

46:9-8.1

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(Modified mortgages)

NJSA: 46:9-8.1

LAWS OF: 1997 **CHAPTER:** 427

BILL NO: A2323

SPONSOR(S): Augustine and Bateman

DATE INTRODUCED: September 16, 1996

COMMITTEE: **ASSEMBLY:** Financial Institutions
SENATE: State Management

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by
First reprint enacted superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** June 19, 1997
SENATE: January 12, 1998

DATE OF APPROVAL: January 19, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement,
adopted 12-12-96

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

[Passed Both Houses]

[First Reprint]

ASSEMBLY, No. 2323

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 16, 1996

By Assemblymen AUGUSTINE and BATEMAN

1 AN ACT concerning the priority of certain mortgage loans and
2 amending and supplementing P.L.1985, c.353.

3

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

6

7 1. Section 1 of P.L.1985, c.353 (C.46:9-8.1) is amended to read as
8 follows:

9 1. As used in this act:

10 a. "Mortgage loan" means any loan or line of credit, except a
11 construction loan, which states a maximum specified principal amount
12 and which is secured by an interest in real property.

13 b. "Construction loan" means a loan for a fixed term of no more
14 than three years which is secured by a lien on real property and which
15 is made by the lender for the sole purpose of financing the erection,
16 construction, completion, addition to, alteration or repair of
17 improvements to real property.

18 c. "Line of credit" means an agreement whereby a lender is
19 obligated to provide a specified amount of credit to a borrower from
20 time to time. The agreement may include provisions to amend or
21 change the interest rate or terms of repayment and shall be an
22 obligation for the purposes of this section notwithstanding the
23 inclusion of one or more of the following limitations and conditions:

24 (1) An expiration date of the agreement or an option of the lender
25 to cancel the agreement on notice to the borrower;

26 (2) The financial condition of any borrower;

27 (3) Continued compliance by the borrower with the terms of the
28 agreement and any mortgage or security agreement securing the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted December 12, 1996.

1 amounts advanced pursuant to the agreement;

2 (4) The absence of an adverse change in the value or condition of
3 any collateral securing the agreement;

4 (5) A requirement of certain procedures for activating the
5 obligation to make advances pursuant to the agreement; or

6 (6) A decision of the lender not to continue to engage in the
7 business of providing lines of credit on terms similar to the agreement.

8 d. "Modification" means:

9 (1) **【**With respect to a mortgage loan other than a line of credit, a
10 **Δ** change in the interest rate, due date or other terms and conditions
11 of a mortgage loan **【**except an advance of principal or a substitution
12 in the collateral**】**; or

13 (2) An advance made pursuant to a line of credit ¹or other advance
14 of principal, but only to the extent that the advance does not cause the
15 principal balance due to exceed the principal amount stated in the
16 mortgage¹ . "Modification" does not include ¹**【**an advance of principal
17 which increases the principal balance over the principal amount stated
18 in the mortgage or¹**】** a substitution in the collateral.

19 (cf: P.L.1985, c.353, s.1)

20

21 2. (New section) If a holder of a mortgage loan has insured the
22 holder's interest in the real property securing the mortgage loan with
23 title insurance issued in accordance with the "Title Insurance Act of
24 1974," P.L.1975, c.106 (C.17:46B-1 et seq.) and a modification has
25 been made in the mortgage loan which continues the priority of the
26 original mortgage as provided in section 2 of P.L.1985, c. 353
27 (C.46:9-8.2), the title insurance shall continue in effect whether or not
28 the modification agreement is recorded on the records of the county
29 where the mortgage is recorded, unless the terms of the title insurance
30 policy explicitly provide that the policy will not continue to apply if a
31 modification of a mortgage loan takes place pursuant to P.L.1985,
32 c.353 (C.46:9-8.1 et seq.).

33

34 3. This act shall take effect immediately.

35

36

37

38

39 Concerns the priority of modified mortgage loans.

1 business of providing lines of credit on terms similar to the agreement.

2 d. "Modification" means:

3 (1) **【With respect to a mortgage loan other than a line of credit, a】**
4 **A** change in the interest rate, due date or other terms and conditions
5 of a mortgage loan **【except an advance of principal or a substitution**
6 **in the collateral】**; or

7 (2) An advance made pursuant to a line of credit.

