



STATE OF CONNECTICUT  
JUDICIAL BRANCH

EXTERNAL AFFAIRS DIVISION

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**Testimony of the Honorable Douglas C. Mintz  
Banks Committee Public Hearing  
February 19, 2013**

**H.B. 6355, An Act Concerning Homeowner Protection Rights**

Senator Leone, Representative Tong, Senator Linares, Representative Alberts, and members of the Committee, I want to thank you for the opportunity to appear before you today to testify, on behalf of the Judicial Branch, in support of H.B. 6355, *An Act Concerning Homeowner Protection Rights*. My name is Douglas Mintz and I am a judge of the Superior Court. I am currently sitting in Stamford, where I have presided over the foreclosure docket for the past several years. I also serve as chair of the Judicial Branch's Bench-Bar Foreclosure Committee.

I would be remiss if I did not begin my testimony by stating that the Judicial Branch's Foreclosure Mediation Program, which has been operating since July 1, 2008, has been a great success. As of December 31, 2012, 15,156 cases had completed mediation; of those, 83% were settled, and in 68% the homeowners remained in the home. A copy of the chart illustrating this is attached to my testimony.

Turning to the bill before you, this past fall the Governor's staff invited me and others from the Judicial Branch to meet with them as they began working on this proposal. I am happy to report that we had a very fruitful discussion, and that the suggestions we made at that meeting have been included in this bill. The replacement of the 8-month stay with a stay on pleadings during the time that mediation is ongoing, however long it lasts, would eliminate the inconsistency in timeframes that currently exists in the statutes. We also support the elimination of the 30-day limitation on the extension of mediation, as that limitation has not proved practicable. In addition, the clarification of terms in sections 1 and 3, and the expanded authority

for judges to impose sanctions, in section 4, would address issues that have been ongoing since the inception of the foreclosure mediation program.

We also support the proposal to increase judicial oversight over the mediation process. We recognize, and share, the concern that the foreclosure mediation process takes too long. Indeed, we have engaged in repeated attempts over the years to address this issue, with little success. However, I can tell you, based on information we recently pulled together, that the mediation process has not caused a delay in processing foreclosure cases. I have attached to my testimony two charts that show that the mediation process has not substantially affected the processing time for foreclosure cases. In calendar year 2011, the average time for foreclosure cases with mediation to be disposed was 445 days, while for cases without mediation it was 475 days. In calendar year 2012, the average time for cases with mediation was 553 days; for cases without mediation it was 622 days.

