

SENATE BILL No. 1160

May 31, 2012, Introduced by Senators CASPERSON, GREEN and BOOHER and referred to the Committee on Banking and Financial Institutions.

A bill to provide for restitution for victims of certain mortgage-related crimes; to provide funding for foreclosure-related services, blight elimination, certain programs of the Michigan state housing development authority, educational improvements, and assistance to homeless children and certain veterans; and to provide for the powers and duties of certain state governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Achievement authority" means the education achievement
3 authority, the public body corporate and special authority
4 initially created under section 5 of article III and section 28 of
5 article VII of the state constitution of 1963 and the urban

1 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
2 124.512, by an interlocal agreement effective August 11, 2011,
3 between the school district of the city of Detroit and the board of
4 regents of eastern Michigan university, a state public university.

5 (b) "Claim" means a request for restitution that meets all of
6 the following requirements:

7 (i) Is on a form as prescribed by the attorney general.

8 (ii) Specifies and provides evidence supporting the amount of
9 restitution sought and the basis for the request.

10 (c) "Fund" means the homeowner protection fund created in
11 section 2.

12 (d) "Qualifying crime" means a criminal offense resulting in a
13 conviction for conduct involving the exchange of money or services
14 for promised assistance with obtaining, servicing, modifying,
15 refinancing, negotiating, or stopping foreclosure of a mortgage on
16 a primary residence or with redeeming a mortgaged primary residence
17 after foreclosure.

18 (e) "Qualifying victim" means a resident of this state to whom
19 1 of the following applies:

20 (i) The resident was awarded restitution by a court in a
21 prosecution for a qualifying crime, but the defendant is unable to
22 pay the full amount of restitution.

23 (ii) The resident is a victim of a qualifying crime and can
24 provide evidence of the amount of loss but was not awarded
25 restitution in court.

26 Sec. 2. (1) The homeowner protection fund is created in the
27 state treasury. The state treasurer, in consultation with the

1 department of attorney general, shall be the administrator of the
2 fund for auditing purposes. The state treasurer may receive money
3 or other assets from any source for deposit into the fund. The
4 state treasurer shall direct the investment of the fund. The state
5 treasurer shall credit to the fund interest and earnings from fund
6 investments. Money in the fund at the close of the fiscal year
7 shall remain in the fund and shall not lapse to the general fund.

8 (2) The department of treasury may expend money from the fund,
9 upon appropriation, for 1 or more of the following purposes:

10 (a) Payments to qualifying victims pursuant to section 3.

11 (b) Programs approved by the attorney general to assist
12 homeless children.

13 (3) The department of attorney general may expend money from
14 the fund, upon appropriation, for operational and enforcement
15 purposes.

16 (4) The Michigan state housing development authority may
17 expend money from the fund, upon appropriation, for any of the
18 following:

19 (a) Foreclosure counseling approved by the attorney general
20 and foreclosure-related legal aid services approved by the attorney
21 general.

22 (b) Blight elimination.

23 (c) The purposes of sections 58a to 58d of the state housing
24 and development authority act of 1966, 1966 PA 346, MCL 125.1458a
25 to 125.1458d.

26 (5) The department of education may expend money from the
27 fund, upon appropriation, for any of the following:

1 (a) Technology improvements for or renovation, rehabilitation,
2 or equipping of a building or facility in which an instructional
3 program is being operated, maintained, authorized, established, or
4 overseen by the achievement authority.

5 (b) Programs approved by the attorney general to assist
6 homeless children.

7 (6) The department of military and veterans affairs may expend
8 money from the fund, upon appropriation, for programs to assist
9 military service members who have been affected by the foreclosure
10 crisis.

11 Sec. 3. (1) To obtain restitution under this act for a
12 qualifying crime, a qualifying victim shall submit a claim to the
13 attorney general.

14 (2) After receiving a claim under subsection (1), the attorney
15 general may direct the state treasurer in writing to pay to the
16 qualifying victim money from the fund in an amount determined by
17 the attorney general under subsection (3).

18 (3) A payment under subsection (2) to a qualifying victim
19 shall not exceed the lesser of \$3,000.00 and the following:

20 (a) For a qualifying victim described in section 1(e)(i), the
21 amount of restitution awarded by the court that the defendant is
22 unable to pay.

23 (b) For a qualifying victim described in section 1(e)(ii), the
24 amount of loss from a qualifying crime as supported by evidence
25 provided with the claim.

26 (4) The determination of whether to direct the payment of a
27 claim and of the amount to be paid, subject to the limitations of

1 subsection (3), is in the sole discretion of the attorney general.
2 The determination is not judicial or quasi-judicial in nature, does
3 not create or affect a private right or license, and is not subject
4 to or reviewable under the revised judicature act of 1961, 1961 PA
5 236, MCL 600.101 to 600.9947, the administrative procedures act of
6 1969, 1969 PA 306, MCL 24.201 to 24.328, or any other law.