



General Assembly

Substitute Bill No. 6481

January Session, 2009

* _____ HB06481APP __ 060109 _____ *

AN ACT CONCERNING THE EMERGENCY MORTGAGE ASSISTANCE PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (7) of section 8-265cc of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2009*):

4 (7) "Financial hardship due to circumstances beyond the
5 mortgagor's control" means: (A) A significant reduction [of at least
6 twenty-five per cent] of aggregate family household income [which
7 reasonably cannot be or could not have been alleviated by the
8 liquidation of assets by the mortgagor] as determined by the
9 Connecticut Housing Finance Authority, including, but not limited to,
10 a reduction resulting from (i) unemployment or underemployment of
11 one or more of the mortgagors; (ii) a loss, reduction or delay in receipt
12 of such federal, state or municipal benefits as Social Security,
13 supplemental security income, public assistance and government
14 pensions; (iii) a loss, reduction or delay in receipt of such private
15 benefits as pension, disability, annuity or retirement benefits; (iv)
16 divorce or a loss of support payments; (v) disability, illness or death of
17 a mortgagor; (vi) uninsured damage to the mortgaged property which
18 affects liveability and necessitates costly repairs; or (vii) expenses
19 related to the disability, illness or death of a member of the

20 mortgagor's family, but is not related to accumulation of installment
21 debt incurred for recreational or nonessential items prior to the
22 occurrence of the alleged circumstances beyond the mortgagor's
23 control in an amount that would have caused the mortgagor's total
24 debt service to exceed sixty per cent of aggregate family income at that
25 time; or (B) a significant increase in the dollar amount of the periodic
26 payments required by the mortgage or of other housing-related costs,
27 including, but not limited to, the cost of heat or utilities.

28 Sec. 2. Subsection (b) of section 8-265dd of the general statutes is
29 repealed and the following is substituted in lieu thereof (*Effective July*
30 *1, 2009*):

31 (b) Notwithstanding any provision of the general statutes, or any
32 rule of law to the contrary, on and after July 1, 2008, no judgment of
33 strict foreclosure nor any judgment ordering a foreclosure sale shall be
34 entered in any action instituted by the mortgagee to foreclose a
35 mortgage commenced on or after such date, for the foreclosure of an
36 eligible mortgage unless (1) notice to the mortgagor has been given by
37 the mortgagee in accordance with section 8-265ee, as amended by this
38 act, and the time for response has expired, and (2) a determination has
39 been made on the mortgagor's application for emergency mortgage
40 assistance payments in accordance with section 8-265ff, as amended by
41 this act, or the applicable time periods set forth in sections 8-265cc to 8-
42 265kk, inclusive, as amended by this act, have expired, whichever is
43 earlier. For purposes of this section and sections 8-265ee to 8-265kk,
44 inclusive, as amended by this act, an "eligible mortgage" is a mortgage
45 which satisfies the standards contained in subdivisions (1), (3), (8) and
46 (10) to (13), inclusive, of subsection [(d)] (e) of section 8-265ff, as
47 amended by this act.

48 Sec. 3. Section 8-265ee of the general statutes is repealed and the
49 following is substituted in lieu thereof (*Effective July 1, 2009*):

50 (a) On and after July 1, 2008, a mortgagee who desires to foreclose
51 upon a mortgage which satisfies the standards contained in

52 subdivisions (1), (3), (10), (11) and (12) of subsection [(d)] (e) of section
53 8-265ff, as amended by this act, shall give notice to the mortgagor by
54 registered, or certified mail, postage prepaid at the address of the
55 property which is secured by the mortgage. No such mortgagee may
56 commence a foreclosure of a mortgage prior to mailing such notice.
57 Such notice shall advise the mortgagor of his delinquency or other
58 default under the mortgage and shall state that the mortgagor has sixty
59 days from the date of such notice in which to (1) have a face-to-face
60 meeting, telephone or other conference acceptable to the authority
61 with the mortgagee or a face-to-face meeting with a consumer credit
62 counseling agency to attempt to resolve the delinquency or default by
63 restructuring the loan payment schedule or otherwise, and (2) contact
64 the authority, at an address and phone number contained in the notice,
65 to obtain information and apply for emergency mortgage assistance
66 payments if the mortgagor and mortgagee are unable to resolve the
67 delinquency or default.

