

1 AN ACT concerning housing.

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

4 Section 5. The Illinois Housing Development Act is amended  
5 by adding Section 7.24i as follows:

6 (20 ILCS 3805/7.24i new)

7 Sec. 7.24i. Homeowners' Emergency Mortgage Assistance  
8 Program.

9 (a) The Authority shall administer the Homeowners'  
10 Emergency Mortgage Assistance Program.

11 (b) Definitions. In this Section:

12 "Chairman" means the Chairman of the Illinois Housing  
13 Development Authority (IHDA) or the Chairman's duly appointed  
14 designee, who must be an employee of IHDA.

15 "Fund" means the Emergency Mortgage Assistance Fund  
16 created in this Section.

17 "Single family residence" means a structure maintained and  
18 used as a single family dwelling unit located in Illinois. Even  
19 if a dwelling unit shares one or more walls with another  
20 dwelling unit, it is a single family residence for the purpose  
21 of this Section if it has direct access to a street or  
22 thoroughfare and does not share hot water equipment, heating  
23 facilities, or any other essential facilities or service with  
24 any other dwelling unit.

25 "Gross household income" means the total income of a  
26 mortgagor, the mortgagor's spouse, children residing in the  
27 same residence as the mortgagor, and any other person living in  
28 the residence that is declared by the mortgagor as a dependent  
29 for federal income tax purposes.

30 "Housing expense" means the sum of the mortgagor's monthly  
31 maintenance, utility, and hazard insurance expenses, taxes,  
32 and required mortgage payments, including escrows.

1       "Fund" means the Emergency Mortgage Assistance Fund  
2 created in this Section.

3       "Mortgage" means a secured consensual interest or lien  
4 created by a real estate mortgage, a trust deed on real estate,  
5 or the like.

6       "Net effective income" means the gross household income of  
7 the mortgagor less city, State, and federal income and social  
8 security taxes.

9       "Household" means 2 or more persons residing together or a  
10 person living alone.

11       (c) Homeowners' Emergency Mortgage Assistance Program.

12       (1) In general. The Authority shall establish a program to  
13 provide homeowners alternatives to foreclosure by providing  
14 for temporary emergency mortgage payments on mortgage loans  
15 secured by single-family residences when:

16       (A) the mortgagor is an existing participant of the  
17 program prior to default, as described in item (B) of this  
18 subsection, and has paid a participant fee of \$5 per year  
19 to be deposited into the Fund in accordance with rules  
20 adopted by the Authority;

21       (B) the mortgagor is in default by at least one full  
22 monthly installment due under the terms of the mortgage  
23 after the application of all, if any, partial payments that  
24 have been accepted by the mortgagee but not yet applied to  
25 the mortgage account;

26       (C) the mortgagor is suffering financial hardship  
27 through no fault of the mortgagor that renders the  
28 mortgagor unable to correct the default within 60 days  
29 after receiving proper notice from the mortgagee of the  
30 default;

31       (D) the mortgagor will likely be able to resume full  
32 mortgage payments not later than 18 months after the  
33 earliest date that assistance payments are provided under  
34 this Section and the mortgagor will likely be able to pay  
35 the mortgage in full by its maturity date or by a later  
36 date agreed upon by the mortgagee;

1           (E) the property in default is the mortgagor's  
2           principal residence;

3           (F) the mortgagor has applied for assistance in  
4           accordance with this Section and rules adopted by the  
5           Authority for this Section; and

6           (G) the mortgagor's gross household income does not  
7           exceed 100% of area median income adjusted for family size  
8           as identified by the U.S. Department of Housing and Urban  
9           Development.

10          (2) Effect of finding of ineligibility. If, after reviewing  
11          an application for assistance submitted under subsection (e),  
12          the Chairman determines that the mortgagor has not met the  
13          conditions of eligibility described in paragraph (1) of this  
14          subsection, the mortgagor is prohibited from re-applying for  
15          assistance under this Section until the expiration of a 6-month  
16          period beginning on the date of that determination unless there  
17          is a material change in the financial circumstances of the  
18          mortgagor.

19          (3) Determination of financial hardship. In determining  
20          whether a financial hardship is incurred through no fault of  
21          the mortgagor, the Chairman may consider all necessary  
22          information including the mortgagor's employment record,  
23          credit history, and current income. Assistance may be granted  
24          in no-fault circumstances including, but not be limited to:

25                (A) loss of job of a member of the household;

26                (B) salary, wage, or earnings reduction of a member of  
27                the household;

28                (C) injury, disability, or illness of a member of the  
29                household;

30                (D) divorce or separation in the household;

31                (E) death of a member of the household; or

32                (F) major unanticipated household expense.

