



The Jerome N. Frank Legal
Services Organization
YALE LAW SCHOOL
Housing Clinic

**Testimony of Connecticut Fair Housing Center and the Housing Clinic
In SUPPORT of Senate Bills 891 & 941 and House Bills 6452, 6453, 6454, 6493, 6494, and 6495**

Sen. Kasser, Rep. Doucette, Sen. Berthel, and Rep. Delnicki, members of the Committee: thank you for the opportunity to submit this testimony. My name is Jeff Gentes. I manage the fair lending and foreclosure prevention work at Connecticut Fair Housing Center¹ and co-supervise the Housing Clinic at Yale Law School.² I write to express our support for several bills:

S.B. 891 This would eliminate the unnecessary sunset date from a program that has served Connecticut well for thirteen years. Sec. 6 would close the gap in mortgage workouts for homeowners; without it, we could be facing hundreds of otherwise preventable foreclosures.

S.B. 941 This would provide basic consumer protections to homeowners whose towns sell their tax debts. An above-market rate of six percent should suffice for a “superlien” investment.

H.B. 6452 Data on overdraft fees will help identify fee abuse in the market.

H.B. 6454 We have worked on issues involving our state banks’ branch locations, and we are concerned about the recent spike in branch closures. This would help DOB ensure a community had a voice whenever a bank intended to close a branch in their area.

H.B. 6493 This bill would address another gap in the market – the lack of programs for people facing condo, tax, or sewer foreclosures but who lack a mortgage. We suggest the attached improvement: it would use the existing EMAP structure, provide administrative support to CHFA, and could facilitate CHFA’s use of expected federal funding for homeowners.

H.B. 6494 This would expand first-time homebuyer opportunities to more communities.

H.B. 6453 & H.B. 6495 We want DOB to have the data and resources necessary to investigate fair lending practices and the power to deny applications from lenders who fail CRA exams.

Thank you very much for the opportunity to testify.

¹ Connecticut Fair Housing Center is a statewide nonprofit representing homeowners facing foreclosure. We have reached constituents in every single town in Connecticut through materials to help homeowners represent themselves and through in-person or individualized advice for homeowners facing foreclosure. We provided in-person or individualized assistance to more than 12,000 homeowners last decade.

² This letter does not reflect the institutional views of Jerome N. Frank Legal Services Organization, Yale Law School, or Yale University.



General Assembly
January Session, 2021

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AN ACT CONCERNING THE EMERGENCY MORTGAGE ASSISTANCE PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Sec. 1. Section 8-265cc of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

As used in this section and sections [8-265cc] 8-265dd to 8-265kk, inclusive, as amended by this act:

(1) "Aggregate family income" means the total income of persons residing in the same household as the mortgagor and any other resident of the household declared by the mortgagor as a dependent for federal tax purposes, from whatever source derived, including, but not limited to, pensions, annuities, retirement benefits and Social Security benefits, provided the authority may exclude from income (A) reasonable allowances for dependents, (B) reasonable allowances for medical expenses, (C) all or any part of the earnings of gainfully employed minors or family members other than the chief wage earner, (D) income not regularly received, and (E) such other expenses as the authority may allow;

(2) "Authority" means the Connecticut Housing Finance Authority created under section 8-244;

(3) "Mortgage" means a mortgage deed or other instrument which constitutes a first or second consensual lien, including a reverse mortgage or a home equity conversion mortgage, on one-to-four family owner-occupied residential real property located in this state, including, but not limited to, a single-family unit in a common interest community;

(4) "Mortgagee" means the original lender under a mortgage, or its agents, successors, or assigns;

(5) "Mortgagor" means the owner-occupant of a one-to-four family residential real property located in this state, including, but not limited to, a single family unit in a common interest community, who is also the borrower under a mortgage encumbering such real property;

(6) "Housing expense" means the sum of the mortgagor's monthly maintenance expense in a common interest community, utility expense, heating expense, hazard insurance payment, taxes and required mortgage payment, including escrows;

