

Legal Assistance Resource Center

❖ of Connecticut, Inc. ❖

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H.B. 6378 -- Emergency Mortgage Assistance Program

Housing Committee public hearing -- February 19, 2009

Testimony of Raphael L. Podolsky

Recommended Committee action: APPROVAL OF THE BILL with
amendments and additional provisions

The Emergency Mortgage Assistance Program (EMAP) is a powerful tool to help homeowners avoid foreclosure and preserve their homes. EMAP, which is administered by CHFA, can tide a homeowner over a difficult period of meeting mortgage obligations for as long as five years. If the homeowner's application is accepted, any pending foreclosure action is stayed and the homeowner pays CHFA during the stay period an amount equal to 35% of his income. CHFA pays the lender the full amount of the mortgage payment. The difference between the homeowner's payment and the CHFA payment becomes a lien on the property, which is paid back to CHFA after the mortgage is paid off or when the home is sold. Eligibility requires a finding by CHFA that there is a reasonable prospect that the homeowner will, by the end of the stay period, be able either to resume full payments on the mortgage or refinance into an affordable mortgage. Connecticut adopted EMAP in 1993 but failed to keep it funded, and it accepted new applications for only about a year. After being dormant for 15 years, the General Assembly reactivated the program in 2008, authorizing \$64 million for EMAP loans (\$14 million from the Banking Fund and \$50 million by CHFA).

Unfortunately, notwithstanding the severity of the foreclosure crisis, fewer than 10 EMAP loans have been made and the \$64 million authorization has barely been touched. Sections 2 and 3 of H.B. 6378, which is part of the Governor's budget package, attempt to remove some statutory impediments so as to liberalize eligibility for the program. Both of these sections (and especially Section 2), however, are inadequate and need to be revised and strengthened. We also strongly recommend that the Committee add to the bill several other changes contained in H.B. 6481, a bill that has been raised by the Banks Committee. For the program to work as intended, CHFA must also liberalize some of its own underwriting standards that are not dictated by statute.

Provisions contained in H.B. 6378

- * Removal of the 25% loss-of-income threshold: To be eligible for EMAP under the existing statute, the homeowner must either (a) have suffered a "significant increase" in the dollar amount of periodic payments required by the mortgage (e.g., if the rate has gone up or if taxes or insurance paid through the mortgage have increased) or (b) had a reduction in income of "at least 25%." This 25% threshold has blocked many appropriate applicants from qualifying for EMAP. It is very important that this threshold be eliminated or lowered and, as a result, that Section 2 of the bill be

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failed to meet with the mortgagee or failed to comply with all of the time limitations specified in the notice as provided in subsection (a) of this section or that the mortgagor's application for emergency assistance payments was not approved by the date thirty calendar days after the date of receipt of the mortgagor's application, or that a determination of ineligibility was made.

(c) If, after a face-to-face meeting, telephone or other conference acceptable to the authority, as provided in subsection (a) of this section, the mortgagor and the mortgagee reach an agreement to resolve the delinquency or default and, because of financial hardship due to circumstances beyond the mortgagor's control, the mortgagor is unable to fulfill the obligations of the agreement, the mortgagor may apply to the authority for emergency mortgage assistance payments under sections 8-265cc to 8-265kk, inclusive, as amended by this act, by the date thirty days after the date of any default in payment under the agreement. The mortgagee shall not be required to send any additional notice to the mortgagor other than the notice required under subsection (a) of this section.

(d) No person receiving financial relief under sections 8-265cc to 8-265kk, inclusive, as amended by this act, may file a defense, counterclaim or set-off to any action for foreclosure of the mortgage for which such financial relief was provided.

(e) Nothing in sections 8-265cc to 8-265kk, inclusive, as amended by public act 08-176, shall prevent a mortgagor from exercising rights that may exist under the foreclosure mediation program and those rights may be exercised concurrently with the rights afforded under sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided the exercise of rights under the foreclosure mediation program shall not cause a delay in the determination under subsection (d) of section 8-265ff, as amended by this act. Nothing in sections 8-265cc to 8-265kk, inclusive, as amended by this act, shall prevent a mortgagor from applying or reapplying and being considered for emergency mortgage assistance if such mortgagor is referred to the emergency mortgage assistance program by the foreclosure mediation program.

Sec. 5. Subdivision (5) of subsection (c) of section 8-265ff of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(5) There is a reasonable prospect that the mortgagor will be able to resume full mortgage payments on the original or a modified or refinanced mortgage within sixty months after the beginning of the period in which emergency mortgage assistance payments are provided in accordance with a written plan formulated or approved by the authority and pay such [the] mortgage in full in level monthly payments of principal and interest, subject only to payment changes as provided in the mortgage, by its maturity date;