



# House of Representatives

**File No. 1010**

General Assembly

January Session, 2019

**(Reprint of File No. 242)**

House Bill No. 5969  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 28, 2019

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

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

1 Section 1. (NEW) (*Effective from passage*) As used in this section and  
2 sections 2 to 5, inclusive, of this act:

3 (1) "Authority" means the Connecticut Housing Finance Authority  
4 created under section 8-244 of the general statutes, as amended by this  
5 act;

6 (2) "Bank" means a bank or an out-of-state bank, each as defined in  
7 section 36a-2 of the general statutes;

8 (3) "Captive insurance company" means the captive insurance  
9 company established pursuant to section 38a-91vv of the general  
10 statutes;

11 (4) "Credit union" means a Connecticut credit union or a federal  
12 credit union, each as defined in section 36a-2 of the general statutes;

13 (5) "Department" means the Department of Banking;

14 (6) "Eligible borrower" means the owner and occupant of a  
15 residential building who has received a participation agreement from  
16 the captive insurance company;

17 (7) "Eligible financial institution" means a bank or credit union that  
18 has a physical presence in this state;

19 (8) "Participation agreement" means an agreement by the captive  
20 insurance company to pay for a portion of the cost to repair or replace a  
21 concrete foundation that has deteriorated due to the presence of  
22 pyrrhotite;

23 (9) "Residential building" means (A) a single-family or multifamily  
24 residential dwelling, including, but not limited to, (i) a residential unit  
25 in a condominium, as such terms are defined or used in section 47-68a  
26 of the general statutes, and (ii) a unit that is used for residential  
27 purposes and located in a common interest community, as such terms  
28 are defined in section 47-202 of the general statutes, and (B) a building  
29 containing one or more of the residential dwellings described in  
30 subparagraph (A) of this subdivision.

31 Sec. 2. (NEW) (*Effective from passage*) (a) The authority shall  
32 administer a supplemental collapsing foundation loan program to  
33 guarantee the repayment of loans made by an eligible financial  
34 institution to an eligible borrower pursuant to sections 1 to 5, inclusive,  
35 of this act. Subject to the cessation of new claim approvals under  
36 subsection (d) of section 4 of this act, the authority shall submit all  
37 processed claims to the Comptroller, who shall pay from the General  
38 Fund any and all claims submitted by the authority.

39 (b) (1) Except as provided in subsection (d) of this section, any  
40 eligible financial institution may participate in the loan guarantee  
41 program after providing the department and the authority with  
42 advance written notice of the eligible financial institution's intention to  
43 participate in the program. Such notice shall be in the form and

44 manner prescribed by the department and the authority, and shall  
45 include contact information for the eligible financial institution.  
46 Nothing in this section shall be construed to preclude an eligible  
47 financial institution that has elected to participate in the program from  
48 issuing loans to eligible borrowers outside of the loan guarantee  
49 program.

50 (2) An eligible financial institution may suspend its participation in,  
51 or withdraw from, the loan guarantee program five business days after  
52 providing advance written notice to the department and the authority  
53 specifying the date on which such suspension or withdrawal becomes  
54 effective. Such withdrawal or suspension shall not affect the eligible  
55 financial institution's ability to submit a guarantee claim on any loan  
56 for which the eligible financial institution provided notice to the  
57 authority pursuant to subsection (d) of this section prior to the  
58 effective date of the withdrawal or suspension.

59 (3) Not later than September 1, 2019, the department and the  
60 authority shall each publish on their Internet web sites a summary of  
61 the program and a list of the eligible financial institutions that have  
62 elected to participate in the program. The list shall be updated from  
63 time to time and shall include the contact information of each  
64 participating eligible financial institution. The department shall also  
65 provide information concerning the loan guarantee program to  
66 mortgage servicers licensed pursuant to section 36a-718 of the general  
67 statutes.

68 (c) (1) The authority may develop, in consultation with  
69 representatives from the banking industry, one or more standard  
70 promissory note and mortgage deed forms that may be used by  
71 eligible financial institutions making loans under the program  
72 pursuant to section 3 of this act.

73 (2) Not later than September 1, 2019, the authority shall develop, in  
74 consultation with representatives from the banking industry, (A)  
75 reasonable standards an eligible financial institution may rely upon to

76 demonstrate good faith collection efforts described in subsection (a) of  
77 section 4 of this act, and (B) a readily accessible communication portal  
78 by which participating eligible financial institutions may verify in real  
79 time the total dollar amount of loans that have been reported to the  
80 authority pursuant to subsection (d) of this section and the total dollar  
81 amount of claims submitted to the Comptroller pursuant to subsection  
82 (a) of section 4 of this act. The forms and standards developed  
83 pursuant to this section shall, to the maximum extent feasible, be  
84 closely aligned with existing forms, policies and procedures used by  
85 eligible financial institutions participating in the program, but shall not  
86 require post-delinquency collection efforts extending beyond ninety  
87 days.