(7) "Financial hardship due to circumstances beyond the mortgagor's control" means a significant reduction of aggregate family household income or increase in expenses which reasonably cannot be or could not have been alleviated by the liquidation of assets by the mortgagor as determined by the Connecticut Housing Finance Authority, including, but not limited to, a reduction resulting from (A) (i) unemployment or underemployment of one or more of the mortgagors; (ii) a loss, reduction or delay in receipt of such federal, state or municipal benefits as Social Security, supplemental security income, public assistance and government pensions; (iii) a loss, reduction or delay in receipt of such private benefits as pension, disability, annuity or retirement benefits; (iv) divorce or a loss of support payments; (v) disability, illness or death of a mortgagor; or (B) (i) a significant increase in the dollar amount of the periodic payments required by the mortgage; (ii) an unanticipated rise in housing expenses; or (iii) expenses related to the disability, illness or death of a member of the mortgagor's family, but does not include expenses related to the accumulation of credit or installment debt incurred for recreational or nonessential items prior to the occurrence of the alleged circumstances beyond the mortgagor's control in an amount that would have caused the mortgagor's total debt service to exceed sixty per cent of aggregate family income at that time;

(8) "Consumer credit counseling agency" means a nonprofit corporation or governmental agency located in this state which has been designated by the authority to provide homeowners' emergency mortgage assistance program counseling. A qualified consumer credit counseling agency must either be certified as a housing counseling agency by the federal Department of Housing and Urban Development or otherwise determined accepted by the authority;

(9) "Foreclosure mediation program" means the foreclosure mediation program established by section 49-31m; [and]

(10) "Periodic payments" means principal, interest, taxes, insurance and, if applicable, condominium fees;

(11) "Lien debt" means a tax, sewer, or water lien, as described in sections 7-239, 7-254, 7-258, 12-195h, 49-92o, or 49-p of the general statutes, or an assessment and other sums due an association under section 47-258 of the general statutes;

(12) "Lienholder" means the relevant association, municipality, authority, or assignee of a lien debt; and

(13) "Homeowner" means the owner-occupant of residential real property subject to a lien debt.

Sec. 2. Subsection (a) of section 8-265dd of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(a) Not later than January 1, 1994, the authority shall establish, within available funds, a program to provide emergency mortgage assistance payments to mortgagors in accordance with the provisions of sections 8-265cc to 8-265kk, inclusive, as amended by this act. On and after July 1, 2021, the program shall, within available funds, provide lien debt assistance payments to homeowners in accordance with said sections. Any necessary and related administrative and operational expenses incurred by the authority in implementing the program may be paid from funds made available for the program, including any funds received as loan payments from mortgagors.

Sec. 3. Section 8-265ff of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(a) Any mortgagor or homeowner may apply for emergency mortgage or lien debt assistance payments under sections 8-265cc to 8-265kk, inclusive, as amended by this act, if such mortgagor or homeowner (1) has received notice of intent to foreclose as provided in section 8-265ee, as amended by this act, or (2) (A) is sixty days or more delinquent on a mortgage or lien debt, or (B) such mortgagor or homeowner anticipates that he will be sixty days or more delinquent on a mortgage or lien debt based on financial hardship beyond such mortgagor's or homeowner's control, provided the authority determines that such mortgagor or homeowner will be so delinquent. As part of the application process, the authority may refer the applicant to a counseling agency approved by the United States Department of Housing and Urban Development.

(b) If the mortgagor or homeowner applies for emergency mortgage or lien debt assistance payments under sections 8-265cc to 8-265kk, inclusive, as amended by this act, the authority shall, no later than eight business days after the date of receipt of such application, notify all of the mortgagees or lienholders listed on the application holding a mortgage or lien on the mortgagor's or homeowner's real property.

(c) The mortgagor or homeowner shall apply for a loan on the form provided by the authority. The mortgagor or homeowner shall complete and sign the application subject to the penalty for false statement under section 53a-157b.