68 (b) [If] Except in cases in which the mortgagee refuses to meet with
69 the mortgagor, if the mortgagor fails to meet with the mortgagee or
70 comply with any of the time limitations specified in the notice as
71 provided in subsection (a) of this section, or if the mortgagor's
72 application is not filed by the date thirty days after the date of any
73 default in payment under an agreement as provided in subsection (c)
74 of this section or if the mortgagor's application for emergency
75 mortgage assistance payments is not approved by the date thirty
76 calendar days after the date of receipt of the mortgagor's application in
77 accordance with the provisions of section 8-265ff, as amended by this
78 act, the foreclosure of the mortgagor's mortgage may, at any time
79 thereafter, except as provided in subsection (e) of this section, continue
80 without any further restriction or requirement under the provisions of
81 sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided
82 the mortgagee files an affidavit with the court stating the notice
83 provisions of subsection (a) of this section have been complied with
84 and that either the mortgagor failed to meet with the mortgagee or
85 failed to comply with all of the time limitations specified in the notice

86 as provided in subsection (a) of this section or that the mortgagor's
87 application for emergency assistance payments was not approved by
88 the date thirty calendar days after the date of receipt of the
89 mortgagor's application, or that a determination of ineligibility was
90 made.

91 (c) If, after a face-to-face meeting, telephone or other conference
92 acceptable to the authority, as provided in subsection (a) of this
93 section, the mortgagor and the mortgagee reach an agreement to
94 resolve the delinquency or default and, because of financial hardship
95 due to circumstances beyond the mortgagor's control, the mortgagor is
96 unable to fulfill the obligations of the agreement, the mortgagor may
97 apply to the authority for emergency mortgage assistance payments
98 under sections 8-265cc to 8-265kk, inclusive, as amended by this act, by
99 the date thirty days after the date of any default in payment under the
100 agreement. The mortgagee shall not be required to send any additional
101 notice to the mortgagor other than the notice required under
102 subsection (a) of this section.

103 (d) No person receiving financial relief under sections 8-265cc to 8-
104 265kk, inclusive, as amended by this act, may file a defense,
105 counterclaim or set-off to any action for foreclosure of the mortgage for
106 which such financial relief was provided.

107 (e) Nothing in sections 8-265cc to 8-265kk, inclusive, as amended by
108 this act, shall prevent a mortgagor from exercising rights that may
109 exist under the foreclosure mediation program and those rights may
110 be exercised concurrently with the rights afforded under sections 8-
111 265cc to 8-265kk, inclusive, as amended by this act, provided the
112 exercise of rights under the foreclosure mediation program shall not
113 cause a delay in the determination under subsection [(d)] (e) of section
114 8-265ff, as amended by this act. Nothing in sections 8-265cc to 8-265kk,
115 inclusive, as amended by this act, shall prevent a mortgagor from
116 applying or reapplying and being considered for emergency mortgage
117 assistance if such mortgagor is referred to the emergency mortgage
118 assistance program by the foreclosure mediation program.

119 Sec. 4. Section 8-265ff of the general statutes is repealed and the
120 following is substituted in lieu thereof (*Effective October 1, 2009*):

121 (a) Any mortgagor may apply for emergency mortgage assistance
122 payments under sections 2-265cc to 8-265kk, inclusive, as amended by
123 this act, provided such mortgagor (1) has received notice of intent to
124 foreclose as provided in section 8-265ee, as amended by this act, or (2)
125 is sixty days or more delinquent on a mortgage. As part of the
126 application process, the authority may refer the applicant to a
127 counseling agency approved by the United States Department of
128 Housing and Urban Development.

