used to satisfy an existing subordinate mortgage, or both.】**  
16 (Deleted by amendment, P.L. , c. .) (pending before the  
17 Legislature as this bill)
- 18 j. **【Homeowners must participate in budget counseling**  
19 **sessions approved by the agency in order to be eligible for the**  
20 **program.】** (Deleted by amendment, P.L. , c. .) (pending before  
21 the Legislature as this bill)
- 22 k. **【Repayments of mortgage stabilization program loans shall**  
23 **be deposited into the Mortgage Stabilization Program Fund.】**  
24 (Deleted by amendment, P.L. , c. .) (pending before the  
25 Legislature as this bill)
- 26 l. **【Benefits directly or indirectly received by a homeowner**  
27 **under the Mortgage Stabilization Program shall not be treated as**  
28 **income in determining eligibility requirements for other State**  
29 **programs and payments and benefits directly or indirectly received**  
30 **by a homeowner who is a taxpayer shall not be treated as income**  
31 **for New Jersey gross income tax purposes pursuant to section 2 of**  
32 **P.L.1988, c.29 (C.54A:6-22).】** (Deleted by amendment,  
33 P.L. , c. .) (pending before the Legislature as this bill)  
34 (cf: P.L.2008, c.127, s.5)  
35
- 36 <sup>1</sup>**【4.(New section) Mortgage stabilization loans made under this**  
37 **section shall meet the following requirements:**
- 38 a. Program assistance shall not be made available unless a  
39 lender modifies or refinances the homeowner's mortgage loan so  
40 that the new first mortgage loan amount:
- 41 (1) results in an affordable mortgage payment; and  
42 (2) results in a new first mortgage loan amount that is less than  
43 the appraised value of the property at the time of the modification  
44 or refinancing.
- 45 b. The program shall provide:
- 46 (1) a mortgage stabilization program loan that is a non-  
47 amortizing (no monthly payment) second mortgage loan equal to

1 one-half of the difference between the new first mortgage loan  
2 amount and the appraised value of the subject property. The  
3 available funds for such loan shall not exceed \$25,000 per loan, and  
4 the proceeds of the loan shall be provided to the covered mortgage  
5 lender; and

6 (2) a mortgage lender loan.

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

9 c. The mortgage stabilization program loan and the mortgage  
10 lender loan shall each have an interest rate and term identical to the  
11 interest rate and term of the new first mortgage loan.

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

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

20 f. In order to be eligible to participate in the program, the  
21 homeowner must not exceed the maximum income limits as defined  
22 in section 4 of P.L.2008, c.127 (C.55:14K-85).

23 g. The homeowner may not hold any interest in other  
24 residential real property at the time the application to participate in  
25 the program is made.

26 h. If a homeowner has an existing subordinate mortgage loan  
27 held by one or more entities, the holder of the subordinate lien must  
28 agree to take subordinated mortgage position behind the mortgage  
29 stabilization program loan and the mortgage lender loan.

30 i. If the property is subject to an existing subordinate mortgage  
31 the mortgage stabilization program loan may, at the discretion of  
32 the agency, be used to satisfy that mortgage, or the mortgage lender  
33 loan may, at the discretion of the mortgage lender, be used to satisfy  
34 an existing subordinate mortgage, or both.

35 j. Homeowners must participate in budget counseling sessions  
36 approved by the agency in order to be eligible for the program.

37 k. Repayments of mortgage stabilization program loans shall  
38 be deposited into the Mortgage and Neighborhood Stabilization  
39 Financing Assistance Program Fund.

