

February 26, 2009

Dear Members of the House Banking and Financial Services Committee:

On behalf of our 344 member credit unions, the Michigan Credit Union League (MCUL) supports the Legislature's efforts to address the foreclosure problem in Michigan and the proposed framework for doing so in House Bills 4453, 4454, and 4455. As the MCUL has indicated in prior discussions with the Committee Chair and his staff, credit unions have been working diligently with their borrowers to modify loans whenever possible to avoid foreclosure and all of the negative ramifications that impact families, neighborhoods and the greater community.

As these bills represent additional efforts that would be imposed on lenders and servicers, we appreciate the opportunity to comment and make recommendations that would help clarify and refine the process. Therefore, we offer the following:

1. The legislation indicates that a housing counselor will be available to the borrower. If the counselor is not facilitating viable options during the 90-day period, the bill should provide an option that would permit the borrower to work directly with the lender/servicer.
2. To avoid potential complication and confusion, all parties with an interest in the loan and mortgage must agree to any loan modification.
3. In 4453, under Sec. 3204(4), there is mention of "reasonable efforts" to serve notice; clarification as to what is reasonable in the context of personal service and use of certified mail would be helpful.
4. In 4453, Sec. 3204(5), states that this whole process applies when the first notice is published under a foreclosure by advertisement, yet in Sec. 3204(4) a mortgagee is prohibited from commencing foreclosure by advertisement. The two sections seem to conflict.
5. In 4454, under Sec. 3205B(3), a time frame should be established for the meeting to occur between the borrower, lender, and counselor in keeping with the use of other time frames established in previous sections.
6. In 4454, under Sec. 3205B(1), the words "**a counselor**" after the word "**wishes**" should be added for clarification.
7. In 4454, under Sec. 3205A(4)(A), a line should be inserted that if the borrower chooses not to meet with a counselor, the borrower must contact the lender within a specified time.
8. In 4454, under Sec. 3205B(6), the words "previously agreed" are confusing because it could apply to two situations. If borrower defaults on a modified loan using the proposed process, does lender need to go through the proposed process a second time? For loans that are modified prior to enactment of these bills, will those lender that worked with troubled lenders to modify loans, be required to follow the proposed process, or would they be permitted to proceed with a normal foreclosure by advertisement. This section we feel needs clarification as to what is intended.

9. In 4455, under Sec. 3205C(1), all parties involved with the negotiation including a counselor, are required to calculate a modified payment amount, we recommend that the counselor be the party to calculate the modified payment amount as various options will necessarily be considered that ultimately would be agreed to by both the borrower and the lender. The Counselor in a sense represents a neutral party as to any calculation based on the standards related to the FDIC Workout Program?
10. In 4455, Sec. 3205C(2), the second sentence provides for the situation where a borrower is not eligible for a loan modification. Thus the lender should not be required to foreclose using foreclosure by advertisement, but rather should be permitted to choose. Thus we recommend changing the word “**shall**” foreclose to “**may**” foreclose under this chapter.
 - In 4453, under Sec. 3204(4), “commence proceedings” should be clarified with the later use in Sec. 3205A of the phrase, “before proceeding with a sale,” This seems to indicate a different time in the foreclosure process. Is this intended?
 - In 4454, should there be an affirmative statement in the bill, that if the borrower is non-responsive to the service of process of the Notice required in Sec. 3205A, or the property is apparently abandoned upon close inspection, that the lender may proceed to foreclose by advertisement as provided under current law?

The MCUL appreciates the opportunity to comment on this legislation and thanks Chairman Coulouris for the thoughtful process and participation accompanying the drafting of this legislation. Our members look forward to working with this Committee, the Legislature and Governor in the laudable goal of keeping people in their homes.

Very Truly Yours,



Marcia E. Hune
Director of Legislative Affairs