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CONNECTICUT BANKERS ASSOCIATION

March 8, 2011

To: Members of the Insurance and Real Estate Committee

Fr. Connecticut Bankers Association
Contacts: Tom Mongellow and Fritz Conway

Re: Raised House Bill 6510, An Act Concerning the Regulation of Private Transfer Fees and Valuation of Real Estate

Position: Support with Changes

The Connecticut Bankers Association (CBA), represents all banks doing business throughout the State and is the collective voice of the industry.

Section 1 of the bill contains provisions associated with "private transfer fees" on certain real estate. We support the bill's provisions which will prohibit these "covenants" in the future and importantly, require additional disclosures for those already existing transfer fee arrangements.

The CBA supports the language contained in Section 2 of this proposal, however would recommend the inclusion of a slight clarifying revision. Currently, the application of this section could be confusing with the previous section (a). Section (b) should reference "mortgagee or mortgage servicer".

We would recommend that the language in line 167 read:

"(D) providing information to the attorney, mortgagee or mortgage servicer...".

Background On Broker Price Opinions

Connecticut's real estate appraiser licensing law exempts from its requirements real estate brokers or salespeople who estimate the price of real estate as part of a market analysis for an owner (or designee of an owner) for a prospective listing or sale, for a seller or landlord under a listing agreement, or to a prospective buyer or tenant. *Connecticut Section 20-256*. These price estimates are called Broker Price Opinions (BPO), and are a valuable, and cost effective service for the consumers and businesses that use them, where an appraisal is not required.

Over *ten million* Broker Price Opinions were performed nationally in 2009, while approximately 67,000 BPOs were performed in Connecticut. The overwhelming majority of these were performed for mortgage servicers and lenders in the loan modification and secondary market context, *not* in the listing and sale or landlord-tenant context. BPOs have become an essential part of the mortgage lending and servicing business and have

also developed into an important income stream for real estate professionals, particularly in these difficult economic times.

The Dodd-Frank Act, the recently enacted financial regulatory reform, amended FIRREA to clarify that BPOs are permitted in all contexts *other than as the primary basis for a mortgage origination decision*. Federal programs designed to address the mortgage crisis affirmatively allow the use of BPOs for loan valuation, modification and restructuring purpose.

The roles of the real estate professional has expanded from that of being the traditional listing agent, to now providing important, market-based information relating to home values. Mortgage lenders and servicers increasingly have become reliant on real estate brokers' and salespersons' professional opinions as to the price of collateral, particularly in the context of making timely decisions about the value of the property underlying loans. Lenders and servicers and borrowers, value the real time, cost efficient and targeted market information, that real estate brokers and salespersons are positioned to provide.

Other states who have recently looked at this issue, have pursued statutes that reflect today's reality and affirmatively allow for BPOs in a broad variety of contexts, *where an appraisal is not required*. Nevada (with broad support from real estate professionals, appraisers and real estate valuation companies) enacted a law clarifying that BPOs are acceptable for most uses in the mortgage lending industry, *except where an appraisal is needed for a loan origination decision*. Nebraska's newly enacted law allows for even broader uses for BPOs: they are permitted except as the *sole* basis for a loan origination decision.

There is a compelling business need for BPOs today to assist in the resolution of the mortgage crisis. There are both state and federal statutory precedents supporting their broad use. Financial institutions should not be placed at disadvantage in Connecticut because of an outdated law, and real estate professionals should not have to worry that by performing this valuable service, they are jeopardizing their licenses.

For these reasons, the CBA joins Connecticut Association of Realtors in requesting the Committee's support of this proposal.