

FTD

## Testimony of Attorney Jeffrey A. McChristian Concerning H.B. 5549

Co-Chairs Coleman and Fox, Members of the Committee, thank you for the opportunity to share my thoughts with you today. My name is Attorney Jeffrey A. McChristian, and I write to state my strenuous opposition to House Bill 5549, An Act Concerning The Filing Of A Motion To Open A Judgment Of Foreclosure.

I am an attorney in private practice with a principal office in Avon. I have represented many homeowners who are in foreclosure and trying desperately to save their homes or obtain approval for a short sale or a deed-in-lieu of foreclosure. I also represent several condominium associations in foreclosures for non-payment of condominium charges, and I represent the local affiliate of Habitat for Humanity, Inc., in bringing foreclosures in the few unfortunate circumstances in which its homeowners have defaulted on Habitat interest-free mortgages or abandoned properties secured by Habitat mortgages. I also serve as a court-appointed committee to conduct foreclosure auctions as an officer of the court. I therefore have extensive experience in representing all parties in foreclosures and can speak about H.B. 5549 from this broad perspective.

To put it bluntly, requiring a Motion to Reopen a foreclosure judgment to be filed no less than 30 days before a scheduled sale or the first law day in a strict foreclosure is a terrible idea, and in my opinion has the potential to lead to inequitable results that could harm borrowers, lenders, condominium associations, and encumbrancers who are subordinate to the lien of the foreclosing party. I do not know what perceived shortcoming of our foreclosure system has led to this proposal, but I feel that enacting it will have unintended consequences that will harm many and benefit few.

There exist far too many situations where there is a legitimate need, even at the last moment, to file a Motion to Reopen and have it written in the day before a sale is to occur or on the day which law days are scheduled to commence, and there should be flexibility to deal with such circumstances without running afoul of an arbitrary cut-off point. Just a few examples of this are: (1) the lender at the last minute finally approves a mortgage modification that has been pending for months; (2) the lender at the last minute finally approves a short sale that has been pending for months; (3) environmental issues with the property are discovered within 30 days of the law day or sale date and the lender needs to reopen the judgment to more fully assess its exposure; (4) a contract for the sale of the property that will pay the lender(s) in full gets signed within 30 days of the law day or sale date. I have had direct experience with each one of these examples in my practice. I have also had many experiences with homeowners who delayed seeking counsel until the last moment because of illness, injury or other incapacity, or simply because their world is falling apart and they have not been able to summon the nerve to call an attorney and find out if there is any way to save their homes. Certainly in some of these latter cases courts will weigh the equities and may decide not to reopen a judgment, but the ability to do so should not be hampered by the bar that apparently is intended by H.B. 5549.

I strongly urge you to oppose House Bill 5549, and not report it out of committee. Thank you all for your time.

Jeffrey A. McChristian