

Act Number:	09-219	
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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2009**

**VOL. 52
PART 19
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SENATE

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June 3, 2009

There's a motion on the floor to take up Senate Bill 880, to move it to the Consent Calendar. Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, on Senate Agenda number 2, previously adopted, move to take up House bill 6481, for purposes of placing it on the Consent Calendar.

THE CHAIR:

There's a motion to move House Bill 6481 off of Senate Agenda number two to the Consent Calendar. Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. And also, Mr. President, on Senate Agenda number two, would move to take up Senate bill 1128 and to place the item on the Consent Calendar.

THE CHAIR:

There's a motion on the floor to item Senate Bill 1128 off of Senate Agenda number two onto the Consent Calendar. Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Yes, Mr. President. Mr. President, thank you. We

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Back on Calendar page 18, Calendar 719, House Bill 6676 is marked go and Calendar page 33, Calendar 354, Senate bill 499 is marked go.

Yes, Mr. President, thank you. At this point if the Clerk might call the items on the Consent Calendar.

THE CHAIR:

Mr. Clerk, please call the 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, the items placed on the first Consent Calendar begin on Senate Agenda number one, Substitute for House bill 5211, Substitute for House bill 6672 and Senate bill 880.

From Senate Agenda number two, Substitute for House bill 6481 and Senate bill 1128.

Going to Senate Calendar, calendar page 229, Substitute for Senate bill 549. Calendar 229, substitute for Senate bill 547. Calendar page 7,

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Calendar 602, substitute for House bill 6584.

Calendar page 10, Calendar 639, House bill 6684.

Calendar page 12, Calendar 667, substitute for House
bill 6539. Calendar page 13, Calendar 678, substitute

for House bill 6306. Calendar 679, substitute for
House bill 6279 and Calendar 682, substitute for House

bill 6041. Calendar page 14, Calendar 692, House bill
6248. Calendar page 15, Calendar 700, substitute for

House bill 6693. Calendar 701, substitute for House

bill 6642. Calendar page 17, Calendar 714, substitute

for House bill 6280. Calendar page 21, Calendar 735,

House bill 6523. Calendar page 26, Calendar 337,

Senate bill 1047.

THE CHAIR:

Sir, I believe that was 377.

THE CLERK:

Yes, Mr. President, Calendar 377, Senate bill
1047. And Calendar page 33, Calendar 378, substitute
for Senate bill 1048. Mr. President, that completes
the items placed on the first Consent Calendar.

THE CHAIR:

Please call for Roll Call vote.

Please call for a Roll Call vote on Consent number

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one, the machine will be open.

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. 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 locked, the Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar Number One.

Total number voting	36
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar Number One passes.

Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Mr. President, would move for immediate transmittal to the House of Representatives

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HOUSE**

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June 3, 2009

eventually adopt. But for now, this is what's before us and I would encourage my colleagues to support it. Thank you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Thank you, sir for your remarks. Will you remark further on the Bill? The distinguished Majority Leader, Representative Merrill, you have the floor, madam.

REP. MERRILL (54th):

Thank you, Mr. Speaker. I would move that this item be passed temporarily.

DEPUTY SPEAKER McCLUSKEY:

Without objection, the item is passed temporarily.

The Chamber will stand at ease.

(Chamber at ease.)

Will the House please come back to order. Will the Clerk please call Calendar Number 194.

THE CLERK:

On Page 31, Calendar Number 194, Substitute for House Bill Number 6481 AN ACT CONCERNING THE EMERGENCY MORTGAGE ASSISTACNE PROGRAM. Favorable Report of the Committee on Appropriations.

DEPUTY SPEAKER McCLUSKEY:

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The honorable Chair of the Banking Committee,
Representative Barry, you have the floor, sir.

REP. BARRY (12th):

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

DEPUTY SPEAKER McCLUSKEY:

The question before the Chamber is acceptance of
the Joint Committee's Favorable Report and passage of
the Bill.

Will you remark?

REP. BARRY (12th):

Mr. Speaker, the Clerk has an Amendment, LCO
Number 9257. I would ask the Clerk to please call the
Amendment and I be granted leave of the Chamber to
summarize.

DEPUTY SPEAKER McCLUSKEY:

Will the Clerk please call LCO Number 9257.

THE CLERK:

LCO Number 9257, House "A", offered by
Representatives Barry and Stripp.

DEPUTY SPEAKER McCLUSKEY:

The gentleman has asked leave of the Chamber to
summarize the Amendment. Is there any objection? Is

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there any objection? If not, sir, summarize your Amendment.

REP. BARRY (12th):

Thank you very much, Mr. Speaker. This Bill changes, makes some changes to Substitute Senate Bill Number 948 that we passed yesterday or in the last couple of days, and it deals with the Emergency Mortgage Assistance Program.

We just had a technical change in that Bill, we had made it effective on October 1, 2009, and here we're just making it effective from passage. So the sections in here dealing with Sections 27 to 30 is the EMAP sections in the Senate Bill Number 948 that we passed out of here, and also 32 and 33 of that Bill were the EMAP sections.

So all we're doing is changing the effective date of the EMAP sections. I urge adoption of the Amendment.

DEPUTY SPEAKER McCLUSKEY:

The question before the Chamber is adoption of House Amendment Schedule "A". Will you remark? The honorable Ranking Member of the Banking Committee, Representative Stripp. You have the floor, sir.

REP. STRIPP (135th):

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Thank you, Mr. Speaker. Mr. Speaker, that's true. This is a minor change to correct an error in the first go round, so it's great to do, and I would hope my colleagues would go along with voting for it. Thank you.

DEPUTY SPEAKER McCLUSKEY:

Thank you, sir, for your remarks. Will you remark further on House Amendment Schedule "A"? Will you remark further? If not, I'll try your minds.

All those in favor please signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER McCLUSKEY:

All those opposed, Nay. The Ayes have it. House "A" is adopted.

Will you remark further on the Bill as amended?

Will you remark further on the Bill as amended?

If not, will staff and guests please come to the Well of the House. Will the Members please take their seats. The machine will be opened.

THE CLERK:

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

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

DEPUTY SPEAKER McCLUSKEY:

Have all the Members voted? Have all the Members voted? Will the Members please check the board to determine if your vote has been properly cast.

If all the Members have voted, the machine will be locked. Will the Clerk please take and announce the tally.

THE CLERK:

House Bill Number 6481 as amended by House "A".

Total Number Voting	148
Necessary for Passage	75
Those voting Yea	148
Those voting Nay	0
Those absent and not voting	3

DEPUTY SPEAKER McCLUSKEY:

The Bill as amended is passed.

Representative Olson.

REP. OLSON (46th):

Thank you, Mr. Speaker. I move for immediate transmittal to the Senate of all items previously acted upon in the House needing further action in the Senate. Thank you.

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CAROL DeROSA: There is --

REP. HAMZY: -- the -- the -- the loan?

CAROL DeROSA: There is a lien but by the nature of the way the legislation is written, there is no repayment on the emergency mortgage assistance nor no interest is accruing until the borrower starts a repayment plan. And that repayment plan is dependent on their income. And that may be several years or it may be a significant amount of time before they start repayment.

And I'm -- I'm not (inaudible) sure if I answered your question.

REP. HAMZY: I asked if there was a -- a mortgage that was placed on the property if assistance is -- is given.

CAROL DeROSA: Yes, there is a lien --

REP. HAMZY: So --

CAROL DeROSA: -- that is placed on the property, and many times it's a -- a third lien, because some of -- many of these borrowers have first and/or second liens. So it's either in a second-lien position or a third-lien position.

REP. HAMZY: Okay. Thank you.

And thank you, Mr. Chair.

REP. BARRY: Thanks, Representative Hamzy.

Does anyone else have any questions?

Okay. Thank you, very much, for coming up here today.

TIM BANNON: Thank you.

REP. BARRY: All right. It's past eleven o'clock, so we're going to switch over. We're going to

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mhr BANKS COMMITTEE

February 24, 2009
10:00 A.M.

