



Connecticut Mortgage  
Bankers Association, Inc.

# 2013-2014 Connecticut Legislative Update

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# Objectives for today's program

Discuss the following:

- CMBA initiatives enacted in 2014 regular session
- Discuss legislation that did not pass
- Major changes of concern

# CMBA PRIORITY – BILL PASSED

## Amendments to Connecticut's “NonPrime Home Loan” Provisions

- Section 19 of Public Act 14-7 (SB 283)
  - Signed by the Governor
- Effective October 1, 2014
- Provides exemption in NPHL Statutes for FHA insured mortgages that are “Qualified Mortgages”

# Background on NPHL's

- Starting in 2008, Connecticut adopted statutory restrictions on mortgages that are viewed as subprime and fit the definition of a “NonPrime Home Loan” (“NPHL”)
  - Substantive prohibitions
  - Many of the requirements are cumbersome
  - Penalties for noncompliance are significant
  - As a result, most lenders try to avoid making NPHL's

# CMBA PRIORITY – BILL PASSED

## Amendments to Connecticut's “NonPrime Home Loan” Provisions - Public Act 14-7

- New Connecticut legislation amends definition of NPHL to exclude
  - Any mortgage loan insured under Title II of the National Housing Act
  - Provided loan satisfies HUD’s new requirements for a “Qualified Mortgage”

# CMBA PRIORITY – BILL PASSED

## An Act Concerning Credit Checks and Financial Institutions

- S.B. 221
- Subject to certain exceptions, Connecticut law prohibits employers from obtaining credit reports on employees
  - Banks are generally exempt
- This bill creates a broad exemption for certain other entities
  - Including licensed mortgage lenders and brokers

# BILL DID NOT PASS

## An Act Concerning Limits on Flood Insurance Policies

- S.B. 265 - AN ACT CONCERNING LIMITS ON FLOOD INSURANCE POLICIES
  - The bill would have prohibited mortgage lenders from requiring homeowners to obtain flood insurance coverage in excess of the amount of the mortgage loan
- Did Not Pass

# BILL DID NOT PASS

## An Act Concerning Issuance of Closing Protection Letters

- S.B. 277 AN ACT CONCERNING THE ISSUANCE OF CLOSING PROTECTION LETTERS
  - This bill would have required title insurers to issue closing protection letters (CPLs) for any title insurance policy insuring a lender's interest on a one-to-four unit residential building, and would have allowed them to issue CPLs for other types of residential or commercial property. The bill also would have allowed title insurers to charge a fee, approved by the Insurance Commissioner, for issuing a CPL.
- Did Not Pass



## **BILL DID NOT PASS**

# **HB 5266 - An Act Concerning The Treatment Of Certified Checks As Cash For Purposes Of Real Estate Closings**

- This bill was defeated in the Joint Committee on Banks. It would have required that any bank treat a certified check as cash for the purposes of closing a real estate transaction that is occurring in the State.

## **BILL DID NOT PASS**

# **SB 130 - An Act Concerning The Payment Of First Or Secondary Mortgage Loan Proceeds By Wire Transfer**

- This bill was defeated in the Joint Committee on Banks. The bill would have required any entity who is wiring funds for the purpose of a real estate transaction in Connecticut to wire such funds no later than the date and time of the closing.

# MAJOR CHANGES OF CONCERN

## SB 427 - An Act Concerning Smoke And Carbon Monoxide Detectors In Certain Residential Buildings At The Time The Title Is Transferred

Public Act 14-219 awaits the Governor's signature. Under existing law, before transferring title to a one- or two-family dwelling issued a new occupancy building permit before October 1, 2005, the transferor must give the transferee an affidavit certifying that the:

- (a) permit was issued on or after October 1, 1985 or (b) building is equipped with smoke detection and warning equipment (smoke detectors) and
- building is either (a) equipped with carbon monoxide (CO) detection and warning equipment (CO detector) or (b) does not pose a risk of CO poisoning because it does not have a fuel-burning appliance, fireplace, or attached garage.

