



CONNECTICUT BANKERS ASSOCIATION

March 11, 2020

TO: THE BANKS COMMITTEE
FROM: THE CONNECTICUT BANKERS ASSOCIATION
CONTACTS: Tom Mongellow, Fritz Conway
RE: H.B. NO. 5279: AN ACT CONCERNING THE REAL ESTATE
CONVEYANCE TAX
POSITION: SUPPORT

This bill would restore the exemption from the conveyance tax for transfers made pursuant to a foreclosure by sale. That exemption was eliminated in last year's legislative session. The bill would also exempt transfers of a principal residence when the transfer is being made in lieu of foreclosure or pursuant to a short sale.

The CBA urges your support of this bill. As you know, many residents in our State are struggling in the current economic crisis and facing foreclosure. We believe that the State's mediation program has helped many borrowers stay in their home and avoid foreclosure. However, in situations where a settlement cannot be reached, the litigation often proceeds to a foreclosure by sale. When that happens, the expenses associated with the foreclosure (including any conveyance tax) are used in determining the amount of any deficiency judgment that could be imposed upon the borrower. As you might expect, this is a very challenging event for a foreclosed homeowner. These individuals are typically struggling to regain their economic footing. Last years elimination of the exemption, further compounds the economic challenges that face these individuals by imposing a conveyance tax on the sale (and thereby increasing the deficiency judgment that might be imposed). Reinstatement of the exemption would help to alleviate that burden.

We also note that in many foreclosure sales, the lender is forced to submit a bid in order to protect its debt. If the lender is the highest bidder and takes title to the property, that lender will, as a practical matter, have to pay the conveyance tax. That lender will then have to find a

buyer for the property (federal banking law requires banks to sell foreclosed real property within prescribed time limits). When that subsequent sale takes place, the lender will, once again, pay the conveyance tax. The end result is that the lender will *pay the tax twice* in order to recover its debt (which is typically only a portion of the debt). Reinstatement of the exemption will eliminate the risk of double taxation.

Deeds in lieu of foreclosure and *short sales* are two work-out solutions that are being used by borrowers and lenders to avoid the burdens and stigma of the foreclosure process. If these transactions are subject to a conveyance tax, the added expense makes a successful work-out less likely. By adding an exemption for these transactions, the State will be lessening the burden on distressed homeowners. More homeowners and lenders would be able to avoid the foreclosure process. That would, in turn, lighten the burden on Connecticut's foreclosure courts. More short sales would also help to fuel the struggling housing market (a housing market that does not need more distressed foreclosure sales and vacant properties).

For all of these reasons, we encourage your support for H.B. 5279.