88 (d) Each eligible financial institution that makes a loan pursuant to  
89 section 3 of this act, shall notify the authority in writing not later than  
90 one business day after making the loan, specifying the amount of the  
91 loan and any other information about the borrower and the loan the  
92 authority may request. When the total amount of loans reported to the  
93 authority reaches twenty million dollars, the authority shall  
94 immediately close participation in the program under subsection (a) of  
95 this section and notify each eligible financial institution participating  
96 in the program. A participating eligible financial institution may  
97 condition the availability of any loan commitment on the availability of  
98 the loan guarantee program.

99 Sec. 3. (NEW) (*Effective from passage*) Each eligible financial  
100 institution that is participating in the program may make loans to an  
101 eligible borrower, provided:

102 (1) The eligible borrower demonstrates to the satisfaction of the  
103 financial institution that the borrower has a participation agreement  
104 with the captive insurance company and requires additional funding  
105 to repair or replace a concrete foundation that has deteriorated due to  
106 the presence of pyrrhotite.

107 (2) The loan shall (A) be secured by a mortgage deed on the eligible

108 borrower's residential building, (B) be made in accordance with the  
109 eligible financial institution's underwriting policy and standards, (C)  
110 be in an amount not to exceed seventy-five thousand dollars, and (D)  
111 bear an interest rate that does not exceed the applicable rate of the  
112 Federal Home Loan Bank of Boston for Amortizing Advances through  
113 the New England Fund program. For the purposes of this subdivision,  
114 "applicable rate" means the New England Fund rate that (i) is  
115 published on the Internet web site of the Federal Home Loan Bank of  
116 Boston as of the date the interest rate is locked-in by the eligible  
117 borrower and financial institution, and (ii) has an advance term and  
118 amortization schedule that most closely corresponds to the term and  
119 amortization schedule of the loan being made by the participating  
120 eligible financial institution.

121 (3) The eligible financial institution may recover up to eight  
122 hundred dollars from the eligible borrower for expenses paid by the  
123 eligible financial institution to third parties for services related to  
124 processing the application and closing the loan, including obtaining a  
125 credit report, flood certification, title search, appraisal or other  
126 valuation, and any recording fees. Such expenses may be financed as  
127 part of the loan subject to the seventy-five-thousand-dollar limit  
128 described in subparagraph (C) of subdivision (2) of this subsection or  
129 paid separately by the eligible borrower.

130 (4) The loan agreement shall require the eligible borrower to repay  
131 the loan in full not later than twenty years after the date the loan is  
132 issued.

133 (5) The loan proceeds shall be used by the borrower only for eligible  
134 repair expenses. For the purposes of this subdivision, "eligible repair  
135 expenses" shall be limited to repair or replacement expenses (A) that  
136 are necessary to complete the repair or replacement of the foundation,  
137 and (B) which are otherwise necessary to restore the functionality and  
138 appearance of the property to the extent that the functionality and  
139 appearance of the property were compromised by the deterioration of  
140 the foundation or the demolition and construction process, including,

141 but not limited to, the repair or replacement of wall framing, drywall,  
142 paint and other wall finishes, porches or decks, gutters, landscaping,  
143 outbuildings or sheds and swimming pools. "Eligible repair expenses"  
144 do not include any costs associated with significant upgrades to the  
145 property that are not otherwise included in subparagraphs (A) and (B)  
146 of this subdivision. A participating eligible financial institution may  
147 decline an application for a loan under the program that includes a  
148 request to fund expenses associated with upgrades to the property that  
149 may not qualify as eligible repair expenses, but the failure to do so  
150 shall not affect the ability of the eligible financial institution to include  
151 the loan in the loan guarantee program for the full amount of principal  
152 extended to the eligible borrower.

153 Sec. 4. (NEW) (*Effective from passage*) (a) An eligible financial  
154 institution that has made a good faith effort to collect the outstanding  
155 principal from a loan issued pursuant to section 3 of this act may make  
156 a claim to the authority for recovery of an amount equal to the  
157 outstanding principal for such loan. Except as provided in subsection  
158 (d) of this section, if the eligible financial institution demonstrates to  
159 the satisfaction of the authority that the eligible financial institution  
160 has made a good faith effort to collect the outstanding principal from  
161 the eligible borrower in accordance with the financial institution's loan  
162 servicing and collection policies, the authority shall process and  
163 submit the claim to the Comptroller for payment. Upon payment of a  
164 claim by the Comptroller, and as a condition of such payment, (1) the  
165 loan shall be assigned to the state, and (2) the authority, as agent for  
166 the state, shall have the right to continue collection efforts on the loan.  
167 Any amount necessary for payment by the Comptroller to honor loan  
168 guarantees under this section shall be deemed appropriated from the  
169 General Fund, and any funds collected by the authority in accordance  
170 with this subsection shall be deposited to the General Fund.