33          (4) Designated agencies. The Authority shall, by rule,  
34          establish a procedure to designate and approve not-for-profit  
35          corporations with offices in Illinois as agencies to assist in  
36          implementing the program. Agencies designated and approved

1 under this paragraph shall assist, at the direction of the  
2 Chairman, eligible mortgagors in completing the application  
3 for assistance and, to the extent that the agency is willing  
4 and able to do so, provide counseling.

5 (d) Notice of default.

6 (1) Any notice by a mortgagee sent to the mortgagor  
7 regarding a default payment must include a statement in large  
8 bold type substantially similar to the following: IF YOU NEED  
9 HELP PAYING YOUR MORTGAGE AND WANT TO AVOID PENALTIES, YOU MAY  
10 BE A PARTICIPANT IN THE STATE'S EMERGENCY MORTGAGE ASSISTANCE  
11 PROGRAM. TO DETERMINE YOUR ELIGIBILITY FOR ASSISTANCE CALL  
12 1-8xx- (insert appropriate toll-free number) IMMEDIATELY. THIS  
13 DOES NOT CHANGE THE RIGHT OF YOUR LENDER TO ENFORCE THE  
14 MORTGAGE AGREEMENT.

15 (2) Except as provided in subsection (d)(1), nothing in  
16 this Section shall impose any additional duty or responsibility  
17 under this Section on the mortgagee. Failure by the mortgagee  
18 to provide the statement described in subsection (d)(1) shall  
19 not impair the ability of the mortgagee to collect any sums due  
20 on the note secured by the mortgage or enforce its lien rights  
21 in the property secured by the mortgage and shall not subject  
22 the mortgagee to any liability to the mortgagor.

23 (e) Application for assistance.

24 (1) The Authority may pay designated agencies a fee from  
25 the Fund, in an amount determined by the Chairman, for  
26 rendering assistance under this Section. This assistance may  
27 include foreclosure intervention and mortgage workout  
28 counseling.

29 (2) Form; contents. An application for assistance under  
30 this Section shall be on a form prescribed, by rule, by the  
31 Chairman and shall include a financial statement disclosing all  
32 assets and liabilities of the mortgagor, whether singly or  
33 jointly held, and all household income regardless of source.

34 (3) Effect of misrepresentation. A mortgagor who  
35 intentionally misrepresents any material financial information  
36 in connection with the filing of an application for assistance

1 under this Section may be denied assistance and required to  
2 immediately repay any amount of assistance received. The  
3 Authority must, by rule, establish a process for determining  
4 intentional misrepresentation and for the prompt appeal of  
5 positive determinations.

6 (4) Availability. An application for assistance under this  
7 Section may be obtained from a designated agency or any other  
8 financial counseling assistance agency that elects to make  
9 applications available.

10 (5) Determination on application. The Chairman must  
11 determine eligibility of a mortgagor for assistance under this  
12 Section not later than 60 days after receipt of the application  
13 of the mortgagor.

14 Not later than 5 business days after making the  
15 determination on an application for assistance, the Chairman  
16 shall notify the mortgagor and the mortgagee as to whether the  
17 application has been approved or disapproved.

18 (f) Assistance payments.

19 (1) Amount to bring mortgage current. If the Chairman or  
20 designated agency determines that a mortgagor is eligible for  
21 assistance under this Section, the Authority or designated  
22 agency shall pay to the mortgagee the full amount due to the  
23 mortgagee under the terms of the mortgage without regard to any  
24 acceleration under the mortgage, or the full amount of any  
25 alternative mortgage payments agreed to by the mortgagee and  
26 mortgagor on the date that the application is approved. This  
27 amount shall include the amount of principal, interest, taxes,  
28 assessments, ground rents, hazard insurance, and mortgage  
29 insurance premiums. The initial payment by each agency shall be  
30 an amount that makes the mortgage current, including reasonable  
31 costs and reasonable attorney fees already incurred by the  
32 mortgagee.

33 (2) Monthly assistance payments. The Authority shall make  
34 monthly mortgage assistance payments to the mortgagee on behalf  
35 of the mortgagor under this subsection in accordance with the  
36 terms of the note secured by the mortgage or any change in

1 terms as agreed to by the mortgagee and mortgagor.