40 l. Benefits directly or indirectly received by a homeowner  
41 under the Mortgage and Neighborhood Stabilization Financing  
42 Assistance Program shall not be treated as income in determining  
43 eligibility requirements for other State programs and payments and  
44 benefits directly or indirectly received by a homeowner who is a  
45 taxpayer shall not be treated as income for New Jersey gross  
46 income tax purposes pursuant to section 2 of P.L.1988, c.29  
47 (C.54A:6-22).<sup>1</sup>

- 1       ~~'[5.] 4.'~~ (New section) The agency shall set aside all  
2 \$10,800,000 of the funds appropriated to the Mortgage and  
3 Neighborhood Stabilization Financing Assistance Program Fund to  
4 be used for the purpose of financing the acquisition and  
5 rehabilitation of eligible properties by qualified entities subject to  
6 the following requirements:
- 7       a. \$8,600,000 of the funds appropriated to the Mortgage and  
8 Neighborhood Stabilization Financing Assistance Program Fund  
9 shall be used to provide loans or permanent loan capital to  
10 Community Development Financial Institutions for such purposes.
- 11       b. In order to be eligible to receive funds under this section, a  
12 Community Development Financial Institution ~~'[must]~~ shall  
13 demonstrate 'to the agency, in such form and manner as the agency  
14 shall prescribe:
- 15       (1) ' that it is financially sound ~~'[and];~~  
16       (2) ' that it has experience financing the acquisition and  
17 rehabilitation of housing in the State of New Jersey;  
18       (3) ' that it has a plan for the utilization of funds received under  
19 this section compliant with the requirements of subsection c. of this  
20 section and appropriate to further the acquisition and rehabilitation  
21 of eligible properties by qualified entities; and  
22       (4) any other eligibility criteria as the agency may prescribe.'
- 23       c. A Community Development Financial Institution receiving  
24 funds under this section, shall use these funds to provide direct  
25 loans, establish lines of credit, or provide credit enhancements for  
26 loan pools or loans by third parties as may be appropriate to further  
27 the acquisition and rehabilitation of eligible properties by qualified  
28 entities.
- 29       d. A Community Development Financial Institution receiving  
30 funds under this section, shall maximize the extent to which those  
31 funds will leverage private financing.
- 32       e. All loans made by Community Development Financial  
33 Institutions under this section shall be secured by a mortgage on the  
34 subject property.
- 35       f. Community Development Financial Institutions receiving  
36 funds under this section shall adopt written loan criteria 'as the  
37 agency may prescribe' for all loans made, which shall take into  
38 account the development capacity and financial soundness of the  
39 loan recipient, market conditions in the areas in which eligible  
40 properties are located, and the reuse potential of such properties.
- 41       g. 'A' Community Development Financial ~~'[Institutions]~~  
42 Institution' receiving funds under this section shall provide semi-  
43 annual reports to the agency<sup>1</sup>, in such form and manner as the  
44 agency shall prescribe.' on activities carried out with those funds  
45 'and the compliance of the institution with the requirements of this  
46 section and the regulations adopted thereunder'.

1       '5. (New section) Notwithstanding any provision of P.L.1968,  
2 c.410 (C.52:14B-1 et seq.) to the contrary, the agency may adopt  
3 immediately upon filing with the Office of Administrative Law  
4 such regulations as the agency deems necessary to implement the  
5 provisions of this act, which shall be effective for a period not to  
6 exceed 180 days following enactment of P.L. , c. (C. ) (pending  
7 before the Legislature as this bill) and which may thereafter be  
8 amended, adopted or readopted by the agency in accordance with  
9 the requirements of P.L.1968, c.410.'  
10

11       6. Section 7 of P.L.2008, c.127 is amended to read as follows:

12       7. Notwithstanding the provisions of P.L.2008, c.22 (C.52:9H-  
13 2.1 et al.), there is appropriated from the Long Term Obligation and  
14 Capital Expenditure Fund the sum of ~~【\$25,000,000】~~ \$10,800,000 to  
15 the Mortgage and Neighborhood Stabilization Financing Assistance  
16 Program Fund for the purposes of the Mortgage and Neighborhood  
17 Stabilization Financing Assistance Program, of which five percent  
18 may be used for the purposes of administering the program.

19

20       7. (New section) In addition to the uses specified for the  
21 Mortgage and Neighborhood Stabilization Financing Program Fund  
22 created by section 5 of P.L.2008, c.127 (C.55:14K-86) the agency  
23 shall use up to ~~【\$2,200,000】~~ \$2,200,000 in that fund to make  
24 grants to qualified non-profit agencies to support counseling on  
25 behalf of owner-occupant households at risk of foreclosure.

26

27       8. This act shall take effect immediately.