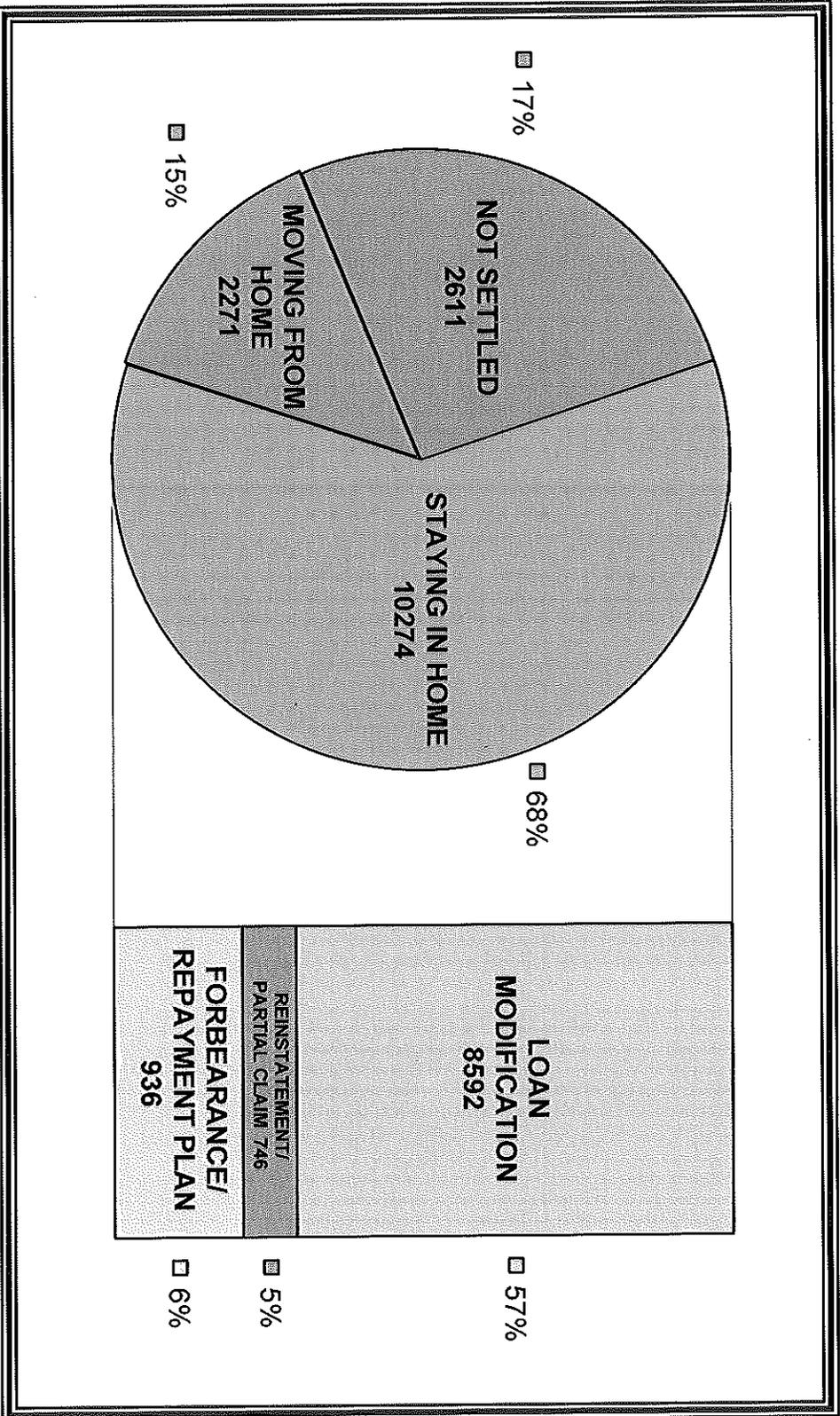
Although we support increased judicial oversight of the foreclosure mediation process, I should point out that we are concerned that the new requirements, as drafted, would overburden the court process. In order to alleviate this concern, we would respectfully suggest clarification that the term "on the record," on lines 132 and 279, contemplates a judge reviewing the file and signing an order in chambers, and that the hearing that would be required following a third mediation session be allowed to follow the same process. Requiring all of these proceedings to take place before a judge in the courtroom could prove to be unmanageable, and I do not believe it is necessary to accomplish the purpose of increased judicial oversight over the mediation process.

Finally, in the interest of making a good bill better, I would like to take this opportunity to bring to your attention some issues with the language of the bill that we have identified:

- It is unclear what is meant by the phrase "completely delegated", in line 21;
- The language in lines 37-39 appears to need clarification;
- We would respectfully suggest that the phrase "reasonably complete package of financial documentation" on lines 167 and 329 be replaced by "substantially complete package of financial documentation."

Thank you again for the opportunity to testify, and for your consideration of these concerns. I would be happy to answer any questions you may have.

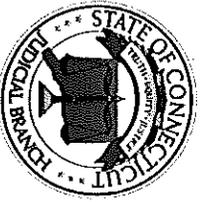
**Foreclosure Mediation Program (FMP) Results**  
**From July 1, 2008 through December 31, 2012**



STATEWIDE, 15,156 CASES HAVE COMPLETED MEDIATION FROM JULY 1, 2008 THROUGH DECEMBER 31, 2012. THIS CHART ILLUSTRATES THE OUTCOME OF THESE CASES.