8 **"Modification" does not include an advance of principal which**
9 **increases the principal balance over the principal amount stated in the**
10 **mortgage or a substitution in the collateral.**

11 (cf: P.L.1985, c.353, s.1)

12

13 2. (New section) If a holder of a mortgage loan has insured the
14 holder's interest in the real property securing the mortgage loan with
15 title insurance issued in accordance with the "Title Insurance Act of
16 1974," P.L.1975, c.106 (C.17:46B-1 et seq.) and a modification has
17 been made in the mortgage loan which continues the priority of the
18 original mortgage as provided in section 2 of P.L.1985, c. 353
19 (C.46:9-8.2), the title insurance shall continue in effect whether or not
20 the modification agreement is recorded on the records of the county
21 where the mortgage is recorded, unless the terms of the title insurance
22 policy explicitly provide that the policy will not continue to apply if a
23 modification of a mortgage loan takes place pursuant to P.L.1985,
24 c.353 (C.46:9-8.1 et seq.).

25

26 3. This act shall take effect immediately.

27

28

29

STATEMENT

30

31 This bill treats a modification of a line of credit agreements in the
32 same manner as modification of other mortgages. The bill clarifies
33 that principal advances on a mortgage are covered as a modification,
34 thereby maintaining the priority of the mortgage, so long as the
35 resulting outstanding principal balance does not exceed the principal
36 amount stated in the mortgage. In addition, the bill confirms the
37 continuation of the effectiveness of a policy of mortgagee's title
38 insurance upon a modification of the mortgage as provided pursuant
39 to P.L.1985, c.353 (C.46:9-8.1 et seq.) without requiring the issuance
40 of any new policy or an endorsement to the existing mortgagee's
41 policy, unless the title policy explicitly provides to the contrary. This
42 will reduce the cost to the borrower when a mortgage loan is modified.

43

44

45

46 Concerns the priority of modified mortgage loans.

STATEMENT TO
ASSEMBLY, No. 2323

with Assembly Amendments
(Proposed by Assemblyman AUGUSTINE)

ADOPTED: DECEMBER 12, 1996

This amendment clarifies that a mortgage loan modification includes an advance made pursuant to a line of credit or other advance of principal up to the principal amount stated in the mortgage; any amount advanced beyond the principal amount stated in the mortgage is not a modification.

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2323

STATE OF NEW JERSEY

DATED: OCTOBER 7, 1996

The Assembly Financial Institutions Committee reports favorably Assembly Bill No. 2323.

This bill treats a modification of a line of credit agreements in the same manner as modification of other mortgages. The bill clarifies that principal advances on a mortgage are covered as a modification, thereby maintaining the priority of the mortgage, so long as the resulting outstanding principal balance does not exceed the principal amount stated in the mortgage. In addition, the bill confirms the continuation of the effectiveness of a policy of mortgagee's title insurance upon a modification of the mortgage as provided pursuant to P.L.1985, c.353 (C.46:9-8.1 et seq.) without requiring the issuance of any new policy or an endorsement to the existing mortgagee's policy, unless the title policy explicitly provides to the contrary. This will reduce the cost to the borrower when a mortgage loan is modified.

SENATE STATE MANAGEMENT, INVESTMENT AND
FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2323

STATE OF NEW JERSEY

DATED: DECEMBER 15, 1997

The Senate State Management, Investment and Financial Institutions Committee reports favorably Assembly, No. 2323 (1R).

This bill treats a modification of a line of credit agreements in the same manner as modification of other mortgages. The bill clarifies that principal advances on a mortgage are covered as a modification, thereby maintaining the priority of the mortgage, so long as the resulting outstanding principal balance does not exceed the principal amount stated in the mortgage. In addition, the bill confirms the continuation of the effectiveness of a policy of mortgagee's title insurance upon a modification of the mortgage as provided pursuant to P.L.1985, c.353 (C.46:9-8.1 et seq.) without requiring the issuance of any new policy or an endorsement to the existing mortgagee's policy, unless the title policy explicitly provides to the contrary. This will reduce the cost to the borrower when a mortgage loan is modified.