

## TESTIMONY OF EDWARD M. ROSENBLATT – FEBRUARY 28, 2008

Senator Duff, Representative Barry, members of the Banks Committee, good afternoon and thank you for the opportunity to address you today. My name is Edward Rosenblatt, I am an attorney who works for Fidelity National Title Insurance Company, and I am testifying on behalf of the Connecticut Title Association, the trade association of title insurance companies in Connecticut.

I am here to talk to you about Raised Bill 5582, entitled, "*AN ACT CONCERNING LENDER RECORDING OF MORTGAGE RELEASES.*" While we in the title industry believe that this bill has merit and could resolve a very common problem, we also think there are a couple of ways it could be tweaked to help meet its intended purpose, and I'd like to share those with you.

The primary thrust of this bill is to prohibit a mortgagee which has received a mortgage payoff from sending the release of that mortgage directly to the land records for recording. We think this is a good thing, because we have found that when mortgagees do send releases to be recorded directly, they frequently get it wrong. Very often releases are sent to the wrong town. Releases of mortgages on properties located in more than one town are frequently sent to only one. Since the proliferation of interstate banking, many out of state lenders fail to differentiate Connecticut from most other states, where recording is done on the county level. These lenders often send releases to the towns whose names correspond to county names, rather than the town where the property is located. For example, if a release applies to property in Newington, which is in Hartford County, the release may be sent to the Hartford Town Clerk instead of to

Newington. These kinds of errors happen very frequently, and they wreak havoc on titles to real estate in Connecticut. For that reason, we support this intended result of the bill.

The question then becomes: If we now prohibit mortgagees from sending them directly for recording, where should they be sent? As it now reads, the bill would require the release to be sent directly to the attorney who made the payoff. This raises two problematic issues which we think can be easily resolved. First, what if the payoff is not made by an attorney? While we strongly support the role of attorneys in the real estate process, we know that not all payoffs are made by counsel. Sometimes they are made by mortgage companies, private title companies, or even by individual consumers. Therefore, our first proposed change to the bill would be to have its attorney-related provisions apply only if the payoff is made by one.

The second change we'd like to see applies when an attorney does make the payoff. In most cases, the attorney would prefer that the release not be delivered directly to his or her office. In recent years, real estate attorneys have increasingly relied upon outside release tracking services to follow up on obtaining and recording releases of mortgages which they pay off. These services are valuable, because they assure that the proper attention is given to this important function by people trained in the area, they reduce the amount of time an attorney must devote to a real estate matter after the closing, and they come at little or no cost to the consumer. Most of the release tracking services in Connecticut are maintained by title insurance companies, who have a strong

interest in keeping titles up to date and accurate, and who are motivated to serve their attorney agents and their clients. I manage the release tracking service for my company, and can report that even during this period of a very troubled real estate market, we open some 400 new release tracking files every month. When you add in the matters handled by the other release tracking services, the number of Connecticut properties affected is very substantial. Like other release tracking services, we have our attorney agents direct mortgagees to send the releases to us, so that we can assure that they are properly recorded and then returned to the attorney.

For this reason, we ask that the bill be amended so that, rather than mandating delivery of the release to the attorney making the payoff, the release is delivered *as directed* by that attorney. With such a provision, the attorney could direct the lender to send the release either to the release tracking service, to him- or herself, or directly to the client if desired. The result would be that more releases of mortgage will be recorded timely and in the right place.

With these changes, the Connecticut Title Association believes that the bill will fulfill its intended purpose, and supports its passage.

Thank you again. I'd be happy to answer any questions which you might have.