171 (b) The authority shall maintain records in the regular course of  
172 administration of the loan guarantee program, including a record of  
173 loans issued and of payments made to honor loan guarantees issued  
174 under this section.

175 (c) The authority may terminate any loan guarantee if the financial  
176 institution misrepresents any information pertaining to the guarantee  
177 or fails to comply with any requirements of this section in connection  
178 with the guarantee of the underlying loan.

179 (d) The total amount of claims processed by the authority and paid  
180 by the Comptroller to honor loan guarantees under this section shall  
181 not exceed two million dollars. When the total amount of claims  
182 processed by the authority and paid by the Comptroller reaches two  
183 million dollars, the authority shall immediately cease to process claims  
184 and shall notify the Comptroller and each eligible financial institution  
185 participating in the program that the authority has ceased honoring  
186 loan guarantees.

187 Sec. 5. (NEW) (*Effective from passage*) The Comptroller, the authority  
188 and the department may enter into a memorandum of understanding  
189 to carry out the provisions of this act.

190 Sec. 6. Subsection (a) of section 8-244 of the general statutes is  
191 repealed and the following is substituted in lieu thereof (*Effective from*  
192 *passage*):

193 (a) There is created a body politic and corporate to be known as the  
194 "Connecticut Housing Finance Authority". Said authority is constituted  
195 a public instrumentality and political subdivision of this state and the  
196 exercise by the authority of the powers conferred by this chapter and  
197 sections 1 to 5, inclusive, of this act, shall be deemed and held to be the  
198 performance of an essential public and governmental function. The  
199 Connecticut Housing Finance Authority shall not be construed to be a  
200 department, institution or agency of the state. The board of directors of  
201 the authority shall consist of sixteen members as follows: (1) The  
202 Commissioner of Economic and Community Development, the  
203 Commissioner of Housing, the Secretary of the Office of Policy and  
204 Management, the Banking Commissioner and the State Treasurer, ex  
205 officio, or their designees, with the right to vote, (2) seven members to  
206 be appointed by the Governor, and (3) four members appointed as

207 follows: One by the president pro tempore of the Senate, one by the  
208 speaker of the House of Representatives, one by the minority leader of  
209 the Senate and one by the minority leader of the House of  
210 Representatives. The member initially appointed by the speaker of the  
211 House of Representatives shall serve a term of five years; the member  
212 initially appointed by the president pro tempore of the Senate shall  
213 serve a term of four years. The members initially appointed by the  
214 Senate minority leader shall serve a term of three years. The member  
215 initially appointed by the minority leader of the House of  
216 Representatives shall serve a term of two years. Thereafter, each  
217 member appointed by a member of the General Assembly shall serve a  
218 term of five years. The members appointed by the Governor and the  
219 members of the General Assembly shall be appointed in accordance  
220 with section 4-9b and among them be experienced in all aspects of  
221 housing, including housing design, development, finance,  
222 management and state and municipal finance, and at least one of  
223 whom shall be selected from among the officers or employees of the  
224 state. At least one shall have experience in the provision of housing to  
225 very low, low and moderate income families. On or before July first,  
226 annually, the Governor shall appoint a member for a term of five years  
227 from said July first to succeed the member whose term expires and  
228 until such member's successor has been appointed, except that in 1974  
229 and 1995 and quinquennially thereafter, the Governor shall appoint  
230 two members. The chairperson of the board shall be appointed by the  
231 Governor. The board shall annually elect one of its appointed members  
232 as vice-chairperson of the board. Members shall receive no  
233 compensation for the performance of their duties hereunder but shall  
234 be reimbursed for necessary expenses incurred in the performance  
235 thereof. The Governor or appointing member of the General Assembly,  
236 as the case may be, shall fill any vacancy for the unexpired term. A  
237 member of the board shall be eligible for reappointment. Any member  
238 of the board may be removed by the Governor or appointing member  
239 of the General Assembly, as the case may be, for misfeasance,  
240 malfeasance or wilful neglect of duty. Each member of the board  
241 before entering upon such member's duties shall take and subscribe



242 the oath of affirmation required by article XI, section 1, of the State  
243 Constitution. A record of each such oath shall be filed in the office of  
244 the Secretary of the State. Each ex-officio member may designate such  
245 member's deputy or any member of such member's staff to represent  
246 such member at meetings of the board with full power to act and vote  
247 on such member's behalf.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	8-244(a)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Resources of the General Fund	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill results in a potential cost to the General Fund of up \$2 million associated with guaranteeing loans made by eligible financial institutions to qualified borrowers that have received assistance from the captive insurance company established under 38a-91vv of the general statutes. The bill requires the State Comptroller to pay out claims from the resources of the General Fund to honor loan guarantees up to an aggregate of \$2 million.

House "A" strikes the underlying bill and its associated fiscal impact and results in the impact described above.

**The Out Years**

The bill may result future year costs to pay out claims until the \$2 million cap is reached.

**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)