Webster Bank

Webster Bank, N.A.
145 Bank Street
Waterbury, CT 06720
WebsterOnline.com

# WEBSTER BANK
# TESTIMONY TO BE DELIVERED TO LEGISLATIVE COMMITTEE
# HOUSE BILL #6355

Good afternoon. My name is Erin Dorman, and I am the Director of Restructure & Recovery at Webster Bank, National Association. I would like to thank this committee for the opportunity to testify on Bill #6355. In my opinion, the current foreclosure process in Connecticut is hampered by extensive delays, and I share your concern. Given Webster Bank's demonstrated commitment to work with borrowers so they can remain in their homes and avoid foreclosure, Webster agrees with the Administration that the foreclosure process in our state takes far too long and must be improved for the benefit of all parties. We are committed to working with this committee and the Administration on solutions; however, the bill as drafted will only add to delays and do nothing to keep families in their homes.

For those who aren't familiar with us, Webster Bank was founded in 1935 by Harold Webster Smith during the Great Depression. Our mission is to help individuals, families, and businesses achieve their financial goals. Webster's 3,000 employees, 2,300 of whom reside in Connecticut, believe in the values embodied in what we call The Webster Way:

**We take personal responsibility** for meeting our customers' needs.
**We respect the dignity** of every individual.
**We earn trust** through ethical behavior.
**We give of ourselves** in the communities we serve.
**We work together** to achieve outstanding results.

Today, Connecticut-based Webster Bank has assets totaling more than $20 billion and is one of the largest mortgage lenders in the state. In 2012, we originated $1.9 billion in first and second residential loans. The portfolio of loans that we own and service totals $7.9 billion, including $1.7 billion in investor mortgages for Fannie Mae and Freddie Mac.

The overriding goal at Webster Bank is to help the customer who has encountered financial setbacks stay in his or her home and address the hardship that prevents the borrower from making mortgage payments. This mission is ingrained in every Webster banker including branch representatives, collection staff members, loss mitigation specialists as well as foreclosure staff. Our standard is to have a single point of contact during the loss mitigation process. At any time in the foreclosure process, Webster will consider a borrower's request for Loss Mitigation, up to the foreclosure sale date. In order to meet the needs of our borrowers, Webster Bank established a Consumer Loss Mitigation Department in 2008 due to deteriorating economic conditions that led to increased delinquency and foreclosure litigation. Our efforts to work with our borrowers to keep them in their homes have been recognized by The Wall Street Journal, ABC News, Hartford Courant, and Waterbury Republican-American.

From 2008 through the end of 2012, the Webster Bank Loss Mitigation Unit modified 1,322 loans representing a net balance of $143.8 million. The typical modification reduced payments by an average of $302 per month. The average re-default rate for Webster's modified residential mortgages was 9.17 % at year-end 2012, compared to 18.63% industry wide. (source: OCC/OTS reports)

As successful as we have been in keeping many borrowers in their homes, not every foreclosure is avoidable. A snapshot of Webster Bank loans as of February 5, 2013 indicates that there are 120 loans in active foreclosure status in Connecticut that have been in litigation for a period of time greater than 300 days. Reasons for delay include:

1. Repeated requests for Loss Mitigation - 22 loans:
    - Multiple short sale offers where offer is denied, buyer backs out or can't get financing, etc.;
    - Multiple liens on property where borrowers have to clear liens, other liens in process of foreclosing;
    - Borrowers continue to send new packages after denial of modification or packages are not complete.
2. Bankruptcies - 20 loans:
    - Bankruptcy filing stays the foreclosure and mediation activity
3. Mediation delays - 17 loans:
    - Mediation period often takes over one year.
4. Court Delays - 8 loans:
    - Indicative of an overburdened docket.

Thus, based on the loan portfolio owned by Webster or serviced for investors and insurers, the fact that a total of 56% of the loans in active foreclosure status have been in process for longer than 300 days seems to indicate the delay is not driven by Webster.

