



ROBINSON & COLE LLP
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Connecticut Legislative Update

Norman H. Roos

New England Mortgage Expo

January 17, 2014



Bills That Passed in 2013

An Act Concerning Homeowner Protection Rights (The “Governor’s Bill”)

- Public Act 13-136
- Expands the scope of the state's foreclosure mediation program
- Extends the foreclosure mediation program two years, to June 30, 2014

Bills That Passed in 2013, cont.

Foreclosure Mediation Program

- Mediation Information Form.
- Preparation for Mediation.
- Assignment of Case to Mediation.
- Mediator and Mortgagor Pre-mediation Meetings.
- Delivery of Forms and Documents to Mortgagee.
- Mediator's Report to the Court and the Court's Notice.
- Court Referral to Mediation.
- Special Pleadings during the Eight-month Stay.



Bills That Passed in 2013, cont.

Reporting Requirement

- Requires the chief court administrator summary report to the Banks Committee, by February 14, 2014,

Bills That Passed in 2013, cont.

Expedited Foreclosure Procedures for Vacant and Abandoned Properties

Allows expedited mortgage foreclosure process if the mortgagee proves that:

- (1) the property is not occupied; and
- (2) at least three of the following conditions exist:
 - [1] statements by neighbors or others that the property is vacant and abandoned;
 - [2] windows or entrances are boarded up or closed off, damaged or broken and unlocked

Bills That Passed in 2013, cont.

Expedited Foreclosure Procedures for Vacant and Abandoned Properties, cont.

- [3] acts of vandalism, loitering, or destruction of the property creates a public health or safety risk
- [4] a municipal order declares the property unfit for occupancy;
- [5] a written statement by the mortgagor or tenant expressing clear intent to abandon

Bills That Passed in 2013, cont.

An Act Concerning the Recoupment of Moneys Owed to a Unit Owners' Association Due To Nonpayment of Assessments

- Public Act 13-156 amends the Common Interest Ownership Act (CIOA)
- Extends from six months to nine months the super lien priority afforded common interest community association liens securing unpaid common charges
- Excludes from the lien any late fees, interest, or fines that the association assesses against the unit's owner during the nine-month period

Bills That Passed in 2013, cont.

An Act Concerning the Recoupment of Moneys Owed to a Unit Owners' Association Due To Nonpayment of Assessments, cont.

- Specifies that the lien only includes reasonable attorneys' fees
- *Requires an association, before bringing an action to foreclose its lien, to provide mortgage holders with (a) 60 days' notice setting forth specified information and (b) a copy of the demand for payment it must already send to the unit owner
- Provides that if the association fails to provide the required notice, its nine-month priority lien does not include costs or attorneys' fees

Bills That Passed in 2013, cont.

An Act Concerning the Abatement of a Public Nuisance

- Public Act 13-174 makes a variety of changes with respect to nuisance abatement laws.
- State now required to prove by a preponderance of the evidence, rather than by the stricter clear and convincing evidence, that a financial institution claiming an interest of record in the property was a principal or accomplice to the alleged conduct.
- Financial institution can offer the same affirmative defenses as other defendants (i.e., that they have taken reasonable steps to abate the nuisance but were unable to do so).

Bills That Passed in 2013, cont.

Assignees of Tax Liens to Provide Notice PA 13-135(16)

- Assignee of tax liens now required to provide notice to the mortgage holder of the assignment of the tax lien on the mortgaged property within 60 days after assignment of the lien by the municipality.

Grantees Mailing Address in Deeds P.A. 13-87

- Section 47-5 of CGS amended to require that, in addition to 2 witnesses and an acknowledgment, an instrument conveying title to land must also include the grantee's current mailing address.

Bills That Passed in 2013, cont.

Recording Fees for Nominees of Mortgagees

Effective July 15, 2013, Public Acts 13-184 and 13-247, the Governor's budget and budget implementer bills:

- Increased the fees that a “nominee of a mortgagee” must pay to town clerks for recording the first page of certain documents from \$43 to \$159.
- Fees charge to nominee capped at \$ 159 for an assignment or release of mortgage
- Allocates proceeds of increased recording fees to various government funds

Bills That Passed in 2013, cont.

Recording Fees for Nominees of Mortgagees, cont.

- *MERS is only entity paying the increased recording fees*
- *MERS has filed suit in Connecticut Superior Court Challenging the constitutionality of this law. That litigation is ongoing.*



Bills That Died

SB 971 - An Act Concerning a Modern Method of Foreclosure

- Died in the Judiciary Committee, but a working group will pursue this issue
- Would have added option to foreclosure by market sale, ie. which is a court-approved sale on the open market.



Bills That Died, cont.

