



Michigan Bankers Association

507 S. Grand Ave.  
Lansing, MI 48933  
www.mibankers.com

517-485-3600  
Fax 517-485-3672

February 25, 2009

The Honorable Andy Coulouris  
Chair, House Banking and Financial Services Committee  
State Representative  
PO Box 30014  
Lansing MI 48909

Dear Representative Coulouris:

Thank you for the opportunity to comment on HB 4453, HB 4454 and HB 4455. These bills modify the foreclosure by advertisement process in Michigan. On behalf of the 182 member of the Michigan Bankers Association, we are opposed to these bills as introduced. We agree with the intent of the bills which is to avoid foreclosure by bringing borrowers and lenders together.

As you know, the Michigan Banker's Association began this discussion last term with you and other interested parties in an effort to recognize the many efforts and creative programs banks are utilizing to work with troubled borrowers trying to find a solution that will work for the bank and the borrower. MBA members are re-writing home loans to reflect the challenged economic condition of our customers. Foreclosing upon a home mortgage is the very last step a bank will take when a home owner is unable to pay their mortgage loan. Banks have been reaching out to their customers who are or will have difficulty making their mortgage payments and they have been reaching out in more creative ways than just by phone and by mail. Banks have been hiring counselors, conducting in-person visits, and reaching out via community meetings. The special characteristics of these modified loans including dramatically reduced interest rates, frozen interest rates, repayment plans, principal forbearance, longer terms, and the "stretched economic condition of the borrower," many times require the bank to hold these loans in portfolio and manage them very carefully for two purposes: protecting the interest of the borrower versus ensuring the safety and soundness of the bank.

While everything that can be done to avoid a foreclosure should be done, it needs to take place in a timely, orderly and structured manner to ensure conformity and see that everyone is treated fairly and consistently. Property values are dropping at record levels and foreclosure becomes a loss mitigation tool for banks attempting to secure, repair and sell properties for the best return possible. We have to remember that this protects the community as well as the

bank, since the properties will be secured and maintained while the lenders attempt to sell them. Many times, the sooner banks get the property the more it will garner at sale, which in turn, helps to preserve the values of other homes in the neighborhoods.

Michigan already has a lengthy redemption period, so the injection of a new process and the possibility of a 12 month judicial foreclosure process may delay the inevitable for some borrowers.

We remain committed to working with you and the House Banking and Financial Services Committee on reducing foreclosures in Michigan, however, we cannot support the following provisions in the bills:

- Insertion of the judicial foreclosure process - the current judicial system is unprepared for the new case load and will unduly delay the process. We understand your belief that a new filtering system will cause few loans to be placed on the judicial pathway; that the non-bankable loans move off to foreclosure by advertisement and only contentious situations will remain in judicial process. Unfortunately, the judicial foreclosure requires 12 months before resolution and that is a delay that is not good for a lender.
- Inclusion of a state agency and a public notification of default – HB 4454 requires that a lender send the notice of default to Michigan State Housing Development Authority and publish for one week in a newspaper. We do not feel that by notifying a state agency and alerting the public that our borrower is in default will be conducive to the successful communication that this package of bills seeks to achieve. The foreclosure process is complicated and stressful for the borrower and publication should be used, as it is today, when the attempts, between the bank and the borrower to avoid foreclosure are exhausted.

Please note that we are aware of President Barack Obama's Homeowner Affordability and Stability Plan. and would ask you and the committee to work with us to determine how the federal efforts will mitigate the need for action here in Michigan. The administration has publicized that the details will be available on March 4<sup>th</sup>. There are three main components of the plan:

- Refinancing for Responsible Homeowners Suffering From Falling Home Prices
- A Comprehensive \$75 Billion Homeowner Stability Initiative
  - A Loan Modification Plan To Reach 3 to 4 Million Homeowners
    - Shared Effort with Lenders to Reduce Interest Payments
    - Incentives to Servicers and Borrowers
  - Clear and Consistent Guidelines for Loan Modifications
  - Required Participation By Financial Stability Plan Participants
  - Modifications of Home Mortgages During Bankruptcy
  - Strengthen Hope for Homeowners and Other FHA Loan Programs
  - Support Local Communities and Help Displaced Renters
- Support Low Mortgage Rates by Strengthening Confidence in Fannie Mae and Freddie Mac

The Michigan Bankers Association can support many approaches to reducing foreclosure in Michigan. In fact, many of the proposals below have had our members working closely with the legislature and the executive branch to assure that they happen.

- Mortgage appraisal fraud penalty increases and appraiser coercion protection.
- Mortgage loan officer registration, criminal database, and mandatory training.
- Consumer protections in the mortgage brokerage and lending process against abusive profiteering. Civil and criminal liability expansions for fraudulent lending practices.
- Expanded MHSDA, FHA, Federal Home Loan Banks, etc. re-financing programs created for troubled but bankable borrowers.
- Expanded government regulation and examination of mortgage brokers and lenders financed with increased fees paid by the broker or lender.
- Accelerated civil foreclosure processes for abandoned properties to confront neighborhood blight and unsafe community conditions.
- Expanded consumer financial education.

Sincerely,

A handwritten signature in black ink that reads "Joelle Demand". The signature is written in a cursive, flowing style.

Joelle Demand  
Policy Director  
Michigan Bankers Association