Testimony Regarding Governor's Bill No. 6355
"An Act Concerning Homeowner Protection Rights"
Before the Connecticut House of Representatives' Banks Committee

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Co-chairmen Tong and Leone, Vice Chairmen Crisco and Luxenberg, Ranking Members Alberts and Linares, and Committee members, thank you very much for this opportunity to provide testimony to you on this important legislative proposal.

Earlier this year when this proposed legislation was announced, the following objectives were stated: "protect homeowners facing mortgage delinquency or who are in foreclosure, and streamline the process for addressing abandoned and blighted properties."[1] Further, the proposal seeks to offer "protections to homeowners engaged in the mediation process, and ensuring that process is efficient and fair."[2]

This afternoon, you heard testimony from homeowners who were victims of unscrupulous lenders and then suffered from insensitive collection practices. You heard from housing advocates who illustrated difficulties many encounter in their search for decent housing. You heard from economists and business leaders who described how Connecticut's economy and resulting job opportunities for the State's workers are held back by laws that make our state unattractive, relative to most others in the country, to start or grow a business. And, you heard from mortgage servicers and bankers who described the cost to our economic vitality imposed by a judicial foreclosure process that already results in Connecticut having the third longest process in the country.

The proposed legislation comes five years after the onset of one of the most traumatic periods in American economic history. Beginning in late 2007, the mortgage lending excesses – fueled by lax underwriting and unproven product designs of some lenders, and Wall Street securitization – began to unravel. When the availability of subprime and other exotic mortgages dropped, fewer potential home buyers qualified for mortgage financing. With the decline in demand for homes, the housing price bubble that had been fueled by reckless mortgage lending popped. The result was a financial market crisis in the fall of 2008 requiring extraordinary intervention by the Federal Reserve and other regulators to keep the financial system from collapsing. This financial shock led to the Great Recession, a period of economic contraction not seen in the United States since the 1930's. While the economy is no longer in recession, economic growth in recent years has been slow and unemployment remains high, particularly in Connecticut.

The financial market crisis forced many of the most egregious players in the mortgage origination and Wall Street securitization markets into bankruptcy or forced marriages with stronger financial institutions. Many of

[1] Press Release dated January 30, 2013 entitled: GOV. MALLOY: HOMEOWNER PROTECTION ACT HOLDS BANKS ACCOUNTABLE AND STREAMLINES PROCESS FOR ADDRESSING ABANDONED PROPERTIES
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those now failed egregious players were among the top mortgage originators in Connecticut in 2006 and 2007. They included Lehman Brothers; GMAC Mortgage; Wachovia Bank; IndyMac Bank; Fremont Investment; Taylor, Bean &Whitaker; World Savings; and Connecticut's own MLN. Our capitalist economic system forced the failure of hundreds of mortgage companies and investment banks that lacked the capital to support the risk they took.

However, many borrowers whose mortgages ended up in Wall Street securitizations have suffered through difficult years with far away mortgage servicers. One Connecticut response to this situation has been the successful mortgage assistance events sponsored by the Department of Banking and Attorney General, held throughout the State to connect borrowers to servicers. As noted by Governor Malloy, "through the mortgage assistance events we've held across the state, we've been able to help connect thousands of homeowners with their lenders."[3]

While the aftermath of the mortgage and Wall Street excesses continues to directly impact the lives of too many borrowers, our elected leaders and financial market regulators have taken dramatic steps to reign in the excesses and protect consumers. The "Dodd-Frank Wall Street Reform and Consumer Protection Act" was signed into law by President Obama in July 2010. The approximately 2500 page law is on the way to becoming 25,000 pages of regulations that have already begun to change virtually all elements of the mortgage market from origination to underwriting to closing to servicing and to collection. The Dodd-Frank Act included the creation of new federal government agency to oversee and regulate consumer financial markets. This agency is called the Consumer Financial Protection Bureau ("CFPB"). In January alone, the CFPB issued new regulations that addressed a borrower's ability to repay, loan underwriting guidelines that define what constitutes a "qualified mortgage", protections for high-cost mortgages, and a variety of mortgage servicing rules.

The practices that led to the financial market crisis and the disruption of so many lives largely ended in 2008. The failure of many of the mortgage companies and investment banks that profited from the excesses cleared the decks of bad actors. State and federal legislative and regulatory changes since 2009 continue to transform the mortgage business for the benefit of consumer protection.

It is now time for the State's housing related policies to intersect with its economic development policies. The legislature has supported the Governor's strong steps to boost the economy, including the "First Five" and "Small Business Express" programs, tax incentives, and technical assistance. As others testified today, the State's economy would benefit from continued recovery of the housing industry to complement the economic development efforts already underway. Unfortunately, the proposed legislation will serve to dampen rather than promote recovery of Connecticut's housing markets and its economy. Consumers will suffer as mortgage lenders deal with the increased cost associated with the changes.

The fact is that Connecticut's foreclosure process already provides the average borrower with 690 days before resolution. This time period is among the longest time periods before resolution in the country. We need to keep in mind that the reason a mortgage loan enters the foreclosure process is because the borrower has failed to live up to his or her side of the agreement with the lender. The borrower willingly entered into a contract

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with the lender to borrow money to purchase or refinance their home and in return promised to make payments over time.

Perhaps this last statement is part of the impetus for this proposed legislation. Perhaps too many borrowers were misled by their mortgage originator in the years prior to the 2008 market crisis. However, as I noted earlier, we are now in a very different mortgage market. The regulated banks, lightly regulated mortgage companies, and Wall Street securities packagers (along with securities rating agencies and credit default swap insurers, among others) who gave us the financial market and housing crises are, for the most part, gone. The survivors who assumed the assets and liabilities of the failed institutions have entered into multiple settlement agreements that fund programs for the homeowner victims of the wrongdoing. The federal government has funded several programs to help victims of unscrupulous lenders. In other words, victims of this debacle have many avenues available that will keep them in their homes.

So, the question is whether the proposed legislation is necessary to protect borrowers today and in the future. With all of the market changes that have been codified into law and regulations, are borrowers today exposed to abusive practices from unscrupulous lenders like the years prior to the 2008 market crisis? Are the proposed enhancements to a borrower's legal rights in a foreclosure situation that are contained the proposed legislation appropriate given the fundamental changes in the mortgage business? I believe that they are not. The Dodd-Frank Act's comprehensive legislative overhaul of financial market risk taking, the Consumer Financial Protection Bureau's comprehensive redesign of the mortgage origination process, and the private market's return to safe and sound lending practices provide enormous protections to today's and tomorrow's mortgage borrower. The proposed legislation is unnecessary today because today's borrowers have many more protections at the origination of their mortgage than they had five or six years ago. The proposed legislation will simply make Connecticut a less competitive state in which to start or build a business. It will hurt this legislature's and this governor's extraordinary efforts to improve Connecticut's economy. And, it will hurt Connecticut's consumers' ability to obtain a mortgage.

The banking industry would be delighted to work with this Committee, the governor's office and other interested parties to modify the proposed legislation to make it amenable to all parties interested in improving the mortgage foreclosure process in Connecticut.

Thank you for this opportunity to address you today on this important legislative proposal.