

February 25, 2015

**TO: MEMBERS OF THE JUDICIARY COMMITTEE**

**FROM: THE CONNECTICUT BANKERS ASSOCIATION**

Contacts - Tom Mongellow, Fritz Conway

**RE: H.B. No. 6782, AN ACT ELIMINATING THE SUNSET DATE FOR THE FORECLOSURE MEDIATION PROGRAM  
POSITION: SUPPORT**

This year the legislature is considering whether or not to extend the sunset date for the foreclosure mediation program or to make the program permanent. Existing law has the program sunset in July of 2016. The Connecticut Bankers Association respectfully requests that you support extending the program and its sunset date, through June 30, 2017 rather than making the program permanent. This will put the program in sync with the State's biennial budget cycle, and would match up with the Administration's recent budget proposal.

### **Background**

The Foreclosure Mediation Program was statutorily created in 2008 in response to the financial crisis at that time. The program since its inception was always intended to phase out, as the foreclosure crisis subsided. The program was established in 2008 (PA 08-176) and currently costs the State approximately \$6 to \$7 million per year. The program is staffed by 25 mediation specialists, 16 office clerks and 9 designated caseload coordinators. They are all Judicial Branch employees.

Current law calls for the program to sunset after June 30, 2016. Proponents of the program have sought to make it permanent – at its inception, this was never the intention.

Last year the legislature recognized the changing environment with respect to declining levels of new foreclosures. Specifically, under last year's budget bill (PA 14-89, Sections 37, 38 & 46), language was adopted stating that the size of the program must be determined by: The availability of funding and the number and need of the program participants.

### **Why extend the sunset date as opposed to making the program permanent:**

Now is not the time to make the foreclosure mediation program a permanent State program. Dramatic change has occurred and continues to occur with respect to the mortgage industry and its impact on foreclosures. Please consider the following:

### **New foreclosures then vs now:**

According to RealtyTrac, Connecticut has returned to pre-financial crisis foreclosure starts. Specifically, in 2006 there were 10,129 foreclosure starts in Connecticut. That compares with 10,886 in 2014. The return foreclosure starts to pre-2008 levels is a strong indicator that one of the main reasons for the mediation program – defaulted loans going into foreclosure – has subsided.

### **Mortgage Underwriting Standards then vs. now:**

One of the main reasons Connecticut established a foreclosure mediation program in 2008 was because many believed that loans were being improperly underwritten at the time. Designers of the program felt consumers

February 25, 2015

were saddled with bad loan terms and a mediation program was necessary to help people sort through the resulting foreclosures.

That problem no longer exists. Conservatively, since 2010 / 2011 the underwriting standards for home loans have been very stringent as a result of market pressure & government regulation. The CFPB has adopted strict regulations regarding qualified mortgages and a customer's ability to repay the loan.

**Foreclosure avoidance then vs. now:**

Another argument for the 2008 creation foreclosure mediation program was that mortgage servicers did not do a good job at helping delinquent homeowners avoid foreclosure.

The Dodd Frank Wall Street Reform and Consumer Protection Act created the Consumer Financial Protection Bureau (CFPB) which has put in place significant new rules to provide protections to borrowers. Those rules help ensure that borrowers are able to apply for all of the foreclosure relief options available to them. We would argue that these new rules in many cases duplicate the foreclosure mediation program.

In addition 49 State Attorneys general and the Federal Government reached a joint state-federal settlement that mandated nationwide reforms to mortgage servicing standards. Among other things, these servicing standards require a single point of contact, adequate staffing levels and training, better communication with borrowers, and appropriate standards for executing documents in foreclosure cases, ending improper fees and ending dual track foreclosures for many loans. Once again, these standards did not exist when the mediation program was created.

**Consequences of the State's slow foreclosure time frames:**

According to the Federal Housing and Finance agency, which regulates Fannie Mae and Freddie Mac, it takes, on average, anywhere from 690 to 720 days to foreclose in in the State of Connecticut. This ranks our State as the fourth longest foreclosure timeframe in the country.

This long timeframe hurts the real estate market, the collection of taxes and the overall economy. In addition, it damages neighborhoods and communities through the creation of blight and public safety/health hazards. Additionally, FHFA is still reviewing a potential surcharge for Connecticut and few other very slow foreclosure states. Fannie Mae and Freddie Mac also have the ability to charge penalties against servicers for slow foreclosures in the State. We are concerned that if the foreclosure timeframe does not improve, those penalties may be imposed. The unanticipated costs and economic consequences of the State's long foreclosure process are significant to all residents and the economy of the state.

The General Assembly in 2013 adopted legislation in an attempt to speed up the foreclosure mediation process. While better, it is clear that the program continues to slow the process down, as borne out by the FHFA data. Before considering making the mediation program permanent, more time should be given to analyze the effects of the changes described above and whether they have diminished the need for the lengthy mediation program.

**Conclusion:**

For all the reason stated above, we believe now is not the time to consider making the foreclosure mediation program permanent. The Connecticut Bankers Association respectfully request that you consider extending the program for two more years as proposed in House Bill 6782. The program should be allowed to continue its mission in an orderly fashion and allow for any mediation cases during that time period to be fairly resolved.