

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1793*
Judiciary II (Criminal) Committee Substitute Adopted 6/4/08

Short Title: HFA / Expand Home Protection Program.

(Public)

Sponsors:

Referred to:

May 21, 2008

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE NORTH CAROLINA HOUSING FINANCE AGENCY'S HOME PROTECTION PROGRAM TO EVERY COUNTY IN NORTH CAROLINA AND TO APPROPRIATE FUNDS TO THE HOUSING FINANCE AGENCY FOR THE HOME PROTECTION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 122A of the General Statutes is amended by adding a new section to read:

"§ 122A-5.14. Home Protection Program.

(a) The North Carolina Housing Finance Agency shall develop, implement, and administer a program to assist North Carolina workers who have lost jobs as a result of changing economic conditions in North Carolina when the workers are in need of assistance to avoid losing their homes to foreclosure. The Agency shall do all of the following:

- (1) Develop and administer the North Carolina Home Protection Program and Loan Fund to ensure that workers in North Carolina have assistance to avoid losing their homes to foreclosure.
- (2) Make loans secured by liens on residential real property located in North Carolina to property owners who are eligible for those loans.
- (3) Develop and administer procedures by which property owners at risk of being foreclosed upon may qualify for assistance.
- (4) Designate, approve, and fund nonprofit counseling agencies in North Carolina to be available to assist the Agency in implementing the provisions of this section, provide services such as direct mortgagee negotiations on behalf of unemployed workers, and process loan applications for the Agency.
- (5) Develop and fund enhanced methods by which workers may be notified of foreclosure mitigation services, may easily contact local

- 1 nonprofit counseling agencies, and may apply for loans from the
2 Agency.
- 3 (6) Report annually on April 1 to the Chairs of the Appropriations
4 Committees of the Senate and the House of Representatives on the
5 effectiveness of the Program in accomplishing its purposes and
6 provide any other information the Agency determines is pertinent or
7 that the General Assembly requests.
- 8 (b) As used in this section:
- 9 (1) "Agency" means the North Carolina Housing Finance Agency.
- 10 (2) "Counseling agency" means a nonprofit counseling agency located in
11 North Carolina that is approved by the North Carolina Housing
12 Finance Agency.
- 13 (3) "Mortgage" means an obligation evidenced by a security document
14 and secured by a lien upon real property located within North
15 Carolina, including a deed of trust and land sale agreement.
16 "Mortgage" also means an obligation evidenced by a security lien on
17 real property upon which an owner-occupied mobile home is located.
- 18 (4) "Mortgagee" means the owner of a beneficial interest in a mortgage
19 loan, the servicer for the owner of a beneficial interest in a mortgage
20 loan, or the trustee for a securitized trust that holds title to a beneficial
21 interest in a mortgage loan.
- 22 (c) Notwithstanding Chapters 23, 24, and 45 of the General Statutes or any other
23 provision of law, upon the proper filing of an application for loan assistance by a
24 mortgagor under this section, a mortgagee shall not do any of the following for a period
25 of 120 days following the date of the mortgagor's properly filed application:
- 26 (1) Accelerate the maturity of any mortgage obligation covered under this
27 section.
- 28 (2) Commence or continue any legal action, including mortgage
29 foreclosure pursuant to Chapter 45 of the General Statutes, to recover
30 the mortgage obligation.
- 31 (3) Take possession of any security of the mortgagor for the mortgage
32 obligation.
- 33 (4) Procure or receive a deed in lieu of foreclosure.
- 34 (5) Enter judgment by confession pursuant to a note accompanying a
35 mortgage.
- 36 (6) Proceed to enforce the mortgage obligation pursuant to applicable
37 rules of civil procedure.
- 38 (d) The provisions of subsection (c) of this section shall not apply if the
39 mortgagee receives notice from the Agency that the mortgagor's application has been
40 denied.
- 41 (e) If a mortgagee acts as proscribed in subdivisions (1) through (6) of subsection
42 (c) of this section, a mortgagor shall be entitled to injunctive relief without the necessity
43 of providing a bond. This relief shall be in addition to any defenses available under
44 G.S. 45-21.16(d) and any other remedies at law or equity.

1 (f) Upon the Agency's receipt of a properly filed mortgagor's application for loan
2 assistance, the Agency shall mail notice of the application to the mortgagor's mortgagee
3 within 10 business days of the Agency's receipt of the application. The Agency shall
4 also mail notice of the acceptance or denial of the mortgagor's application to the
5 mortgagee within five days of the Agency's determination. Notice shall be deemed
6 sufficient if sent to the last known address of the mortgagee."

7 **SECTION 2.** Solely with respect to the adoption of procedures for the
8 program by which property owners at risk of being foreclosed upon may qualify for
9 assistance, the Agency is exempt from the requirements of Article 2A of Chapter 150B
10 of the General Statutes. Prior to adoption or amendment of procedures, the Agency
11 shall:

- 12 (1) Publish the proposed procedures in the North Carolina Register at least
13 30 days prior to the adoption of the final procedures.
14 (2) Accept oral and written comments on the proposed procedures.
15 (3) Hold at least one public hearing on the proposed procedures.

16 **SECTION 3.** There is appropriated from the General Fund to the North
17 Carolina Housing Finance Agency the sum of three million dollars (\$3,000,000) in
18 recurring funds for the 2008-2009 fiscal year for the North Carolina Home Protection
19 Program. Funds appropriated under this act to the North Carolina Housing Finance
20 Agency that are unexpended and unencumbered shall not revert but shall remain
21 available to be used by the North Carolina Housing Finance Agency for the North
22 Carolina Home Protection Program.

23 **SECTION 4.** This act becomes effective on July 1, 2008