



House of Representatives

General Assembly

File No. 155

January Session, 2009

Substitute House Bill No. 6144

House of Representatives, March 24, 2009

The Committee on Housing reported through REP. GREEN of the 1st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING A MORATORIUM ON MORTGAGE FORECLOSURE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section
2 "residential real property" means real property containing one to three
3 dwelling units.

4 (b) Notwithstanding any provision of the general statutes, no
5 judgment foreclosing the title to residential real property located in
6 this state by strict foreclosure or by a decree of sale shall be entered
7 from the effective date of this act until January 1, 2010.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	New section
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HSG Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Judicial Dept.	BF - Potential Savings	\$720,000 - \$1,080,000	None

Note: BF=Banking Fund

Municipal Impact: None

Explanation

The bill establishes a moratorium on mortgage foreclosure judgments, effective from passage until January 1, 2010. To the extent that banks delay filing foreclosure actions as a consequence of this change, the workload of the newly established (per PA 08-176) foreclosure mediation program within the Judicial Department could decrease. Any such decrease would occur approximately 90 days after passage of the bill as the existing mediation caseload expires (current law permits mediation to occur for up to 90 days). The monthly cost of the program is approximately \$180,000. Depending upon when the bill is passed, the potential FY 10 savings ranges from \$1,080,000 (assuming April 1, 2009, passage) to \$720,000 (assuming June 1, 2009, passage).

Source: CORE-CT Financial System's Expenditure Report by Object

The Out Years

There is no out year impact since the bill's policy change terminates on January 1, 2010.

OLR Bill Analysis**sHB 6144*****AN ACT CONCERNING A MORATORIUM ON MORTGAGE FORECLOSURE.*****SUMMARY:**

This bill prohibits judgments foreclosing title to residential real property by strict foreclosure or sale from its passage until January 1, 2010. It defines “residential real property” as real property containing one to three dwelling units.

EFFECTIVE DATE: Upon passage

BACKGROUND***Strict Foreclosure and Foreclosure by Sale***

Connecticut law permits a creditor to use “strict foreclosure,” rather than “foreclosure by sale,” when a debtor defaults on mortgage payments. In strict foreclosure, the court gives the foreclosing party title to the property. In foreclosure by sale, the court orders the sale of the foreclosed property and applies the proceeds to the amount owed the foreclosing party. The defendant has a right to be heard in both situations.

Contract Clause

The Contract Clause of the U.S. Constitution bars states from passing any law that impairs the obligation of contracts. However, the U. S. Supreme Court has held that claims of a contract clause violation must first undergo a three-step analysis. Courts must determine whether (1) there is a contractual relationship, (2) a change in a law has impaired that relationship, and (3) the impairment is substantial (*General Motors Corp. v. Romein*, 503 U.S. 181 (1992)). If the court determines that the contract has been substantially impaired, it must then determine whether the law at issue has a legitimate and

important public purpose and whether the adjustment of the rights of the parties to the contractual relationship was reasonable and appropriate in light of that purpose. A challenged law will not be held to impair the contract clause if the impairment, although substantial, is reasonable and necessary to fulfill an important public purpose (*Energy Reserves Group v. Kansas Power & Light*, 459 U.S. 400, 411-412 (1983)).

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 10 Nay 0 (03/10/2009)