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|----------------------|------------------------------|-----------|
| Act Number: | 09-209 | |
| Bill Number: | 948 | |
| Senate Pages: | 4271-4281, 5678, 5701-5703 | 15 |
| House Pages: | 8158-8169 | 12 |
| Committee: | Banks: 419, 423-424, 431-434 | 7 |
| | Page Total: | 34 |

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SENATE**

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THE CHAIR:

Thank you, sir.

Mr. Clerk.

THE CLERK:

Turning to the call of the calendar, calendar page 24, Calendar Number 205, files number 232 and 909, substitute for Senate Bill 948, AN ACT CONCERNING IMPLEMENTATION OF THE SAFE MORTGAGE LICENSING ACT, favorable report of the Committee on Banks and Appropriations. Clerk is in possession of amendments.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Acting on acceptance and approval, sir, would you like to remark further?

SENATOR DUFF:

Thank you, Mr. President. Mr. President, the Clerk is in possession of an amendment, LCO Number 8529. I ask that he call it and I be allowed to summarize.

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THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 8529, which will be designated Senate
Amendment Schedule A. Is offered by Senator Duff of
the 25th District.

THE CHAIR:

There's a motion on the floor for summarization.
Seeing no objection, so ordered. Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Mr. President, I move
adoption.

THE CHAIR:

Motion is an adoption. Seeing no objection,
please proceed, sir.

SENATOR DUFF:

Thank you, Mr. President. Mr. President, this
bill does a few different things and I believe it's a
good piece of legislation that again, will help
consumers and build upon some of the legislation we
did in this chamber last year.

The first part of it is -- that deals with the
title of the bill which is a safe mortgage licensing

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act. It's a federal, piece of federal legislation that came out of Congress back in 2008 and requires the states across this nation to license mortgage brokers and mortgage lenders so that there is better transparency and that an ability to track them in a much better way than we have right now, which is by way of, really, a system that does not coordinate or connect with each other.

This again, comes out of the fact that -- a response to the subprime mortgage crisis. The Housing and Urban Development Department saw a need for it and Congress and the President passed and signed it, respectively.

Also, it does a few other great things, again, and building upon some legislation we did last year. We have our emergency mortgage assistance program. We did a few different programs last year, the CT families which was a Governor's initiative. We had HERO and then EMAP.

EMAP, what we found was that we needed to be able to loosen up some of the rules so that more people would actually be qualified. And one of the major things was that we got rid of the 25 percent decrease in somebody's mortgage for them to qualify. We're

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allowing the CHFA people to really come and have a little bit more flexibility in that so more people can qualify. We believe that it can be a much more successful program if we're able to get rid of some of these provisions.

The last part is something that was a first in the nation that has been copied. I would -- probably might add not as well as we've done. It has become a national model, which is our mediation program. We set this up last year through our subprime response bill. The mediation is a voluntary effort right now that when somebody is under foreclosure, they get a notice. They have the option ability to have mediation between the borrower and the servicer.

What we're doing is we are making this mandatory because of the fact that when we saw the results through the optional mediation, we saw an over 70 percent success rate. We feel that mandatory mediation will have a much better success rate in keeping people in their homes, or figuring out some sort of a workout for them, which we think will help stabilize our economy.

I do have to thank my cochair, Representative Barry, the banking commissioner for his help, my

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ranking member, Senator Kane, and certainly the Governor's office who's been excellent in negotiating on this. This has been a priority of this committee for the last few months and I'm very happy to see this be brought out today.

Mr. President, I think that this is an important bill. It accomplishes a lot for a lot of different people. It builds upon what we've done in the past and I think that there will be a lot of success with our constituents once we adopt this amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, sir. Will you remark further on Senate A? Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I too rise in favor of this amendment and I do thank the Chairman of the Bank's Committee, Senator Duff for all his hard work. And it's actually been a pleasure working with them on this committee.

Last year was my first year, as you know, and being thrust into the Banks Committee was actually quite interesting as we were able to put together this mediation program that Senator Duff mentioned has been

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a model throughout the country.

I do -- or I should say I am grateful or happy that part of the safe mortgage licensing act -- there was some concerns about some parts that were rumored to be taken out and I'm grateful that they are left in. We are following the federal law and we should be. And the emergency mortgage assistance program, I know that the governor supports and is working hard on this.

