SENATE, No. 859

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JANUARY 18, 2022

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Establishes “Mortgage Assistance Pilot Program."

CURRENT VERSION OF TEXT

As introduced.

AN ACT establishing a pilot program to help certain homeowners with their mortgages and supplementing Title 55 of the Revised Statutes.

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

1. The Legislature finds and declares that:

a. The severe housing downturn of the past several years has substantially reduced the value of homes all across New Jersey, leaving many homeowners with negative home equity, in which the remaining principal owed on a mortgage is greater than the current value of the home.

b. Homeowners with negative home equity are much more likely to default on their mortgages than those with positive home equity, leading to more foreclosures and short sales, which further depress the value of neighboring homes.

c. The high number of homeowners with negative home equity is a major impediment to the recovery of the housing sector, the health of which is integral to that of the broader economy.

d. Many homeowners with negative home equity who are in default would be able to afford to stay in their homes and avoid a foreclosure or short sale if the remaining principal owed on their mortgages was reduced to reflect current market realities.

e. The concern that offering such a principal reduction to these homeowners might encourage similarly situated homeowners, who are current on their mortgages, to default on their mortgages in order to obtain a principal reduction may be addressed by requiring a homeowner to convey an equity share in the property to the mortgage lender in exchange for a principal reduction.

f. It is therefore in the public interest to require the New Jersey Housing and Mortgage Finance Agency to develop and implement a pilot program that provides principal reductions for homeowners, with negative home equity and who are currently in default on mortgages owned by the agency, in exchange for conveying equity shares in the properties to the agency, and to study the financial feasibility and effectiveness in stemming foreclosures and short sales through such arrangements before considering further expansion of the program.

2. As used in P.L. , c. (C.) (pending before the Legislature as this bill):

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

"Commissioner" means the Commissioner of Community Affairs.

"Homeowner" means an individual who holds legal title to a property encumbered by a qualified mortgage.

"Property" means a one- or two- family dwelling that is the primary residence of a homeowner.

“Qualified mortgage” means a mortgage owned by the agency, which has a principal balance greater than the current market value of the mortgaged property and is the sole mortgage on the property.

3. a. The "Mortgage Assistance Pilot Program" is established in the agency to offer a homeowner, who is in default on a qualified mortgage as of the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), an agreement under which the remaining principal owed on the mortgage shall be reduced in consideration for which the agency shall receive a proportionate equity share in the property. The pilot program shall operate for a period of three years.

b. An agreement under the pilot program shall provide for:

(1) a reduction in the principal balance of a qualified mortgage of no more than 30% and a reduction in the interest rate of the mortgage to current market rates, if lower than the existing rate;

(2) the conveyance of an equity share certificate that represents an ownership interest in the property equal to the percentage of the principal reduction under the agreement;

(3) the entitlement of the agency, upon the sale of the property to a third party by the homeowner, to the percentage of the sales price equal to the percentage represented on the equity share certificate;

(4) the obligation of a homeowner:

(a) to remain the owner of a property encumbered by a qualified mortgage restructured by an agreement under the pilot program for at least five years after the agreement is signed, and if a homeowner sells such property to a third party less than five years thereafter, an additional five percent of the sales price shall be forfeited to the agency;

(b) to repay, upon making the final payment owing on a qualified mortgage restructured by an agreement under the pilot program, the amount of the principal reduction provided under the agreement, which obligation shall be repaid to the agency over a 10-year period under the interest rate, terms, and conditions of the mortgage in effect at the time the agreement is executed, unless the parties mutually agree to a different repayment arrangement; and

(5) the continued use and occupancy of the property by the homeowner under the same terms and conditions of the qualified mortgage prior to the execution of the agreement except as modified by paragraphs (1), (2), (3), and (4) of this subsection.

c. Each homeowner who is in default of a qualified mortgage shall be invited to apply for an agreement under the pilot program. The application shall be made on a form and accompanied by

documentation as prescribed by the executive director of the agency. An application shall be approved if it is demonstrated that the homeowner would otherwise qualify for a loan issued by the agency equivalent to the qualified mortgage as restructured by an agreement under the pilot program.