Connecticut cities manage the fallout from the foreclosure crisis and to keep our neighborhoods healthy, so I urge you to pass it and to understand again lead the nation in managing the foreclosure crisis like you did with the mediation program last year.

SENATOR DUFF: Thank you, very much.

Actually, we just -- for your information -- we did have an over sight hearing on NSP program, so I appreciate that. I know we're working closely with DECD on it and your two suggestions, I know our LCO attorney has been copiously taking notes and we will discuss that in our screening. So thank you --

SAMEERA FAZILI: Okay.

SENATOR DUFF: -- very much.

SAMEERA FAZILI: And, once again, with Robin, we are very happy to support and help in any way that we can, over at Yale, at the Law School, and put our students to work for you guys, if need be.

SENATOR DUFF: Thank you, so much.

Raphie, followed by Sam Hamilton.

RAPHAEL PODOLSKY: Senator Duff and Representative Barry, thank you, very much.

I'm Raphael Podolsky with the Legal Assistance Resource Center of Connecticut. We represent low-income consumers, low-income tenants, low-income homeowners. I want to -- I'm -- I'm going to try and speak briefly on a number of bills. I've submitted written testimony and I want to high light some things that -- that are -- that I want to call your attention to, particularly.

HB6484
SB617
HB6367
SB949
HB6482
HB6481
SB951

if you want to see if you can do something with it, but I think there are -- there are enough problems and questions that you should not go forward.

House Bill Number 6481 is the EMAP bill. I would say the two most important things to fix -- we support that bill -- the two most important things to fix are to -- are to get rid of this 25 percent threshold requirement which has had a serious impact and also to make sure that people can apply early, and that's in the bill. I note -- I, as I was sitting there, I was doing the arithmetic. At the present time, EMAP has a 2 percent approval rate. Nine approvals out of 484 applications plus 49 applications that are pending, yet we know the need is enormous. And now we are at risk of losing a chunk of the money. And if, in fact, the Governor's mitigation plan is not changed and the -- the money -- most of the money that's in -- from the Banking Fund is lost, that will impact significantly on the ability to -- to use the bonded money, because the bonded money is only going to get bonded -- is my understanding -- if there's an appropriation of some sort to pay the interest and the principal on the bond. So the -- the ongoing funding is at this point in time somewhat, is somewhat at risk. My testimony requests three minor changes in the language, and I would ask you to take a look at those.

Senate Bill 951, which is a bill you've just heard on neighborhood protection, we support that. And I would also note for you that in my written testimony it suggests two minor amendments. I would ask you to look at that. And the one thing I would note that you should make -- that you should understand is I read the bill, it sets up specific maintenance

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STANDING
COMMITTEE
HEARINGS**

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2009

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H.B. 6481 -- Emergency Mortgage Assistance Program

Banks Committee public hearing -- February 24, 2009

Testimony of Raphael L. Podolsky

Recommended Committee action: APPROVAL OF THE BILL
with minor amendments

The Emergency Mortgage Assistance Program (EMAP) is a powerful tool to help homeowners avoid foreclosure and preserve their homes. EMAP, which is administered by CHFA, can tide a homeowner over a difficult period of meeting mortgage obligations for as long as five years. If the homeowner's application is accepted, any pending foreclosure action is stayed and the homeowner pays CHFA during the stay period an amount equal to 35% of his income. CHFA pays the lender the full amount of the mortgage payment. The difference between the homeowner's payment and the CHFA payment becomes a lien on the property, which is paid back to CHFA after the mortgage is paid off or when the home is sold. Eligibility requires a finding by CHFA that there is a reasonable prospect that the homeowner will, by the end of the stay period, be able either to resume full payments on the mortgage or refinance into an affordable mortgage. Connecticut adopted EMAP in 1993 but failed to keep it funded, and it accepted new applications for only about a year. After being dormant for 15 years, the General Assembly reactivated the program in 2008, authorizing \$64 million for EMAP loans (\$14 million from the Banking Fund and \$50 million by CHFA).

Unfortunately, notwithstanding the severity of the foreclosure crisis, fewer than 10 EMAP loans have been made and the \$64 million authorization has barely been touched. We strongly support this bill, which eliminates some of the obstacles that have made EMAP less effective than it should be. In particular, Sections 1 through 4 of this act make the following changes to EMAP:

- * Eligibility threshold: The bill requires that the homeowner have suffered a "significant" income loss, rather than a loss of at least 25% of income. The 25% requirement has proved to exclude a significant number of homeowners who could benefit from the program. The bill also allows consideration of any housing-related cost that has increased. **Recommended amendment: Delete "housing-related" from I. 26 so that any increase in the homeowner's costs can be considered.**
- * Initiation of an EMAP application: The bill allows the homeowner to initiate an EMAP application whenever the mortgage is at least 60 days delinquent, without having to wait for the lender to threaten foreclosure. In addition, once a notice of intent to foreclose is given, the bill requires the lender to defer starting the foreclosure action until the time to apply for EMAP has expired or CHFA has rejected the EMAP application. This change matches the Pennsylvania statute on which EMAP is based. The bill also makes clear that an EMAP application can be filed, even after a

(continued on reverse side.....)

foreclosure action has started, if the homeowner is referred to EMAP by a Foreclosure Mediation Program mediator.

- * Meeting with the lender. The bill makes clear that the lender's refusal to meet with the homeowner cannot prevent the homeowner from qualifying for EMAP. The bill should also make clear that a lender's refusal to respond, such as a failure to return telephone calls, also cannot block an EMAP application. **Recommended amendment:** Insert in the new language in I. 69, "or fails to respond to the mortgagor's good faith efforts to meet with the mortgagee."
- * Underwriting standards. Under the existing statute (I. 190-196), there must be "a reasonable prospect that the mortgagor will be able to resume full mortgage payments within sixty months..." One goal of EMAP is to provide bridge assistance while the homeowner seeks to refinance into a more affordable mortgage. **Recommended amendment:** In I. 191, after the word "payments," insert "on the original or a modified or refinanced mortgage" in order to make clear that the "full" payments may be on a different mortgage than the homeowner's current mortgage.



Banks Committee
HB 6481
“An Act Concerning The Emergency Mortgage Assistance
Program”

February 24, 2009

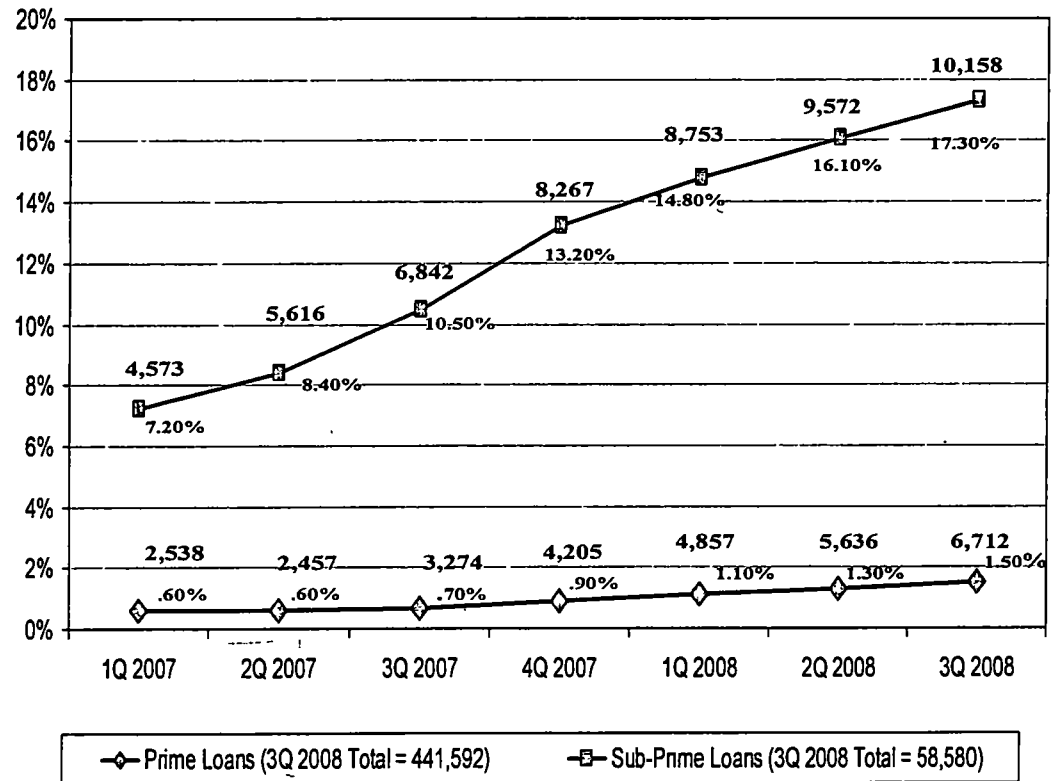
Submitted by:

Timothy F. Bannon
President –Executive Director
Connecticut Housing Finance Authority

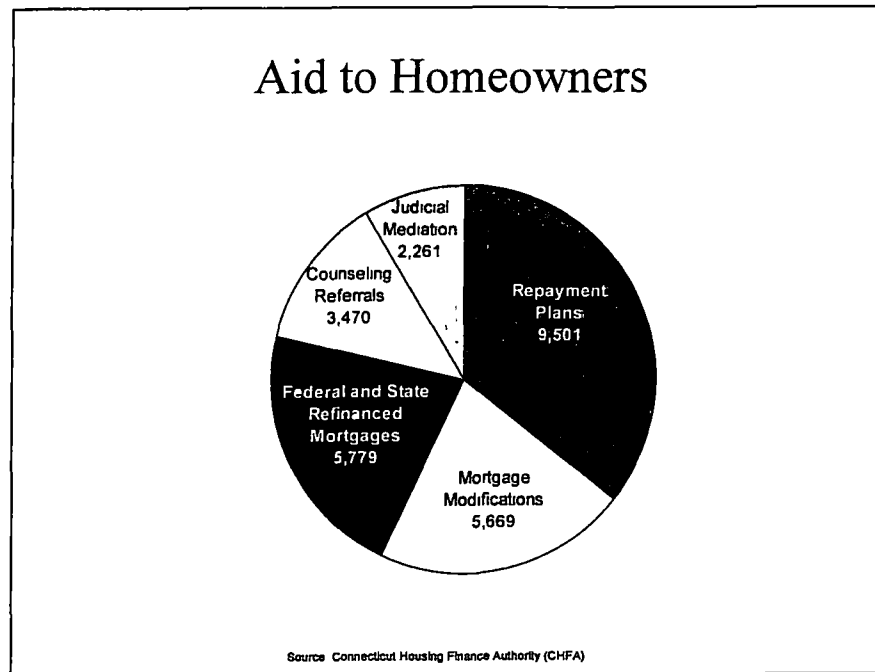
Connecticut-Mortgage Overview

- Over 495,000 active residential mortgages in Connecticut
- 71,000 are sub-prime mortgages
 - 25,930 are fixed rate mortgages
 - 44,910 are adjustable rate mortgages
 - 22,900 adjustable rate mortgages are scheduled to reset between January 2007 and December 2009
 - 2007 – 6,000 mortgage resets
 - 2008 – 11,500 mortgage resets
 - 2009 – 5,400 mortgage resets

Percent of Loans 90+ Days Delinquent and In Foreclosure



Source: Mortgage Bankers Association, National Delinquency Survey



Repayment Plans/Mortgage Modifications

Over 15,000 repayment plans and loan modifications made by lenders working with homeowners to avoid foreclosure.

Federal/State Refinance Mortgages

Over 5,700 Connecticut homeowners refinanced out of adjustable rate/subprime mortgages into 30 year fixed rate mortgages.

Counseling Referrals

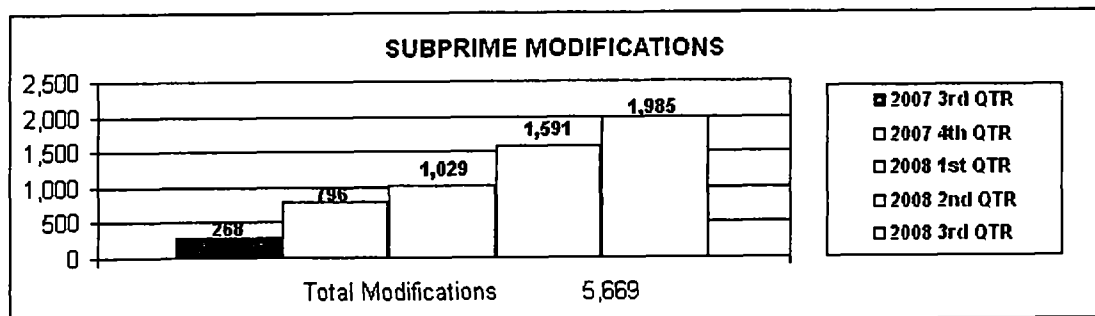
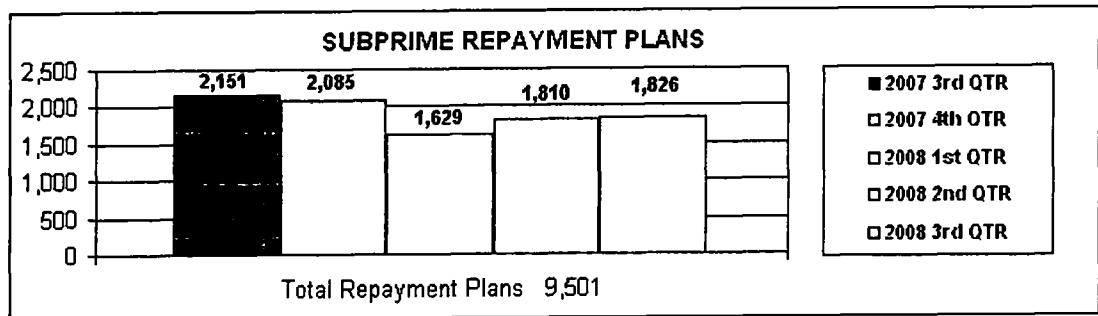
HUD approved counselors act as liaison between homeowners and their mortgage lender. They provide credit and budget counseling and determine viable options for homeowners.

Judicial Mediation

Provides assistance to any homeowner whose one-to-four family properties is the subject of a foreclosure action. The foreclosure mediators are judicial branch employees who are trained in mediation. Through the judicial mediation process the homeowner and lender are scheduled to appear in person at a mediation session. The goal of mediation is to resolve the foreclosure by negotiating a repayment plan, modification of the loan terms or short sale of the property. The mediation program has been successful in negotiating significant reductions in interest rates to keep borrowers in their homes.

SUBPRIME MORTGAGE MODIFICATIONS AND REPAYMENT PLANS

LENDER	NUMBER OF SUBPRIME LOANS IN CONNECTICUT
Aurora Loan Service	964
Bank of America	3
Chase	3,380
Citigroup Inc.	9
Countrywide Financial Corp.	2,412
EMC Mortgage Corp.	1,686
First Horizon Home Loans	1
GMAC ResCap	581
Home Loan Services (d/b/a First Franklin Loan Services)	175
HomEq Servicing	2,229
HSBC Finance	2
Indymac Bank	505
Litton Loan Servicing	1,988
National City Mortgage Corp.	896
Nationstar Mortgage, LLC	244
Ocwen Loan Servicing, LLC	3,041
Option One Mortgage Corp.	7,260
Saxon Mortgage Services	1,608
Select Portfolio Servicing, Inc.	601
Washington Mutual, Inc.	1,405
Wells Fargo & Co.	3,251
Wilshire Credit Corp.	2,059
Total	34,300



**CT FAMLIES PROGRAM
Status Report**

Program Overview

CT FAMLIES is a refinance program that offers low-to-moderate income homeowners the opportunity to refinance their non-FHA adjustable rate mortgage into an affordable 30-year fixed rate mortgage. Homeowners who apply for CT FAMLIES must meet CHFA income guidelines.

