



CONNECTICUT ASSOCIATION OF
REALTORS®
INC.

**Statement on
R.B. 5410: An Act Concerning Modifications to the Foreclosure Mediation
Program**

SUPPORT

Submitted to the Banks Committee
March 11, 2010

By Eugene A. Marconi, General Counsel
Connecticut Association of REALTORS®, Inc

Good day Senator Duff, Representative Barry and members of the committee. My name is Eugene Marconi and I am the General Counsel for the Connecticut Association of REALTORS®. I have the privilege of speaking on behalf of the 17,000 members of the Association in support of Raised Bill 5410 An Act Concerning Modifications to the Foreclosure Mediation Program

The first portion of the bill is of critical importance. It seeks to extend the time for the foreclosure mediation program, which is otherwise due to sunset on July 1, 2010. In addition it requires lenders to furnish certain information and documents which are crucial to the integrity of the mediation process, especially when the mediation involves a loan that has been securitized. There is another bill, HB 5270, that simply seeks to extend the mediation program. If the Committee decides that the proper vehicle to extend the program is HB 5270, the Association would ask that the information and documents required of foreclosing mortgagees in HB 5410 be incorporated into that bill. The Association and its members view the mediation program as important to the goal of keeping people in their homes even if the remainder of RB 5410 needs to be sacrificed to extend the mediation program.

The Association also supports the second portion of the bill which provides protections for tenants who have the misfortune of renting a property that is subject to a foreclosure. Tenants and their agents, have little or no means of determining the landlord's financial position. Therefore protections for tenants in these situations are necessary and the Association supports those protections.

The third part of the bill seeks to add an item to the menu of foreclosure options; a foreclosure by market sale. The current foreclosure by sale procedure has changed little in over a century. This process does not and will not produce market value sales as it severely restricts the universe of buyers qualified to participate through high cash deposits that are subject to forfeiture if the successful bidder does not close for any reason, extremely limited inspection periods (typically an hour or two before the auction), and refusal to recognize or allow usual and customary contingencies for home inspection, lead paint inspection and financing. The universe of buyers capable of participating in such a down-and-dirty auction is limited to deep-pocketed purchasers. This process effectively shuts



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out purchasers who either do not have ready cash for such a large deposit, require financing or simply do not have the money to risk on a property that they can not adequately inspect in order to apprise themselves of the risks of ownership. The market sale proposal would permit a mortgagor to present a marketing plan to the court which would require the property to be marketed within a relatively short period of time on the open market, and would obligate the mortgagor to present all offers to the court. Offers could contain the usual and customary contingencies for financing and inspections. This would allow purchasers to avail themselves of different tests and inspections, including a lead-based paint inspection, so they could apprise themselves of the general condition of the property and would open up the market for these properties to purchasers who need FHA, CHFA, or conventional bank financing. This would also allow properties to be marketed through multiple listing service systems and Internet aggregators of real property information. In approving the sale, the court would be guided to do what is in the best interests of the parties to the foreclosure, which is similar to the standard used for decades in the Probate courts to approve sales.

The current foreclosure auction sale serves no one but well-heeled purchasers who have the wherewithal to purchase without financing cash and to assume unknown risks. It certainly does not benefit mortgagors nor does it benefit mortgagees who more often than not end up assuming ownership of these properties and then spend money on asset managers, insurance, upkeep and the cost of disposition. It is time to bring foreclosure sales out of the horse and buggy days and into some semblance of a modern real estate transaction.

Thank you for your time, and I will be happy to answer any of your questions.



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