CONNECTICUT BANKERS ASSOCIATION

February 19, 2009

To: Members of the Housing Committee

Fr: Connecticut Bankers Association

Re: Positions and Comments on Bills before the Committee

H.B. No. 6143, AN ACT CONCERNING PROTECTIONS FOR A TENANT WHOSE LANDLORD IS SUBJECT TO A FORECLOSURE ACTION

Position: Oppose

This bill creates numerous changes to foreclosure laws, the treatment of tenants in foreclosed properties, and mandates for the upkeep of properties under foreclosure. We strongly oppose the bill in its entirety for several reasons.

The treatment and rights of tenants during a foreclosure action was explored in detail during the General Assembly's November Special Session and several provisions which give tenants additional protections and rights, were incorporated into Public Act 08-2.

Because of P.A. 08-2, tenants can now receive incentives to move, maintain their rights to bring an action against any party to the foreclosure, and stay in the property for a longer period of time after the foreclosure. The treatment of tenants was properly addressed in the Special Session and should not have to be revisited.

Additionally, the bill requires a foreclosing lender to maintain a property. Most times when a property is in foreclosure, the property owner does not allow anyone on the property including a maintenance crew or lender. It is unrealistic to mandate a lender to maintain a property when it is usually impossible to accomplish. As soon as banks take possession of the property after a foreclosure is completed, the first course of business is to preserve the property and complete any necessary maintenance. Unfortunately in some cases unsafe conditions warrant the need to have tenants move out of the property so the repairs can be completed. Banks protect the value of the home by securing and repairing it, and the mandatory maintenance provision is unnecessary.

We strongly urge your opposition to this bill.

H.B. No. 6144 AN ACT CONCERNING A MORATORIUM ON MORTGAGE FORECLOSURE

Position: Oppose

This bill would seek to stop all residential foreclosures from proceeding until January 1, 20109. We oppose this concept for a number of reasons. First, the foreclosure process is an important one, in that allows housing stock to be returned to the market as quickly as possible, while hopefully maintaining the condition

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of the property. A mandatory moratorium on foreclosures doesn't take into account the bottleneck of properties that will be foreclosed upon after the moratorium is lifted.

That bottleneck will result in a large number of foreclosures being dumped into a housing market at once and that event will immediately drive down the values of surrounding homes and communities. That reduction of value will only make it more difficult for borrowers to refinance or modify their mortgages after that moratorium disappears.

Whether or not a moratorium is adopted should be the policy of the individual bank, and some banks have already adopted a moratorium on foreclosures. Each bank understands its own loan portfolio, its customers, the community it serves and how a moratorium would impact ***all*** its stakeholders, not just borrowers at risk of foreclosure. A blanket moratorium doesn't take into account the complete picture of the community that the banks serves and may have an extremely negative impact.

In some cases of foreclosure, and especially a house has depreciated resulting in a negative equity situation, the borrower may abandon or just turn over the property to the lender. The lender needs to complete that foreclosure as soon as possible, to preserve that house from damage and put it back in use, before it becomes a detriment to the local housing values and the community.

Also, the successful state mediation program adopted last July would be put on hold, because it is triggered by a foreclosure action. The program has shown great success in bring lenders and borrowers together to achieve modification and other settlement that work in the best interest of all parties.

Another unanticipated consequence, is where a borrower is experiencing economic hardship, but may have hope in the short term of a modification or other solution, they may inappropriately wait until the moratorium is lifted, at which point their accumulated mortgage delinquency is insurmountable.

The new Federal foreclosure program just unveiled by the Obama administration, has a constructive and multifaceted approach which will no doubt have an extremely positive effect on preventing mortgage foreclosures. Reported elements of the plan include:

--A program aimed at Fannie/Freddie conforming loans that will allow homeowners who live in their properties to refinance at lower rates even if they have negative equity on their loans up to a 105 percent loan-to-value ratio.

--A $75 billion loan modification program under which lenders will be responsible for bringing down interest rates so that a borrower's monthly mortgage payment is no more than 38 percent of pre-tax income. Treasury then will match those to bring payments down to 31 percent of pre-tax income. Incentives to encourage Servicers and mortgage holders to successfully modify mortgages will be included. Borrowers will receive up to $1,000 in annual principal reductions for staying current on modified loans.

--A $10 billion Treasury and FDIC insurance fund to protect lenders against declining values and to discourage foreclosures based on anticipation of falling home values.

For all the above reasons, we strongly urge your opposition to the mandatory moratorium concept.