Program Results through December 31, 2008

The CT FAMLIES program began on December 10, 2007. Since the program's inception, 305 loan applications have been originated by seven participating lenders. The following is the status of the loan applications:

Approved/Closed loans	72 loans totaling \$14,620,177
Loan funding reservations – currently being processed	80 loans totaling \$15,942,971
Loans that have been withdrawn or cancelled by the lender	153 loans totaling \$33,023,024

Continuation of CT FAMLIES Program

All CT FAMLIES Mortgage applications originated through December 31, 2008 are insured by FHA in accordance with the *FHASecure* Guidelines. The *FHASecure* Program was discontinued on December 31, 2008. The discontinuation of the *FHASecure* Program does not mean the CT FAMLIES Program will not continue. CHFA staff has determined that the CT FAMLIES Program can continue to be insured by FHA if offered in conjunction with the FHA Rate and Term Refinance Program.

The FHA Rate/Term Refinance Program has the following guidelines:

- Enables fixed rate and adjustable rate mortgages to refinance
- Expands the program to current FHA insured loans
- Provides no restriction on refinancing loans with secondary financing with regard to combined loan to value
- Delinquencies within the previous 12 months must have been caused by a rate reset or extenuating circumstances
- Borrowers must be current at the time of application

The FHA Rate and Term Refinance Program will not assist borrowers who are delinquent. Obtaining a viable option for an FHA insured mortgage for delinquent homeowners is being pursued by the Authority as a federal legislative priority. In the interim, we are exploring the costs and issues associated with having CHFA insure CT FAMLIES loans that are not eligible for refinancing under current FHA guidelines.

Emergency Mortgage Assistance Program Status Report

Program Overview

The Emergency Mortgage Assistance Program (EMAP) provides a mortgage loan from the Connecticut Housing Finance Authority (CHFA) in the form of monthly financial assistance to eligible mortgagors in an amount required to meet their monthly housing expenses. The initial payment made by the Authority to each mortgagee may be an amount which pays all arrearages and pays reasonable costs and reasonable attorney's fees incurred by the mortgagee in connection with the foreclosure action. Emergency Mortgage Assistance payments may continue for up to five years. The total amount of assistance provided is repaid by the mortgagor to CHFA in repayment terms determined and established at the time of the closing of the EMAP mortgage loan. Borrowers are required to notify CHFA of any change in their financial status and to participate in an annual recertification process to determine continued eligibility for monthly EMAP assistance.

Program Results through January 31, 2009

Program Eligibility Guidelines Not Met

- Fifty percent of applications (205) did not meet EMAP program eligibility guidelines. The major categories for non eligibility are:
 - 65 homeowners were not eligible due to foreclosure date prior to July 1, 2008.
 - 48 applications did not demonstrate a hardship that resulted in at least a 25% reduction in aggregate monthly household income. However, only 10 applicants were ineligible for this reason alone.
 - 92 applications had delinquent mortgage payments that exceeded program guidelines.

Loan Denials

- Two hundred thirty-four EMAP applications have been denied. The following are the major reasons for EMAP denials:
 - 111 loans: No reasonable expectation that the applicant will be able to resume full mortgage payments within 60 months and is able to repay the EMAP mortgage loan.
 - 91 loans: Were denied for having excessive credit obligations relative to their income.
 - 32 loans: The borrowers current monthly housing expense is less than or equal to 35% of their monthly aggregate household income housing. As a result their income is sufficient to cover their monthly housing expenses. (Housing expense is mortgage principal and interest, real estate taxes, condo association fees as well as utilities).

Loans in Process

- 49 EMAP applications are in the process of being underwritten to determine their eligibility for EMAP.

Approved Loans

- Nine EMAP loans have been approved that provide a total of \$5,121.98 in monthly assistance. Monthly mortgage assistance payments range from a low of \$205.08 to a high of \$1,323.47.

Homeowner's Equity Recovery Opportunity (HERO) Status Report

Program Overview

HERO is a loan program designed to improve the financial situation of Connecticut homeowners who are not able to afford their current mortgage payments. A HERO loan is provided when the homeowner's current lender is willing to negotiate the sale of their mortgage to the Connecticut Housing Finance Authority (CHFA) at terms that enable the Authority to purchase the mortgage and modify it to repayment terms that are affordable for the homeowner.

Program Results through December 31, 2008

All CT FAMILIES and EMAP loans denied are reviewed as HERO Loan candidates. One HERO Loan has been approved and will close in January. American Eagle has agreed to accept a payoff of \$100,127 on a property with a current balance of \$133,503.

The HERO mortgage loan must be in first lien position.

Eligible Borrowers:

Borrowers must be experiencing a financial hardship such that negates their ability to obtain conventional financing through traditional sources.

These borrowers are delinquent mortgagors of owner-occupied one-to-four family homes, condominiums or single family units in a common interest community in Connecticut and:

- Are homeowners who have made an effort to meet his or her financial obligations to the best of their ability; and
- Have sufficient and stable income to support timely repayment of a HERO loan; and
- In the event the homeowner has stopped making monthly payments, have the ability to account for where those funds were escrowed, saved or redirected; and
- Are fully discharged from any action of bankruptcy; and
- Do not have an ownership interest in any other real estate other than their primary residence.

To: Banking Committee
 From: Attorney Adam Olshan, Law Offices Howard Lee Schiff, P.C. 860-528-9991 x339
 Date: February 24, 2009

I oppose House Bill No. 6482 because it legitimizes for-profit debt management company practices (as opposed to the services of not-for-profit consumer credit counseling organizations) that are unfair to Connecticut consumers. I have practiced consumer collection law for eighteen years in Connecticut and my firm has witnessed case after case where a debt management company preys upon a local consumer and leaves them in FAR worse financial condition than prior to the engagement. Below are several actual examples of these unfair business practices, as recently relayed to me by staff.

In order to best protect Connecticut consumers, I suggest that the following be required of all for-profit debt management companies:

- 1) Consumers must never be advised to ignore creditors or debt collectors.
- 2) Companies must not make any claim about prospective monies that could be saved by the consumer.
- 3) Companies must advise consumers of consequences of not paying their debts.
- 4) Companies must not engage in the unauthorized practice of law.
- 5) Companies must charge fees that are reasonably related to the actual service rendered.

Until such reasonable safeguards are added to HB 6482, it must be opposed as potential unfair legislation.

Non-licensed for-profit Debt Consolidation companies often treat Connecticut consumers unfairly and therefore they act contrary to the spirit of Title 36a of Connecticut General Statutes. A few general examples of predatory practices include:

- 1) Often they mislead consumers re debt repair and do not act in the consumer's best interest.
- 2) They provide legal advice and are not lawyers.
- 3) They have a conflict of interest when the consumers' better legal alternative is bankruptcy. Only a lawyer can analyze this.
- 4) They advise consumers to not communicate with debt collection lawyers.
- 5) They mislead debtors re their obligations re litigation, filing answers, defaults, etc

Below are a few actual examples of unfairness that we have seen recently:

1 - "There have been at least half a dozen times when, either as part of their testimony in small claims court or in conversation before or after such trials, consumer debtors have told me that they paid anywhere between \$2500 to \$10,000 in fees to a debt consolidator before that outfit did anything for them. Sometimes the consumer debtor goes on to say either that they received little or no result from the debt consolidator at all or had the consolidator drop debts from their program when it turned out the particular creditor was going to pursue the debt aggressively.

To show how these consumer debtors are taken in, let this example stand for the universe of my experience. At a hearing, defendant explains to the Court that she paid \$2500 in fees to have an \$1800 debt consolidated, only to have that account wind up in the small claims action at bar. The magistrate looks at defendant and asks incredulously, "Why on earth did you pay *them that*, when you could have just paid *him*."

