

# Legal Assistance Resource Center of Connecticut, Inc.

44 Capitol Avenue, Suite 301 ♦ Hartford, Connecticut 06106  
(860) 278-5688 x203 ♦ FAX (860) 278-2957 ♦ RPodolsky@larcc.org

## H.B. 5577 -- Responsible Lending and Economic Security

Banks Committee Public Hearing -- February 28, 2008

Testimony of Raphael L. Podolsky

Recommended Committee action: **JOINT FAVORABLE**  
with addition of protections from S.B. 423

We support this bill, which contains both an expansion of programs to help finance homeowners out of unreasonably costly loans and an increase in protections for borrowers, especially in the subprime market. In particular, we support the creation of refinancing programs (REAL and HERO) and the expansion of the existing EMAP program. We also suggest that the Committee consider dividing H.B. 5577 into two bills. One, comprised of Sections 1-8, would have the financing sections. The other, Sections 9-23, would regulate the making of mortgage loans and could be merged into S.B. 423 (along with some portions of S.B. 21). In the alternative, parts of S.B. 423 could be merged into H.B. 5577. If the latter approach is taken, then at least the following parts of S.B. 423 should be included in H.B. 5577:

- Discount points (l. 376-378): H.B. 5577 does not include "bona fide" discount points in the interest rate (the APR). In practice, a lender will almost always be able to claim that points are in lieu of a higher interest rate and are therefore bona fide. Since some of the protections in the bill apply only to "nonprime" (i.e., high interest) loans, leaving this loophole in the bill will result in evasion of its protections.
- Non-traditional mortgages and open-end loans (l. 334-338): The bill's definition of "nonprime" excludes open-end and non-traditional mortgages (i.e., mortgages in which the payments do not reduce the principal balance, such as negative amortization and interest-only loans). They are part of the problem and should not be excluded.
- Yield-spread premiums (l. 583-597): Yield spread premiums (i.e., payments by the lender to the broker for placing the homeowner into a higher-cost mortgage than is required by his credit rating) are really upfront payments made by the borrower to obtain the loan. S.B. 423 properly includes them in calculating the number of points charged for the loan. H.B. 5577 merely requires disclosure. For subprime mortgages, however, disclosure is insufficient. Failure to include these premiums will allow these loans to dodge existing statutory requirements limiting the number of points that can be charged.
- Ability to repay (l. 406-407, l. 576-582): H.B. 5577 provides that lenders and brokers have a fiduciary duty to borrowers and requires mortgage brokers to make reasonable efforts to secure loans that are in the best interests of their borrowers. H.B. 5577 should give specificity to this requirement by creating a rebuttable presumption that a loan is not in the best interest of the borrower if it will make his total debt obligation in excess of 45% of his income.