



**STATE OF CONNECTICUT  
JUDICIAL BRANCH**

**EXTERNAL AFFAIRS DIVISION**

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**Testimony of Deborah J. Fuller  
Banks Committee Public Hearing  
March 11, 2010**

**Raised Bill 5270, An Act Concerning Foreclosure Mediation**

**Raised Bill 5410, An Act Concerning Modifications to the Foreclosure  
Mediation Program**

Good afternoon Senator Duff, Representative Barry and members of the Banks Committee. I would like to thank you for the opportunity to testify, on behalf of the Judicial Branch, on two of the proposals before you today – *Raised Bill 5270, An Act Concerning Foreclosure Mediation* and *Raised Bill 5410, An Act Concerning Modification to the Foreclosure Mediation Program*.

Both of these proposals would extend the Judicial Branch's Foreclosure Mediation Program, which is due to expire at the end of this fiscal year. House Bill 5270 would extend it for one additional year; House Bill 5410 would eliminate the sunset date entirely. The Judicial Branch supports extending this valuable program. We would respectfully suggest that a 1-year extension will not be enough, since all signs indicate that the mortgage foreclosure crisis is far from over. In fact, the number of foreclosure cases filed in court continues to rise. A comparison of the 3-month period from October 1 through December 31 in 2008 to the same period in 2009 shows that there was an 18.7% increase in the number of foreclosure cases added. Based on this information, we believe that the critical need for the program will continue for at least another two years. We recognize that in our current fiscal climate it may be difficult to identify funding for this program, but believe that it makes a valuable contribution to stabilizing the state's real estate market.

with regard to these sales. Currently, in foreclosures by sale, the Committee of Sale performs the duties of a seller; under this proposal the judge would be assuming these duties. In addition, the language raises several questions, which would need to be addressed should this concept move forward. These issues include:

- Do all parties have to agree to the market sale in order for it to occur?
- If the owner does not want a market sale, can the judge still order it, and can the judge order the homeowner to allow access to the property?
- If the mortgage being foreclosed is a second mortgage, how can the court order that the first mortgage be paid off when that lender is not a party to the action?
- Who is the seller - is it the foreclosing lender or the homeowner?
- What happens to the deficiency judgment?
- Is the motion for final sale a final judgment for purposes of appeal?
- What is the range of commissions and expenses that would be allowed?
- What happens if the buyer backs out?

We would be happy to discuss these issues with you further.

Thank you for your consideration.