

Legal Assistance Resource Center

❖ of Connecticut, Inc. ❖

44 Capitol Avenue, Suite 301 ❖ Hartford, Connecticut 06106
(860) 278-5688 x203 ❖ FAX (860) 278-2957 ❖ Rpodolsky@LARCC.org

Testimony of Raphael L. Podolsky

Banks Committee public hearing -- February 24, 2009

H.B. 5907 – Foreclosure rescue services

SUPPORT

One product of the glut of foreclosures has been the growth of various services which claim that they can save the debtor by getting creditors to write off much of their debt. Those claims often prove false, with the service getting its money first and never obtaining any debt reduction agreements with creditors. This bill regulates the provision of such “foreclosure rescue” and “debt reduction” services by prohibiting for-profit companies from engaging in the business, establishing a three-day “cooling off period” in which the debtor can cancel the contract without penalty, requiring an individualized evaluation of the likelihood that the debtor will benefit from the services provided, and prohibiting payment before the promised services are performed. The Banking Commissioner is given the power to order the reduction of fees that are unreasonable in light of market prices and the degree of benefit to the debtor. Recommended amendment: Because attorneys are licensed, they should be included in the exceptions to the definition of “debt reduction services” in I. 26-32.

H.B. 6482 – Uniform Debt-Management Services Act **NO ACTION THIS YEAR**

This act, which was drafted by the National Conference of Commissioners on Uniform State Laws, repeals Connecticut’s existing law on debt adjusters and substitutes this statute regulating “debt-management services.” There has been some controversy about this proposal at the national level concerning whether it adequately protects consumers; and I am informed that two major national consumer advocacy organizations -- the Consumer Federation of America and the National Consumer Law Center -- refused to participate in the development of the uniform act after the drafting committee decided to regulate rather than prohibit “debt settlement” businesses and to permit for-profit entities to engage in credit counseling and the establishment of debt-management plans. Questions have also been raised about the fees permitted by Section 23 of the bill and the unnecessarily broad deferral to the Federal Arbitration Act in Section 19.

In light of the limited time to review this bill with care, we recommend that no action be taken this year. If the Banks Committee wishes seriously to pursue the bill for next year, then it should create a study committee to review the proposed bill in detail and obtain a better understanding of the national-level critique.