Her reply was priceless: "Well, I first saw their ad on MSNBC and, you know, if its on MSNBC, it's got to be good ... Not like if it was on Fox News at 4:00 A.M."

The consumer debtor involved had at least an associate's, maybe a four year college degree."

2 - "At a pretrial the debtor was shocked that her debt consolidator had not been either sending in payments to us nor contacting us to negotiate with us.. She assumed they would take care of everything and can't understand why she's being sued. Debtors make the wrong assumption that so long as they're working with the debt negotiators that they are covered and somehow protected from being sued. So far she's been paying for a long period of time.. and we've received zero!! Even if they're legitimate, it's still not working in her favor."

3 - "It is a constant thing to hear from the debtors several times a day about how they went into the program to help get them out of debt and settle their accounts only to be told by them not to pay their creditors that they would handle them, and then they go from ok credit to bad and everything they had was then put in collections, and lawsuits. One debtor told me he had 12 cases pending in court from doing business with a Debt Consolidator. He said his credit was not bad until he signed up with them, and now he is worse off than he was to begin with. Many times they think that if an account goes legal they will handle their issues, and they do not. We then get angry debtor calls because they were told by the debt consolidation company that they would reduce their debt, and keep their accounts out of litigation. Then they get suit papers and do not understand. False promises made by the debt consolidation companies is one of the biggest complaints."

4 - "The debt consolidator typically forces us to communicate directly with them not the debtors, and the debtors become angry when we honor the instructions and refuse to speak to them. At the point this happens the debtor is usually not happy with the debt consolidator and we must request a writing withdrawing the exclusive communication instruction."

5 - "I find that the debt consolidators will never explain (because they won't make money) the bankruptcy option. For a debt consolidator not to tell everyone who calls them to seek advice from a bankruptcy attorney first - to at least make an informed decision- is wrong and is a horror story I've heard many times. Additionally, I have had ones that go out of business and never pay the debts and the debtor never gets the money they paid back. The debtor tells the court the money was paid, but it was paid to the consolidator not the creditor."

6 - "I had a friend who paid a company \$650 up front on the promise they could "clear" her credit. The debt consolidator did nothing (except keep her money)."

7 - "Debt Consolidators often tell the debtors to ignore the court papers, or they tell them to send them in to the company to handle, than they do not take care of them. I always strongly caution the debtors against these companies when they ask my opinion, and tell them to do their research before agreeing to anything."

8 - "Many debt consolidators are out of state law firms and debtors believe they are getting legal advice from their attorney. When I objected to a motion stating the motion was "frivolous and without merit," the debtor took offense and responded with a letter stating he was "advised by legal counsel to answer with that response." Debtors appear in court with a list of statements they are instructed to tell the court, which generally include a request for arbitration. Also, debtors are told that without a judge's signature on an agreement, they are not under a court order to comply with the agreement. Debtors are told to stop paying unless there is a court order."



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

HB6367
SB948
SB952

HB6485
SB617
HB6481

H. B. 6481**AN ACT CONCERNING THE EMERGENCY MORTGAGE ASSISTANCE PROGRAM**

H.B. 6481 is a proposal to modify the existing EMAP program to address the fact that it offers great potential to save homes from foreclosures but has failed to do so thus far because of unduly restrictive eligibility criteria. To properly evaluate this bill, it must be considered along with H.B. 6378, which was before this Committee during its last public hearing on February 19th. The CT Fair Housing Center has already submitted testimony supporting H.B. 6378 and continues to do so, but the Center also supports H.B. 6481 as well. That is because each bill contains important improvements to EMAP. We recommend adopting a combination of the best parts of the two bills. Specifically:

- Both bills would allow distressed borrowers to apply for EMAP when they are 60 days delinquent. We strongly support this change. Under current law, borrowers may not apply until they receive a notice of intent to foreclose, which is normally provided immediately before the lender files a foreclosure suit and which is often too late to save the borrower's home.
- Both bills also broaden the eligibility requirements for EMAP. While both proposals are improvements, we believe the changes in H.B. 6481 will have a greater chance of success because it eliminates the current requirement for a 25% loss of income in favor of giving CHFA more discretion. According to CHFA, the 25% requirement has posed a significant impediment to helping homeowners.
- H.B. 6481 also includes a provision that prevents the lender from commencing a foreclosure action until CHFA has had an opportunity to evaluate the borrower's EMAP application. This provision is important because the borrower will owe additional legal fees once the foreclosure action is filed. A short delay to give

CHFA time to evaluate the EMAP application will not prejudice the lender and will save EMAP funds that would otherwise be wasted on legal fees where the application is approved after the foreclosure has commenced.

TESTIMONY SUBMITTED TO THE BANKS COMMITTEE

February 24, 2009

*Timothy F. Bannon
President – Executive Director
Connecticut Housing Finance Authority*

**HB 6481, AN ACT CONCERNING THE EMERGENCY MORTGAGE ASSISTANCE PROGRAM,
HB 6366, AN ACT CONCERNING CONSUMER CREDIT LICENSES,
HB 6367, AN ACT CONCERNING MORTGAGE PRACTICES, AND
HB 6368, AN ACT CONCERNING IMPLEMENTATION OF THE S.A.F.E. MORTGAGE LICENSING ACT.**

HB 6378
HB 6809

Chairman Duff and Chairman Barry, Members of the Banks Committee, I am Timothy F. Bannon, President – Executive Director of the Connecticut Housing Finance Authority. In 1969, the Connecticut Housing Finance Authority (CHFA) was created by legislation for the purpose of helping to alleviate the shortage of affordable housing for low- and moderate-income families and persons in Connecticut. CHFA is a self sustaining, quasi-public organization, which uses its resources to provide below-market interest rate mortgages for single family homeownership and multifamily rental properties. Tax-exempt bonds are the primary source of mortgage capital for the Authority's housing programs. I am here to discuss HB 6481, An Act Concerning the Emergency Mortgage Assistance Program.

As you are well aware, over the past two years, many Connecticut homeowners have found themselves facing foreclosure, mostly as a result of sub-prime lending. In those situations, homeowners were enticed by loans with initially low interest rates that rose dramatically, usually at the end of a two-year period. When these adjustable rate mortgages, or "ARMs" reset, many families were no longer able to afford the new monthly mortgage payment and faced the prospect of losing their home.

The Governor and the General Assembly responded to this crisis swiftly and boldly through the passage of Public Act 08-176, An Act Concerning Responsible Lending and Economic Security. The variety of programs contained in the legislation has helped more than 15,000 Connecticut families remain in their homes. HB 6481 addresses one of those programs, the Emergency Mortgage Assistance Program (EMAP).

HB 6481 proposes changes to the Emergency Mortgage Assistance Program that will allow additional borrowers to qualify for the program. The bill is especially timely because what began as a problem largely contained within the sub-prime market has mushroomed into a foreclosure crisis rooted in the overall decline of our economy – and it is rapidly eroding the finances of millions of families.

The economic storm affecting the financial, job and credit markets is resulting in growing unemployment and a reduction of work hours, often referred to as "underemployment". Because of

this, we expect foreclosures to continue into the foreseeable future. Additionally, for these reasons, we believe it is vital to continue and expand the Emergency Mortgage Assistance Program. We believe EMAP will be a valuable tool for helping stem the flow of foreclosures by allowing Connecticut residents to stay in their homes with mortgages they can afford.

EMAP originally arose in 1994 in response to many of the economic factors that we are trying to cope with today. It was a means of assisting homeowners who found themselves unable to pay their mortgages due to circumstances beyond their control which resulted in a significant curtailment of income – principally job loss and/or underemployment. CHFA determined eligibility based on specific criteria for financial hardship as well as the reasonable expectation that the borrower would be able to repay the loan. The Authority administered this program as a direct loan program. The program was funded with \$4 million of state bond proceeds and was suspended upon disbursement of that amount.

