
OLR Bill Analysis

HB 5969 (as amended by House "A")*

AN ACT ESTABLISHING A COLLAPSING FOUNDATIONS LOAN PROGRAM TO PROVIDE LOW-INTEREST LOANS TO CERTAIN PROPERTY OWNERS.

SUMMARY

This bill requires the Connecticut Housing Finance Authority (CHFA) to administer a collapsing foundation supplemental loan program. Under the program, CHFA guarantees loans made by banks and credit unions in Connecticut to owners of residential buildings with pyrrhotite-damaged concrete foundations who are receiving funds from Connecticut Foundation Solutions Indemnity Corporation (CFSIC, see BACKGROUND).

Banks and credit unions with a physical location in Connecticut may participate in the program after providing advanced written notice to CHFA and the Department of Banking (DoB), on a form and manner they prescribe, that includes the financial institution's contact information.

The bill allows participating institutions to issue loans of up to \$75,000, capped at an aggregate maximum of \$20 million for all loans. The loans have a maximum closing cost of \$800 and an interest rate equal to or less than that of a loan with similar terms and schedule offered by the Federal Home Loan Bank of Boston for Amortizing Advances through the New England Fund.

The program ends once CHFA processes and the comptroller pays \$2 million in claim guarantees. CHFA must then (1) stop all claims processing and (2) notify the comptroller and each eligible financial institution.

The bill (1) allows CHFA, DoB, and the comptroller to enter into a memorandum of understanding to implement the bill and (2) makes a

conforming change.

*House Amendment "A" replaces the underlying bill, which would have required CHFA to offer, within available funds, low-interest loans to repair or replace concrete foundations.

EFFECTIVE DATE: Upon passage

SUPPLEMENTAL LOAN PROGRAM

Eligible Borrowers

Under the bill, a borrower is eligible for a loan under the program if he or she is the owner-occupant of a residential building with an agreement from CFSIC that it will pay a portion of the foundation's repair or replacement cost. A "residential building" is a (1) single or multifamily residential unit, including a condominium and or unit in a common interest community, or (2) building containing one or more of these units. However, CFSIC's existing statutes define "residential building" as a one- to four-family home, including a condominium or planned unit development (CGS § 8-440). As a result, only borrowers in homes that meet existing law's definition will be eligible for loans under the program, despite the bill's broader definition of "residential building" (see Related Bill, below).

Program Administration

The bill allows CHFA, in consultation with banking industry representatives, to develop standard promissory note and mortgage deed forms for financial institutions to use when issuing program loans. Additionally, by September 1, 2019, the bill requires CHFA, in consultation with banking industry representatives, to develop (1) reasonable standards that participating institutions can rely on to demonstrate good faith collection efforts (see below) and (2) a readily accessible communication portal for participating institutions to verify in real time the total dollar amount of program loans CHFA issued and guarantee claims submitted to the comptroller. The forms and standards must, to the extent feasible, closely align with existing forms, policies, and procedures and must not require post-delinquency collection efforts beyond 90 days.

Loan Issuance

A participating institution may make loans to an eligible borrower as long it is satisfied that the borrower (1) proves that CFSIC has agreed to pay for a portion of the foundation's repair or replacement cost and (2) requires additional funding to repair or replace a crumbling foundation. Loans, which can be conditioned on the availability of program funds and guarantees, must:

1. be secured by a residential mortgage deed,
2. have terms up to 20 years and be made in accordance with a financial institution's underwriting policies and standards,
3. be less than \$75,000, and
4. have an interest rate that is equal to or lower than the applicable Federal Home Loan Bank of Boston for Amortizing Advances through the New England Fund program rates.

The "applicable rate" is the New England Fund rate that (1) is published on the Federal Home Loan Bank of Boston's website on the date the interest rate is locked in by the borrower and financial institution and (2) has an advance term and amortization schedule that most closely corresponds to the term and amortization schedule of the loan the institution is issuing.

Closing Costs. Under the bill, a financial institution may recover up to \$800 from the borrower for expenses paid to third parties for processing the application, closing the loan, and recording fees, and for other services, including obtaining a credit report, flood certification, title search, or appraisal. A borrower may finance the closing costs as part of the loan, subject to the \$75,000 cap, or pay them separately.

Notification to CHFA. A financial institution must notify CHFA in writing within one business day of making a loan under the program of the loan amount and any other information about the borrower or loan CHFA requests.

Additional Loans. The bill specifies that it does not prohibit a participating financial institution from offering loans to eligible borrowers outside of the program.

Loan Proceeds and Eligible Repair Expenses

The bill requires loan proceeds to be used only for “eligible repair expenses,” which are (1) necessary to complete a foundation repair or replacement and (2) otherwise necessary to restore the property’s functionality and appearance, to the extent they were compromised by the foundation’s deterioration or the demolition and construction process. This includes repairing or replacing wall framing, drywall, paint and other wall finishes, porches, decks, gutters, landscaping, outbuildings, sheds, and swimming pools. Unless explicitly allowed as a repair expenses, the bill excludes costs associated with significant property upgrades.

Under the bill, a participating institution may decline a loan application that includes a request to fund ineligible repair expenses, but failing to decline a loan for this reason does not impact the institution’s ability to have the loan principal guaranteed through the program.

Guarantee Claim Payments

A participating program that has made a good faith effort to collect a loan’s outstanding principal, and demonstrates to CHFA that it has done so to in accordance with its loan servicing and collection policies, may submit a claim to recover the outstanding principal balance. CHFA must process the claim and submit it to the comptroller for payment. Any amount the comptroller needs to pay a claim is deemed appropriated from the General Fund.

Upon the comptroller’s payment of a claim, and as a condition of the payment, the loan is assigned to the state. CHFA, as the state’s agent, has the right to continue loan collection efforts. Any outstanding loan funds collected by CHFA must be deposited back into the General Fund.

The bill allows CHFA to terminate any loan guarantee if the financial institution misrepresents any applicable information or fails to comply with the bill's requirements.

Financial Institution Program Withdrawal

Under the bill, a financial institution may suspend or stop participating in the program five business days after notifying CHFA and DoB of its intent to do so and specifying the withdrawal date. A financial institution that stops participating in the program may still submit a guarantee claim, provided the program is still operational (i.e., has not exceeded its statutory maximum).

Program Description and List of Participating Institutions

By September 1, 2019, CHFA and DoB must each publish on their respective websites a summary of the program and list of participating banks and credit unions. The lists must be updated periodically and include each financial institution's contact information.

Additionally, DoB must provide unspecified information about the program to licensed mortgage servicers.

Record Retention

Under the bill, CHFA must maintain program administration records, including loans issued and repayments.

BACKGROUND

Connecticut Foundation Solutions Indemnity Corporation (CFSIC)

PA 17-2, June Special Session (§§ 334-336), established CFSIC as a captive insurer to provide financial assistance to owners of residential buildings with crumbling concrete foundations (CGS § 38a-91vv). Under its current structure, CFSIC provides eligible homeowners up to \$175,000 towards a foundation repair or replacement.

Related Bill

sHB 7179 (File 349), reported favorably by the Insurance and Real Estate Committee, changes the definition of "residential building" in several statutes, including those used by CFSIC, to the same definition

used by this bill.

COMMITTEE ACTION

Banking Committee

Joint Favorable

Yea 15 Nay 0 (03/12/2019)