



CONNECTICUT BANKERS ASSOCIATION

February 7, 2019

To: The Banking Committee

Fr: Connecticut Bankers Association

Contacts: Tom Mongellow (860-677-5060), Fritz Conway (860-229-0301)

Re: Proposed H.B. No. 5163, An Act Concerning Deficiency Judgments And Crumbling Foundations
Proposed H.B. No. 5164, An Act Prohibiting The Lender Of A Home Equity Loan From Seeking A
Deficiency Judgment Against Certain Borrowers

The lending industry in Connecticut is deeply concerned with the impact of the crumbling foundation crisis and commends the legislature on its actions to assist affected homeowners. The banking industry has and will continue to work diligently, compassionately, and responsibly with affected homeowners and stakeholders as solutions continue to be developed by this legislature and others. Unfortunately however, HB 5163 and HB 5164, although well intentioned, are not the answer.

The legislation could have a major dampening effect on new lending throughout the eastern Connecticut housing market. When lenders learn that they cannot pursue their contract rights under a promissory note (i.e., on mortgage loans where the collateral *may* become worthless in the future because of a crumbling foundation), it is highly unlikely that they will want to lend in that region. Indeed, it is possible that federal and state banking regulators would require tougher underwriting standards or prohibit banks from lending on those properties. Moreover, if the proposal passed, when the secondary market investors (such as Fannie Mae and Freddie Mac) learn of it, those investors may very well refuse to buy loans that have a future risk of a crumbling foundation. Thus, these proposals would likely further compound problems in that region, instead of their goal of assisting homeowners.

An additional area of concern on existing mortgages, is that the law has to the potential to violate the "contract clause" of the U.S. Constitution. That section prohibits any state from enacting legislation that retroactively impairs obligations that arise under contracts. By prohibiting deficiency judgments, each of the two bills could *impair* contract rights that were created when money was lent to the borrower.

This is a long-term crisis and we will continue to work with the Committee and the Legislature to look for solutions that will help the housing market and homeowners in that region. For the above reasons, we urge your opposition to H.B. 5163 and H.B. 5164.