(d) The mortgagor or homeowner shall provide the authority with full disclosure of all assets and liabilities, whether singly or jointly held, and all household income regardless of source. For purposes of this subsection, both of the following are included as assets:

(1) The sum of the household's savings and checking accounts, market value of stocks, bonds and other securities, other capital investments, pensions and retirement funds valued in an amount greater than one hundred thousand dollars, personal property and equity in real property including the subject mortgage property. Income derived from family assets shall be considered as income. Equity is the difference between the market value of the property and the total outstanding principal of any loans secured by the property and other liens.

(2) Lump-sum additions to family assets such as inheritances, capital gains, insurance payments included under health, accident, hazard or worker's compensation policies and settlements, verdicts or awards for personal or property losses or transfer of assets without consideration within one year of the time of application. Pending claims for such items must be identified by the homeowner as contingent assets.

(e) The authority shall make a determination of eligibility for emergency mortgage or lien debt assistance payments by the date thirty calendar days after the date of receipt of the mortgagor's or homeowner's application. During said thirty-day period no judgment of strict foreclosure or any judgment ordering foreclosure by sale shall be entered in any action for the foreclosure of any mortgage or lien any mortgagee or lienholder holds on the mortgagor's or homeowner's real property; provided that such prohibition on entry of judgment shall not apply to a foreclosure action commenced by a lienholder. No emergency mortgage or lien debt assistance payments may be provided unless the authority finds that:

(1) The real property securing the mortgage or underlying the lien debt is a one-to-four family owner-occupied residence, including, but not limited to, a single family unit in a common interest community, is the principal residence of the mortgagor or homeowner and is located in this state;

(2) Payments, including amounts for taxes and insurance payments, including mortgage insurance, or for charges, assessments and fees associated with a condominium or common interest community, as such terms are defined in section 47-202, or any combination of such payments, whether or not such payments are made into escrow or impound accounts as reserves, owed by the mortgagor under any mortgage or homeowner under a lien debt on such real property have been delinquent and the

mortgagee, taxing authority, lienholder or unit owners association has indicated to the mortgagor or homeowner its intention to foreclose;

(3) The mortgagor or homeowner is a resident of this state and is suffering financial hardship which renders the mortgagor or homeowner unable to correct the delinquency or delinquencies within a reasonable time and make full mortgage or lien debt payments. For the purposes of subdivision (7) of this subsection, in order to determine whether the financial hardship is due to circumstances beyond the mortgagor's or homeowner's control, the authority may consider information regarding the mortgagor's or homeowner's employment, credit history and current and past household income, assets, total debt service, net worth, eligibility for other types of assistance and any other criteria or related factors it deems necessary and relevant;

(4) There is a reasonable prospect that the mortgagor will be able to resume full mortgage payments on the original, modified or refinanced mortgage within sixty months after the beginning of the period in which emergency mortgage assistance payments are provided in accordance with a written plan formulated or approved by the authority and pay the mortgage in full in level monthly payments of principal and interest, subject only to payment changes as provided in the mortgage, by its maturity date or, in the case of a homeowner or lien debt, able to resume regular tax, assessment, or usage payments to the relevant municipality, authority, or association immediately after emergency assistance payments are provided;

(5) The mortgagor or homeowner has applied to the authority for emergency mortgage or lien debt assistance payments on an application form prescribed by the authority which includes a financial statement disclosing all assets and liabilities of the mortgagor or homeowner, whether singly or jointly held, and all household income regardless of source;

(6) Based on the financial statement, the mortgagor or homeowner has insufficient household income or net worth to correct the delinquency or delinquencies within a reasonable period of time and make full mortgage or lien debt payments;

(7) There is a reasonable prospect that the mortgagor or homeowner, as determined by the authority, will be able to repay the emergency mortgage or lien debt assistance within a reasonable amount of time under the terms of section 8-265hh, as amended by this act, including through a refinancing of the mortgage, and the authority finds that, except for the current delinquency, the mortgagor has had a favorable residential mortgage credit history for the previous two years or period of ownership, whichever is less. For the purposes of this subdivision, if a mortgagor has been more than thirty days in arrears four or more times on a residential mortgage within the previous year, the mortgagor shall be ineligible for emergency mortgage assistance payments unless the mortgagor can demonstrate that the prior delinquency was the result of financial hardship due to

circumstances beyond the mortgagor's control. In making a determination under this subsection, the authority may consider information regarding the structure of the mortgage, its repayment schedule, the length of time the mortgagor has lived in his or her home, and any other relevant factors or criteria it deems appropriate;

