



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/6/2004, by Kimberly A. Lightford

**SYNOPSIS AS INTRODUCED:**

20 ILCS 3805/7.24i new  
30 ILCS 105/5.625 new

Amends the Illinois Housing Development Act. Creates the Homeowner's Emergency Mortgage Assistance Program. Provides that the Illinois Housing Authority or not-for-profit corporations designated by the Authority may make payments on mortgages for single-family residences under certain circumstances. Sets the requirements for the application for mortgage assistance. Requires a mortgagor to make monthly payments to the Authority or designated agency when receiving mortgage assistance. Provides for the repayment of mortgage assistance by the mortgagor. Amends the State Finance Act to create the Emergency Mortgage Assistance Fund. Effective immediately.

LRB093 19407 BDD 47205 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning housing.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Housing Development Act is amended  
5 by adding Section 7.24i as follows:

6 (20 ILCS 3805/7.24i new)

7 Sec. 7.24i. Homeowners' Emergency Mortgage Assistance  
8 Program.

9 (a) The Authority shall administer the Homeowners'  
10 Emergency Mortgage Assistance Program.

11 (b) Definitions. In this Section:

12 "Chairman" means the Chairman of the Illinois Housing  
13 Development Authority (IHDA) or the Chairman's duly appointed  
14 designee, who must be an employee of IHDA.

15 "Fund" means the Emergency Mortgage Assistance Fund  
16 created in this Section.

17 "Single family residence" means a structure maintained and  
18 used as a single family dwelling unit located in Illinois. Even  
19 if a dwelling unit shares one or more walls with another  
20 dwelling unit, it is a single family residence for the purpose  
21 of this Section if it has direct access to a street or  
22 thoroughfare and does not share hot water equipment, heating  
23 facilities, or any other essential facilities or service with  
24 any other dwelling unit.

25 "Gross household income" means the total income of a  
26 mortgagor, the mortgagor's spouse, children residing in the  
27 same residence as the mortgagor, and any other person living in  
28 the residence that is declared by the mortgagor as a dependent  
29 for federal income tax purposes.

30 "Housing expense" means the sum of the mortgagor's monthly  
31 maintenance, utility, and hazard insurance expenses, taxes,  
32 and required mortgage payments, including escrows.

1       "Fund" means the Emergency Mortgage Assistance Fund  
2 created in this Section.

3       "Mortgage" means a secured consensual interest or lien  
4 created by a real estate mortgage, a trust deed on real estate,  
5 or the like.

6       "Net effective income" means the gross household income of  
7 the mortgagor less city, State, and federal income and social  
8 security taxes.

9       "Household" means 2 or more persons residing together or a  
10 person living alone.

11       (c) Homeowners' Emergency Mortgage Assistance Program.

12       (1) In general. The Authority shall establish a program to  
13 provide homeowners alternatives to foreclosure by providing  
14 for temporary emergency mortgage payments on mortgage loans  
15 secured by single-family residences when:

16       (A) the mortgagor is an existing participant of the  
17 program prior to default, as described in item (B) of this  
18 subsection, and has paid a participant fee of \$5 per year  
19 to be deposited into the Fund in accordance with rules  
20 adopted by the Authority;

21       (B) the mortgagor is in default by at least one full  
22 monthly installment due under the terms of the mortgage  
23 after the application of all, if any, partial payments that  
24 have been accepted by the mortgagee but not yet applied to  
25 the mortgage account;

26       (C) the mortgagor is suffering financial hardship  
27 through no fault of the mortgagor that renders the  
28 mortgagor unable to correct the default within 60 days  
29 after receiving proper notice from the mortgagee of the  
30 default;

31       (D) the mortgagor will likely be able to resume full  
32 mortgage payments not later than 18 months after the  
33 earliest date that assistance payments are provided under  
34 this Section and the mortgagor will likely be able to pay  
35 the mortgage in full by its maturity date or by a later  
36 date agreed upon by the mortgagee;

1           (E) the property in default is the mortgagor's  
2           principal residence;

3           (F) the mortgagor has applied for assistance in  
4           accordance with this Section and rules adopted by the  
5           Authority for this Section; and

6           (G) the mortgagor's gross household income does not  
7           exceed 100% of area median income adjusted for family size  
8           as identified by the U.S. Department of Housing and Urban  
9           Development.

