



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
- **CT General Assembly / Specific Bills**
 - Website
 - www.cga.ct.gov

Summary

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