Before a solution can be found to the current state of foreclosure litigation in Connecticut, it would be prudent to identify possible root causes of the problem. The root cause analysis must start with a question of who has the most to gain from delay in the foreclosure process. The answer is clearly **not** the lender for the following reasons:

- Foreclosures do not generate income for the bank.
- Foreclosures increase the overall cost of capital.
- Foreclosures force the bank to incur loan workout expenses (legal, property management, and appraisal expenses) that are not always reimbursable.
- Foreclosures exceeding 300 days often require additional approvals from the individual investor, guarantor, or insurer.
- Foreclosures often are accompanied by non-payment of real estate taxes and junior lienholders that may impact the net value of the underlying collateral as interest continues to accrue.

From my own experience working with borrowers in foreclosure, there are two major reasons for delays the foreclosure process: Either borrowers don't want to face the

situation, or often borrowers receive erroneous advice concerning the process. Foreclosure and the risk of losing a home is one of the worst situations that a person can face. Although it seems contradictory, there are homeowners who want to keep their homes but cannot bring themselves to participate in the loss mitigation process. The proposed bill will not assist this type of borrower. The other group consists of homeowners who receive advice from family, friends, and "debt negotiators" who advise them to delay the process in order to achieve debt forgiveness or to demand unrealistic terms in mortgage modification. Again, the proposed bill will not assist these homeowners.

An informal survey of attorneys in Connecticut who have extensive experience in consumer foreclosure practice similarly found that the two main reasons for delay in the foreclosure process are borrower-driven delays (multiple bankruptcy filings, multiple requests for loss mitigation, and requesting extension of the mediation program) as well as court-driven delays (overburdened dockets, overwhelmed mediators, and the judiciary not enforcing standard timelines contained in the Connecticut Practice Book.) There is little incentive for an attorney representing a plaintiff in foreclosure to seek to extend the process, since many of the fee agreements are based on an expedited timeline and are not hourly. If the foreclosure is not progressing according to a timeline established by the GSE's, it falls on the attorney to seek approval for additional fees.

Based on a root cause analysis, the proposed bill does not set forth solutions that will address the foreclosure delays and instead may exacerbate them. Specific items contained in the bill would allow parties to increase the delays and place an increased burden on an already overburdened judicial system. Of particular concern are the following sections:

- Creation of a "Good Faith" standard in the mediation process does not take into consideration that financial institutions as servicers for the federal government, its agencies, the GSE's, and Private Mortgage Insurers are required to adhere to applicable guidance or rules for loss mitigation modifications. The servicer is not allowed to deviate from the applicable modification programs without approval from the investor/insurer. Under current guidelines, in order to consider modification, the borrower must provide a complete financial package prior to the mediation. The proposed bill will allow a borrower to submit a financial package that is "reasonably complete" which may not meet the standard for the majority of investors/insurers. The proposed bill will impose new sanctions, primarily targeted at lenders/servicers for failure to mediate in "good faith." This determination of "good faith" would be within the sole discretion of the judicial mediator, and a finding of lack of "good faith" would trigger an additional hearing in front of the Superior Court judge to determine if sanctions are warranted or mediation should be extended.

- Requirement of Full Settlement Authority by all parties attending mediation sessions fails to recognize what transpires in many mediation sessions. Often information crucial to the loss mitigation process surfaces at the mediation

session. In such situations, a requirement that the servicer or lender has the immediate ability to accept a party's offer at the session is not reasonable nor is it necessarily in the best interest of the borrower. The goal should be to have full financial disclosure prior to the session, to encourage borrowers to attend the mediation session, and to have a comprehensive discussion regarding all factors that create the hardship. If this is done, the odds are greatly improved for a loan modification that addresses each borrower's specific problem. The borrower, the lender, and the court must take steps to find the best solution for each borrower so that the borrower doesn't re-default in the future. Unless the lender is given adequate time to review a full financial package and ask questions that identify the specific hardship, the mediation may result in a modification that is ineffective in addressing affordability.