10          (2) Effect of finding of ineligibility. If, after reviewing  
11          an application for assistance submitted under subsection (e),  
12          the Chairman determines that the mortgagor has not met the  
13          conditions of eligibility described in paragraph (1) of this  
14          subsection, the mortgagor is prohibited from re-applying for  
15          assistance under this Section until the expiration of a 6-month  
16          period beginning on the date of that determination unless there  
17          is a material change in the financial circumstances of the  
18          mortgagor.

19          (3) Determination of financial hardship. In determining  
20          whether a financial hardship is incurred through no fault of  
21          the mortgagor, the Chairman may consider all necessary  
22          information including the mortgagor's employment record,  
23          credit history, and current income. Assistance may be granted  
24          in no-fault circumstances including, but not be limited to:

25                (A) loss of job of a member of the household;

26                (B) salary, wage, or earnings reduction of a member of  
27                the household;

28                (C) injury, disability, or illness of a member of the  
29                household;

30                (D) divorce or separation in the household;

31                (E) death of a member of the household; or

32                (F) major unanticipated household expense.

33          (4) Designated agencies. The Authority shall, by rule,  
34          establish a procedure to designate and approve Illinois  
35          not-for-profit corporations as agencies to assist in  
36          implementing the program. Agencies designated and approved

1 under this paragraph shall provide assistance, at the direction  
2 of the Chairman, to eligible mortgagors.

3 (d) Notice of default.

4 (1) Any notice by a mortgagee sent to the mortgagor  
5 regarding a default payment must include a statement in large  
6 bold type substantially similar to the following: IF YOU NEED  
7 HELP PAYING YOUR MORTGAGE AND WANT TO AVOID PENALTIES, YOU MAY  
8 BE A PARTICIPANT IN THE STATE'S EMERGENCY MORTGAGE ASSISTANCE  
9 PROGRAM. TO DETERMINE YOUR ELIGIBILITY FOR ASSISTANCE CALL  
10 1-8xx- (insert appropriate toll-free number) IMMEDIATELY. THIS  
11 DOES NOT CHANGE THE RIGHT OF YOUR LENDER TO ENFORCE THE  
12 MORTGAGE AGREEMENT.

13 (2) Except as provided in subsection (d)(1), nothing in  
14 this Section shall impose any additional duty or responsibility  
15 under this Section on the mortgagee. Failure by the mortgagee  
16 to provide the statement described in subsection (d)(1) shall  
17 not impair the ability of the mortgagee to collect any sums due  
18 on the note secured by the mortgage or enforce its lien rights  
19 in the property secured by the mortgage and shall not subject  
20 the mortgagee to any liability to the mortgagor.

21 (e) Application for assistance.

22 (1) The Authority may pay designated agencies a fee from  
23 the Fund, in an amount determined by the Chairman, for  
24 rendering assistance under this Section.

25 (2) Form; contents. An application for assistance under  
26 this Section shall be on a form prescribed, by rule, by the  
27 Chairman and shall include a financial statement disclosing all  
28 assets and liabilities of the mortgagor, whether singly or  
29 jointly held, and all household income regardless of source.

30 (3) Effect of misrepresentation. A mortgagor who  
31 intentionally misrepresents any material financial information  
32 in connection with the filing of an application for assistance  
33 under this Section may be denied assistance and required to  
34 immediately repay any amount of assistance received. The  
35 Authority must, by rule, establish a process for determining  
36 intentional misrepresentation and for the prompt appeal of

1 positive determinations.

2 (4) Availability. An application for assistance under this  
3 Section may be obtained from a designated agency or any other  
4 financial counseling assistance agency that elects to make  
5 applications available.

6 (5) Determination on application. The Chairman must  
7 determine eligibility of a mortgagor for assistance under this  
8 Section not later than 60 days after receipt of the application  
9 of the mortgagor.

10 Not later than 5 business days after making the  
11 determination on an application for assistance, the Chairman  
12 shall notify the mortgagor and the mortgagee as to whether the  
13 application has been approved or disapproved.

14 (f) Assistance payments.