So I too, rise in favor of this amendment and look forward to the passage. Thank you, Mr. President.

THE CHAIR:

Thank you, sir. Will you remark further?
Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. Just a question through you to the proponent of the amendment.

THE CHAIR:

Senator Duff.

SENATOR KISSEL:

Thank you. I think it's a great idea. I'm very excited about it. I know that when we had some related hearings of the Judiciary Committee, there was

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a question even when the form -- where the form was located, whether it was in the front, in the back.

Just a follow-up for folks, because I just actually recently talked to some folks that are in this process. For folks that have had foreclosures filed against them, but they may be in a very early period of time between the return date and when they file their appearance and everything else like that, would this automatic determination that it's going to go into mediation affect those folks or when does that actually come into effect? Through you, Mr.

President.

THE CHAIR:

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Through you, it all depends on when they receive their notice. If they receive their notice after July 1st, it will be mandatory. If it's prior to July 1, it's still optional and that it was done purposely through the judicial branch and others that we came to an agreement with to keep people on the track that they're already on in case people are already in the process.

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THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you. I appreciate that. I just want to stand in strong support and commend Senator Duff and Senator Kane for all their hard work on this.

There's nothing worse than talking to constituents that I have that are facing these foreclosure proceedings and at the same time I want them to get the message that this whole program has been created and that it's had some very, very positive results.

People don't know where to turn right on. It's a very scary situation and ultimately, some of these big banks, and I'll name one in particular, Countrywide -- countrywide in particular and I'm not going into the counsel that they hire, but sometimes it's really just difficult getting people wherever they're located, their headquarters to participate and get some good answers to try to allow people to work out some of these issues.

And so, you know, to the extent this bill forces people to the table to the table to try to talk reconciliation and compromise and settlement, as

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opposed to just pushing to squeeze every nickel out of these poor people, so that they end up losing their homes, I think, is a great step in the right direction. And again, I commend both proponents of this amendment. Thank you.

THE CHAIR:

Thank you, Senator Kissel.

Will you remark further on Senate A? Senator Looney.

SENATOR LOONEY:

Thank you very much, Mr. President. Speaking in support of the amendment. Certainly want to commend Senator Duff for his great leadership in this important area and Senator Kane in his collegial work in the committee and the their House counterparts as well.

Senator Duff mentioned commending the Governor and her administration for their cooperative efforts on this bill. And also, I'd like to mention the judiciary branch and one judge in particular, Judge Doug Mintz who was a former legislator who last year, early on identified the problem of people going into foreclosure proceedings and often having defenses that they did not know how to bring, and helping to

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highlight that problem and the concerns about the flood of cases of -- in many cases, people not being aware of their legal rights as they were going through this traumatic process.

So I think all three branches of government have worked to cooperate on this in this crisis. And commend Senator Duff for his work in dealing with this comprehensive amendment. And for that reason, Mr. President, I think it's something that we can all be proud of.

THE CHAIR:

Thank you, sir. Will you remark further on Senate A? Will you remark further on Senate A? If not, I will try your minds. All those in favor, please signify by saying, aye.

SENATORS:

Aye.

THE CHAIR:

Opposed, nays.

The ayes have it. Senate A is adopted.

Will you remark further on Senate Bill 948 as amended by Senate A? Will you remark further? If not, Mr. Clerk please call for a roll call vote. The machine will be open.

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THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, the machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion to pass Senate Bill 948 as amended.

Total number voting 33

Those voting yea 33

Those voting nay 0

Those absent and not voting 3

THE CHAIR:

The bill as amended passes. Senator Looney?

SENATOR LOONEY:

Thank you, Mr. President. If the President would ask for suspension for immediate transmittal to the House of Senate Bill 948.

THE CHAIR:

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item on the Consent Calendar.

THE CHAIR:

There is a motion to place Calendar Number 450 on the Consent Calendar. Without objection, so ordered, sir.

SENATOR LOONEY:

Yes. Thank you, Mr. President. Continuing Calendar Page 32, Calendar 467, Senate Bill 1031. Mr. President, would move to place that item on the Consent Calendar.

THE CHAIR:

There is a motion to place Calendar Number 467 on the Consent Calendar. Without objection, so ordered, sir.

