

Banking Committee JOINT FAVORABLE REPORT

Bill No.: SB-891

AN ACT CONCERNING THE EZEQUIEL SANTIAGO FORECLOSURE

Title: MEDIATION PROGRAM AND OTHER ALTERNATIVES TO FORECLOSURE.

Vote Date: 3/17/2021

Vote Action: Joint Favorable Substitute

PH Date: 3/2/2021

File No.: 248

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SPONSORS OF BILL:

Banking Committee

REASONS FOR BILL:

Mortgage Foreclosure, especially in the days of Covid-19 and following, is one of the most timely and critical problems that will be facing residents and banks. It was important that we make permanent the program in place that was scheduled to sunset and attempt to protect the people of CT as best we can.

RESPONSE FROM ADMINISTRATION/AGENCY:

Judicial Branch – External Affairs Division –

They urge 2 actions be considered. First, that the requirement contained in subsection (j) of Section 2 that the Chief Court Administrator prepare and submit a statistical report about the program to the General Assembly be eliminated. The second action pertains to funding for the program, which is currently supported by the Banking Fund. Beginning on June 30, 2023, the funding for this program will run out because the program is currently scheduled to sunset. Funding to continue this program would need to be appropriated to the Judicial Branch's budget beginning in FY 24. We wanted to bring a discrepancy within the bill to the Committee's attention. Section 5 (d) of the bill indicates that the emergency mortgage assistance program (EMAP) loan is secured by a second mortgage on the homeowner's property. However, Section 1 (12) defines lien as "a mortgage deed or other instrument that constitutes a first or second consensual lien" If the homeowner is applying for an emergency mortgage assistance loan because the second lienor is foreclosing, the EMAP loan could not be a second lien on the property, unless the second lienor is willing to subordinate, which is unlikely.

NATURE AND SOURCES OF SUPPORT:

Bruce Adams, President & CEO – Credit Union League of CT Support –

Credit unions are not-for-profit financial cooperatives owned by and existing only to serve their members. The unique structure of credit unions provides important context for our position on this

issue. This program, although admirable, has had unintended consequences for credit unions. The program has lengthened the processes already used by credit unions as they diligently work to help their members remain in their homes. Unfortunately, the process has also resulted in raised costs that are then directly or indirectly absorbed by the other members of the credit union. This program caused adverse effects on Connecticut's credit unions and the everyday consumers who are their member owners. Credit unions already work to place their members first in all that they do. We would support a legislative study to determine the appropriateness of whether to make the program permanent and if it is necessary, the study should also determine the proper source of funding.

Jeff Gentes Connecticut Fair Housing Center and the Housing Clinic at Yale Law School - Support

Likes that this would eliminate the "unnecessary" sunset date from a program that has served CT well for thirteen years. Sec. 6 would close the gap in mortgage workouts for homeowners; without it, we could be facing hundreds of otherwise preventable foreclosures. This bill would also address another gap in the market – the lack of programs for people facing condo, tax, or sewer foreclosures but who lack a mortgage. We suggest an improvement that would use the existing EMAP structure, provide administrative support to CHFA, and could facilitate CHFA's use of expected federal funding for homeowners.

Tom Mongellow, Art Corey – CT Bankers Association Support

House Bill 6493 - Support with changes

This bill would add another valuable feature to CHFA's existing Emergency Mortgage Assistance Program (EMAP) It also adds to the program a loan guarantee component similar to the Crumbling Foundation Loan Program, which this Committee, CHFA, CFSIC, and the banking industry developed, and the legislature enacted in 2018.

That program is a good example of how public-private partnerships can enhance and leverage limited state dollars, by using bank dollars for the loans. The CBA has long encouraged this concept for the EMAP program since it would take the program's limited dollars and leverage them by up to five times, depending on the program's default rate.

Raphael Pololsky – CT Legal Services -

Making the FMP permanent is long overdue. They are also in support of the part of the bill that addresses the immediate crisis resulting from the pandemic. Requiring the lenders, until July 2023 to provide homeowners at risk of foreclosure whose mortgages are not backed by Fannie Mae with substantially the same options for forbearance and loan modification that are required for homeowners with Fannie Mae backed mortgages.

NATURE AND SOURCES OF OPPOSITION:

Nandini Natarajan CEO Exec Director CHFA- oppose

They have concerns about the committee acting upon this at this time. Congress is currently working on the passage of a nearly \$2 trillion-dollar stimulus package. Included within that legislation is almost \$10 billion in assistance to help homeowners avoid foreclosure. Each state is scheduled to receive at least \$40 million, which will be eligible to be used for mortgage payments, property taxes, utilities, etc. With that money potentially coming to Connecticut over the next few months, we question the necessity of establishing a new state-funded program currently. Also, given that there is a strong possibility that CHFA will be involved in the distribution of any federal homeowner assistance dollars, we would argue that our resources might be better spent on those distribution efforts, rather than on setting up the new program proposed under this bill. Because we already have the EMAP program, we are concerned about the potential of this new program to create confusion among homeowners in distress.

Connecticut REALTORS - Opposed

The mediation program was always meant to sunset, and it should. Recurring delays and no restrictions on repeated participation within the program can add significant time, even years, to foreclosure proceedings. Providing resources at the initial time of potential foreclosure is significantly more impactful to property owners than having a process delayed by many years without any identifiable solutions. This mediation process causes Connecticut to be one of the slowest foreclosure states in the country. This additional time has often resulted in many negative and unintended consequences including, blighted and abandoned property, delinquent real estate taxes, and depressed property values for homes surrounding the foreclosure.

Anthony Joyce - Chelsea Groton Bank opposed

This was meant to sunset. Parties agreed to a 4-year extension. In 2019 this Committee and the legislature extended the sunset date until 2023. At that time, the banking industry agreed to a 4-year extension under the presumption that all stakeholders would, at the end of that period, assess whether the program should continue or end, as has been done in the past. "It comes as a surprise less than two years later that this bill has been proposed to make the program permanent. Between the short time that has elapsed since 2019 and the almost nonexistent foreclosure activity during the pandemic, there is little information or data to gauge how the foreclosure program is working. As a result, we don't think this is the right time to make the program permanent." In their experience, Foreclosure rarely occurs until after a long period of time, sometimes up to a year, of working with homeowners experiencing financial difficulties.

"We urge you to allow the foreclosure mediation program to continue to work, without out any changes and in an orderly fashion, through the existing sunset date of June 30, 2023. We would welcome a detailed discussion on how to proceed with the program as it nears its sunset date. In addition, we are very concerned about and strongly oppose Section 6 of the bill. This section would mandate that bank-owned mortgages have the same forbearance and other relief options as federally related mortgage loans."

Reported by: Dawn Marzik

Date: 3/26/2021