129 [(a)] (b) If the mortgagor applies for emergency mortgage assistance
130 payments under sections 8-265cc to 8-265kk, inclusive, as amended by
131 this act, the authority shall, no later than eight business days after the
132 date of receipt of such application, notify all of the mortgagees listed
133 on the application holding a mortgage on the mortgagor's real
134 property.

135 [(b)] (c) The mortgagor shall apply for a loan on the form provided
136 by the authority. The mortgagor shall complete and sign the
137 application subject to the penalty for false statement under section 53a-
138 157b.

139 [(c)] (d) The mortgagor shall provide the authority with full
140 disclosure of all assets and liabilities, whether singly or jointly held,
141 and all household income regardless of source. For purposes of this
142 subsection, both of the following are included as assets:

143 (1) The sum of the household's savings and checking accounts,
144 market value of stocks, bonds and other securities, other capital
145 investments, pensions and retirement funds, personal property and
146 equity in real property including the subject mortgage property.
147 Income derived from family assets shall be considered as income.
148 Equity is the difference between the market value of the property and
149 the total outstanding principal of any loans secured by the property
150 and other liens.

151 (2) Lump-sum additions to family assets such as inheritances,
152 capital gains, insurance payments included under health, accident,
153 hazard or worker's compensation policies and settlements, verdicts or
154 awards for personal or property losses or transfer of assets without
155 consideration within one year of the time of application. Pending
156 claims for such items must be identified by the homeowner as
157 contingent assets.

158 [(d)] (e) The authority shall make a determination of eligibility for
159 emergency mortgage assistance payments by the date thirty calendar
160 days after the date of receipt of the mortgagor's application. During
161 said thirty-day period no judgment of strict foreclosure or any
162 judgment ordering foreclosure by sale shall be entered in any action
163 for the foreclosure of any mortgage any mortgagee holds on the
164 mortgagor's real property. No emergency mortgage assistance
165 payments may be provided unless the authority finds that:

166 (1) The real property securing the mortgage is a one-to-four family
167 owner-occupied residence, including, but not limited to, a single
168 family unit in a common interest community, is the principal residence
169 of the mortgagor and is located in this state;

170 (2) Payments, including amounts required to be paid into escrow or
171 impound accounts as reserves for taxes and insurance payments,
172 including mortgage insurance, or any combination of such payments,
173 owed by the mortgagor under any mortgage on such real property
174 have been contractually delinquent and the mortgagee has indicated to
175 the mortgagor its intention to foreclose;

176 (3) The mortgage is not insured by the Federal Housing
177 Administration under Title II of the National Housing Act, 12 USC
178 Section 1707 et seq.;

179 (4) The mortgagor is a resident of this state and is suffering financial
180 hardship which renders the mortgagor unable to correct the
181 delinquency or delinquencies within a reasonable time and make full
182 mortgage payments. For the purposes of subdivision (8) of this

183 subsection, in order to determine whether the financial hardship is due
184 to circumstances beyond the mortgagor's control, the authority may
185 consider information regarding the mortgagor's employment, credit
186 history and current and past household income, assets, total debt
187 service, net worth, eligibility for other types of assistance and any
188 other criteria or related factors it deems necessary and relevant;

189 (5) There is a reasonable prospect that the mortgagor will be able to
190 resume full mortgage payments on the original, modified or
191 refinanced mortgage within sixty months after the beginning of the
192 period in which emergency mortgage assistance payments are
193 provided in accordance with a written plan formulated or approved by
194 the authority and pay the mortgage in full in level monthly payments
195 of principal and interest, subject only to payment changes as provided
196 in the mortgage, by its maturity date;

197 (6) The mortgagor has applied to the authority for emergency
198 mortgage assistance payments on an application form prescribed by
199 the authority which includes a financial statement disclosing all assets
200 and liabilities of the mortgagor, whether singly or jointly held, and all
201 household income regardless of source;

202 (7) Based on the financial statement, the mortgagor has insufficient
203 household income or net worth to correct the delinquency or
204 delinquencies within a reasonable period of time and make full
205 mortgage payments;

