Testimony of Stephen Lewis
CEO and President of Thomaston Savings Bank
on
House Bill 6355
An Act Concerning Homeowner Protection Rights
2/19/2013

Chairman Leone, Chairman Tong, and members of the Committee I'd like to thank you for this opportunity to provide testimony. My name is Stephen Lewis and I am the CEO and President of Thomaston Savings Bank, a state chartered community bank founded in 1874 and headquartered in Thomaston, CT. We have $740 Million in total assets with 10 branches located in Thomaston, Watertown, Terryville, Waterbury, Harwinton, Bristol, Middlebury, and Bethlehem CT.

Prior to working at Thomaston Savings Bank, I worked for 15 years at the FDIC (Federal Deposit Insurance Corporation) Division of Supervision as a *safety and soundness examiner* in the Connecticut Field office, for the New York/Boston Region. During that time, I participated in 100's of examination of banks across the northeast.

My testimony reflects my own views developed through the course of my career as a banker and an examiner.

I would like to clarify at the outset of this testimony that I agree with the Administration that the residential foreclosure/mediation process does need to be improved, because it takes much too long for this process. According to recent data, CT has the third longest foreclosure process in the nation with an average timeframe of 690 days. I believe the proposed Bill will not improve this process. To the contrary, I think this Bill will lengthen the time frame and make it more costly.

And based on my 15 years with the FDIC as a safety and soundness examiner, this bill will be viewed unfavorably by the FDIC as well. The bill will add more uncertainty and risk to the foreclosure process. As such, I anticipate that the FDIC will require Banks to hold more reserves and capital for loans that are in foreclosure.

Today, many experts in the business and banking industry will or have testified to various aspects of the Bill that will adversely impact the foreclosure and mediation process. And will also adversely impact the housing market and our local economy. I would like to discuss one specific section of the Bill that I believe is unfair and punitive.

The proposed legislation would create sanctions available to judges that are alarming and unprecedented. The proposed bill states that if the judge determines the "parties" did not mediate in good faith - sanctions would be available. These sanctions are exclusively targeted at the lender/services. The available sanctions (as detailed under lines 420 to 428) include fines as well as complete dismissal of the foreclosure action. Other sanctions include barring interest accrual on underlying loan, awarding attorney fees, compensation for lost income and expenses arising out of a failure to mediate in good faith, and forbidding the mortgagee from charging the mortgagor for the mortgagee's attorney fees.

In addition, the threshold for demonstrating failure to mediate in good faith is very low. The Bill state under Lines 417 to 420, demonstrating that a party or attorney failed to mediate in good faith does not require the standard and accepted tests, showing that such party or attorney acted with malice, intent to injure or an otherwise affirmative showing of bad faith. As such, the party or attorney could possibly be sanctioned for something as simple and accidental as administrative errors. And the definition for good faith is extremely broad as detailed under lines 393 to 417.

Consequently, these types of sanctions coupled with the broad definition of good faith and the low threshold for proving failure to act in good faith - will add significant cost and delay to the mediation process. Lenders/Servicers will be very concerned about the additional risk/cost for non-compliance with this Bill and will need to develop additional levels of review and compliance to ensure no errors occur in the mediation process. This will adversely lengthen the time to complete the process and further increase the cost.

I would anticipate the FHFA will increase their guarantee fees beyond the 52% increase in surcharges already proposed for Connecticut loans because of this "proposed" lengthy and costly foreclosure process. And I also expect that local lenders will need to raise their mortgage rates to cover the higher cost associated with the new mediation process. And many banks may tighten their credit underwriting standards to reduce the likelihood of future foreclosures. These actions will further delay a recovery to the housing market and the general economy.

In closing, I hope the Banks Committee will consider working with the Financial Industry to study the matter further and develop a more effective process for mediation that is fair for both borrowers and their banks.