

**SENATE, No. 1087**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

INTRODUCED MAY 21, 1998

**Sponsored by:**

**Senator WALTER J. KAVANAUGH**

**District 16 (Morris and Somerset)**

**Senator PETER A. INVERSO**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Senator Robertson**

**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 mortgagor 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.).