Instead of reducing delays, the proposed bill more likely will increase foreclosure delays and escalate costs associated with additional staffing (mediators and Superior Court judges.) In addition, the bill has the potential to increase the cost of a mortgage for all borrowers in Connecticut due to the perceived heightened risk of foreclosure delay and servicing risk. The best way to address the problem of prolonged delays is to strengthen the existing tools available within the judicial system. Such remedies should include:

- Encourage stricter adherence to existing sections of the Connecticut Superior Court Practice Book that apply to foreclosure pleading timelines, default pleadings, dormancy calendars, and mediation timelines in order to achieve a fair and streamlined litigation process.
- Create a complex foreclosure docket for cases that involve multiple lienholders.
- Continue to work with the State of Connecticut Attorney General and the Banking Commissioner on programs such as the Homeowners Assistance events that encourage borrowers to have face-to-face meetings with their lenders in order to achieve successful loss mitigation.
- Support initiatives through state or quasi-state agencies to fund modification programs for homeowners who do not qualify for loss mitigation under standard underwriting terms.
- Increase efforts to inform and educate homeowners about the foreclosure process in order to combat the misinformation that exists.

Webster Bank is committed to working with homeowners who are experiencing hardships, as demonstrated by the fact that more than 1,300 families today have been able to remain in their homes under our mortgage modification program. Webster will work with this committee on ways to improve the foreclosure process and keep people in their homes. However, as I said, HB6355 in its present form is misguided. It will not help borrowers or banks and will have unintended consequences that could harm the nascent recovery in our state's housing market.

Thank you for your time and consideration.

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# For Lender, Foreclosure Has Become Dirty Word

By RUTH SIMON

Alison Skratt for Webster Bank.

Webster Bank's Alice Otano, right, helped James and Annalea Mace to keep their home.

After Annalea Mace's employer reduced her hours two years ago, Ms. Mace and her husband pared their spending, sold jewelry on eBay and cashed in savings bonds she received at age two. That still wasn't enough, so the couple went to the bank in hopes of saving their house from foreclosure.

In June, Webster Financial Corp.'s Webster Bank shrank the monthly payments on their $295,000 mortgage by 17% to $1,585, lowered the interest rate and lengthened the loan's term. "It brought tears to my and my wife's eyes," says James Mace.

Such praise is rare for the nation's mortgage companies, which have struggled to work with delinquent borrowers. The largest servicers were forced earlier this year by the U.S. government to beef up their operations. Banks and government officials continue to meet in their effort to negotiate a settlement to the state and federal investigation of questionable foreclosure practices, which is likely to result in further changes.

In contrast, Webster, a regional bank based in Waterbury, Conn., with 176 branches in four states, has been the subject of just 16 complaints about loan workouts and foreclosures since 2006, based on the Connecticut Department of Banking, which calls that "a very small number."

"Overall, Webster is doing a good job at servicing its loans," says Connecticut Attorney General George Jepsen. The 76-year-old bank was "ahead of the industry" in creating a single point of contact for financially troubled borrowers, he adds.

At Webster, "you can actually reach a person," says Martha Ross, a housing counselor with Neighborhood Housing Services of Waterbury, Conn.

Webster's small size makes it more nimble than bigger competitors. But its track record shows how focusing on customer service can pay off for banks and borrowers. Webster services $8 billion in mortgages and home-equity loans, a tiny fraction of Bank of America Corp.'s $2 trillion portfolio. Webster also owns 75% of the loans that it services, helping the bank call the shots. Just 1.84% of the mortgages serviced by Webster were at least 30 days past due but not in foreclosure as of June 30. The U.S. average is 8.15%, according to Lender Processing Services.

When it restructures a loan, Webster usually waives late fees, penalties and unpaid interest instead of adding them to the loan balance—and putting homeowners deeper in the hole. Borrowers don't have to make months of trial payments before the modification is made permanent.