(8) The mortgagee or lienholder is not otherwise prevented by law from foreclosing upon the mortgage or lien;

(9) The mortgagor or homeowner has not mortgaged the real property for commercial or business purposes;

(10) The mortgagor or homeowner has not previously received emergency mortgage or lien debt assistance payments from the authority, provided a mortgagor or homeowner who has previously received such payments shall be eligible to reapply if the mortgagor or homeowner has reinstated the mortgage or lien debt and the mortgagor or homeowner shall not have been delinquent for at least six consecutive months immediately following such reinstatement;

(11) The mortgagor is not in default under the mortgage except for the monetary delinquency referred to in subdivision (2) of this subsection; and

(12) The mortgagor or homeowner meets such other procedural requirements as the authority may establish, provided that the fact that the mortgagor or homeowner has received a discharge of debt through a bankruptcy filing shall not be disqualified solely on account of such discharge and decision not to reaffirm such debt.

Sec. 4. Subsections (c) through (f), inclusive, of section 8-265gg of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(c) The amount by which the emergency mortgage or lien debt assistance payments made by the authority to the mortgagee or lienholder exceeds the payments made by the mortgagor or homeowner to the authority shall be a loan in that amount made by the authority to the mortgagor or homeowner. Any such loan shall be evidenced by such documents as the authority may require and shall be subject to repayment with interest and secured as provided in section 8-265hh, as amended by this act.

(d) The authority shall establish procedures for periodic review of the mortgagor's or homeowner's financial circumstances for the purpose of determining the necessity for continuation, termination or adjustment of the amount of emergency mortgage or lien debt assistance payments or adjustment of the payments by the mortgagor or homeowner pursuant to subsection (b) of this section. Payments shall be discontinued when the authority determines that, due to changes in the mortgagor's or homeowner's financial

condition, the payments are no longer necessary in accordance with the standards contained in section 8-265ff, as amended by this act, or the expiration of the sixty-month period of a mortgagor or homeowner eligibility for such payments under subsection (e) of section 8-265ff, as amended by this act, whichever is sooner, and a foreclosure of the mortgagor's mortgage or homeowner's lien may, at any time thereafter, proceed without further restriction or requirement under sections 8-265cc to 8-265hh, inclusive, as amended by this act. The authority may adjust payments by the mortgagor or homeowner pursuant to subsection (b) of this section based on a review under this subsection.

(e) If the mortgagor or homeowner fails to pay to the authority any amounts due under subsection (b) of this section within seven days of the date due to the authority, the authority shall review the mortgagor's or homeowner's financial circumstances to determine whether the delinquency is the result of additional financial hardship due to circumstances beyond the mortgagor's or homeowner's control. If the delinquency is not the result of additional financial hardship due to circumstances beyond the mortgagor's or homeowner's control in the mortgagor's or homeowner's financial circumstances, the authority shall terminate emergency mortgage or lien debt assistance payments and the foreclosure of the mortgagor's mortgage or homeowner's lien may, at anytime thereafter, continue without any further restriction or requirement under sections 8-265cc to 8-265kk, inclusive, as amended by this act. If the delinquency is the result of a change in the mortgagor's or homeowner's financial circumstances, the authority may modify the mortgagor's or homeowner's required monthly payments to the authority.

(f) If any mortgagee or lienholder scheduled to receive payments from the authority under the provisions of sections 8-265cc to 8-265kk, inclusive, as amended by this act, fails to receive the full amount of such payment from the authority within thirty days of the scheduled due date, or if the mortgagor or homeowner fails to observe and perform all of the terms, covenants and conditions of the mortgage or lien, the mortgagee or lienholder shall provide a fifteen-day notice to the authority and the foreclosure of the mortgagor's mortgage or homeowner's lien may, at any time thereafter, proceed without any further restriction or requirement under sections 8-265cc to 8-265kk, inclusive, as amended by this act.

