



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5728

by Rep. Fred Crespo

SYNOPSIS AS INTRODUCED:

New Act

Creates the Home Protection Pilot Program Act. Requires the Illinois Housing Development Authority to implement a pilot program to assist Illinois workers who have lost jobs as a result of changing economic conditions in Illinois when those workers are in need of assistance to avoid losing their homes to foreclosure. Provides that the Program shall include counties selected at the discretion of the Authority on the basis of increased rates of foreclosure, actual foreclosure filings, unemployment, the need of local counseling agencies for increased capacity to serve clients in need of assistance to avoid losing their homes to foreclosure, the availability of funding, and other factors the Authority determines to be relevant. Provides for loans to homeowners secured by liens on residential real property located in Illinois, and prohibits a mortgagee from engaging in certain conduct upon a mortgagor's filing of an application for loan assistance. Sets forth other provisions of the Program. Requires the Authority to conduct a study and to report to the Governor and the General Assembly by May 1, 2009.

LRB095 18727 DRJ 44831 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 1. Short title. This Act may be cited as the Home
5 Protection Pilot Program Act.

6 Section 5. Definitions. In this Act:

7 "Authority" means the Illinois Housing Development
8 Authority.

9 "Counseling agency" means a nonprofit counseling agency
10 located in Illinois that is approved by the Authority.

11 "Mortgage" means any consensual lien created by a written
12 instrument which grants or retains an interest in real estate
13 to secure a debt or other obligation. The term "mortgage"
14 includes, without limitation:

15 (1) mortgages securing "reverse mortgage" loans as
16 authorized by subsection (a) of Section 5 of the Illinois
17 Banking Act;

18 (2) mortgages securing "revolving credit" loans as
19 authorized by subsection (c) of Section 5 of the Illinois
20 Banking Act, Section 1-6b of the Illinois Savings and Loan
21 Act and Section 46 of the Illinois Credit Union Act;

22 (3) every deed conveying real estate, although an
23 absolute conveyance in its terms, which shall have been

1 intended only as a security in the nature of a mortgage;

2 (4) equitable mortgages; and

3 (5) instruments which would have been deemed
4 instruments in the nature of a mortgage prior to the
5 effective date of this amendatory Act of 1987.

6 "Mortgagee" means (i) the holder of an indebtedness or
7 obligee of a non-monetary obligation secured by a mortgage or
8 any person designated or authorized to act on behalf of such
9 holder and (ii) any person claiming through a mortgagee as
10 successor.

11 "Mortgagor" means (i) the person whose interest in the real
12 estate is the subject of the mortgage and (ii) any person
13 claiming through a mortgagor as successor. If a mortgage is
14 executed by a trustee of a land trust, the mortgagor is the
15 trustee and not the beneficiary or beneficiaries.

16 "Program" means the pilot program created under Section 10
17 of this Act.

18 Section 10. Pilot program. The Authority shall develop,
19 implement, and administer a pilot program to assist Illinois
20 workers who have lost jobs as a result of changing economic
21 conditions in Illinois when the workers are in need of
22 assistance to avoid losing their homes to foreclosure. The
23 Authority shall do all of the following:

24 (1) Develop and administer the Illinois Home
25 Protection Pilot Program to ensure that workers in the

1 counties selected for the Program have assistance to avoid
2 losing their homes to foreclosure. The Program shall
3 include counties selected at the discretion of the
4 Authority on the basis of increased rates of foreclosure,
5 actual foreclosure filings, unemployment, the need of
6 local counseling agencies for increased capacity to serve
7 clients in need of assistance to avoid losing their homes
8 to foreclosure, the availability of funding, and other
9 factors the Authority determines to be relevant.

10 (2) Make loans secured by liens on residential real
11 property located in Illinois to property owners who are
12 eligible for those loans.

13 (3) Develop and administer procedures by which
14 property owners at risk of being foreclosed upon may
15 qualify for assistance.

16 (4) Designate, approve, and fund nonprofit counseling
17 agencies in counties participating in the Program to be
18 available to assist the Authority in implementing the
19 provisions of this Act, to provide services such as direct
20 mortgagee negotiations on behalf of unemployed workers,
21 and to process loan applications for the Authority.

22 (5) Develop and fund enhanced methods by which workers
23 may be notified of foreclosure mitigation services, may
24 easily contact local nonprofit counseling agencies, and
25 may apply for loans from the Authority.

1 Section 15. Study; report. The Authority shall conduct a
2 study and convene meetings of experts for the purpose of
3 developing a report to the General Assembly. The report shall
4 include recommendations regarding (i) the problem of
5 increasing foreclosure filings statewide, (ii) improvements to
6 the laws regarding foreclosure procedures and other laws that
7 impact foreclosure filings, and (iii) the benefits and
8 feasibility of creating a foreclosure avoidance loan fund. The
9 Agency shall report its recommendations to the Governor and the
10 General Assembly on or before May 1, 2009.

11 Section 20. Loan assistance; application; limitation on
12 mortgagee's acts.

13 (a) Upon the proper filing of an application for loan
14 assistance by a mortgagor under this Act, a mortgagee shall not
15 do the following:

16 (1) Accelerate the maturity of any mortgage obligation
17 covered under this Act.

18 (2) Commence or continue any legal action, including
19 mortgage foreclosure pursuant to Article XV of the Code of
20 Civil Procedure, to recover the mortgage obligation.

21 (3) Take possession of any security of the mortgagor
22 for the mortgage obligation.

23 (4) Procure or receive a deed in lieu of foreclosure.

24 (5) Enter judgment by confession pursuant to a note
25 accompanying a mortgage.

1 (6) Proceed to enforce the mortgage obligation
2 pursuant to applicable rules of civil procedure for a
3 period of 120 days following the date of the mortgagor's
4 properly filed application.

5 The provisions of this subsection shall not apply if the
6 mortgagee receives notice from the Authority that the
7 mortgagor's application has been denied.

8 (b) If a mortgagee acts as proscribed in subdivisions (1)
9 through (6) of subsection (a), the mortgagor is entitled to
10 injunctive relief without the necessity of providing a bond.
11 This relief shall be in addition to any defenses available
12 under Article XV of the Code of Civil Procedure and any other
13 remedies at law or equity.

14 (c) Upon the Authority's receipt of a properly filed
15 mortgagor's application for loan assistance, the Authority
16 shall mail notice of the application to the mortgagor's
17 mortgagee within 5 business days after the Authority's receipt
18 of the application. The Authority shall also mail notice of the
19 acceptance or denial of the mortgagor's application to the
20 mortgagee within 5 days after the Authority's determination.
21 Notice shall be deemed sufficient if sent to the mortgagee's
22 last known address.

23 Section 25. Report on effectiveness of program. No later
24 than May 1, 2009, the Authority shall report to the Governor
25 and the General Assembly on the effectiveness of the Program in

1 accomplishing its purposes and shall provide any other
2 information the Authority determines is pertinent or that the
3 General Assembly requests.

4 Section 90. Rules. The Authority shall adopt rules as
5 necessary to implement this Act.