SENATOR LOONEY:

Yes. Thank you, Mr. President. Mr. President, moving to Calendar Page 35. Calendar Page 35, Calendar 205, Senate Bill 948. Mr. President, move to place that item on the Consent Calendar.

THE CHAIR:

There is a motion to place Calendar Number 205 on the Consent Calendar. Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, moving to Calendar Page 48, Calendar 508, Senate Bill 930;

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Mr. Clerk, please call Consent Calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the chamber.

Mr. President, those items placed on the Second Consent Calendar --

THE CHAIR:

Mr. Clerk, please hold for a second.

I'm trying to hear the Clerk call the Consent Calendar and I'm sure you don't want to miss that vote either, so if I could have your attention and quiet, please.

Mr. Clerk.

THE CLERK:

The items placed on the Second Consent Calendar begin on Senate Agenda 1, substitute for House Bill 6486, substitute for House Bill 6649. Senate Agenda Number 3, House Bill 6394. Today's Calendar, Calendar Page 3, Calendar 317, Senate Bill 586; Calendar Page 4, Calendar 455, House Bill 5018; Calendar Page 7, Calendar Number 593, Substitute House Bill 5286; Calendar Page 8, Calendar 606, substitute

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for House Bill 5883; Calendar Page 9, Calendar 619,
House Bill 6343; Calendar 626, House Bill 6476;
Calendar 629, substitute for House Bill 6232; Calendar
Page 10, Calendar 634, House Bill 6544; Calendar 636,
substitute for House Bill 6483; Calendar Page 11,
Calendar 649, substitute for House Bill 6466; Calendar
Page 13, Calendar 663, substitute for House Bill 5254;
Calendar Page 15, Calendar 680, substitute for House
Bill 5821; Calendar Page 16, Calendar 684, House
Bill 6231; Calendar Page 17, Calendar 689, substitute
for House Bill 5421; Calendar Page 18, Calendar 695,
substitute for House Bill 6419; Calendar Page 19,
Calendar 699, substitute for House Bill 6284; Calendar
Page 21, Calendar 711, House Bill 5099; Calendar 712,
substitute for House Bill 6025; Calendar Page 22,
Calendar 718, substitute for House Bill 5861; Calendar
Page 23, Calendar 720, substitute for House Bill 5108;
Calendar Page 32, Calendar 450, House Bill 6233;
Calendar 467, substitute for Senate Bill 1031; and,
Calendar Page 35, Calendar 205, substitute for Senate
Bill 948. Mr. President, that completes the items
placed on the Second Consent Calendar.

THE CHAIR:

Will you please call the Consent Calendar? The
machine will be open.

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THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the chamber. The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be closed. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar
Number 2:

| | |
|-----------------------------|----|
| Total Number Voting | 36 |
| Those voting Yea | 36 |
| Those voting Nay | 0 |
| Those absent and not voting | 0 |

THE CHAIR:

Consent Calendar Number 2 passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, would move for immediate transmittal to the House of Representatives of any items voted on, on Consent Calendar Number 2, requiring additional action by the

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Kind words, indeed, Representative Urban. Thank you very much for all your help this year. We appreciate it.

The distinguished Deputy Majority Leader,
Representative Olson.

REP. OLSON (46th):

Good afternoon, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Good afternoon, ma'am.

REP. OLSON (46th):

Mr. Speaker, I move for suspension of the rules for immediate consideration of House Bill, Calendar Number 700.

DEPUTY SPEAKER GODFREY:

The question is suspension of the rules for the immediate consideration of Substitute for Senate Bill 948, Calendar Number 700. Is there objection? Hearing none, the rules are suspended and the Clerk will call Calendar Number 700.

THE CLERK:

On Page 31, Calendar Number 700, Substitute for Senate Bill Number 948 AN ACT CONCERNING IMPLEMENTATION OF THE S.A.F.E. MORTGAGE LICENSING ACT. Favorable Report of the Committee on Appropriations.

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DEPUTY SPEAKER GODFREY:

The distinguished Chairman of the Banking Committee. Representative Barry.

REP. BARRY (12th):

Thank you very much, Mr. Speaker. I move for the acceptance of the Joint Committee's Favorable Report and passage of the Bill.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage. Explain the Bill please, Representative.