2 A mortgagor on whose behalf the Authority is making the  
3 mortgage assistance payments must pay his or her monthly  
4 payments to the Authority. The payments shall be in an amount  
5 that will not cause the mortgagor's total housing expense to  
6 exceed 35% of the mortgagor's net effective income. This is the  
7 maximum amount the mortgagor can be required to pay during the  
8 18 months that a mortgagor is eligible for mortgage assistance.  
9 The mortgagor must mail the payments at least 7 days before  
10 each mortgage payment is due under the mortgage.

11 The Authority shall send by the payment due date the total  
12 mortgage payment directly to the mortgagee along with a coupon  
13 or other account-identifying information regarding the  
14 mortgage, as required by the mortgagee.

15 (3) Review upon delinquency. If the mortgagor fails to pay  
16 to the Authority any amounts due directly from the mortgagor  
17 under this subsection, not later than 15 days after the due  
18 date the Chairman or designated agency shall review the  
19 mortgagor's financial circumstances to determine whether a  
20 delinquency in payments due from the mortgagor under this  
21 subsection is the result of a material change in the  
22 mortgagor's financial circumstances since the payment amount  
23 was last determined. If the delinquency is not the result of a  
24 material change in the mortgagor's financial circumstances,  
25 the Chairman may terminate future mortgage assistance  
26 payments. If the delinquency is the result of a material  
27 change, the Chairman shall modify the mortgagor's required  
28 payments as the Chairman or designated agency determines. For  
29 one time only, and at the sole discretion of the Chairman, the  
30 delinquency incurred for non-financial reasons may be  
31 satisfied by the Authority if it appears that the payment will  
32 prevent foreclosure.

33 (4) Period for assistance. Payments under this subsection  
34 may be provided for a period not to exceed 18 months, either  
35 consecutively or non-consecutively. The Chairman shall  
36 establish procedures for periodic review of the mortgagor's

1 financial circumstances for the purpose of determining the  
2 necessity for continuation, termination, or adjustment of the  
3 amount of the payments.

4 (5) Rules; availability of funds; necessity. Assistance  
5 payments from the Fund may be made only according to rules  
6 adopted by the Authority and are subject to the availability of  
7 funds. Payments may be made from the Fund only if it is not  
8 otherwise possible to prevent a foreclosure.

9 (g) Repayment of assistance.

10 (1) Assistance loan. The amount by which the assistance  
11 payments made by the Authority to the mortgagee exceeds the  
12 amount of payments made by the mortgagor to the Authority are a  
13 loan by the Authority to the mortgagor. The loan may be  
14 evidenced by any documents that the Authority determines, by  
15 rule, are necessary to protect the interests of the State.

16 (2) Repayment of assistance loan. Before making assistance  
17 payments under this Section on behalf of a mortgagor, the  
18 Authority must enter into an agreement with the mortgagor for  
19 repayment of all mortgage assistance provided under subsection  
20 (f) plus interest as provided in paragraph (3) of this  
21 subsection. The agreement must provide for monthly payments by  
22 the mortgagor to the Authority that:

23 (A) shall begin once the Chairman has determined that  
24 continuation of mortgage assistance payments to the  
25 mortgagee is unnecessary; and

26 (B) shall be in an amount determined as follows:

27 (i) if the mortgagor's total housing expense is  
28 less than 35% of the mortgagor's net effective income,  
29 the mortgagor must pay to the Authority the difference  
30 between 35% of the mortgagor's net effective income and  
31 the mortgagor's total housing expense unless otherwise  
32 determined by the Chairman after examining the  
33 mortgagor's financial circumstances and ability to  
34 contribute to repayment of the mortgage assistance; or

35 (ii) if the mortgagor's total housing expense is  
36 more than 35% of the mortgagor's net effective income,

1           repayment of the mortgage assistance shall be deferred  
2           until the mortgagor's total housing expense is less  
3           than 35% of the mortgagor's net effective income.

4           (C) Notwithstanding subparagraphs (A) and (B) of this  
5           paragraph, if repayment of mortgage assistance is not made  
6           by the date that the mortgage is paid in full, the  
7           mortgagor must make mortgage assistance repayments in an  
8           amount not less than the previous regular mortgage payment  
9           until the mortgage assistance is repaid.

10          (3) Interest. Interest shall accrue on all mortgage  
11          assistance payments made under this Section at the rate,  
12          determined monthly by the Chairman, equal to the then current  
13          average yield on outstanding 20-year bonds issued by the  
14          Secretary of the United States Treasury under Section 3102 of  
15          Title 31, United States Code and shall accrue only during the  
16          period in which the mortgagor is required to make repayment  
17          under this subsection.