206 (8) There is a reasonable prospect that the mortgagor, as determined
207 by the authority, will be able to repay the emergency mortgage
208 assistance within a reasonable amount of time under the terms of
209 section 8-265hh, including through a refinancing of the mortgage, and
210 the authority finds that, except for the current delinquency, the
211 mortgagor has had a favorable residential mortgage credit history for
212 the previous two years or period of ownership, whichever is less. For
213 the purposes of this subdivision, if a mortgagor has been more than
214 thirty days in arrears four or more times on a residential mortgage

215 within the previous year, the mortgagor shall be ineligible for
216 emergency mortgage assistance payments unless the mortgagor can
217 demonstrate that the prior delinquency was the result of financial
218 hardship due to circumstances beyond the mortgagor's control. In
219 making a determination under this subsection, the authority may
220 consider information regarding the structure of the mortgage, its
221 repayment schedule and any other relevant factors or criteria it deems
222 appropriate;

223 (9) The mortgagee is not otherwise prevented by law from
224 foreclosing upon the mortgage;

225 (10) The mortgagor has not mortgaged the real property for
226 commercial or business purposes;

227 (11) The mortgagor has not previously received emergency
228 mortgage assistance payments from the authority, provided a
229 mortgagor who has previously received such payments shall be
230 eligible to reapply if the mortgagor has reinstated the mortgage and
231 the mortgagor shall not have been delinquent for at least six
232 consecutive months immediately following such reinstatement;

233 (12) The mortgagor is not in default under the mortgage except for
234 the monetary delinquency referred to in subdivision (2) of this
235 subsection; and

236 (13) The mortgagor meets such other procedural requirements as
237 the authority may establish.

238 Sec. 5. Section 8-265rr of the general statutes is repealed and the
239 following is substituted in lieu thereof (*Effective from passage*):

240 (a) As used in this section, "authority" means the Connecticut
241 Housing Finance Authority created under section 8-244.

242 (b) The authority is authorized to continue to develop and
243 implement a program for home mortgage refinancing for homeowners
244 facing financial hardships affecting their ability to meet their monthly

245 mortgage obligation, including homeowners with adjustable rate
 246 mortgages as an additional purpose pursuant to the provisions of
 247 subdivision (32) of section 8-250. Such program shall be undertaken by
 248 the authority consistent with and subject to its contractual obligations
 249 to its bondholders in an initial amount of forty million dollars under
 250 terms and conditions determined by the authority.

251 Sec. 6. Subsection (d) of section 8-265gg of the general statutes is
 252 repealed and the following is substituted in lieu thereof (*Effective*
 253 *October 1, 2009*):

254 (d) The authority shall establish procedures for periodic review of
 255 the mortgagor's financial circumstances for the purpose of determining
 256 the necessity for continuation, termination or adjustment of the
 257 amount of emergency mortgage assistance payments or adjustment of
 258 the payments by the mortgagor pursuant to subsection (b) of this
 259 section. Payments shall be discontinued when the authority
 260 determines that, due to changes in the mortgagor's financial condition,
 261 the payments are no longer necessary in accordance with the standards
 262 contained in section 8-265ff, as amended by this act, or the expiration
 263 of the sixty-month period of a mortgagor eligibility for such payments
 264 under subsection [(d)] (e) of section 8-265ff, as amended by this act,
 265 whichever is sooner, and a foreclosure of the mortgagor's mortgage
 266 may, at any time thereafter, proceed without further restriction or
 267 requirement under sections 8-265cc to 8-265hh, inclusive, as amended
 268 by this act. The authority may adjust payments by the mortgagor
 269 pursuant to subsection (b) of this section based on a review under this
 270 subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	8-265cc(7)
Sec. 2	<i>July 1, 2009</i>	8-265dd(b)
Sec. 3	<i>July 1, 2009</i>	8-265ee
Sec. 4	<i>October 1, 2009</i>	8-265ff
Sec. 5	<i>from passage</i>	8-265rr

Sec. 6	October 1, 2009	8-265gg(d)
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BA *Joint Favorable Subst.*

APP *Joint Favorable*