REP. BARRY (12th):

What we have before us is a Senate Amendment that I will go in and explain what this Bill does, and then we have a, we have a House Amendment "A" that will make some changes to that. I'm going to ask that we adopt that afterwards.

So first, I'm just going to explain this Senate Amendment "A".

What this Bill does is, it addresses, it's a, there are really three bills in this, oh yeah.

The Clerk is in possession of Amendment LCO Number 8529. I would ask the Clerk to call that and be granted leave of the Chamber to summarize.

DEPUTY SPEAKER GODFREY:

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The Clerk is in possession of LCO Number 8529 previously designated Senate Amendment Schedule "A". Will the Clerk please call the Amendment.

THE CLERK:

LCO Number 8529, Senate "A", offered by Senator Duff and Representative Barry.

DEPUTY SPEAKER GODFREY:

The gentleman has asked leave of the Chamber to summarize. Is there objection? Hearing none, please proceed, Representative Barry.

REP. BARRY (12th):

Thank you very much, Mr. Speaker. What' this Bill does, it kind of wraps up three different bills, one dealing with licensing of people in the banking business, and another dealing with foreclosure procedures with respect to our foreclosure mediation program that we passed last year, and then another bill that dealt with the Emergency Mortgage Assistance Program that we also passed last year as part of our omnibus prime Bill.

The first, so the first part of the Bill is, would implement the 2008 federal Secure And Fair Enforcement for Mortgage Licensing Act, the S.A.F.E. Act, and that imposes conditions on mortgage

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professionals, including education and testing, and it does a number of things including changing definitions and deals with confidentiality of documents that are in the possession of our Banking Commissioner, and also surety bond requirements, and it also expands the Commissioner's enforcement and investigative authority.

And that Bill is before us because a federal law passed in 2008 and we have to implement it by the end of July.

And the second part of the Bill deals with the Emergency Mortgage Assistance Program and what we've done there is, we've expanded, we've made some changes to the current law to allow for more flexibility so that the Connecticut Housing Finance Authority can hopefully make some more loans to people in need in the wake of this housing crisis,

With the number of foreclosures increasing every month, we've seen last year there were 20,000 foreclosures and three years before that there were about 10,000 foreclosures, and they're going up and up as you can see.

I think in the Hartford Courant it reported this morning that foreclosures are still on the rise, and

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so we've done some things there, and one of the biggest parts of that Bill is that under current law, in order to qualify for the Emergency Mortgage Assistance Program, you have to show that you have a reduction in household income by 25 percent, and under this Bill we're saying that you have to show a substantial reduction in income and you can also show that you've had some exorbitant increases in your household expenses, and those are defined in the Bill.

In the third part of this Senate Amendment "A", this Bill, is dealing with our foreclosure mediation program that was established last year as part of Public Act 08-176.

It was mandatory last year. It currently is a mandatory program, but we've made, I'm sorry, it was optional last year. It's currently an optional program this year. We've made it a mandatory mediation program in this Bill.

So that when someone gets served with a writ, summons and complaint for a foreclosure on the front of the writ, summons and complaint there would be a package from the lender, including an appearance form, among other things so that we can try to get more

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people to participate in the mediation program than we have.

In the last year, since last July 1st, this program has been very, very successful. We've had about 30 percent of those people who are eligible for the program enter into the mediation program, and of those people who have entered into the program, about 72 percent have stayed in their homes by virtue of very good repayment programs or loan modifications and forbearance agreements.

So that's the Bill, and I urge adoption of that, of Senate Amendment "A".

DEPUTY SPEAKER GODFREY:

The question is on adoption of Senate Amendment Schedule "A". Will you remark further on Senate Amendment Schedule "A"?

Now let me try your minds. All those in favor please signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

All opposed, Nay. The Ayes have it. The
Amendment is adopted. Representative Barry.

REP. BARRY (12th):

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Mr. Speaker, thank you very much. At this time, the Clerk has in his possession LCO Number 8735, and I would ask the Clerk to please call the Amendment and I be granted leave of the Chamber to summarize.

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO Number 8735, which will be designated House Amendment Schedule "A".

Mr. Clerk, would you please call the Amendment.

THE CLERK:

LCO Number 8735, House "A", offered by Representative Barry, Harkins and Senator Duff.