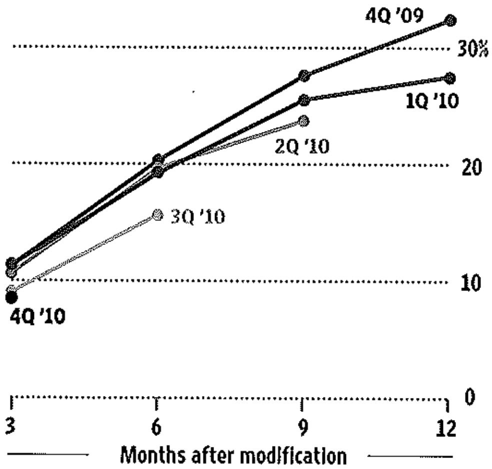
A dozen employees in



(over please)

## Back in Trouble

**Re-default rates for mortgage loans that have been modified, and are 60 or more days delinquent.**




Source: Office of the Comptroller of the Currency

Webster's collection unit staff the front lines, prodding borrowers with hardships to apply for help and then send in required documents. Seven loan-modification specialists sit nearby. Employee bonuses are tied partly to the number of modifications. About 80% of the agreements hammered out with borrowers are approved by Webster's management without any changes.

"We try to figure out what can a customer afford [in order] to stay in the home—and are willing to make it happen," says Webster Chief Executive James C. Smith, whose father started the bank in 1935. Mr. Smith considers the loan-modification program an investment in Webster's reputation and a way for the bank to differentiate itself from rivals.

Webster's consumer-finance segment, which includes mortgages, posted net income of $9.5 million in 2011's first half, compared with a loss of $21.1 million in the first half of 2010. Webster Financial had net income of $66.8 million on revenue of $355.9 million, after a provision for loan losses, in the first half of 2011, compared with net of $6.6 million on revenue of $301.2 million a year earlier.

Webster has completed 1,184 modifications, boosting reserves by $20 million to cover possible losses. As of March 31, 9.6% of borrowers whose loans were reworked in 2010 were at least 60 days past due on their payments nine months later. The re-default rate was 24.7% for modifications completed by the largest U.S. banks and thrifts in 2010, says the Office of the Comptroller of the Currency.

There were some early kinks at Webster. The first loan modifications left borrowers with higher payments, an approach that quickly proved unsuccessful because it didn't address borrowers' underlying problems. The Maces first applied for a loan workout in 2009. They were rejected a year later.

"Our turnaround time was not as good in 2009 as it is now," a Webster spokesman says.

For loans its owns, Webster typically extends the term of the mortgage and reduces the interest rate for two years, after which the rate begins to increase to the market rate at the time the loan was modified.

Webster follows federal guidelines for loans owned by Fannie Mae and Freddie Mac, but decided against signing up for the Obama administration's troubled Home Affordable Modification Program. The government's rules "were too restrictive," Mr. Smith says.

More than 120 mortgage servicers, representing over 90% of the market, have signed up for the HAMP program, a Treasury Department spokeswoman says.

Webster won't modify a loan more than once in a year, though borrowers can receive two modifications in five years if they provide evidence of a new hardship. Two years ago, Webster cut the monthly payment on Anne Glenzer's $60,180 home-equity loan by $123 to $366 after her job as a learning and development specialist was eliminated.

Webster recently cut the payment to $206 after Ms. Glenzer and her husband, a schoolteacher, exhausted their savings. Both times, Ms. Glenzer worked with Natalie Clark, who joined Webster four years ago as a debt collector. "She was sympathetic," says Ms. Glenzer. "She didn't make me feel like a failure." Second mortgages like the Glenzers' account for 36% of loans Webster owns or services.

While many mortgage-servicing shops are beset by high turnover, the seven Webster modification specialists have been on the job since at least 2008, when the company launched its program.

When Webster approved Kathleen Smeriglio for a loan workout in July 2009, Ms. Clark called at 5:30 p.m. on a Friday to pass on the good news. "I told Natalie she should be drinking margaritas," recalls Ms. Smeriglio, who hasn't missed any payments on her reworked loan. "It made my weekend."

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