

Legal Assistance Resource Center

❖ of Connecticut, Inc. ❖

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H.B. 5480 -- Prevention of blight in foreclosed properties

Planning and Development Committee Public Hearing – March 4, 2016

Testimony of Raphael L. Podolsky

Requested Committee action: **SUPPORT SECTION 4**

We support Section 4 of this bill, which repeals subsection (k) of Section 7-148ii. Section 7-148ii requires each entity that initiates foreclosure of a residential property (usually the lender) to register with the town and provide contact information for a person or entity in regard to the condition of the property. This gives the town a way to reach an agent of the lender if the building becomes a source of blight. The lender, of course, has an interest in protecting the physical integrity of its own collateral; but not all lenders recognize that long-term interest. Moreover, the packaging of mortgages for resale sometimes further separates the lender from the actual physical property. Under existing Connecticut law, the foreclosing party has no legal responsibility for the building during the foreclosure -- only after it becomes the owner. As a result, the town can use its contact information to ask the lender to take corrective action but cannot compel any action. This leaves a gap – sometimes a very long gap – if the property owner fails to maintain the property and the lender refuses to provide back-up help. This body of law is codified by subsection (k), which provides that the registration shall not....

...imply or create any legal obligations on the part of the foreclosing party to repair, maintain or secure the residential property for which a registration is required prior to the time that title passes to the foreclosing party.

Section 4 repeals this provision. We support Section 4.

Repeal, however, does not actually change the law, since the law imposed no maintenance obligation on the foreclosing party during the foreclosure, even before subsection (k) was adopted. This does not have to be the law. The Committee should add to this bill the **New Jersey Creditor Responsibility Act**, 46 *New Jersey Statutes 10B-51(b)*, which imposes responsibility on the lender if the building becomes vacant and the property becomes a nuisance. It reads:

If the owner of a residential property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a residential property becomes vacant at any point subsequent to the creditor's filing the summons and complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the creditor or any other third party, and the property is found to be a nuisance or in violation of any applicable State or local code, the local public officer, municipal clerk, or other authorized municipal official shall notify the creditor, which shall have the responsibility to abate the nuisance or correct the violation in the same manner and to the same extent as the title owner of the property, to such standard or specification as may be required by State law or municipal ordinance.