HB 5565 - An Act Concerning Reverse Mortgage Transactions

- Would have prohibited a creditor from requiring an older spouse to be the only borrower in a reverse mortgage transaction.
- Would have included an exception if the non-borrowing spouse is below the required minimum age to qualify for a reverse mortgage.



Bills That Died, cont.

HB 5637 - An Act Concerning Appraisal Management Companies

- Would have required appraisal management companies to post a \$1 million bond
- Would have required the DCP to perform a background check of any appraisal management company applying for registration.



Bills That Died, cont.

HB 6325 - An Act Concerning the Assignment of Mortgage Debts

- Would have required any assignment of a mortgage to be recorded not later than sixty days after such assignment



What's Ahead in 2014

DOB's Mortgage Servicing Law

Would require mortgage servicer license in Connecticut and imposed new requirements and restrictions on mortgage servicers including:

- Detailed application process and reporting and record-keeping requirements
- \$100,000 bond requirement
- Supervised financial institutions and licensed lender exempt
- New state-specific servicing requirements (standard fee schedule disclosure, notice of mortgage assignment, etc.)
- Lengthy list of prohibited activities

Note: CMBA Legislative Committee Meeting on 1/16 to focus on this new legislative proposal



What's Ahead in 2014, cont.

Expansion of FHA Exemption from Nonprime Home Loan Statute 36a-760

- Recent implementation of FHA life of loan MI requirements dictates amendment to 36a-760
- Amendment could either exempt FHA loans entirely (as is presently the case with CHFA loans) or increase threshold for FHA loans

What's Ahead in 2014, cont.

Expansion of Definition of Exempt Financial Institution under CGS 31a-51 tt “Employer Inquiries about an Employee’s or Prospective Employee’s Credit”

- Definition of exempt financial institution does not currently include nondepository (licensed) lenders—exemption should be amended to cover licensed mortgage lenders and brokers



What's Ahead in 2014, cont.

New “wet funding” bill – to address compression of time between “clear to close” and funding times due to technological and market changes

Blight Task Force

UST, Transitional and Reciprocal Licensing, Financial Responsibility Requirements for MLO's

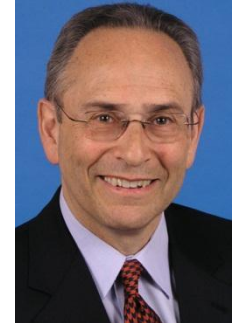


QUESTIONS?



Speaker Bio

Norman Roos, chair of Robinson & Cole's Finance Practice Group, concentrates his practice on transactional and regulatory matters relating to the real estate and financial services industries. He represents banks, insurance companies, diversified financial service companies, and other publicly and privately held entities on a broad range of matters involving mortgage banking, consumer and commercial credit transactions, regulatory compliance, and electronic commerce.



Mr. Roos served on the Policy Regulation and Consumer Education Subcommittee of Governor Rell's Task Force on Subprime Mortgage Lending. He was recognized by Super Lawyers® since 2006 as a New England Super Lawyer in the areas of Business/Corporate, Banking, and Real Estate (Super Lawyers is a registered trademark of Key Professional Media, Inc.). Mr. Roos has also been recognized by Chambers USA: America's Leading Lawyers for Business.

Mr. Roos earned his J.D. from University of Michigan Law School and his B.S. from University of Pennsylvania.



Speaker Bio, cont.

PROFESSIONAL ASSOCIATIONS

- American Resort Development Association, Membership Committee
- American College of Mortgage Attorneys, Connecticut State Chair and Board of Regents (2006 to 2010)
- Connecticut Bar Association (CBA), Consumer Law Section
- CBA, Financial Institutions Law Section, Chair (2006 to 2010)
- Connecticut Law Revision Study Committee on Uniform Common Interest Ownership Act and Real Property Electronic Recording Advisory Committee and Real Property Electronic Recording Committee, Member
- Connecticut Mortgage Bankers Association, Inc., General Counsel
- Greater Hartford Legal Aid Foundation, Board of Directors



Speaker Bio, cont.

HONORS AND AWARDS

- Inaugural Inductee to the New England Mortgage Bankers Conference's Hall of Fame
- Listed in The Best Lawyers in America® as Hartford Lawyer of the Year in the area of Banking and Finance Law for 2013 (Copyright 2012 by Woodward/White, Inc., Aiken, SC)
- Listed in The Best Lawyers in America® in the areas of Banking & Finance Law and Financial Services Regulation Law since 2012 (Copyright 2013 by Woodward/White, Inc., Aiken, SC)
- AV® Preeminent™ Peer Review Rated in Martindale-Hubbell™ in the area of Finance Law (Martindale-Hubbell Peer Review Ratings is a trademark. AV Preeminent is a certification mark of Reed Elsevier Properties, Inc.)
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