

Banking Committee JOINT FAVORABLE REPORT

Bill No.: HB-5342

Title: AN ACT CONCERNING MORTGAGE FORECLOSURES.

Vote Date: 3/12/2024

Vote Action: Joint Favorable Substitute

PH Date: 3/5/2024

File No.:

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SPONSORS OF BILL:

Banking Committee

REASONS FOR BILL:

This bill seeks to establish a limitation period for certain mortgage foreclosure action where a specific timeframe is set in which a lender must initiate foreclosure proceedings against a borrower who has defaulted on their mortgage. This limitation period serves to provide clarity to borrowers and lenders regarding the timeframe where legal action can be taken to foreclose on a property. Every once and a while, a phenomenon known as a "zombie mortgage" occurs. A zombie mortgage can refer to a multitude of situations, but ultimately a homeowner stops making payments on their mortgage only to find out later that they are still legally responsible for the mortgage. This can happen when a lender initiates foreclosure proceedings but never completes them, leaving the property title in limbo and the homeowner unaware of their ongoing financial obligation.

SUBSTITUTE LANGUAGE:

Section one of the substitute language states that as of July 1, 2024, an action to foreclose a mortgage on residential real property, should not begin until at least ten years after the last payment date or maturity date specified in the mortgage agreement. However, if the payment or maturity date is extended through a written agreement, the foreclosure action cannot be initiated more than ten years after the extended date mentioned in the written agreement.

Section two and three of the substitute language further elaborates on the timeframe for initiating foreclosure proceedings on residential properties. It indicates that foreclosure actions can be commenced either forty years from the date of recording of the mortgage, or if the mortgage is not recorded, forty years from the date of its execution. However, this applies

only if the mortgage itself does not stipulate a repayment period exceeding forty years. Or, that foreclosure action cannot be initiated more than ten years after the debtor defaulted on any obligations or covenants specified in the mortgage, note, bond, or other secured obligations, provided that the default has not been rectified. This limitation applies unless the deadline for fulfilling any obligations or covenants has been extended by a written agreement or a payment on account has been made, in which case the foreclosure action cannot commence more than ten years after the date of default or payment on account, as specified in the written agreement.

Sec. 2. Section 49-13a of the general statutes is repealed and the following statutes will be effective as of July 1st, 2024.

- a) If the record title to real property remains encumbered by an undischarged mortgage, and the mortgagor has uninterrupted possession of the property for at least ten years after the specified time of the mortgage conditions, or for at least forty years from the mortgage's recording if the mortgage doesn't specify the payment or performance period, the mortgage becomes invalid as a further lien on the property. This is contingent upon recording an affidavit, sworn to by the party in possession, affirming such uninterrupted possession on the land records of the town where the property is located.
- b) The holder of an undischarged mortgage on real property to extend the validity of the mortgage by recording a notice on the land records of the town where the property is located. The notice must include the names of the mortgagors, recording details of the mortgage and any assignments, and a statement explaining why the mortgage is still valid. Once this notice is recorded, the period after which the mortgage becomes invalid as a lien on the property, as specified in subsection (a), is paused for a period of ten years from the date of recording the notice. The notice must be indexed in both the grantor's and grantee's indexes under the name of the record holder of the mortgage.

RESPONSE FROM ADMINISTRATION/AGENCY:

None Expressed

NATURE AND SOURCES OF SUPPORT:

Theresa Dudek, Staff Attorney- CT Fair Housing Center, testified in support of HB 5342, but requested there be an amendment added, which is that this bill should be applied to current mortgages and not just the contracts formed after July 1st, 2024. With the included amendment, the statute of limitations as proposed in HB 5342, would be an effective protection against the possibility of a "zombie" mortgage foreclosure for homeowners.

NATURE AND SOURCES OF OPPOSITION:

Tom Mongellow, CEO Connecticut Bankers Association, testified in opposition to HB 5342, as CBA believes it to be, "unnecessary, ineffective, and would create a host of unintended and potentially harmful consequences to the foreclosure process and system in Connecticut." Per the CBA, the issue of a "zombie mortgage," rarely occurs and this bill which seeks to eradicate the issue of "zombie mortgages," would be applicable to all potential mortgage foreclosure actions. It is the belief of the CBA that HB 5342 is too broad and will

potentially create more challengers for banks who already struggle with a difficult mortgage lending and foreclosure environment in the state.

Reported by: Hannah Hayes

Date: 3/21/2024