In 2008, EMAP was to be funded by \$14 million appropriated from the State Banking Fund and \$50 million of bonds issued by CHFA on which the state would pay debt service for the first year of \$2.5 million from the Banking Fund, which would bring the total to \$64 million. The State Banking Fund appropriation is currently the source of EMAP loan funding. In factoring in the Governor's Deficit Mitigation Plan submitted February 19, her rescissions to the Banking Fund would leave \$2.3 million for the EMAP funding, and also keep in place the \$2.5 million debt service payment under the Treasurer's Office for the first year on the \$50 million of CHFA bonding.

Presently, EMAP provides financial assistance for up to five years to Connecticut homeowners suffering a temporary financial hardship, who have fallen behind on their mortgage payments, and have received a notice of foreclosure action from their lender. There must be a reasonable expectation that the borrower will be able to resume full mortgage payments within the five years and be able to repay the EMAP loan within a reasonable amount of time. The total amount of the Emergency Mortgage Assistance paid by CHFA to the current mortgage lender is repaid by the homeowner as a 30-year, fixed-rate, fully amortizing mortgage loan. Under the 2008 bill, the program definition of financial hardship was expanded to include a reduction of income caused by a significant increase in monthly mortgage payments, typically resulting from an adjustable rate mortgage.

Felicity
HB 6481 proposes changes to the Program that would allow additional borrowers to take advantage of EMAP. In this respect it is similar to Governor's Bill HB 6378, An Act Concerning Relief for Families Facing Foreclosure. Both bills operate from a common set of principles, namely that the 25% income reduction requirement should be expanded to allow other borrowers with income reductions below this level to be eligible; that borrowers should be able to apply for the program earlier in the process; and that there should be a reasonable expectation the borrower can repay the loan.

Similar to the Governor's Bill, HB 6481 takes a multifaceted approach to determining eligibility for the program. Instead of relying exclusively on a rigid income reduction test for eligibility, the bill would enable families to apply based on their income, their expenses and their mortgage debt. HB 6481 removes the 25% income reduction requirement altogether, and instead allows CHFA the flexibility to determine what constitutes a financial hardship. However, we believe the definition of

financial hardship set forth under HB 6378 provides the more prudent guideline as it is flexible enough to allow additional applicants, but stringent enough to ensure that those who have a reasonable expectation to repay will qualify. By permitting consideration of mortgage and other housing related expenses, the bill also provides for the continuing stream of mortgage problems relating to the sub-prime crisis which gave rise to last year's bill.

HB 6481 also improves eligibility by allowing a borrower to apply for the program earlier in the troubled loan process than under current law. Presently, borrowers are not eligible to apply for the Program unless they have received a Notice of Intent to Foreclose from their mortgage servicer. We believe it is vital that the borrower be allowed to apply for the program before the servicer has initiated the foreclosure process. In administering the Program we have found that waiting until a notice of foreclosure has been issued is often a disadvantage to borrowers because it does not allow them to proactively resolve their inability to pay their mortgage. We have received many calls from people who know a problem will arise in the near future, yet we are unable to assist them until they have received a Notice of Intent to Foreclose. HB 6481 resolves this dilemma by permitting an application after a loan has become 60 days delinquent.

It is important to note that as a first response to the EMAP application, CHFA would be able to provide mortgage counseling to families facing delinquency, using federal grant money we have obtained for that purpose. These federal funds will be used to add capacity at nine counseling agencies already retained by CHFA. The counseling agencies use their network of contacts at the servicing companies to advocate on the borrower's behalf for mortgage modifications and repayment plans. The counselors are often able to negotiate mortgage terms that the borrowers can sustain over the long-term, thereby creating lasting, affordable solutions and avoiding the expense of foreclosure. Moreover, by assisting borrowers and thereby avoiding foreclosure, that state would also avoid in each successful case the expense of state funded judicial mediation.

In summary, we support the goals of HB 6481 and look forward to working with your Committee toward new legislative relief for Connecticut homeowners facing foreclosure.

At this time, I would also like to comment briefly on a few other bills before the Banks Committee. Raised Bill 5908, An Act Concerning a Study of Certain Programs Administered by the Connecticut Housing Finance Authority convenes a task force to study CHFA's loss mitigation programs. We feel this bill is duplicative and unnecessary given that CHFA already undertakes extensive internal reviews of its programs. We would be happy to make this information available to the Committee and work with the members to answer any questions they may have.

Additionally, we would also like to express our support of certain bills proposed by the Governor's office. HB 6366, An Act Concerning Consumer Credit Licenses, will increase the ability of the Department of Banking to enforce licenses and debt adjusters. HB 6367, An Act Concerning Mortgage Practices, expands the definition of residential mortgage fraud. HB 6368, An Act Concerning Implementation of the S.A.F.E. Mortgage Licensing Act outlines the policy statement necessary for implementation of the Act. This proposal is necessary because if S.A.F.E. is not implemented within a year of its effective date, the Department of Housing and Urban Development can take over regulation of mortgage loan originators in Connecticut.

In conclusion, I want to thank the Committee for the opportunity to be here to discuss HB 6481 and other proposed legislation. We appreciate the Committee's efforts to address the serious challenges faced by many Connecticut homeowners. I would also like to thank the Governor for her support of CHFA and her efforts to assist the people of Connecticut during these difficult economic times.

For your reference, I have also included some background material on the scope of the sub-prime foreclosure situation in Connecticut, as well as CHFA's response through the CT FAMILIES, EMAP and HERO programs.

At this time, I would be happy to answer any questions that you might have.



CONNECTICUT BANKERS ASSOCIATION

To: Members of the Banks Committee

February 24, 2009

Fr: Connecticut Bankers Association
Contacts: Tom Mongellow, Fritz Conway

Re: Testimony on Various Bills Before the Committee

SB 617, AN ACT CONCERNING BRANCHING AND AUTHORITY TO IMPLEMENT THE NATIONAL DEFENSE AUTHORIZATION ACT

HB6479
HB6481
HB6483
HB6484

Position: Support

The CBA supports this legislation. In particular, we applaud the elimination of a requirement to file a costly CRA plan in connection with certain applications (unless the Commissioner otherwise deems it necessary). Those plans are rarely reviewed by outside individuals and, as such, it represents an unnecessary expense during difficult economic times for all businesses.

SB 951, AN ACT CONCERNING NEIGHBORHOOD PROTECTION

Position: Oppose

We strongly oppose this bill. It unfairly and unreasonably places burdens on lenders who take title to property through foreclosure. The bill seems to imply that foreclosing lenders should have the resources and ability to cure the problems of neighborhood blight, health and safety in ways that goes far beyond the laws that would be applicable to any existing borrower and owner of the property. If enacted, lenders would likely not take possession of troubled properties because it would be economically and logistically be impossible for them to comply with the provisions of the bill. This bill would actually increase the problem this bill seeks to cure. Foreclosures spiked in the early 1990's, during the last period of declining housing values, and many times when a negative equity situation arose, the borrower simply abandoned the property without notifying the lender.

Foreclosure relief programs, such as the successful Judicial Mediation program, the Federal Modification programs just announced last week, and numerous other State programs are the appropriate way to reach borrowers and assist them wherever possible. Keeping the owner in the property or smoothly transitioning them to a new housing solution is a better way to maintain the condition of the State's housing stock.

H.B. No. 6478 AN ACT CONCERNING THE USE OF STATE GUARANTEES TO ENCOURAGE LENDING TO SMALL AND MEDIUM-SIZED BUSINESSES

Position: Support with Revisions

This bill seeks to create a State backed guarantee, for Trust Preferred Securities (TPS), issued by Connecticut domiciled banks. This is needed, because community banks have lost an important means of raising equity capital through the issuance of this type of security, due to the problems in the capital markets. Equity

capital is important, because banks take every dollar of capital and turn it into five to ten dollars of mortgages or commercial loans.

