Testimony before the Banking Committee of the General Assembly Mandatory

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1. The General Assembly is presented with an opportunity to make the mandatory Foreclosure Mediation Program permanent or eliminate it.

As the financial crisis of 2008 began to hit us hard in Connecticut in 2009, the mediation program served an important role in getting lenders to look for solutions outside of foreclosure to deal with the once in a lifetime avalanche of mortgage defaults. The mediation program helped keep a lot of Connecticut families in their homes and held lenders accountable. We are better off for what was achieved by the program during that time of crisis.

Our economy is in recovery, but we are not yet fully recovered. There are still families that need the support that mediators bring them. There are lenders/servicers who still need to be held accountable to the new and evolving rules of Loss Mitigation. Now is not the time to change the mediation program.

Permanent decisions about the long term future of Connecticut mortgage financing should only be made once our economy returns to normalcy. The Governor's Budget funds this program through June of 2017. We are much more likely to be able to discuss wisely the idea of permanency if at that time we have reached the normalcy that we all seek.

2. On February 11th of this year the Secretary of HUD testified before the House Financial Services Committee and announced that the number of foreclosures started has declined by 61% since 2012.

Our company had 471 loans in foreclosure on August 31st of 2013. On January 31st of this year we had 215 loans in foreclosure. This dramatic decline has occurred even as the length of time a foreclosure takes has increased. The last two owner occupied mandatory mediation foreclosures completed by our company took 779 and 763 days to complete. They were completed this month.

We are not starting foreclosures at the volume we have in the past. Foreclosure volume is down because new federal regulations create too much risk for lenders if they make loans that borrowers can't afford. Lenders have made their underwriting rules much tougher in hopes of avoiding expensive foreclosure processes. Loss Mitigation tools are significantly improved, creating more options to avoid foreclosure.

3. What has changed in mortgage lending and mortgage servicing that affects the foreclosure picture permanently?

Lenders are no longer making loans believing that they will be protected by rising real estate values even if the borrower doesn't pay. Lenders want no part of the foreclosure process. It costs too much, and it takes too long. They have changed their loan underwriting criteria so that marginal borrowers will not get loans. Lenders believe this will keep foreclosures down, and, so far, it is working.

Loan Servicing has had its rules changed by investors, insurers, guarantors, and the new regulator for all mortgage lending, the Consumer Finance Protection Bureau (CFPB). Today, the name of the game is Loss Mitigation. Every servicer is having layers of new rules imposed upon them that focus on keeping the borrower in the house. These tools are no longer optional. They are mandatory, and servicers who do not comply are being held accountable.

The result of making fewer risky loans and the impact of Loss Mitigation on the resolution of defaulted loans means our future will have fewer foreclosures, even if we were to return to a financial crisis as significant as our last one.

4. Impact on our economy of making Mediation mandatory

If the foreclosure timeframe continues as it is, every homebuyer borrower in Connecticut will pay more than otherwise would be necessary for their financing. These buyers are paying more now, and it will remain so until we change.

The last time this was an issue, advocates for mandatory mediation suggested that maybe this additional cost for homebuyers is worth the protection it provides for those that need protection when they get foreclosed upon. Is it worth it if everyone is paying more if there are 20,000 foreclosures going on? Is it worth it that everyone pays more if there are 2,000 foreclosures going on? What about 200?

The real estate professionals in Connecticut agree that the elongated foreclosure process has made the recovery of our Real Estate activity market slower than in most other states.

In the current process, we are keeping borrowers who haven't made a mortgage payment for six months in their home while continuing to not pay for another two years. During that time, they do not pay their real estate taxes, do not pay their homeowner's insurance, do not pay their water bills, do not pay their sewer bills, and do not pay their condominium association fees. By the time the eviction process begins after the foreclosure is complete, they will not have paid housing expenses for three years. Are we really doing them a service?