

Legal Assistance Resource Center

❖ of Connecticut, Inc. ❖

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Testimony of Raphael L. Podolsky

Banks Committee public hearing -- March 15, 2012

S.B. 362 -- Debt negotiators

OPPOSE

Debt negotiators are entities that offer to negotiate debt reductions for consumers who are behind in their payments. These are the entities on the radio saying, "Do you have more than \$10,000 in credit card debt? We can save you half of what you owe!!!" The industry has a history of charging high fees while producing minimal results. They have sometimes induced debtors to stop paying their credit card bills so as to build up a fund from which to negotiate, in the process thereby increasing the debt itself through late fees and collection costs. Abusive industry practices led to the passage in 2009 of P.A. 09-208, a strong act that gives the Banking Commissioner the power to protect consumer debtors. S.B. 362 would allow debt negotiators to charge fees of up to 30% of the debt reduction, a tripling of the present maximum. We oppose any weakening of the protections of the existing statute.

H.B. 5419 -- Cash advance contracts

CLARIFICATION REQUIRED

Cash advance contracts provide advance payments to personal injury plaintiffs in return for the contractual right to be repaid from the proceeds of successful litigation, plus a substantial fee. Such contracts attempt to be written so as to avoid the state's 12% usury rate, although it is not clear to us that they succeed in doing so. H.B. 5419 clearly treats a cash advance contract as a loan subject to the usury laws, thereby imposing a 12% limit on fees. We support this provision. We also presume that the bill protects the right of personal injury plaintiffs to retain all funds (except for the regulated fees) which they may win in excess of the amount advanced. It is not clear from the wording of lines 3-10, however, that any such surplus goes to the personal injury plaintiff, rather than to the cash advancer. If this bill moves forward, that language should be clarified.

H.B. 5414 -- Mortgage escrow account interest rate minimum

OPPOSE

The Landlord-Tenant Act, which requires that interest be paid on security deposits at no less than an index rate declared by the Banking Commissioner, used to prohibit the rate from going below 1.5%. That minimum for residential security deposits was repealed last year, in large part on the theory that landlords could not obtain such rates from banks. This bill now proposed to eliminate the 1.5% minimum on mortgage tax and insurance escrow accounts, presumably on the ground that they are the same as security deposits. We oppose the bill because there are fundamental differences between these escrow accounts and residential security deposit accounts. The landlords who must pay interest on security deposit accounts are customers of the bank which generates the interest and are fully independent of the bank. Mortgage escrow accounts, in contrast, are held by the bank

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itself, which is in a position to pay whatever rates it chooses. Indeed, it was established last year that some banks (e.g., TD Bank and Webster) did pay 1.5% interest on security deposit accounts, notwithstanding the low interest rates on savings accounts generally. Because the interest payor is not independent of the bank, the 1.5% minimum for mortgage escrow accounts should be retained.

S.B. 360 -- Recommendations of the CHFA Task Force

SUPPORT

The Emergency Mortgage Assistance Program (EMAP) provides interim financial assistance to homeowners facing foreclosure so that they can maintain mortgage payments for up to five years and thereby avoid loss of their home. The payments become liens on the property to be repaid at a later date. S.B. 360 makes modest changes to EMAP to make it more accessible to such homeowners. These include allowing homeowners with FHA-insured mortgages to apply, permitting homeowners receiving EMAP assistance to defend the foreclosure, and promoting greater distribution of the Judicial Branch form directing homeowners to community-based counseling and other resources. The bill also assures the continuation of the EMAP program by authorizing the bonding of \$60 million to fund additional assistance. Much of this money will ultimately be repaid to the state when the homeowner's financial situation stabilizes or when the property is sold. EMAP is a critical part of the state's foreclosure prevention program, and we strongly support this bill.

H.B. 5418 -- Modernization of the banking statutes

AMEND

Section 10 of this bill, as we understand it, permits a troubled mortgage loan that has been renegotiated or refinanced with a reduced interest rate to have a provision allowing a rate increase if the debtor defaults on the renegotiated loan. We recommend that any such increase be capped at the interest rate of the original loan.