15 (1) Amount to bring mortgage current. If the Chairman or  
16 designated agency determines that a mortgagor is eligible for  
17 assistance under this Section, the Authority or designated  
18 agency shall pay to the mortgagee the full amount due to the  
19 mortgagee under the terms of the mortgage without regard to any  
20 acceleration under the mortgage, or the full amount of any  
21 alternative mortgage payments agreed to by the mortgagee and  
22 mortgagor on the date that the application is approved. This  
23 amount shall include the amount of principal, interest, taxes,  
24 assessments, ground rents, hazard insurance, mortgage  
25 insurance or credit insurance premiums, and reasonable  
26 attorneys' fees incurred by the mortgagee in relation to the  
27 arrearage.

28 (2) Monthly assistance payments. The Authority or  
29 designated agency shall make monthly mortgage assistance  
30 payments to the mortgagee on behalf of the mortgagor under this  
31 subsection in accordance with the terms of the note secured by  
32 the mortgage or any change in terms as agreed to by the  
33 mortgagee and mortgagor.

34 A mortgagor on whose behalf the Authority or designated  
35 agency is making the mortgage assistance payments must pay his  
36 or her monthly payments to the Authority or designated agency.

1 The payments shall be in an amount that will not cause the  
2 mortgagor's total housing expense to exceed 35% of the  
3 mortgagor's net effective income. This is the maximum amount  
4 the mortgagor can be required to pay during the 18 months that  
5 a mortgagor is eligible for mortgage assistance. The mortgagor  
6 must make the payments at least 7 days before each mortgage  
7 payment is due under the mortgage.

8 The Authority or the designated agency shall send by the  
9 payment due date the total mortgage payment directly to the  
10 mortgagee along with a coupon or other account-identifying  
11 information regarding the mortgage, as required by the  
12 mortgagee.

13 (3) Review upon delinquency. If the mortgagor fails to pay  
14 to the Authority or designated agency any amounts due directly  
15 from the mortgagor under this subsection, not later than 15  
16 days after the due date the Chairman or designated agency shall  
17 review the mortgagor's financial circumstances to determine  
18 whether a delinquency in payments due from the mortgagor under  
19 this subsection is the result of a material change in the  
20 mortgagor's financial circumstances since the payment amount  
21 was last determined. If the delinquency is not the result of a  
22 material change in the mortgagor's financial circumstances,  
23 the Chairman or designated agency may terminate future mortgage  
24 assistance payments. If the delinquency is the result of a  
25 material change, the Chairman or designated agency shall modify  
26 the mortgagor's required payments as the Chairman or designated  
27 agency determines. For one time only, and at the sole  
28 discretion of the Chairman, the delinquency incurred for  
29 non-financial reasons may be satisfied by the Authority if it  
30 appears that the payment will prevent foreclosure.

31 (4) Period for assistance. Payments under this subsection  
32 may be provided for a period not to exceed 18 months, either  
33 consecutively or non-consecutively. The Chairman shall  
34 establish procedures for periodic review of the mortgagor's  
35 financial circumstances for the purpose of determining the  
36 necessity for continuation, termination, or adjustment of the

1 amount of the payments.

2 (g) Repayment of assistance.

3 (1) Assistance loan. The amount by which the assistance  
4 payments made by the Authority or designated agency to the  
5 mortgagee exceeds the amount of payments made by the mortgagor  
6 to the Authority or designated agency are a loan by the  
7 Authority or designated agency to the mortgagor. The loan may  
8 be evidenced by any documents that the Authority determines, by  
9 rule, are necessary to protect the interests of the State.

10 (2) Repayment of assistance loan. Before making assistance  
11 payments under this Section on behalf of a mortgagor, the  
12 Authority or designated agency must enter into an agreement  
13 with the mortgagor for repayment of all mortgage assistance  
14 provided under subsection (f) plus interest as provided in  
15 paragraph (3) of this subsection. The agreement must provide  
16 for monthly payments by the mortgagor to the Authority or  
17 designated agency that:

18 (A) shall begin once the Chairman or designated agency  
19 has determined that continuation of mortgage assistance  
20 payments to the mortgagee is unnecessary; and

21 (B) shall be in an amount determined as follows:

22 (i) if the mortgagor's total housing expense is  
23 less than 35% of the mortgagor's net effective income,  
24 the mortgagor must pay to the Authority or designated  
25 agency the difference between 35% of the mortgagor's  
26 net effective income and the mortgagor's total housing  
27 expense unless otherwise determined by the Chairman or  
28 designated agency after examining the mortgagor's  
29 financial circumstances and ability to contribute to  
30 repayment of the mortgage assistance; or

31 (ii) if the mortgagor's total housing expense is  
32 more than 35% of the mortgagor's net effective income,  
33 repayment of the mortgage assistance shall be deferred  
34 until the mortgagor's total housing expense is less  
35 than 35% of the mortgagor's net effective income.

36 (C) Notwithstanding subparagraphs (A) and (B) of this



1 paragraph, if repayment of mortgage assistance is not made  
2 by the date that the mortgage is paid in full, the  
3 mortgagor must make mortgage assistance repayments in an  
4 amount not less than the previous regular mortgage payment  
5 until the mortgage assistance is repaid.

6 (3) Interest. Interest shall accrue on all mortgage  
7 assistance payments made under this Section at the rate,  
8 determined monthly by the Chairman, equal to the then current  
9 average yield on outstanding 30-year bonds issued by the  
10 Secretary of the United States Treasury under Section 3102 of  
11 Title 31, United States Code and shall accrue only during the  
12 period in which the mortgagor is required to make repayment  
13 under this subsection.

14 (4) Lien to secure repayment of assistance. Repayment of  
15 amounts owed to the Authority or designated agency from a  
16 mortgagor shall be secured by a mortgage lien on the property  
17 and by any other obligation that the Authority may, by rule,  
18 require. The lien or other security interest of the Authority  
19 may not take priority over any other secured lien or secured  
20 interest in effect against the mortgagor's property on the date  
21 assistance payments begin. The Authority may allow  
22 subordination of the mortgage assistance lien only if the  
23 subordination is in the best interest of the homeowner and  
24 necessary to permit the mortgagor to obtain a home improvement  
25 loan for repairs necessary to preserve the property.

26 (5) Time for repayment. Payments under this subsection  
27 shall be made by the mortgagor to the Authority or designated  
28 agency not later than 14 days after each mortgage payment is  
29 due under the mortgage, or in the case of repayment after the  
30 mortgage has been paid in full, not later than the date the  
31 mortgage payments were due under the mortgage.

32 (h) Emergency Mortgage Assistance Fund.

33 (1) A special income-earning Fund is hereby created in the  
34 State treasury, known as the Emergency Mortgage Assistance  
35 Fund.

36 (2) All moneys paid into the Fund together with all

1 accumulated undistributed income thereon shall be held as a  
2 special fund in the State treasury. The Fund shall be used  
3 solely for the purpose of providing assistance to mortgagors  
4 who are eligible under the requirements of this Section.

5 (3) Notwithstanding any other provisions of this Section,  
6 the payment of assistance from the fund shall be subject to the  
7 availability of funds, and no mortgagor shall have any vested  
8 right in the Fund as a beneficiary or otherwise. Before seeking  
9 assistance from the Fund, the mortgagor or beneficiary seeking  
10 assistance shall apply for assistance on a form provided by the  
11 Chairman. The form shall include any information the Chairman  
12 may reasonably require in order to determine that assistance is  
13 appropriate.

14 (4) The Authority may accept contributions made by banks  
15 and other lending institutions to satisfy their  
16 responsibilities under the federal Community Reinvestment Act  
17 of 1977.

18 (i) Adoption of rules.

19 (1) The Authority may adopt any rules necessary to  
20 implement, administer, and enforce this Section.

21 (2) In adopting rules concerning the collection of fees  
22 under subsection (c), the Authority may receive the assistance  
23 of the Department of Revenue to collect fees at the time income  
24 tax returns are filed or of the collector at the time property  
25 taxes are paid.

26 Section 10. The State Finance Act is amended by adding  
27 Section 5.625 as follows:

28 (30 ILCS 105/5.625 new)

29 Sec. 5.625. The Emergency Mortgage Assistance Fund.

30 Section 99. Effective date. This Act takes effect upon  
31 becoming law.