Under this bill, nothing in the affidavit shall constitute a warranty beyond the transfer of title.

## MAJOR CHANGES OF CONCERN

### SB 427 - An Act Concerning Smoke And Carbon Monoxide Detectors...

(Cont)

- For residences requiring an affidavit, the bill eliminates a prohibition on the smoke and CO detectors exceeding the standards under which they were tested and approved. As under existing law:
  - the CO detector must be able to show the amount of CO present as a reading in parts per million,
  - the smoke detector must be able to sense visible or invisible smoke particles,
  - the smoke detector must be installed in the immediate vicinity of each bedroom, and
  - both the CO and smoke detectors may be battery-operated and must be (a) installed in accordance with the manufacturer's instructions and (b) capable of providing an alarm suitable to warn occupants, when activated.
- By law, a transferor who fails to provide the affidavit must credit the transferee with \$250 at closing.

# MAJOR CHANGES OF CONCERN

## Task Force on Reverse Mortgages

- Section 51 of P.A. 14-89 (HB 5353)
- Effective From Passage
- Act Establishes a Task Force to Study “Reverse Mortgage Industry Practices”
  - Including “Best Practices” Related to “Consumer Protection”
- Report to Be Submitted to Banks Committee and Committee on Aging By January 1, 2015

# MAJOR CHANGES OF CONCERN

## New requirement for “Certificate of Good Standing”

- Section 21 of Public Act 14-7 – SB 283
  - Signed by the Governor
- Effective July 1, 2014
- Very poorly conceived provision
- Generally acceptable to “Mortgagees” (mortgage holders or services) covered by the mediation statutes

# MAJOR CHANGES OF CONCERN

## New requirement for “Certificate of Good Standing” (cont.)

- Requires Mortgagee to provide homeowner with “Certificate of Good Standing”
- But only if the homeowner
  - Has “successfully completed” the foreclosure mediation program; and
  - Has “remained current on mortgage payments for a period of three or more years following the completion of such program”
- “Certificate of Good Standing” means “A letter stating that the mortgagor has paid each mortgage payment in a timely fashion, as determined by the mortgagee.”

# MAJOR CHANGES OF CONCERN

## New Mortgage Servicing Provisions

- Public Act 14-89 (Sections 1 through 20) (HB 5353)
- Effective October 1, 2014
- On and after January 1, 2015 no person shall act as a “mortgage servicer” without first obtaining a license from the Banking Commissioner
- Amends existing mortgage escrow requirements
- Plus adds significant new provisions governing “Mortgage Servicers” and mortgage servicing activities
- Sponsored by Banking Department



# MAJOR CHANGES OF CONCERN

## New Mortgage Servicing Provisions (cont.)

- Amends the coverage provisions of the existing statutes that govern the administration of escrow accounts
  - Existing law applies to “First Mortgage Loans”
  - Now amended to apply to “Residential Mortgage Loans”
    - Regardless of lien priority
    - Now clearly limited to consumer purpose loans
    - Secured by “Dwelling” as defined under TILA
    - Or secured by real property upon which a dwelling is constructed or intended to be constructed
- Now also covers home equity conversion mortgages and reverse mortgages
- No new exemptions

# MAJOR AREAS OF CONCERN

## New Mortgage Servicing Provisions (cont.)

- The CMBA was successful in eliminating a number of the most onerous requirements and prohibited practices however, the Act contains many new requirements and prohibited practices, including (for example):
  - Misrepresenting or omitting any material information in connection with servicing
  - Recklessly applying loan payments to outstanding balances
  - Recklessly applying payments to escrow accounts
  - Force-Placing hazard or flood insurance on the property when the servicer “Knows or Has Reason to Know” that homeowner has “an effective policy for such insurance”

# MAJOR AREAS OF CONCERN

## New Mortgage Servicing Provisions (cont.)

- Additional prohibited activities
  - Knowingly or recklessly providing inaccurate information to a credit bureau
  - Failing to report both favorable and unfavorable payment history to credit bureaus
  - Collecting a late fee that is
    - “Based on an amount greater than the past due amount”
    - Deducted from any regular payment

