

ASSEMBLY, No. 2077

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MAY 28, 1998

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

SYNOPSIS

Clarifies priority of certain mortgage loans.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT clarifying the priority of certain mortgage loans and amending
2 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
29 amounts advanced pursuant to the agreement;

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

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

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

36 d. "Modification" means:

37 (1) **[A]** With respect to a mortgage loan other than a line of credit,
38 a change in the interest rate, due date or other terms and conditions of
39 a mortgage loan except an advance of principal ; or

40 (2) **[An advance made pursuant to a line of credit or other advance**
41 **of principal,]** With respect to a line of credit, a change in the interest
42 rate, due date or other terms and conditions and an advance of
43 principal made pursuant to the line of credit but only to the extent that

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

Matter underlined thus is new matter.

1 the advance does not cause the principal balance due to exceed the
2 principal amount stated in the **【mortgage】** line of credit plus accrued
3 interest, payments for taxes and insurance and other payments made
4 by the mortgagee pursuant to the terms of the line of credit.
5 "Modification" does not include a substitution in the collateral.
6 (cf: P.L.1997, c.427, s.1)

7

8 2. This act shall take effect immediately.

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STATEMENT

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13 This bill clarifies that an advance of principal made with respect to
14 a mortgage other than a line of credit does not have the lien priority
15 of the original mortgage; it is not a "modification" pursuant to
16 P.L.1985, c.353 (C.46:9-8.1 et seq.).