While Connecticut based banks are strong and ready to lend, the secondary markets in the past have purchased bank originated loans, thereby replenishing the monies needed to make additional loans. Now they have become restricted, as in the standard mortgage market, or non-existent, in the case of "jumbo" loan secondary market. This tightening or lack of a secondary market for different products may cause a "loaned up" situation to arise at many banks. This is where a bank has loaned out all its available money and can no longer meet the borrowing needs of its customers.

Importantly, very few community banks have been able to access the Federal Troubled Asset Relief Program (TARP). As you may know, one of the principal reasons for the TARP is to recapitalize banks so they can lend. The Federal Reserve has not, and most people believe they won't until the summer, develop a process by which a mutual bank can access those funds. In addition, the TARP funds are very expensive to access, to the point where depending on a banks marketplace, it may be cost prohibitive. The concept of this bill would allow the TPS capital raising vehicle to be utilized again, at virtually no cost or risk to the State.

The language in House Bill 6478, appears to have certain provisions that may be unnecessary and we would welcome the opportunity to work with the Committee and proponents of the bill to fine-tune the proposal.

In today's economic environment, it is crucial that local banks keep the necessary capital and ability to lend to their customers. The bill's concept is straightforward – there is no current market for Trust Preferred Securities, due to the paralysis on Wall Street. Having a State guarantee for local bank issued TPS's would effectively create a limited and healthy market for securities of this type. The obvious benefit of this type of program to Connecticut banks is the ability to increase capital. The benefit for the investor would be a safe and sound investment at favorable returns. The benefit to Connecticut consumers would be their local banks being capable of providing greater lending on the street.

H.B. 6479, AAC THE USE OF PAYROLL DEBIT CARDS

Position: Oppose

This bill would mandate that if businesses pay their employees through payroll debit card (paycard), then they would also have to give the employees the option of receiving their pay in a check format. Also, the bill requires a disclosure of any fees that may be imposed in the use of the card. We oppose both concepts, for several reasons.

First and probably foremost, a paycard is a convenient and very *safe* way for a person to receive their pay. It can be used to purchase goods and services, to access cash at ATM's, many of which don't charge any fees (SUM Network ATMs). Point of sale machines in grocery and drug stores and virtually all retailers, also accept them. It can be used to pay utility bills at the phone or electric company.

At the same time it eliminates the need for a person to carry a large amount of cash after cashing a check, thereby reducing the instances of robberies. This is one of the primary reasons the City of New Haven's Resident ID card, has a cash-loading feature (called a smart card).

Importantly, from a businesses' perspective it costs money and time to implement a payroll system. Whether it's a check system, or a paycard system, the providers of those services charge fees for the delivery of the

product. In today's economic environment, which has led to the highest unemployment levels in years, this bill would add the totally unnecessary expense of *maintaining a dual payroll system*, and hurt those businesses utilizing a paycard solution.

With regards to the disclosure concept, with all the different ways and places to access cash, there is no way for an employer to know whether or not a fee would be charged, or how much that fee would be. We urge your opposition to this expensive and problematic approach.

HB 6481, AN ACT CONCERNING THE EMERGENCY MORTGAGE ASSISTANCE PROGRAM

In general, we support the provisions of HB 6481 and we value the goals and contributions of the EMAP program and hope that the additional borrowers will be helped through these amendments.

However, we do have concerns on several provisions in the Bill. One provision would make it impossible to commence a foreclosure action until *after* the EMAP waiting periods have run their course and we oppose that provision. As a reminder, many foreclosures do not actually involve applications being submitted to CHFA. In addition, even if an application were submitted, regrettably, many borrowers simply do not qualify for assistance. It would be unreasonable in these instances to delay the filing of the foreclosure papers. Indeed, it is the commencement of the foreclosure action that makes the *mediation* process available (because it is a judicial process). The availability of that important program should not be delayed while waiting for the EMAP process to run its course. Lenders should be permitted to file papers after providing notice of the availability of the two programs (which is the current law). If success is achieved under one or both programs, the foreclosure action can be withdrawn. If success is not achieved, the lender will not have been needlessly exposed to the risks of delay (mounting debt, deteriorating property, etc).

Another provision would expand the circumstances under which a borrower becomes eligible to submit an application (to include anyone who is 60 days delinquent). We do not object to that provision (indeed we support it), but we note that the required notice lenders must give borrowers would be rendered inaccurate by that amendment. In order to avoid confusion, the content of the notice would have to change. We would be happy to submit suggestions for new notice content.

Finally, we note that the existing provisions would be amended to allow for a borrower to apply or reapply for EMAP assistance at any time if referred by the mediation program. We understand the rationale for that provision, but are concerned that there are no controls to ensure that those referrals are limited to referrals with reasonable prospects for success (and the mechanism is not just used to delay foreclosures—recognizing that the borrower has already been given notice and an opportunity to participate in EMAP). We would be happy to submit suggestions for addressing this concern in a balanced manner.

H. B. 6483, AAC CREDIT CARD OFFERS ON COLLEGE CAMPUSES AND FINANCIAL LITERACY FOR HIGH SCHOOL STUDENTS

This Bill seeks to create a system of controls and restrictions during the soliciting of credit cards to students on college campuses and importantly, would create a personal financial skills curriculum at the high school level.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**HOUSING
PART 2
297 - 591**

2009

Legal Assistance Resource Center of Connecticut, Inc.

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H.B. 6378 -- Emergency Mortgage Assistance Program

Housing Committee public hearing -- February 19, 2009

Testimony of Raphael L. Podolsky

Recommended Committee action: APPROVAL OF THE BILL with
amendments and additional provisions

The Emergency Mortgage Assistance Program (EMAP) is a powerful tool to help homeowners avoid foreclosure and preserve their homes. EMAP, which is administered by CHFA, can tide a homeowner over a difficult period of meeting mortgage obligations for as long as five years. If the homeowner's application is accepted, any pending foreclosure action is stayed and the homeowner pays CHFA during the stay period an amount equal to 35% of his income. CHFA pays the lender the full amount of the mortgage payment. The difference between the homeowner's payment and the CHFA payment becomes a lien on the property, which is paid back to CHFA after the mortgage is paid off or when the home is sold. Eligibility requires a finding by CHFA that there is a reasonable prospect that the homeowner will, by the end of the stay period, be able either to resume full payments on the mortgage or refinance into an affordable mortgage. Connecticut adopted EMAP in 1993 but failed to keep it funded, and it accepted new applications for only about a year. After being dormant for 15 years, the General Assembly reactivated the program in 2008, authorizing \$64 million for EMAP loans (\$14 million from the Banking Fund and \$50 million by CHFA).

Unfortunately, notwithstanding the severity of the foreclosure crisis, fewer than 10 EMAP loans have been made and the \$64 million authorization has barely been touched. Sections 2 and 3 of H.B. 6378, which is part of the Governor's budget package, attempt to remove some statutory impediments so as to liberalize eligibility for the program. Both of these sections (and especially Section 2), however, are inadequate and need to be revised and strengthened. We also strongly recommend that the Committee add to the bill several other changes contained in H.B. 6481, a bill that has been raised by the Banks Committee. For the program to work as intended, CHFA must also liberalize some of its own underwriting standards that are not dictated by statute.

Provisions contained in H.B. 6378

- * Removal of the 25% loss-of-income threshold: To be eligible for EMAP under the existing statute, the homeowner must either (a) have suffered a "significant increase" in the dollar amount of periodic payments required by the mortgage (e.g., if the rate has gone up or if taxes or insurance paid through the mortgage have increased) or (b) had a reduction in income of "at least 25%." This 25% threshold has blocked many appropriate applicants from qualifying for EMAP. It is very important that this threshold be eliminated or lowered and, as a result, that Section 2 of the bill be

(continued on reverse side.....)

revised. Rather than eliminate or even reduce the 25% threshold, H.B. 6378 makes an exception to the 25% requirement if the homeowner has had "an unanticipated rise in housing or other expenses" not related to non-essential borrowing. This is far too restrictive. The bill should strike the 25% standard entirely and instead require either a significant decline in income or a significant increase in other costs.