# MAJOR AREAS OF CONCERN

## Enhancements to Educational Requirements For Licensed Originators

- Section 36 of Public Act 14-89 (HB 5353)
- Effective October 1, 2014
- Expands the prelicensing education requirements for licensed originators
  - 21 total hours of approved educational courses
    - Previously 20
  - Adds 1 hour “of relevant Connecticut law”

# MAJOR AREAS OF CONCERN

## New “Market Sale Foreclosure” Legislation

- Public Act 14-84 – An Act Concerning An Optional Method of Foreclosure (HB 5514)
- Effective January 1, 2015
- Legislation creates a brand new type of foreclosure action in Connecticut
  - Spearheaded by realtors

# MAJOR AREAS OF CONCERN

## Market Sale Foreclosure (cont.)

- Long political road
  - Realtors started legislative push two years ago
  - Banking Commissioner convened task force in fall of 2013
    - Bankers included
  - CMBA held fast on two key principles
    - Lender must retain discretion when deciding whether to pursue foreclosure option
    - The legislation must not add further delays or additional expenses to the Connecticut foreclosure process

# MAJOR AREAS OF CONCERN

## Market Sale Foreclosure (cont.)

- Public Act 14-84 adds new “Foreclosure By Market Sale” option
- This new option applies to:
  - 1-4 family owner-occupied
  - Only properties in which there is no equity
  - Both owner and lender must agree to this option

# MAJOR AREAS OF CONCERN

## Market Sale Foreclosure (cont.)

- Lender is required to do the following:
  - Inform the borrower at 60-day that this option may be available to them
  - Provide an affidavit asserting that notice above was provided



# MAJOR AREAS OF CONCERN

## Market Sale Foreclosure (cont.)

- If homeowner and lender agree to a market sale, a real estate agent is hired to market the property
- If an offer is made that is agreeable to both borrower and lender, all parties go before a judge to request a market sale foreclosure
- At any time prior to seeking court approval either party can opt out without penalty

# MAJOR AREAS OF CONCERN

## Market Sale Foreclosure (cont.)

- Junior lien holders only have option to offer sale price to protect their lien
- Unclear how more senior lien holders are treated

# MAJOR AREAS OF CONCERN

## Market Sale Foreclosure (cont.)

- Intent of law was to prohibit any borrower from using foreclosure mediation if they opted for market sale
- Language is now unclear if sale falls through due to no part of the borrower

# MAJOR AREAS OF CONCERN

## Foreclosure Mediation Developments

- Section 37 of Public Act 14-89 (HB 5353)
- Extends the sunset date on the foreclosure mediation program
  - To June 30, 2016
  - Would have otherwise expired this coming July
  - Earlier proposals would have both eliminated or extended the sunset to 2018
    - CMBA opposed
- To be “funded within available appropriations”
- “The size of such program shall be determined by available funding and the number and need of participants in such program.”

# MAJOR AREAS OF CONCERN

## Foreclosure Mediation Developments (cont.)

- Section 37 of Public Act 14-89 (HB 5353)
- Effective from passage
- Requires new protocols for mediator during “premediation review” process
  - To be developed by chief court administrator
- Protocols would be triggered when documents submitted to mediator for initial review
  - Are incomplete
  - Contain errors
  - “Likely to be found unacceptable” to the lender
- Protocols would require the documents to be completed or corrected and resubmitted to mediator for review
- Also clarifies that review process does not constitute the practice of law or the provision of legal advice

# CT Legislative Information – Sources Of Information

- **CMBA**
  - Website – Legislation page / Status
    - [www.cmba.org/legislation](http://www.cmba.org/legislation)
- **CT General Assembly / Specific Bills**
  - Website
    - [www.cga.ct.gov](http://www.cga.ct.gov)

# Summary

- **Concluding Remarks**
- **Questions & Answers**
- **Thanks For Coming!**