DEPUTY SPEAKER GODFREY:

The gentleman has asked leave of the Chamber to summarize. Is there objection? Hearing none, please proceed, Representative Barry.

REP. BARRY (12th):

Thank you very much, Mr. Speaker. This Amendment just makes three technical changes to the Bill, and what it does is, it changes a, it eliminates the section dealing with the court's ability to make any changes to our mediation program, and that's at Line 2366.

We also modified the disclosure piece, the confidentiality piece with respect to the types of

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documents that the Judicial Department can or cannot disclose in the course of a mediation, in foreclosure mediation, and also there's some technical word changes in Section 37 with respect to reopening a judgment.

And with that, I urge adoption of the Amendment.

DEPUTY SPEAKER GODFREY:

The question is on adoption of House Amendment Schedule "A". Will you remark on House Amendment Schedule "A"? The distinguished gentleman, Representative Harkins.

REP. HARKINS (120th):

Thank you, Mr. Speaker. Mr. Speaker, as a summarize regarding the Bill, essentially this Bill does three things. There's three parts of it. It's actually like three bills combined into one larger Bill, which we see before us as the Amendment.

It deals with some department issues.

It expands the emergency mortgage assistance program.

It also deals with the foreclosure mediation program now making it mandatory, and there's some technical changes as well.

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I support the underlying Amendment. It's a good Amendment and I urge my colleagues to support it as well.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Hamzy.

REP. HAMZY (78th):

Through you, Mr. Speaker, I also rise in support of the Amendment Bill. Ladies and gentlemen of the Chamber, there are a few changes made in the recent years with regard to how we handle the foreclosure problems that we, that members of our state are facing this year, and I think where the most beneficial changes were the mediation program.

As Chairman Barry mentioned, a very small percentage of the people who are eligible to participate in the program actually took advantage of it, 30 percent. But of those 30 percent of people who did participate, more than 70 percent of those people successfully negotiated and agreed upon modification of their mortgage.

And so the theory behind making the program mandatory is to try to hopefully increase the number of people taking part in the mediation program and

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thereby increasing the number of people who will modify their mortgages to make them more affordable.

Now certainly I'm not going to stand here and tell you that this is going to be a successful program for every single person. It's just not going to work that way.

But I do want to stand before you and say this is a positive change. I also want to give a lot of credit to the Judicial Department and the people who work in the mediation program who have been diligent in their approach to their jobs, and to make this theory that we came up with, a successful reality, and I would urge the Members to adopt the Amendment.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Will you remark further on House Amendment Schedule "A"? If not, let me try your minds. All those in favor signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, Nay. The Ayes have it. The Amendment is adopted.

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Will you remark further on the Bill as amended?
If not, staff and guests please come to the Well of
the House. Members take your seats. The machine will
be opened.

THE CLERK:

The House of Representatives is voting by Roll
Call. Members to the Chamber.

The House is voting by Roll Call. Members to the
Chamber.

DEPUTY SPEAKER GODFREY:

Have all the Members voted? If all the Members
have voted, the machine will be locked and the Clerk
will take a tally.

And the Clerk will announce the tally.

THE CLERK:

Senate Bill Number 948 as amended by Senate "A"
and
House "A".

| | |
|-----------------------------|-----|
| Total Number Voting | 146 |
| Necessary for Passage | 74 |
| Those voting Yea | 146 |
| Those voting Nay | 0 |
| Those absent and not voting | 5 |

DEPUTY SPEAKER GODFREY:

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The Bill is passed.

Will the Clerk please call Calendar Number 512.

THE CLERK:

On Page 14, Calendar Number 512, Substitute for
House Bill Number 6252 AN ACT CONCERNING THE SELECTION
OF JUDICIAL MARSHALS. Favorable Report of the
Committee on Judiciary.

DEPUTY SPEAKER GODFREY:

The distinguished gentleman from Waterbury,
Representative Berger.

REP. BERGER (73rd):

Thank you, Mr. Speaker, and good afternoon

DEPUTY SPEAKER GODFREY:

Good afternoon, sir.

REP. BERGER (73rd):

I move for acceptance of the Joint Committee's
Favorable Report and passage of the Bill.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage. Will
you explain the Bill please, Sir? No, I'm sorry.

That means you, Representative Berger.

