



CONNECTICUT BANKERS ASSOCIATION

February 24, 2009

To: Members of the Banks Committee

Fr: Connecticut Bankers Association
Contacts: Tom Mongellow, Fritz Conway

Re: Testimony on Various Bills Before the Committee

SB 617, AN ACT CONCERNING BRANCHING AND AUTHORITY TO IMPLEMENT THE NATIONAL DEFENSE AUTHORIZATION ACT

Position: Support

The CBA supports this legislation. In particular, we applaud the elimination of a requirement to file a costly CRA plan in connection with certain applications (unless the Commissioner otherwise deems it necessary). Those plans are rarely reviewed by outside individuals and, as such, it represents an unnecessary expense during difficult economic times for all businesses.

SB 951, AN ACT CONCERNING NEIGHBORHOOD PROTECTION

Position: Oppose

We strongly oppose this bill. It unfairly and unreasonably places burdens on lenders who take title to property through foreclosure. The bill seems to imply that foreclosing lenders should have the resources and ability to cure the problems of neighborhood blight, health and safety in ways that goes far beyond the laws that would be applicable to any existing borrower and owner of the property. If enacted, lenders would likely not take possession of troubled properties because it would be economically and logistically be impossible for them to comply with the provisions of the bill. This bill would actually increase the problem this bill seeks to cure. Foreclosures spiked in the early 1990's, during the last period of declining housing values, and many times when a negative equity situation arose, the borrower simply abandoned the property without notifying the lender.

Foreclosure relief programs, such as the successful Judicial Mediation program, the Federal Modification programs just announced last week, and numerous other State programs are the appropriate way to reach borrowers and assist them wherever possible. Keeping the owner in the property or smoothly transitioning them to a new housing solution is a better way to maintain the condition of the State's housing stock.

H.B. No. 6478 AN ACT CONCERNING THE USE OF STATE GUARANTEES TO ENCOURAGE LENDING TO SMALL AND MEDIUM-SIZED BUSINESSES

Position: Support with Revisions

This bill seeks to create a State backed guarantee, for Trust Preferred Securities (TPS), issued by Connecticut domiciled banks. This is needed, because community banks have lost an important means of raising equity capital through the issuance of this type of security, due to the problems in the capital markets. Equity

capital is important, because banks take every dollar of capital and turn it into five to ten dollars of mortgages or commercial loans.

While Connecticut based banks are strong and ready to lend, the secondary markets in the past have purchased bank originated loans, thereby replenishing the monies needed to make additional loans. Now they have become restricted, as in the standard mortgage market, or non-existent, in the case of “jumbo” loan secondary market. This tightening or lack of a secondary market for different products may cause a “loaned up” situation to arise at many banks. This is where a bank has loaned out all its available money and can no longer meet the borrowing needs of its customers.

Importantly, very few community banks have been able to access the Federal Troubled Asset Relief Program (TARP). As you may know, one of the principal reasons for the TARP is to recapitalize banks so they can lend. The Federal Reserve has not, and most people believe they won't until the summer, develop a process by which a mutual bank can access those funds. In addition, the TARP funds are very expensive to access, to the point where depending on a banks marketplace, it may be cost prohibitive. The concept of this bill would allow the TPS capital raising vehicle to be utilized again, at virtually no cost or risk to the State.

The language in House Bill 6478, appears to have certain provisions that may be unnecessary and we would welcome the opportunity to work with the Committee and proponents of the bill to fine-tune the proposal.

In today's economic environment, it is crucial that local banks keep the necessary capital and ability to lend to their customers. The bill's concept is straightforward – there is no current market for Trust Preferred Securities, due to the paralysis on Wall Street. Having a State guarantee for local bank issued TPS's would effectively create a limited and healthy market for securities of this type. The obvious benefit of this type of program to Connecticut banks is the ability to increase capital. The benefit for the investor would be a safe and sound investment at favorable returns. The benefit to Connecticut consumers would be their local banks being capable of providing greater lending on the street.

H.B. 6479, AAC THE USE OF PAYROLL DEBIT CARDS

Position: Oppose

This bill would mandate that if businesses pay their employees through payroll debit card (paycard), then they would also have to give the employees the option of receiving their pay in a check format. Also, the bill requires a disclosure of any fees that may be imposed in the use of the card. We oppose both concepts, for several reasons.

First and probably foremost, a paycard is a convenient and very *safe* way for a person to receive their pay. It can be used to purchase goods and services, to access cash at ATM's, many of which don't charge any fees (SUM Network ATMs). Point of sale machines in grocery and drug stores and virtually all retailers, also accept them. It can be used to pay utility bills at the phone or electric company.

At the same time it eliminates the need for a person to carry a large amount of cash after cashing a check, thereby reducing the instances of robberies. This is one of the primary reasons the City of New Haven's Resident ID card, has a cash-loading feature (called a smart card).

Importantly, from a businesses' perspective it costs money and time to implement a payroll system. Whether it's a check system, or a paycard system, the providers of those services charge fees for the delivery of the

product. In today's economic environment, which has led to the highest unemployment levels in years, this bill would add the totally unnecessary expense of *maintaining a dual payroll system*, and hurt those businesses utilizing a paycard solution.

With regards to the disclosure concept, with all the different ways and places to access cash, there is no way for an employer to know whether or not a fee would be charged, or how much that fee would be. We urge your opposition to this expensive and problematic approach.

HB 6481, AN ACT CONCERNING THE EMERGENCY MORTGAGE ASSISTANCE PROGRAM

In general, we support the provisions of HB 6481 and we value the goals and contributions of the EMAP program and hope that the additional borrowers will be helped through these amendments.