d. Any funds provided by the federal government and received by the State that may be used for the implementation of the pilot program or any funds appropriated and made available by the State for the pilot program shall be allocated solely for:

(1) application materials and processing costs;

(2) appraisal of property to determine current market value;

(3) closing costs to refinance a qualified mortgage to a new interest rate through the agency, as applicable;

(4) maintenance of mortgage insurance; and

(5) any other activity the agency deems necessary to effectuate the purposes of the pilot program.

e. (1) An equity share conveyed to the agency pursuant to an agreement under the pilot program shall not constitute government property exempt from taxation by R.S.54:4-3.3.

(2) An equity share conveyed to the agency pursuant to an agreement under the pilot program shall not constitute an encumbrance or lien on the subject property for purposes of a tax sale pursuant to Article 4 of the "tax sale law," R.S.54:5-19 et seq., and a property tax foreclosure may be initiated and proceed without regard to an outstanding equity share.

4. The Department of the Treasury, in consultation with the agency, shall study whether the agency has minimized its losses and reduced foreclosures and short sales through the pilot program and shall submit a report with its findings and recommendations to the Governor and to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than the first day of the tenth month following the conclusion of the three-year pilot program.

5. The commissioner and the agency are authorized to promulgate rules and regulations in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the provisions of this act.

6. This act shall take effect on the first day of the fourth month next following the date of enactment, but the Commissioner of Community Affairs and the executive director of the New Jersey Housing and Mortgage Finance Agency may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

STATEMENT

This bill establishes the "Mortgage Assistance Pilot Program" in the New Jersey Housing and Mortgage Finance Agency (“NJHMFA”) for a period of three years to allow certain homeowners, who have negative home equity and who are in default on an agency owned mortgage, to lower their principal balances by transferring shares of equity in the mortgaged property to the agency.

The bill’s pilot program requires NJHMFA to invite each homeowner who is in default of a qualified mortgage on their primary residence to apply for a principal reduction agreement. The bill limits the pilot program’s principal balance reduction of a qualified mortgage to no more than 30 percent and allows the interest rate to be reset to lower existing rates, if applicable. The bill conditions the pilot program’s principal balance reduction upon the homeowner’s conveyance of an equity share to NJHMFA equal to the percentage of the principal reduction. A homeowner who is not in default on a qualified mortgage, as of the effective date of the bill, shall not be eligible for participation in the pilot program.

Generally, the bill establishes two pathways for homeowners to redeem NJHMFA’s principal balance reduction equity share. The preferred redemption pathway involves maintaining home ownership for at least five years following entry into the pilot program and redemption of the equity share, following satisfaction of the underlying mortgage, via repayment through a 10-year repayment period or sale proceeds. Note the bill does allow the pilot program to negotiate variable repayment arrangements.

The disfavored redemption pathway involves disposal of the property within five years of entering the pilot program, which entails payment of a five percent sales price penalty in addition to an NJHMFA claim on resale proceeds sufficient to redeem NJHMFA’s principal balance reduction equity share.

As to NJHMFA’s equity shares, the bill provides that the equity share interest does not give rise to a government property tax exemption on the property. The bill also denotes that an NJHMFA equity share does not constitute a property encumbrance or lien for purposes of municipal tax sales. This means that a property tax foreclosure may be initiated and proceed without regard to an outstanding NJHMFA equity share.

The bill requires the Department of the Treasury, in consultation with NJHMFA, to produce a report on the pilot program that must be submitted to the Legislature and the Governor no later than the first day of the tenth month following the conclusion of the three-year pilot program. The bill requires the report to address the extent to which the pilot program enabled NJHMFA to minimize losses and reduce foreclosures and short sales.

The bill authorizes the Commissioner of Community Affairs and NJHMFA to adopt rules and regulations necessary to effectuate the bill's provisions.

The bill takes effect on the first day of the fourth month next following the date of enactment, but permits the Commissioner of Community Affairs and the Executive Director of NJHMFA to take anticipatory administrative action prior to the bill's effective date.