

1 AN ACT concerning mortgage foreclosures.

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
5 amended by adding Section 7.24i as follows:

6 (20 ILCS 3805/7.24i new)

7 Sec. 7.24i. Homeowners Emergency Mortgage Assistance and
8 Counseling Program.

9 (a) Homeowners Emergency Mortgage Assistance and
10 Counseling Program. The Homeowners Emergency Mortgage
11 Assistance and Counseling Program is established to prevent
12 mortgage foreclosure by authorizing designated agencies to
13 receive funds to provide counseling and emergency mortgage
14 payments to eligible mortgagors.

15 (b) Definitions. In this Section:

16 "Authority" means the Illinois Housing Development
17 Authority.

18 "Designated agency" means a unit of local government or
19 an Illinois not-for-profit corporation.

20 "Household" means (i) a mortgagor and one or more persons
21 living in the same single-family residence or (ii) a
22 mortgagor living alone.

23 "Household income" means the total income of all members
24 of a household, less State and federal income and social
25 security taxes.

26 "Housing assistance" means all programs designed to
27 create or preserve decent, safe, affordable housing,
28 including the production of rental or homeowner units, rental
29 assistance, housing counseling, homeowner improvement, or
30 other assistance.

31 "Housing counseling" means the provision of outreach and

1 assistance to potential homeowners, renters, and first-time
2 buyers. Assistance to homeowners includes addressing
3 problems or potential problems that may result in default or
4 foreclosure on their property.

5 "Mortgage arrearage" means any payments past due to a
6 financial institution in connection with a mortgage,
7 including mortgage principal, interest, taxes, assessments,
8 insurance, and legal or other fees.

9 "Program" means the Homeowner's Emergency Mortgage
10 Assistance and Counseling Program created in this Section.

11 "Single-family residence" means a house, condominium,
12 mobile home, or other interest in real estate that is
13 intended for residential use by no more than 4 households and
14 that is located in Illinois.

15 "Total housing expense" means the sum of the mortgagor's
16 monthly expenses, including utilities, hazard insurance
17 expenses, taxes, and all required mortgage payments.

18 (c) Responsibilities of the Authority. The Authority
19 must establish, by rule, the Homeowners Emergency Mortgage
20 Assistance and Counseling Program. The Authority must
21 contract with designated agencies that receive grant funds to
22 provide counseling and offer assistance in the form of
23 emergency loans to eligible mortgagors in order to prevent
24 mortgage foreclosures.

25 (d) Responsibilities of designated agencies. Designated
26 agency responsibilities include, but are not limited to, the
27 following:

28 (1) screening applicants for assistance to
29 determine eligibility;

30 (2) providing housing counseling to address and
31 avoid actual or potential problems that may result in
32 default on a mortgage or foreclosure on an eligible
33 mortgagor's property;

34 (3) assisting mortgagors in attempting to negotiate

1 refinancing or alternative mortgage payment agreements
2 with financial institutions holding the mortgage;

3 (4) paying any mortgage arrearage and, if
4 necessary, monthly mortgage assistance payments on behalf
5 of eligible mortgagors in a manner consistent with the
6 requirements of subsection (f) of this Section;

7 (5) monitoring the level of the mortgagor's
8 continued eligibility for assistance, adjustment of
9 monthly payments, when appropriate, and accounting for
10 payments made either by or to the designated agency under
11 the Program; and

12 (6) any other responsibilities assumed by the
13 designated agency and approved by the Authority as part
14 of the designated agency's contract with the Authority.

15 (e) Eligibility for assistance. Designated agencies may
16 make mortgage and mortgage arrearage payments on behalf of a
17 household when all of the following conditions are met:

18 (1) The mortgagee has given the mortgagor notice
19 that the mortgage is in default.

20 (2) At least one full monthly installment due on
21 the mortgage is unpaid after the application of any
22 partial payments that may have been accepted but not yet
23 applied to the mortgage account.

24 (3) The mortgagor, with the assistance of the
25 designated agency, has attempted and failed to work out
26 an arrangement with the mortgagee to address the mortgage
27 default by restructuring the mortgage payment schedule.

28 (4) The mortgagor is suffering financial hardship
29 due to circumstances beyond the control of the mortgagor
30 that render the mortgagor unable to correct the
31 delinquency on the mortgage. In determining whether a
32 financial hardship is due to circumstances beyond the
33 control of a mortgagor, designated agencies may consider
34 information regarding the mortgagor's employment record,

1 credit history, and current income. The circumstances
2 beyond the control of the mortgagor include, but are not
3 limited to the following:

4 (A) Loss, reduction, or delay in the receipt
5 of income because of the death or disability of a
6 person who contributed to the household income.

7 (B) Expenses actually incurred related to
8 uninsured damage or costly repairs to the mortgaged
9 premises affecting its habitability.

10 (C) Expenses related to death or illness in
11 the homeowner's household or family members living
12 outside the household that reduce the amount of
13 household income.

