



**STATE OF CONNECTICUT  
JUDICIAL BRANCH**

**EXTERNAL AFFAIRS DIVISION**

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**Testimony of the Deborah J. Fuller  
Judiciary Committee Public Hearing  
March 19, 2009**

**Senate Bill 644, An Act Limiting Fees Related to a Foreclosure by Sale  
on Residential Real Property**

**House Bill 6166, AAC Management and Maintenance of Residential  
Real Property Subject to Foreclosure**

**House Bill 5174, An Act Concerning Service of Process Fees in  
Foreclosure Actions**

Good morning. My name is Deborah Fuller and I appear before you today, on behalf of the Judicial Branch, to let the Committee know the Branch's position on three of the bills before the Committee today.

**Senate Bill 644, An Act Limiting Fees Related to a Foreclosure by Sale  
on Residential Real Property**

The Judicial Branch is opposed to this provision, which would limit the hourly fee for Committees of Sale in foreclosure actions to \$100.00. We believe that the judges who preside over these matters should retain the discretion to set these fees. Furthermore, we fear that this proposal would serve as a disincentive for experienced attorneys to take on this work. While we understand and agree that defendants in these cases should not be overburdened with high fees and costs, we believe that judges are in the best position to determine what is reasonable based on the equities of the case, and that a "one size fits all" approach is inappropriate.

Therefore, we would respectfully request that the Committee take no action on this proposal.

## **House Bill 6166, An Act Concerning Management and Maintenance of Residential Real Property Subject to Foreclosure**

We are opposed to subdivision (2) of section 1 of this proposal, which requires a form to be attached to the front of any foreclosure writ, summons and complaint indicating the name, telephone number and mailing address of the lender or lender's property manager. This provision conflicts with a proposal that the Judicial Branch has submitted to require that the *Notice to Homeowner: Availability of Foreclosure Mediation* form be on the front of the writ, summons and complaint. Last year, when the foreclosure mediation program was enacted, the intent was to have that notice on the top of all the papers that are served on the homeowner. However, the language that was ultimately passed did not say that. An amendment to correct this is part of Senate Bill 619, which was reported out of the Banks Committee on March 10, 2009.

We believe that the first thing a party whose home is being foreclosed on should see when they are served papers initiating the action is a notice that can help them with their situation. We do not believe that it should be a notice containing information for the benefit of a town or city that is not a party to the case. Furthermore, the purpose of the bill - to notify the town of who at will be responsible for the maintenance of the property in the event that the foreclosure does go through - would be accomplished by subdivision (3) of section 1.

Therefore, we respectfully request that lines 7 through 14 be deleted from this proposal.

## **House Bill 5174, An Act Concerning Service of Process Fees in Foreclosure Actions**

We would respectfully suggest that the language of this proposal, regarding both the lis pendens and the copies, needs to be clarified. As currently drafted, it will be confusing to the court clerks who are responsible for determining the amount of costs to be taxed in each case. Should the Committee wish, we would be happy to suggest alternative language to accomplish what those sections are meant to do.

Thank you for your consideration of the Judicial Branch's concerns.