REP. BERGER (73rd):

Thank you, Mr. Speaker. Now I'm fully engaged.
Yes, the earlier part of the Session, probably about

**JOINT
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2009



CT FAIR HOUSING CENTER

TESTIMONY OF ANN PARRENT OF THE CONNECTICUT FAIR HOUSING CENTER BEFORE THE BANKING COMMITTEE FEBRUARY 24, 2009

My name is Ann Parrent. I am a Senior Staff Attorney for Foreclosure Prevention at the Connecticut Fair Housing Center. I am here this morning to testify in support of H.B. 6484, An Act Concerning Emergency Mortgage Relief. My written testimony also includes comments on several other bills before the Committee today.

H.B. 6484 AN ACT CONCERNING EMERGENCY MORTGAGE RELIEF

H.B. 6484 is a refreshingly sensible proposal that protects the interests of the lender while at the same time safeguarding Connecticut homeowners and our communities against the devastating consequences of foreclosure and at no cost to the taxpayer. My work with the Connecticut Fair Housing Center's foreclosure prevention project puts me in daily contact with homeowners and the HUD-approved housing agencies around the state who attempt to negotiate loan modifications on their behalf. Many of the homeowners I talk with have experienced some financial setbacks that caused them to fall behind on their mortgages, but what is notable to me was that they have income and can make reasonable monthly payments. These are preventable foreclosures.

Yet, with disturbing regularity, I hear of cases in which lenders refuse to discuss alternatives to foreclosure with homeowners who have the financial ability to make monthly payments in an amount that would be equivalent to a 30 year mortgage at a market rate on the

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except the lender. That means it will be impossible for anyone to independently verify that the lender has calculated the trigger correctly.

There is a very easy solution to this problem: require the lender to disclose the date on which it sets the interest rate. Such a disclosure can simply be added to one of the documents already given to borrowers with the phrase "Date Your Interest Rate Was Set:." Without this disclosure, disreputable lenders will be able to routinely evade the statute because nobody will be able to double-check the interest rate trigger.

S. B. 948
**AN ACT CONCERNING THE DEPARTMENT OF BANKING'S PROPOSAL TO
IMPLEMENT THE S. A. F. E. MORTGAGE LICENSING ACT**

We support this bill with one recommended improvement. We especially support section 9, which requires licensees to be educated on federal and state mortgage lending laws including fair lending standards, and section 19, which gives the Department of Banking clear authority to investigate licensees for violations.

We recommend one improvement to section 20(13). This section sets the maximum amount of property insurance that a lender can require at the replacement value of the improvements on the borrower's property. This is a valuable provision that prevents lenders from over-reaching. Nevertheless, subparagraph 13 would better achieve that goal if the maximum amount of insurance was set at the lesser of (a) the value of the lender's lien plus all existing higher priority liens OR (b) the replacement value of the improvements.

The importance of this change is best illustrated by an example: Imagine an elderly couple who purchased a home many years ago and who has paid-off the mortgage. If the house is now worth \$200,000 but they need to borrow \$15,000 to repair the roof, the lender should

not be allowed to require \$200,000 of insurance to protect a lien worth substantially less. Such homeowners often live on fixed-incomes and allowing the lender to require insurance exceeding the value of the lien is just as inappropriate as requiring insurance exceeding the replacement value of the improvements. For this reason, we recommend that the Committee amend section 20(13) prior to approving this bill.

S. B. 952
AN ACT SETTING A PRESUMPTIVE HOURLY RATE FOR COMMITTEE FEES IN FORECLOSURE MATTERS

This bill sets the hourly rate paid to foreclosure-by-sale committees to a standard \$100 per hour. Currently the hourly rate varies by courthouse. We support this bill because standardization of foreclosure procedures across the state will increase transparency for homeowners without legal representation and will facilitate the production of informational materials explaining the foreclosure process to homeowners.

H. B. 6485
AN ACT REGULATING SHORT SALES

We support this proposal to regulate and requiring licensing for anyone arranging short sales. However, we believe mortgage brokers should not be exempt from this statute. Unlike attorneys, real estate agents, and 501(c)(3) non-profit agencies, mortgage brokers are for-profit entities lacking any training or skills relevant to conducting short sales. Eliminating the exemption for mortgage brokers would still allow them to arrange short sales but would subject them to regulation by the Department of Banking for this activity. While mortgage brokers are already regulated regarding their mortgage-related activities, those regulations include no protections relevant to short sales. It is well-known that mortgage brokers do not always act in

February 24, 2008

TO: Banks Committee

FROM: The Connecticut Mortgage Bankers Association, Inc.