- * Early application for EMAP: Under the existing statute, eligibility for EMAP is triggered by a notice from the lender, which must be issued before a foreclosure action is started (the foreclosure action can be started on the same day that the notice is sent). H.B. 6378 allows the homeowner to apply for EMAP at any time he or she is 60 days delinquent on the mortgage, even if the lender has not issued an EMAP notice. We support this change as a way to get homeowners into EMAP at an earlier stage of the process.

Provisions not contained in H.B. 6378:

I have attached to this testimony the draft of substitute language for Sections 2 and 3 of the bill. Most of these provisions are either in H.B. 6481 or slight variations on H.B. 6481. The most important of those are:

- * Initiation of the foreclosure action: In the Pennsylvania program, on which EMAP is based, the lender cannot start a foreclosure action until the EMAP time period is over and the homeowner has either not applied for EMAP or has applied and been rejected. The Connecticut statute, however, merely prohibits the lender from obtaining a judgment in the foreclosure action. As a result, lenders commonly start the foreclosure at the same time notice of EMAP is given to the homeowner, so that the homeowner is almost always in foreclosure while applying for EMAP. The Pennsylvania approach is better, because it avoids running up foreclosure-related costs against the homeowner if EMAP is approved.
- * Meeting with the lender: Under the existing statute, a face-to-face or telephone meeting with the lender is a prerequisite to homeowner eligibility for EMAP. Unfortunately, some lenders do not return phone calls or will not meet with the homeowner. While it is legitimate for the law to require the homeowner to make a good faith effort to discuss the mortgage with the lender, non-cooperation by the lender should not block the mortgagor's eligibility for EMAP.
- * Underwriting standards: The statute should be made clearer that the underwriting standard is a reasonable prospect that the homeowner will be able to resume payments by the end of the stay period on either the existing mortgage or on a refinanced or modified mortgage that it is a reasonable prospect he or she will be able to obtain.

2-19-09

AN ACT CONCERNING RELIEF FOR FAMILIES FACING FORECLOSURE.

Section 1. [unchanged from LCO #2994]

Sec. 2. Subdivision (7) of section 8-265cc of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(7) "Financial hardship due to circumstances beyond the mortgagor's control" means: (A) A significant reduction [of at least twenty-five per cent] of aggregate family household income, as determined by the Connecticut Housing Finance Authority [which reasonably cannot be or could not have been alleviated by the liquidation of assets by the mortgagor], including, but not limited to, a reduction resulting from (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; (vi) uninsured damage to the mortgaged property which affects liveability and necessitates costly repairs; or (vii) expenses related to the disability, illness or death of a member of the mortgagor's family, but is not related to accumulation of 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; or (B) a significant increase in the dollar amount of the periodic payments required by the mortgage or of other costs, including but not limited to the cost of heat or utilities;

Sec. 3. Subsection (b) of section 8-265dd of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(b) Notwithstanding any provision of the general statutes, or any rule of law to the contrary, on and after July 1, 2008, no [judgment of strict foreclosure nor any judgment ordering a foreclosure sale shall be entered in any] action shall be commenced [instituted] by the mortgagee to foreclose a mortgage commenced on or after such date, for the foreclosure of an eligible mortgage unless (1) notice to the mortgagor has been given by the mortgagee in accordance with section 8-265ee, as amended by this act, and the time for response has expired, and (2) a determination has been made on the mortgagor's application for emergency mortgage assistance payments in accordance with section 8-265ff, as amended by this act, or the applicable time periods set forth in sections 8-265cc to 8-265kk, inclusive, as amended by this act, have expired, whichever is earlier. For purposes of this section and sections 8-265ee to 8-265kk, inclusive, as amended by this act, an "eligible mortgage" is a mortgage which satisfies the standards

contained in subdivisions (1), (3), (8) and (10) to (13), inclusive, of subsection (d) of section 8-265ff, as amended by this act.

Sec. 4. Section 8-265ee of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) Any mortgagor may apply for emergency mortgage assistance payments under sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided such mortgagor (1) has received a notice of intent to foreclose as provided in section 8-265ee, or (2) is sixty days or more delinquent on a mortgage. As part of the application process, the authority may refer the applicant to a counseling agency approved by the United State Department of Housing and Urban Development.

(b) [(a)] On and after July 1, 2008, a mortgagee who desires to foreclose upon a mortgage which satisfies the standards contained in subdivisions (1), (3), (10), (11) and (12) of subsection (d) of section 8-265ff, as amended by this act, shall give notice to the mortgagor by registered, or certified mail, postage prepaid at the address of the property which is secured by the mortgage. No such mortgagee may commence a foreclosure of a mortgage prior to mailing such notice. Such notice shall advise the mortgagor of his delinquency or other default under the mortgage and shall state that the mortgagor has sixty days from the date of such notice in which to (1) have a face-to-face meeting, telephone or other conference acceptable to the authority with the mortgagee or a face-to-face meeting with a consumer credit counseling agency to attempt to resolve the delinquency or default by restructuring the loan payment schedule or otherwise, and (2) contact the authority, at an address and phone number contained in the notice, to obtain information and apply for emergency mortgage assistance payments if the mortgagor and mortgagee are unable to resolve the delinquency or default.

(b) Except in cases in which the mortgagee refuses to meet with the mortgagor or fails to respond to the mortgagor's good faith efforts to meet with the mortgagee, if [If] the mortgagor fails to meet with the mortgagee or comply with any of the time limitations specified in the notice as provided in subsection (a) of this section, or if the mortgagor's application is not filed by the date thirty days after the date of any default in payment under an agreement as provided in subsection (c) of this section or if the mortgagor's application for emergency mortgage assistance payments is not approved by the date thirty calendar days after the date of receipt of the mortgagor's application in accordance with the provisions of section 8-265ff, as amended by this act, the foreclosure of the mortgagor's mortgage may, at any time thereafter, except as provided in subsection (e) of this section, continue without any further restriction or requirement under the provisions of sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided the mortgagee files an affidavit with the court stating the notice provisions of subsection (a) of this section have been complied with and that either the mortgagor

failed to meet with the mortgagee or failed to comply with all of the time limitations specified in the notice as provided in subsection (a) of this section or that the mortgagor's application for emergency assistance payments was not approved by the date thirty calendar days after the date of receipt of the mortgagor's application, or that a determination of ineligibility was made.

(c) If, after a face-to-face meeting, telephone or other conference acceptable to the authority, as provided in subsection (a) of this section, the mortgagor and the mortgagee reach an agreement to resolve the delinquency or default and, because of financial hardship due to circumstances beyond the mortgagor's control, the mortgagor is unable to fulfill the obligations of the agreement, the mortgagor may apply to the authority for emergency mortgage assistance payments under sections 8-265cc to 8-265kk, inclusive, as amended by this act, by the date thirty days after the date of any default in payment under the agreement. The mortgagee shall not be required to send any additional notice to the mortgagor other than the notice required under subsection (a) of this section.

(d) No person receiving financial relief under sections 8-265cc to 8-265kk, inclusive, as amended by this act, may file a defense, counterclaim or set-off to any action for foreclosure of the mortgage for which such financial relief was provided.

(e) Nothing in sections 8-265cc to 8-265kk, inclusive, as amended by public act 08-176, shall prevent a mortgagor from exercising rights that may exist under the foreclosure mediation program and those rights may be exercised concurrently with the rights afforded under sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided the exercise of rights under the foreclosure mediation program shall not cause a delay in the determination under subsection (d) of section 8-265ff, as amended by this act. Nothing in sections 8-265cc to 8-265kk, inclusive, as amended by this act, shall prevent a mortgagor from applying or reapplying and being considered for emergency mortgage assistance if such mortgagor is referred to the emergency mortgage assistance program by the foreclosure mediation program.

Sec. 5. Subdivision (5) of subsection (c) of section 8-265ff of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(5) There is a reasonable prospect that the mortgagor will be able to resume full mortgage payments on the original or a 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 such [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;