14 (D) Loss of income or a substantial increase
15 in total housing expenses because of divorce,
16 abandonment, separation from a spouse, or failure to
17 support a spouse or child.

18 (E) Unemployment or underemployment.

19 (F) Loss, reduction, or delay in the receipt
20 of federal, State, or other government benefits.

21 (G) Participation by the homeowner in a
22 recognized labor action, such as a strike.

23 (5) There is a reasonable prospect that the
24 mortgagor will be able to resume full mortgage payments
25 not less than 24 months after the beginning of the period
26 for which assistance payments are provided and to pay the
27 mortgage in full by its maturity date or by a later date
28 agreed upon by the mortgagee. In determining whether
29 there is a reasonable prospect that the mortgagor will be
30 able to resume full mortgage payments, the designated
31 agency may consider:

32 (A) a favorable work and credit history;

33 (B) the mortgagor's ability to and history of
34 paying the mortgage when employed;

1 (C) the lack of an impediment or disability
2 that prevents reemployment;

3 (D) new education and training opportunities;

4 (E) non-cash benefits that may reduce
5 household expenses;

6 (F) other debts; and

7 (G) that the mortgagor is actively seeking or
8 has obtained employment.

9 (6) The property mortgaged is the mortgagor's
10 principal place of residence and is a single-family
11 residence as defined in this Act.

12 (7) The mortgagor has applied to the Program for
13 assistance in accordance with this Section and rules
14 adopted by the Authority for its implementation.

15 (8) The mortgagor's gross household income does not
16 exceed 80% of area median income as determined by the
17 federal Bureau of the Census.

18 (9) Installments of principal and interest due
19 under the mortgage are structured so that the loan is
20 fully amortized by regular and periodic payments over a
21 designated period of time. A mortgage in which the
22 balance is due upon demand or the balance is due in a
23 lump sum or balloon payment at the end of a term is not
24 eligible for mortgage assistance if the balance would be
25 due during the term of assistance.

26 (f) Assistance payments to eligible mortgagors.

27 (1) If the designated agency determines that a
28 mortgagor is eligible for financial assistance, the
29 following provisions apply.

30 (A) The designated agency must pay the
31 mortgage arrearage without regard to any
32 acceleration under the mortgage or the full amount
33 of any alternative mortgage payments agreed to by
34 the mortgagee and mortgagor.

1 (B) In addition, the designated agency may
2 also make monthly mortgage assistance payments on
3 behalf of the mortgagor. Payments under this
4 subparagraph (B) may be provided for a period not to
5 exceed 24 months, either consecutively or
6 non-consecutively.

7 (2) A mortgagor on whose behalf a designated agency
8 is making the mortgage assistance payments must make his
9 or her payments to the designated agency. These payments
10 must be in an amount that will not cause the mortgagor's
11 total housing expense to exceed 35% of the mortgagor's
12 household income. This is the maximum amount the
13 mortgagor can be required to pay during the 24-month
14 period of assistance eligibility. The mortgagor must
15 make the payments at least 7 days before each mortgage
16 payment is due under the mortgage.

17 (3) Upon receipt of the payment from the mortgagor,
18 the designated agency must send the total mortgage
19 payment directly to the mortgagee.

20 (4) If the mortgagor fails to pay to the designated
21 agency any amounts due from the mortgagor under this
22 subsection, not less than 15 days after the due date the
23 designated agency must review the mortgagor's financial
24 circumstances to determine whether a delinquency in
25 payments due from the mortgagor is the result of a change
26 in the mortgagor's financial circumstances since the
27 payment amount was last determined. If the delinquency
28 is not the result of a change in the mortgagor's
29 financial circumstances, the designated agency may
30 terminate future mortgage assistance payments and the
31 mortgagee may, at any time after the termination, take
32 appropriate legal action to enforce its mortgage. For
33 one time only, and at the sole discretion of the
34 designated agency, the delinquency incurred for

1 non-financial reasons may be satisfied by the designated
2 agency if it appears that the payment will prevent
3 foreclosure.

4 (5) If the delinquency is the result of a change,
5 the designated agency must modify the mortgagor's
6 required payments as the designated agency determines.

7 (6) The designated agency must establish procedures
8 for periodic review of the mortgagor's financial
9 circumstances for the purpose of determining the
10 necessity of continuation, termination, or adjustment of
11 the amount of the payments. No assistance payments on
12 behalf of any mortgagor may exceed \$60,000 in the
13 aggregate.

14 (g) Repayment of assistance.

15 (1) The amount by which the assistance payments
16 made by the designated agency to the mortgagee exceeds
17 the amount of payments made by the mortgagor to the
18 designated agency are a loan by the designated agency to
19 the mortgagor. The loan may be evidenced by any
20 documents that are necessary to protect the interests of
21 the designated agency.