RE: Statement Concerning Raised Bill No. 948, (LCO No. 3445), An Act Concerning the Department of Banking's Proposal to Implement the S.A.F.E. Mortgage Licensing Act and Governor's Bill No. 6368 (LCO No. 2680), An Act Concerning Implementation of the S.A.F.E. Mortgage Licensing Act

The Connecticut Mortgage Bankers Association, Inc. ("CMBA"), which numbers over one hundred twenty organizations and 575 individuals, is a non-profit association formed in 1984. The two principal purposes of the CMBA are to promote the welfare of the mortgage lending industry in Connecticut and to improve its service to the citizens of Connecticut. The CMBA is Connecticut's only trade association dedicated exclusively to the mortgage banking industry in the State of Connecticut.

The CMBA recognizes the challenges facing many Connecticut residents and the need to ensure the proper functioning of the residential mortgage credit markets to serve current and prospective borrowers.

The CMBA has had the opportunity to review Raised Bill No. 948 and Governor's Bill No. 6368 (the "SAFE Bills") and other legislative proposals. The CMBA supports measures to maintain residential mortgage credit availability for the citizens of Connecticut.

The CMBA generally supports the SAFE Bills so that the Connecticut Department of Banking can continue to be the licensing authority for mortgage loan originators in the State of Connecticut. This will enable Connecticut consumers to look to our own government agency (instead of the Department of Housing and Urban Development in Washington, D.C.) to monitor and oversee mortgage loan originators.

The CMBA proposes modifications to the SAFE Bills, which are discussed below and on the attached Appendix. (For ease of reference, the comments below refer to Sections in Bill 948 but not to the comparable Sections in Bill 6368.)

- Delayed Effective Date. The key sections of the SAFE Bills as proposed would become effective on passage. Under the Housing and Economic Recovery Act of 2008 or "HERA" (which includes the federal SAFE Mortgage Licensing Act), states are not required to have laws in place to implement the SAFE Mortgage Licensing Act until July 30, 2009. Accordingly, the new requirements for individuals and companies to obtain a lender, broker, or originator license should not become effective until that time.

- Revise Definition of Mortgage Loan Originator to Limit Scope as Required by HERA. HERA defines the term "loan originator" to mean an individual who--

(I) takes a residential mortgage loan application; and

(II) offers or negotiates terms of a residential mortgage loan for compensation or gain.

Section 2 of Raised Bill No. 948 would extend the definition to any person who does either of those activities by using the word “or” instead of “and”. The CMBA requests that the definition be revised to conform to HERA. Otherwise, a “mortgage loan originator” (for which a license would be required) could arguably include persons working for a loan servicer who work on the negotiation and closing of loan modifications (loss mitigation efforts), short payoffs, and foreclosures. The extension of the licensing requirement to such persons could thereby impede the ability of loan servicers to modify loans and address other loss mitigation efforts because the loan servicers would need to hire persons who satisfy the loan originator licensing requirements.

• Permit Licensed Mortgage Loan Originators to Act for More than One Company When the Originator is an Officer, Director, Member or Independent Loan Processor or Underwriter or Is Engaged by a Bank. Section 5 of Raised Bill 948 would continue the Connecticut prohibition on a licensed originator acting for more than one company. In accordance with HERA, Connecticut is eliminating its exemption from licensing as an originator for any officer, director or member of a company and is also adding the requirement that any person who is an independent contractor acting as a loan processor or underwriter become licensed as a loan originator. Raised Bill 948 should be revised to permit persons who are officers, directors or members of a licensed company to act as an originator for more than one company (which is particularly appropriate when the companies are affiliated). In addition, independent contractors acting as loan processors and underwriters should be permitted to work for more than one company (including a bank) in order to qualify as independent contractors for employment law purposes. Moreover, inasmuch as they do not originate loans, the CMBA requests a change to permit the licenses of those persons to be effective even when they are not associated with any particular licensed mortgage lender or broker or a bank.

