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**TESTIMONY OF SCOTT J. SANDLER, ESQ.
REGARDING RAISED BILL NO. 409
AN ACT CONCERNING THE ASSIGNMENT OF CERTAIN LIENS AND
EXPANDING HOMEOWNER PROTECTIONS UNDER
THE EMERGENCY MORTGAGE ASSISTANCE PROGRAM**

I. SUMMARY OF TESTIMONY:

Raised Bill No. 409 would, in part, treat community associations like mortgage companies when it comes to foreclosing their liens under the emergency mortgage assistance program. If enacted, the bill will require associations to engage in mediation and loss mitigation efforts that mortgage companies must now engage in, before an association can proceed with the foreclosure of its lien.

For the reasons set forth below, the Connecticut General Assembly should not enact the provisions of Raised Bill No. 409 that apply to community associations.

II. BIOGRAPHY OF SCOTT J. SANDLER:

Mr. Sandler is a partner in the law firm of Perlstein, Sandler & McCracken, LLC, in Farmington, Connecticut, which currently provides legal services to approximately 450 condominium and homeowner associations throughout the State.

Since 2001, Mr. Sandler has focused on representing condominium, community and homeowner associations.

Mr. Sandler is a member of the College of Community Association Lawyers ("CCAL"). CCAL is a prestigious group of attorneys who have distinguished themselves through contributions to community association law and who have committed themselves to high

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standards of ethical conduct. Of the thousands of attorneys practicing community association law in the United States, fewer than 150 have been granted membership in CCAL. Mr. Sandler is one of only three attorneys in Connecticut who are members of CCAL.

Mr. Sandler is a past President of the Connecticut Chapter of the Community Associations Institute. He is presently the Chairman of the Chapter's Legislative Action Committee. He also serves as a member of the Institute's Government and Public Affairs Committee.

Mr. Sandler is a graduate of the State University of New York at Albany (B.A., Economics, 1997) and Quinnipiac College School of Law (J.D., 2000). He was an Associate Editor of the Quinnipiac Law Review.

Mr. Sandler is a member of the American Bar Association, the Connecticut Bar Association and the Hartford County Bar Association. He is also a member of the Executive Committee of the Real Property Section of the Connecticut Bar Association.

III. ANALYSIS:

A. Associations are not mortgage companies and should not be treated in the same manner as mortgage companies.

Condominium and homeowner associations have liens on units which may be foreclosed if not paid by the unit owner. That, however, is where any commonality an association may have with a mortgage company ends.

Unlike most mortgage companies, associations are not large, faceless corporations. Associations are small groups of homeowners working together to operate and administer the needs of their communities. Most common interest communities in Connecticut are small in size, often less than 100 units.

Mortgage companies are led by highly paid executives. In contrast, the association's leadership is typically composed of unpaid volunteers who live in the community.

Also unlike mortgage companies, associations have no ability to decide for themselves whether to become a homeowner's creditor. Prior to lending money to a potential borrower, the mortgage company requires the borrower to submit to an

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application process. The mortgage company will check borrower's credit report, review the borrower's income levels, and will make a decision of whether to lend money to the borrower.

Associations have no say in who may purchase a unit within the community. They have no ability to "vet" potential owners. They cannot prevent a unit from being sold to someone who lacks the financial ability to pay the common charges, which all owners must pay to provide for the continued operation of the community.

Also unlike mortgage companies, the associations have no insurance coverage to off-set bad debt. Mortgage companies frequently purchase insurance to compensate them for loans that are not repaid in full. Similar insurance is not available to associations.

Based on these key differences between associations and mortgage companies, it is unfair and inappropriate to subject associations to the same requirements as mortgage companies when it comes to the foreclosure of their liens.

- B. The proposed bill potentially increases the financial burdens on other owners in the community, and may result in even more delinquencies.

Under Section 47-258 of the Connecticut Common Interest Ownership Act, only a portion of the association's lien enjoys priority over a first or second mortgage on a unit. That priority is limited to an amount equal to nine months' worth of common charges. Any amounts owed in excess of nine months' worth are junior to the first and second mortgages.

If the unit is worth less than the amounts owed on the mortgages, then the association may not recover all of the charges owed to it. The resulting deficiency must then be made up from additional assessments collected from the other owners in the community.

Requiring associations to comply with all of the requirements of the emergency mortgage assistance program will increase the amount of time it takes for the association to foreclose its lien. As more time passes, the outstanding balance owed to the association will continue to grow. By the time the association can complete the foreclosure, the balance will far exceed the amount entitled to priority.

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As a result, the uncollectible portions of the lien will be much larger, imposing a greater burden on the other owners in the community, which they may not be able to afford.

The greater the financial burdens placed on the other owners, the more likely it is that other owners will suffer their own financial distress. This will lead to even higher numbers of owners who are unable to pay their common charges, exacerbating the financial burdens exponentially.

For the reasons set forth above, the General Assembly should not enact the provisions of Raised Bill No. 409 that apply to community associations.

If I can furnish the Committee with any further information or assistance, please do not hesitate to contact me.

Respectfully Submitted,



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