22 (2) Before making assistance payments on behalf of
23 an eligible mortgagor, the designated agency must enter
24 into an agreement with the mortgagor for repayment of all
25 mortgage assistance provided under this Section plus
26 interest as provided in this subsection. The agreement
27 must provide for monthly payments by the mortgagor to the
28 designated agency that:

29 (A) must begin once the designated agency has
30 determined that continuation of mortgage assistance
31 payments to the mortgagee is unnecessary; and

32 (B) must be in an amount determined as
33 follows:

34 (i) if the mortgagor's total housing

1 expense is less than 35% of the mortgagor's
 2 household income, the mortgagor must pay to the
 3 designated agency the difference between 35% of
 4 the mortgagor's household income and the
 5 mortgagor's total housing expense but in any
 6 case not less than \$25; or

7 (ii) if the mortgagor's total housing
 8 expense is more than 35% of the mortgagor's
 9 household income, repayment of the mortgage
 10 assistance must be deferred until the
 11 mortgagor's total housing expense is less than
 12 35% of the mortgagor's household income.

13 Notwithstanding any other provision of this paragraph, if
 14 repayment of mortgage assistance is not made by the date that
 15 the mortgage is paid in full, the mortgagor must make
 16 mortgage assistance repayments in an amount not less than the
 17 previous regular mortgage payment until the mortgage
 18 assistance is repaid.

19 (3) Interest shall accrue on all mortgage
 20 assistance payments made under this Section at the rate
 21 of 3%.

22 (h) Lien to secure repayment of assistance. Repayment
 23 of amounts owed to the designated agency from a mortgagor
 24 must be secured by a mortgage lien on the property and by any
 25 other obligation that the designated agency may require. The
 26 lien or other security interest may not be less than a third
 27 lien on the mortgaged property. Subordination of the
 28 mortgage assistance lien may be allowed only if subordination
 29 is in the best interest of the homeowner and necessary to
 30 permit the mortgagor to obtain a home improvement loan for
 31 repairs necessary to preserve the property.

32 (i) Time for repayment. Payments under this Section must
 33 be made by the mortgagor to the designated agency not later
 34 than 14 days after each mortgage payment is due under the

1 mortgage, or in the case of repayment after the mortgage has
2 been paid in full, not later than the date the mortgage
3 payments were due under the mortgage.

4 (j) Use of repayment funds. Designated agencies may use
5 all repayment funds to continue implementation of the
6 Homeowners Emergency Mortgage Assistance and Counseling
7 Program as long as the State continues to fund the Program.
8 If the State discontinues the Program, agencies may use
9 repayment and other funds to operate their own emergency
10 mortgage assistance and counseling programs or may use
11 repayment funds to provide housing assistance to families
12 eligible under this Program.

13 (k) Additional responsibilities of the Authority. In
14 addition to its responsibilities under subsection (3) of this
15 Section, the Authority has the following responsibilities:

16 (1) The Authority must provide a toll-free number,
17 using existing State services where possible, to inform
18 mortgagors about the Program and must refer mortgagors to
19 the appropriate designated agency in the mortgagor's
20 vicinity.

21 (2) The Authority must publicize the existence of
22 the Homeowners Emergency Mortgage Assistance and
23 Counseling Program to the general public.

24 (3) The Authority must provide initial training to
25 any person responsible for administering the Program on
26 behalf of a designated agency and must monitor the
27 performance of designated agencies.

28 (l) First delinquency notice to mortgagor. The
29 mortgagee must include the following statement, in large bold
30 type, with the first delinquency notice and, when practical,
31 with each subsequent notice mailed to the mortgagor following
32 an unpaid mortgage obligation: IF YOU NEED HELP PAYING YOUR
33 MORTGAGE AND WANT TO AVOID PENALTIES, YOU MAY BE ELIGIBLE FOR
34 THE HOMEOWNERS EMERGENCY MORTGAGE ASSISTANCE AND COUNSELING

1 PROGRAM BY CALLING 1-8XX-(insert number) IMMEDIATELY. THIS
 2 DOES NOT ALTER ANY RIGHT OF YOUR MORTGAGE LENDER TO ENFORCE
 3 YOUR MORTGAGE AGREEMENT.

4 (m) No impairment of legal rights. Nothing in this
 5 Section shall be construed to impair the legal right of
 6 mortgagees to enforce contracts or mortgage agreements.

7 (n) The Homeowners Emergency Mortgage Assistance and
 8 Counseling Fund. The Homeowners Emergency Mortgage Assistance
 9 and Counseling Fund is created in the State Treasury. Moneys
 10 in the Fund may be used, subject to appropriation, by the
 11 Authority to carry out the purposes of this Act. Banks and
 12 other lending institutions may make contributions to the Fund
 13 and may apply those contributions to satisfy their
 14 responsibilities under the federal Community Reinvestment Act
 15 of 1977 to the maximum extent permitted by federal law.

16 Section 10. The State Finance Act is amended by adding
 17 Section 5.545 as follows:

18 (30 ILCS 105/5.545 new)

19 Sec. 5.545. The Homeowners Emergency Mortgage Assistance
 20 and Counseling Fund.

21 Section 99. Effective date. This Act takes effect upon
 22 becoming law.