• Limit Lifetime Ban from Being Licensed Only to Mortgage Loan Originators Whose Licenses Have Been Revoked, Not to Licensed Mortgage Lenders or Brokers. To implement the SAFE Mortgage Licensing Act, the state law must impose a lifetime ban from being licensed on any mortgage loan originator whose license in any state has ever been revoked. Section 8 of Raised Bill No. 948 would impose that lifetime ban on any licensed mortgage lender or broker whose license was ever revoked in any state. While the Connecticut Department of Banking should clearly have the authority to consider whether a licensed lender’s or broker’s prior license revocation (whether in Connecticut or in any other state) should disqualify such a company from having a Connecticut license, HERA does not require and it is not necessary as a policy matter, to mandate that such companies also be subject to the lifetime ban from being licensed.

• Permit Licensed Company to Require an Originator to Post Security or Compensate the Company for Granting Permission to the Originator to Rely on the Company’s Surety Bond. Section 12 of Raised Bill No. 948 permits a mortgage loan originator who is an employee or exclusive agent of a mortgage lender, correspondent lender or mortgage broker to use the surety bond of such lender or broker in lieu of the mortgage loan originator having to post his or her

own surety bond. The minimum amount of the surety bond is \$100,000.00. Raised Bill No. 948 is silent on whether the licensed lender or broker may require the mortgage loan originator to post security with the lender or broker (or be required to compensate the lender or broker) for the privilege of relying on the lender or broker's bond. The CMBA supports including in Raised Bill No. 948 a provision which would permit the lender or broker to do so.

- Assessment of Costs of Investigation and Enforcement on Licensee. Section 19 of Raised Bill No. 948 would permit the Department of Banking to assess licensees for the costs of investigating and bringing enforcement actions against the licensee. Inasmuch as the current banking law permits the Department of Banking to collect enforcement costs as part of a settlement agreement, the CMBA opposes this new provision as unnecessary.

- Section 20 Provisions Not Required by HERA. Section 20 of Raised Bill No. 948 would add new provisions to Connecticut's banking law, for example, provisions prohibiting licensees from failing to make required disclosures, failing to comply with licensing requirements, or from making false and deceptive statements. Such conduct is already prohibited by Connecticut law. Pending discussions with the Department of Banking, the CMBA opposes these new provisions which appear to be redundant of existing law.

- Relaxation of SAFE Requirements. The CMBA supports the purposes of the "SAFE Act". Some provisions of the SAFE Act are, however, potentially problematic and may actually be detrimental to the interests of consumers. For example, increased bonding requirements might actually reduce the number of licensed lenders, brokers, and originators so that competition is limited and consumers have difficulty obtaining loan origination services. To the extent that SAFE Act is amended either in the 2009 congressional session or in later years in a manner that relaxes some of the SAFE Act requirements, Connecticut's SAFE Bills should automatically incorporate such relaxed requirements or should permit the Department of Banking to by regulation alter the terms of the changes to Connecticut law required by the SAFE Act. This change would serve the Connecticut mortgage industry and Connecticut consumers so that they do not have to wait until a subsequent Connecticut legislative session is held during which such "relaxed requirements" could be incorporated into Connecticut law.

- Definition of "Residential Property" under Public Act 08-176 Provisions Relating to Non-prime Home Loans and Connecticut's Abusive Home Loan Lending Practices Act (Sections 36a-746a et seq.). The definition of "residential property" for purposes of the provisions of (1) "non-prime home loans" pursuant to Public Act 08-176 (An Act Concerning Responsible Lending And Economic Security); and (2) Connecticut's Abusive Home Loan Lending Practices Act (36a-746a et seq.), should continue to be limited only to owner occupied residential real estate. Each of those laws has provisions applicable to "residential property" as defined in 36a-485. Those laws should continue to be limited to their present scope and not include loans to be secured by property which is not owner occupied, for example, construction loans to individuals (where occupancy of the property is not permitted) and home loans made to individuals for personal investment purposes where the borrowers are not generally in the business of being a landlord.

• Placement of Unique Identifier on Loan Application. Section 21 of Raised Bill No. 948 would require that the loan originator's "unique identifier" be placed on a loan application. Inasmuch as several licensed loan originators might actually work on originating the same mortgage loan, the Section 21 requirement should simply require that the unique identifier of at least one such originator be placed on the loan application.