Sec. 5. Section 8-265hh of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(a) Upon approval of emergency mortgage or lien debt assistance payments, the authority shall enter into an agreement with the mortgagor or homeowner for repayment of all such assistance with interest as provided in this section. The agreement shall provide for monthly payments by the mortgagor or homeowner after emergency mortgage or lien debt assistance payments have ended and shall be subject to the following provisions:

(1) If the mortgagor's or homeowner's total housing expense, including projected repayments for [mortgage] assistance under this section, is greater than thirty-five per cent of the mortgagor's or homeowner's aggregate family income, repayment of the emergency mortgage or lien debt assistance payments shall be deferred until such total housing expense, including projected repayments for [mortgage] assistance under this section, is less than or equal to thirty-five per cent of such aggregate family income;

(2) If repayment of emergency mortgage or lien debt assistance payments is not made by the date the mortgage or lien is paid in full, the mortgagor or homeowner shall make monthly payments to the authority in an amount not less than the monthly mortgage or lien payment until such assistance is repaid;

(3) Interest shall accrue on all emergency mortgage or lien debt assistance payments made by the authority at a rate based upon the cost of funds to the state periodically determined by the State Treasurer in consultation with the authority. Interest shall start to accrue whenever the mortgagor or homeowner is required to commence repayment under this section.

(b) Repayment of amounts owed to the authority from a mortgagor or homeowner under the provisions of sections 8-265cc to 8-265kk, inclusive, as amended by this act, shall be secured by a mortgage on the mortgagor's or homeowner's real property, provided said mortgage shall not be deemed to take priority over any other mortgage or lien in effect against such property on the date the emergency mortgage is recorded. The authority may allow subordination of its mortgage if such subordination is required to permit the mortgagor or homeowner to obtain a home improvement loan for repairs necessary to preserve the property.

(c) The authority shall establish written procedures for periodic review of the mortgagor's or homeowner's financial circumstances to determine the amounts of repayment required under this section.

(d) All moneys received by the authority from mortgagors or homeowners for repayment of emergency mortgage or lien debt assistance payments shall be paid to the authority, deposited in such funds or accounts as the authority may establish from time to time for such purpose and be used solely for the purposes of the program established pursuant to sections 8-265cc to 8-265kk, inclusive, as amended by this act.

(e) Any mortgagor or homeowner who misrepresents any financial or other pertinent information in conjunction with the filing of an application for emergency mortgage or lien debt assistance or modification of such assistance, may be denied assistance and required to immediately repay any amount of assistance already made. The mortgagee or lienholder may, at any time thereafter, take any legal action to enforce the mortgage or lien without further restrictions or requirements.

(f) The authority may take any action it deems appropriate to recover emergency mortgage or lien debt assistance when the mortgagor or homeowner fails to repay such assistance under the terms and conditions established under this section.

Sec. 6. Section 8-265ii of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

The Connecticut Housing Finance Authority shall adopt procedures in accordance with section 1-121 to implement the provisions of sections 8-265cc to 8-265hh, inclusive, as amended by this act. Such procedures shall include the establishment of a process for notification to eligible mortgagors or homeowners of the availability of funds under sections 8-265cc to 8-265kk, inclusive, as amended by this act, and for notification to the mortgagee or lienholder that an application has been received by or on behalf of the mortgagor or homeowner and of the authority's determination of eligibility.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2021</i>	8-265cc
Sec. 2	<i>July 1, 2021</i>	8-265dd
Sec. 3	<i>July 1, 2021</i>	8-265ff
Sec. 4	<i>July 1, 2021</i>	8-265gg(c) through (f)
Sec. 5	<i>July 1, 2021</i>	8-265hh
Sec. 6	<i>July 1, 2021</i>	8-265ii

Statement of Purpose:

To prevent unnecessary foreclosures by expanding the emergency mortgage assistance program to certain homeowners without mortgages.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]