

CONNECTICUT GENERAL ASSEMBLY
Tuesday, March 11, 2014

TESTIMONY OF Kim K. V. McClain
TO THE INSURANCE AND REAL ESTATE COMMITTEE
ON PROPOSED HOUSE BILL 5514, "AN ACT CONCERNING AN OPTIONAL
METHOD OF FORECLOSURE."

I currently serve as the Executive Director of the Connecticut Chapter of the Community Associations Institute (CAI-CT). The Community Associations Institute (CAI), is a national member supported, not-for-profit educational and resource organization dedicated to fostering vibrant, competent, harmonious community associations for the 1 in 6 Americans who live in common interest communities.

I am submitting testimony to present my insights about how the proposed bill will affect the more than 5,000 common interest communities in Connecticut, and the hundreds of thousands of people who live in them.

CAI-CT opposes HB 5514.

1. The bill essentially permits a short sale to take place without any input from or approval of junior lienors;
2. By allowing for judgment to enter in 10 days from the return date, the bill gives very little opportunity to permit other lienors to challenge how their priorities vis-à-vis the first mortgage have been alleged by the mortgagee. For example, suppose the foreclosing mortgage holder fails to properly assert the priority of the association's lien or that of another lien holder. There is very little time for the other lien holders to challenge the assertions of the mortgage company. I note that the hearing on the motion for judgment is limited to, among other things, the determination of priorities for distribution of the sales proceeds. But this makes no accommodation to lienors who may claim that their liens have priority over the mortgage and therefore survive the sale.
3. The bill should clearly state that it has no impact on the priority of other liens or encumbrances on the real estate, nor on the lien holders to enforce their rights.

It is imperative that this bill not undo the many months of work on the parts of a multitude of interest groups who, last year, successfully negotiated a solid bill (now Public Act 13-156) which protects the financial stability of common interest communities and their owners. Public Act 13-156 includes the following:

- a. Extension of the period covered by the lien from six to nine months and applies in each action the mortgage holder brings to foreclose its mortgage on the unit as well as all actions the association brings to foreclose its lien for unpaid common charges; and

b. Requires an association, before bringing an action to foreclose its lien, to provide mortgage holders with (a) 60 days' notice setting forth specified information and (b) a copy of the demand for payment it must already send to the unit owner.

Given that community associations have an obligation to notify mortgage holders prior to any foreclosure action, it is reasonable to require similar consideration to lien holders with respect to HB 5514. Common interest communities depend upon the collection of common charges from all unit owners in order to provide maintenance and services. A foreclosure process as proposed by this bill would potentially serve to destabilize many condominium communities in Connecticut.

We would be happy to further discuss with you this issue, or any other issues affecting common interest communities in Connecticut. Please do not hesitate to contact us with any questions or concerns. I can be reached at 860-633-5692 or email: caictkmclain@sbcglobal.net.

Thank you for your consideration.

Respectfully submitted,

Kim McClain