However, we do have concerns on several provisions in the Bill. One provision would make it impossible to commence a foreclosure action until *after* the EMAP waiting periods have run their course and we oppose that provision. As a reminder, many foreclosures do not actually involve applications being submitted to CHFA. In addition, even if an application were submitted, regrettably, many borrowers simply do not qualify for assistance. It would be unreasonable in these instances to delay the filing of the foreclosure papers. Indeed, it is the commencement of the foreclosure action that makes the *mediation* process available (because it is a judicial process). The availability of that important program should not be delayed while waiting for the EMAP process to run its course. Lenders should be permitted to file papers after providing notice of the availability of the two programs (which is the current law). If success is achieved under one or both programs, the foreclosure action can be withdrawn. If success is not achieved, the lender will not have been needlessly exposed to the risks of delay (mounting debt, deteriorating property, etc).

Another provision would expand the circumstances under which a borrower becomes eligible to submit an application (to include anyone who is 60 days delinquent). We do not object to that provision (indeed we support it), but we note that the required notice lenders must give borrowers would be rendered inaccurate by that amendment. In order to avoid confusion, the content of the notice would have to change. We would be happy to submit suggestions for new notice content.

Finally, we note that the existing provisions would be amended to allow for a borrower to apply or reapply for EMAP assistance at any time if referred by the mediation program. We understand the rationale for that provision, but are concerned that there are no controls to ensure that those referrals are limited to referrals with reasonable prospects for success (and the mechanism is not just used to delay foreclosures—recognizing that the borrower has already been given notice and an opportunity to participate in EMAP). We would be happy to submit suggestions for addressing this concern in a balanced manner.

H. B. 6483, AAC CREDIT CARD OFFERS ON COLLEGE CAMPUSES AND FINANCIAL LITERACY FOR HIGH SCHOOL STUDENTS

This Bill seeks to create a system of controls and restrictions during the soliciting of credit cards to students on college campuses and importantly, would create a personal financial skills curriculum at the high school level.

We strongly support the concept of instituting statewide "personal financial skills" curricula, to be implemented at a high school level. This would result in graduates who would be able to adequately manage, plan and make informed financial and credit decisions.

We do however, have concerns with regards to the restrictions proposed in the Bill on the offering of credit cards to students. Those restrictions may negatively impact the availability of credit that many students rely upon. There are many responsible college students that have legitimate needs for credit, particularly, a credit card. Numerous students are employed and have the means to repay any charges each month. Credit cards allow convenient access to cash, electronic payment at stores, access to ATMs and are accepted at more than 24 million locations around the world. They have become a near-necessity in today's marketplace, and they are usually needed to rent a car, reserve a room or to make purchases over the Internet.

Additionally, it is safer to carry a credit card versus a large amount of cash. This is one of the primary reasons the City of New Haven's Resident ID card, has a cash-loading feature (called a smart card). Also, credit cards come with many anti-fraud features, such as a built in fifty-dollar limit against any unauthorized usage, in case they are lost or stolen. These features may not be available on other types of cash access cards.

Importantly, in today's economic and financial climate, a credit history is critical in order to be approved for a loan. Having a credit card is typically one of the first and best opportunities for a person to establish their credit rating. Many college students want to establish that rating as soon as possible and for a variety of reasons, such as the purchase of a car, furniture or a house.

Competition among credit card companies has given consumers and students more choices of different types of credit cards. For instance, secured credit cards, commonly used among people establishing credit for the first time, must be tied to a savings account. These cards typically provide a lower interest rate and credit line, but nonetheless these cards allow for the establishment of a credit history.

We would welcome the opportunity to work with the committee to create a viable financial skills curriculum and to explore the ramifications of the marketing restrictions proposed in the Bill.

H.B. 6484, AN ACT CONCERNING EMERGENCY MORTGAGE RELIEF

Position: Strongly Oppose

This Bill, although well intentioned, is ill advised and would have disastrous long term consequences for Connecticut banking institutions and the businesses and consumers who are served by those institutions.

This Bill, if enacted, would allow any party to a mortgage foreclosure action (e.g., the borrower, a tenant, a junior lien holder, etc) to petition to have the Court *void a legitimate mortgage loan contract* entered into by a lender in good faith and replace it with a revised payment obligation. That process would, in many cases, force the lender to absorb significant losses that might otherwise be avoided. The Bill would also have very harmful consequences for junior debt holders (essentially wiping out the monthly payment obligation plus forgiving all interest).

Banks in Connecticut have a natural vested interest in avoiding foreclosures that are preventable. They truly want to keep borrowers in their homes. Consistent with that vested interest, current banking rules require a "net present value analysis" on each troubled loan to determine whether a loan modification or other strategy

might help to prevent the foreclosure. This analysis incorporates a balance between the important goal of foreclosure prevention and another very important goal; namely, the safety and soundness of the banking system in our country.

Preserving the safety and soundness of our banking institutions is critical to protecting the deposits of Connecticut residents. Voiding legitimate contracts and forcing unexpected losses onto banks could lead to bank failures in Connecticut. That could mean the loss of **local** institutions that have *responsibly* served the needs of Connecticut consumers and businesses for decades. This State will very much need a healthy banking system on the pathway out of this recession.

Determining the feasibility of a loan modification is a complex process that involves many variables. This bill would substitute the rigid, formulaic approach of a statute for the professional judgment and experience of a lender who has an interest in seeing whether a *sustainable* solution can be achieved. In addition, this bill raises serious constitutional issues, inasmuch as the United States Constitution prohibits a state from enacting a law which impairs the obligations of a contract.

For all of these reasons, and others, we strongly oppose HB 6484.