



General Assembly

Amendment

January Session, 2019

LCO No. 9488



Offered by:

REP. DOUCETTE, 13th Dist.
REP. DELNICKI, 14th Dist.
REP. LUXENBERG, 12th Dist.
REP. CURREY, 11th Dist.
REP. DAVIS C., 57th Dist.
REP. ACKERT, 8th Dist.
REP. VAIL, 52nd Dist.
REP. ZAWISTOWSKI, 61st Dist.
REP. ROJAS, 9th Dist.

REP. WINKLER, 56th Dist.
REP. BOYD, 50th Dist.
REP. HADDAD, 54th Dist.
REP. WILSON PHEANIOUS, 53rd Dist.
REP. ELLIOTT, 88th Dist.
SEN. ANWAR, 3rd Dist.
REP. GENGA, 10th Dist.
SEN. CASSANO, 4th Dist.
REP. HALL, 59th Dist.

To: House Bill No. 5969

File No. 242

Cal. No. 160

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

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

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

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

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

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

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

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

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

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

33 Sec. 2. (NEW) (*Effective from passage*) (a) The authority shall
34 administer a supplemental collapsing foundation loan program to
35 guarantee the repayment of loans made by an eligible financial
36 institution to an eligible borrower pursuant to sections 1 to 5, inclusive,
37 of this act. Subject to the cessation of new claim approvals under

38 subsection (d) of section 4 of this act, the authority shall submit all
39 processed claims to the Comptroller, who shall pay from the General
40 Fund any and all claims submitted by the authority.

41 (b) (1) Except as provided in subsection (d) of this section, any
42 eligible financial institution may participate in the loan guarantee
43 program after providing the department and the authority with
44 advance written notice of the eligible financial institution's intention to
45 participate in the program. Such notice shall be in the form and
46 manner prescribed by the department and the authority, and shall
47 include contact information for the eligible financial institution.
48 Nothing in this section shall be construed to preclude an eligible
49 financial institution that has elected to participate in the program from
50 issuing loans to eligible borrowers outside of the loan guarantee
51 program.

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

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

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

75 (2) Not later than September 1, 2019, the authority shall develop, in
76 consultation with representatives from the banking industry, (A)
77 reasonable standards an eligible financial institution may rely upon to
78 demonstrate good faith collection efforts described in subsection (a) of
79 section 4 of this act, and (B) a readily accessible communication portal
80 by which participating eligible financial institutions may verify in real
81 time the total dollar amount of loans that have been reported to the
82 authority pursuant to subsection (d) of this section and the total dollar
83 amount of claims submitted to the Comptroller pursuant to subsection
84 (a) of section 4 of this act. The forms and standards developed
85 pursuant to this section shall, to the maximum extent feasible, be
86 closely aligned with existing forms, policies and procedures used by
87 eligible financial institutions participating in the program, but shall not
88 require post-delinquency collection efforts extending beyond ninety
89 days.

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

101 Sec. 3. (NEW) (*Effective from passage*) Each eligible financial
102 institution that is participating in the program may make loans to an

103 eligible borrower, provided:

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

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

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

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

135 (5) The loan proceeds shall be used by the borrower only for eligible
136 repair expenses. For the purposes of this subdivision, "eligible repair
137 expenses" shall be limited to repair or replacement expenses (A) that
138 are necessary to complete the repair or replacement of the foundation,
139 and (B) which are otherwise necessary to restore the functionality and
140 appearance of the property to the extent that the functionality and
141 appearance of the property were compromised by the deterioration of
142 the foundation or the demolition and construction process, including,
143 but not limited to, the repair or replacement of wall framing, drywall,
144 paint and other wall finishes, porches or decks, gutters, landscaping,
145 outbuildings or sheds and swimming pools. "Eligible repair expenses"
146 do not include any costs associated with significant upgrades to the
147 property that are not otherwise included in subparagraphs (A) and (B)
148 of this subdivision. A participating eligible financial institution may
149 decline an application for a loan under the program that includes a
150 request to fund expenses associated with upgrades to the property that
151 may not qualify as eligible repair expenses, but the failure to do so
152 shall not affect the ability of the eligible financial institution to include
153 the loan in the loan guarantee program for the full amount of principal
154 extended to the eligible borrower.

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

169 Any amount necessary for payment by the Comptroller to honor loan
170 guarantees under this section shall be deemed appropriated from the
171 General Fund, and any funds collected by the authority in accordance
172 with this subsection shall be deposited to the General Fund.

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

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

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

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

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

195 (a) There is created a body politic and corporate to be known as the
196 "Connecticut Housing Finance Authority". Said authority is constituted
197 a public instrumentality and political subdivision of this state and the
198 exercise by the authority of the powers conferred by this chapter and
199 sections 1 to 5, inclusive, of this act, shall be deemed and held to be the

200 performance of an essential public and governmental function. The
201 Connecticut Housing Finance Authority shall not be construed to be a
202 department, institution or agency of the state. The board of directors of
203 the authority shall consist of sixteen members as follows: (1) The
204 Commissioner of Economic and Community Development, the
205 Commissioner of Housing, the Secretary of the Office of Policy and
206 Management, the Banking Commissioner and the State Treasurer, ex
207 officio, or their designees, with the right to vote, (2) seven members to
208 be appointed by the Governor, and (3) four members appointed as
209 follows: One by the president pro tempore of the Senate, one by the
210 speaker of the House of Representatives, one by the minority leader of
211 the Senate and one by the minority leader of the House of
212 Representatives. The member initially appointed by the speaker of the
213 House of Representatives shall serve a term of five years; the member
214 initially appointed by the president pro tempore of the Senate shall
215 serve a term of four years. The members initially appointed by the
216 Senate minority leader shall serve a term of three years. The member
217 initially appointed by the minority leader of the House of
218 Representatives shall serve a term of two years. Thereafter, each
219 member appointed by a member of the General Assembly shall serve a
220 term of five years. The members appointed by the Governor and the
221 members of the General Assembly shall be appointed in accordance
222 with section 4-9b and among them be experienced in all aspects of
223 housing, including housing design, development, finance,
224 management and state and municipal finance, and at least one of
225 whom shall be selected from among the officers or employees of the
226 state. At least one shall have experience in the provision of housing to
227 very low, low and moderate income families. On or before July first,
228 annually, the Governor shall appoint a member for a term of five years
229 from said July first to succeed the member whose term expires and
230 until such member's successor has been appointed, except that in 1974
231 and 1995 and quinquennially thereafter, the Governor shall appoint
232 two members. The chairperson of the board shall be appointed by the
233 Governor. The board shall annually elect one of its appointed members
234 as vice-chairperson of the board. Members shall receive no

235 compensation for the performance of their duties hereunder but shall
 236 be reimbursed for necessary expenses incurred in the performance
 237 thereof. The Governor or appointing member of the General Assembly,
 238 as the case may be, shall fill any vacancy for the unexpired term. A
 239 member of the board shall be eligible for reappointment. Any member
 240 of the board may be removed by the Governor or appointing member
 241 of the General Assembly, as the case may be, for misfeasance,
 242 malfeasance or wilful neglect of duty. Each member of the board
 243 before entering upon such member's duties shall take and subscribe
 244 the oath of affirmation required by article XI, section 1, of the State
 245 Constitution. A record of each such oath shall be filed in the office of
 246 the Secretary of the State. Each ex-officio member may designate such
 247 member's deputy or any member of such member's staff to represent
 248 such member at meetings of the board with full power to act and vote
 249 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)