THE CATEGORY "MOVING FROM HOME" INCLUDES AGREEMENTS FOR A SALE, SHORT SALE, A DEED IN LIEU, OR AN EXTENSION OF THE LAW DAY OR SALE DATE.

THE CATEGORIES "MOVING FROM HOME" AND "STAYING IN HOME" WHEN ADDED TOGETHER RESULT IN A SETTLEMENT RATE OF 83%.



## FORECLOSURE DISPOSITIONS – 2011

Breakdown of Foreclosure Cases Disposed in 2011...

	No Mediation	Mediation	TOTAL	% Of Total Cases In Study
<b>Not Plaintiff Judgment (ex. Withdrawn, Dismissed)</b>	7,726 (68.1%)	4,903 (78.4%)	<b>12,629</b>	71.7%
<b>Plaintiff Judgment (ex. Strict, Sale)</b>	3,601 (31.7%)	1,351 (21.6%)	<b>4,952</b>	28.1%
<b>Uncertain</b>	26 (00.2%)	3 (00.0%)	<b>29</b>	0.2%
<b>TOTAL</b>	<b>11,353</b>	<b>6,257</b>	<b>17,610</b>	
<b>% Of Total Cases In Study</b>	64.5%	35.5%		

Average Time to Disposition for Foreclosure Cases Disposed in 2011...

	No Mediation	Mediation
<b>Not Plaintiff Judgment (ex. Withdrawn, Dismissed)</b>	508 Days	442 Days
<b>Plaintiff Judgment (ex. Strict, Sale)</b>	401 Days	455 Days
<b>Uncertain</b>	935 Days	733 Days
<b>Overall Average</b>	<b>475 Days</b>	<b>445 Days</b>

Average Number of Court Events Scheduled per Case for Foreclosure Cases Disposed in 2011...

	No Mediation	Mediation
<b>Not Plaintiff Judgment (ex. Withdrawn, Dismissed)</b>	2.3 Events	7.5 Events
<b>Plaintiff Judgment (ex. Strict, Sale)</b>	5.3 Events	9.7 Events
<b>Uncertain</b>	15.8 Events	8.3 Events
<b>Overall Average</b>	<b>3.3 Events</b>	<b>8.0 Events</b>

## FORECLOSURE DISPOSITIONS – 2012

Breakdown of Foreclosure Cases Disposed in 2012...

	No Mediation	Mediation	TOTAL	% Of Total Cases In Study
<b>Not Plaintiff Judgment (ex. Withdrawn, Dismissed)</b>	7,163 (58.5%)	3,513 (62.0%)	<b>10,676</b>	59.6%
<b>Plaintiff Judgment (ex. Strict, Sale)</b>	5,054 (41.3%)	2,149 (37.9%)	<b>7,203</b>	40.2%
<b>Uncertain</b>	23 (00.2%)	2 (00.0%)	<b>2</b>	00.1%
<b>TOTAL</b>	<b>12,240</b>	<b>5,664</b>	<b>17,904</b>	
<b>% Of Total Cases In Study</b>	68.4%	31.6%		

Average Time to Disposition for Foreclosure Cases Disposed in 2012...

	No Mediation	Mediation
<b>Not Plaintiff Judgment (ex. Withdrawn, Dismissed)</b>	572 Days	522 Days
<b>Plaintiff Judgment (ex. Strict, Sale)</b>	691 Days	604 Days
<b>Uncertain</b>	860 Days	592 Days
<b>Overall Average</b>	<b>622 Days</b>	<b>553 Days</b>

Average Number of Court Events Scheduled per Case for Foreclosure Cases Disposed in 2012...

	No Mediation	Mediation
<b>Not Plaintiff Judgment (ex. Withdrawn, Dismissed)</b>	2.2 Events	8.6 Events
<b>Plaintiff Judgment (ex. Strict, Sale)</b>	5.1 Events	10.5 Events
<b>Uncertain</b>	14.7 Events	16.5 Events
<b>Overall Average</b>	<b>3.4 Events</b>	<b>9.4 Events</b>