

March 8, 2016

**To: Members of the Banking Committee**  
**Fr: Connecticut Bankers Association**  
**Contacts: Tom Mongellow, Fritz Conway**  
**Re: H.B. 5563: An Act Concerning Residential Property Assessed Clean Energy**  
**Position: Oppose, as Presently Drafted**

This bill would make amendments to the existing R-PACE program that helps to finance energy improvements to residential properties. While energy efficiency and the goals of the R-PACE program are laudable, after discussions with the proponents of the bills, we have concerns that the proposal's new lien structure would cause uncertainty in several important areas.

In particular, the bill in one provision states that the lien for the energy improvement loan would be subordinate to all existing mortgage liens (and any new "first mortgage"). At the same time, language in another part of the bill appears to significantly undercut the benefits of that priority structure.

In the event that a lender sought to foreclose on its mortgage lien (claiming priority), that lender would only be able to extinguish the unpaid portion of the energy improvement loan that was then currently delinquent. The lien for the energy improvement loan would survive the foreclosure.

Whoever then takes title to the property, would take it subject to that lien and would be responsible for paying the remaining portion of the energy improvement loan. That will inevitably affect the values that are derived when the property is sold at foreclosure auction or after a strict foreclosure. Prospective buyers will most certainly consider the unpaid debt, and the existence of the continuing lien, when determining how much to pay for the property.

In effect, the bill's R-PACE lien would unfairly leapfrog over existing priority positions that were lawfully obtained by mortgage lenders in Connecticut. Lenders entered into the transactions with a good faith expectation as to the priority of their liens and the amount of equity that would be available. The bill would undercut those legitimate expectations and present safety and soundness concerns.

Very importantly, the CBA is also concerned about the impact that this new structure might have on secondary market investors, such as Freddie Mac, Fannie Mae and private investors. *It is not entirely clear whether these investors will be willing to purchase mortgages that are subject to R-PACE liens. These are uncertainties that Connecticut afford to risk in our slowly recovering real estate market.*

The CBA would be look forward to working with the proponents of H.B. 5563, in an effort to resolve the concerns that exist with the current draft.



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**To: Members of the Banking Committee**  
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**Contacts: Tom Mongellow, Fritz Conway**  
**Re: S.B. No. 409 AN ACT CONCERNING THE ASSIGNMENT OF CERTAIN LIENS AND  
EXPANDING HOMEOWNER PROTECTIONS UNDER THE EMERGENCY  
MORTGAGE ASSISTANCE**  
**Position: Oppose as Drafted**

The CHFA EMAP program requires banks and mortgage lenders to send a notice of the availability of the program to any borrower who is 60 days delinquent on the payment of their mortgage. That notice is the extent of the banks involvement in the program and is purely clerical in nature.

Section 9(b) would create an onerous Connecticut Unfair Trade Practice violation if that notice was inadvertently not sent or received. This would result in fines, nuisance lawsuits and foreclosure delays in an already complex and litigious process.

Banks are routinely regulated and examined for compliance with these types of requirements and the proposed CUTPA amendment is unreasonable in its scope and penalties.

We urge your rejection of this provision of Senate Bill 409.