18          (4) Lien to secure repayment of assistance. Repayment of  
19          amounts owed to the Authority from a mortgagor shall be secured  
20          by a mortgage lien on the property and by any other obligation  
21          that the Authority may, by rule, require. The lien or other  
22          security interest of the Authority may not take priority over  
23          any other secured lien or secured interest in effect against  
24          the mortgagor's property on the date assistance payments begin.  
25          The Authority may allow subordination of the mortgage  
26          assistance lien only if the subordination is in the best  
27          interest of the homeowner and necessary to permit the mortgagor  
28          to obtain a home improvement loan for repairs necessary to  
29          preserve the property.

30          (5) Time for repayment. Payments under this subsection  
31          shall be made by the mortgagor to the Authority not later than  
32          14 days after each mortgage payment is due under the mortgage,  
33          or in the case of repayment after the mortgage has been paid in  
34          full, not later than the date the mortgage payments were due  
35          under the mortgage.

36          (h) Emergency Mortgage Assistance Fund.



1       (1) A special income-earning Fund is hereby created in the  
2 State treasury, known as the Emergency Mortgage Assistance  
3 Fund.

4       (2) All moneys paid into the Fund together with all  
5 accumulated undistributed income thereon shall be held as a  
6 special fund in the State treasury. The Fund shall be used  
7 solely for the purpose of providing assistance to mortgagors  
8 who are eligible under the requirements of this Section.

9       (3) Notwithstanding any other provisions of this Section,  
10 the payment of assistance from the fund shall be subject to the  
11 availability of funds, and no mortgagor shall have any vested  
12 right in the Fund as a beneficiary or otherwise. Before seeking  
13 assistance from the Fund, the mortgagor or beneficiary seeking  
14 assistance shall apply for assistance on a form provided by the  
15 Chairman. The form shall include any information the Chairman  
16 may reasonably require in order to determine that assistance is  
17 appropriate.

18       (4) The Authority may accept contributions made by banks  
19 and other lending institutions to satisfy their  
20 responsibilities under the federal Community Reinvestment Act  
21 of 1977.

22       (i) Adoption of rules.

23       (1) The Authority may adopt any rules necessary to  
24 implement, administer, and enforce this Section.

25       (2) In adopting rules concerning the collection of fees  
26 under subsection (c), the Authority may receive the assistance  
27 of the Department of Revenue to collect fees at the time income  
28 tax returns are filed or of the collector at the time property  
29 taxes are paid.

30       Section 10. The State Finance Act is amended by changing  
31 Section 8h and by adding Section 5.625 as follows:

32       (30 ILCS 105/5.625 new)

33       Sec. 5.625. The Emergency Mortgage Assistance Fund.

1 (30 ILCS 105/8h)

2 Sec. 8h. Transfers to General Revenue Fund.

3 Notwithstanding any other State law to the contrary, the  
4 Director of the Governor's Office of Management and Budget may  
5 from time to time direct the State Treasurer and Comptroller to  
6 transfer a specified sum from any fund held by the State  
7 Treasurer to the General Revenue Fund in order to help defray  
8 the State's operating costs for the fiscal year. The total  
9 transfer under this Section from any fund in any fiscal year  
10 shall not exceed the lesser of 8% of the revenues to be  
11 deposited into the fund during that year or 25% of the  
12 beginning balance in the fund. No transfer may be made from a  
13 fund under this Section that would have the effect of reducing  
14 the available balance in the fund to an amount less than the  
15 amount remaining unexpended and unreserved from the total  
16 appropriation from that fund for that fiscal year. This Section  
17 does not apply to any funds that are restricted by federal law  
18 to a specific use or to any funds in the Motor Fuel Tax Fund,  
19 the Emergency Mortgage Assistance Fund, or the Hospital  
20 Provider Fund. Notwithstanding any other provision of this  
21 Section, the total transfer under this Section from the Road  
22 Fund or the State Construction Account Fund shall not exceed 5%  
23 of the revenues to be deposited into the fund during that year.

24 In determining the available balance in a fund, the  
25 Director of the Governor's Office of Management and Budget may  
26 include receipts, transfers into the fund, and other resources  
27 anticipated to be available in the fund in that fiscal year.

28 The State Treasurer and Comptroller shall transfer the  
29 amounts designated under this Section as soon as may be  
30 practicable after receiving the direction to transfer from the  
31 Director of the Governor's Office of Management and Budget.

32 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04.)

33 Section 99. Effective date. This Act takes effect upon  
34 becoming law.