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Memorandum

To: All House Members

From: Representatives Mike Foley and Denise Driehaus

Date: February 10, 2009

Co-Sponsor Request: New Foreclosure Prevention Provisions

Deadline to Co-Sponsor: 4:00 P.M. Friday, February 13th

We will soon be introducing legislation joint that would offer some much needed assistance to those facing foreclosure. This comprehensive piece of legislation not only seeks to offer transparency to the foreclosure filing process, but provides avenues for homeowners to work out loan modifications and to stay in their homes. Home foreclosures are not slowing down, and the good faith efforts promised by Ohio mortgage servicers have proved ineffective. This legislation is a necessary step in slowing down the foreclosure bleed, and ensuring foreclosed and vacant homes do not continue to kill our neighborhoods.

An overview of the legislation follows.

OVERVIEW OF LEGISLATION

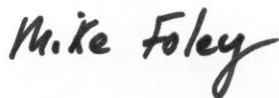
- An emergency 6 month moratorium on all home foreclosures to allow the defense bar/courts/servicers to prepare for the new rules.
- Clarifies the Common Pleas Court's right to modify mortgages as an equitable remedy
- \$1,500 foreclosure filing fee (modeled after recent New Jersey legislation)
- The fee would be charged to the lender/servicer at the time of foreclosure filing. This fee could not be passed on to the homeowner. It would be collected by the county in which the foreclosure is being filed and would be allocated as follows:
 - 10% to Division of Financial Institutions-Consumer Finance (DFI-CF) for enforcement and outreach.
 - 10% to the Ohio Supreme Court for database administration.
 - 40% to local government to be used toward community redevelopment, financial education and credit and foreclosure counseling.
 - 40% to the Ohio Housing Trust Fund to fund statewide foreclosure programs, rescue grants and loans, and homeowner transition money.
- Homeowner foreclosure notice requirement (modeled after recent North Carolina law)
 - All lenders would be required to provide a notice including specified information to the homeowner 60 days prior to their initial foreclosure filing on any residential foreclosure.
- Statewide foreclosure database (modeled after recent North Carolina law)
 - All servicers/lenders must provide foreclosure information to a statewide database prior to filing any residential foreclosure.
- The foreclosing lender/servicer must provide evidence to the court at the time of initial foreclosure filing that this database submission has been completed.
- Requires that ownership of the note and mortgage must be clear and unambiguous before action is filed. Further, if the loan has been securitized, the specific mortgage backed security that holds the loan must be identified in addition to the MBS trustee.
- Requires that the current appraisal of the home's value be filed with the complaint.
- Requires an affidavit of plaintiff's counsel that they directly represent and are authorized to negotiate on behalf of the responsible investor representative. No intermediary representation permitted.
- Homeowner right-to-rent provision (modeled after recent New Jersey legislation)

- This provision would not postpone a foreclosure but would postpone the post-foreclosure eviction. A homeowner would have a right to continue to occupy the home until such time as the lender finds a buyer for the home. The foreclosed homeowner would pay market rent as determined by the court.
- This provision would minimize the number of vacant homes in a community, would address the home maintenance and property value concerns, provides homeowners the opportunity to repair their credit, and would minimize the impact for the families allowing them to remain in the home and school district.
- Additional fees charged by servicers would be limited. This provision would specifically target “junk fees” such as fax fees, payoff demand fees, excessive property inspection fees, etc. (modeled after existing West Virginia law)
- Licensing and enforcement scheme for servicers (modeled after Ohio Mortgage Broker Act)
 - All mortgage servicers not otherwise pre-empted by federal law must be licensed by the state. DFI-CF will have joint enforcement authority with the Attorney General’s office. This portion of the legislation will established minimum eligibility criteria for licensure along with duties and prohibitions similar to what was established with S.B. 185.
- Properties already deemed vacant are exempt from these provisions.

If you would like to cosponsor this legislation please contact Rep. Foley’s Legislative Aide, Kevin Pangrace by telephone (614)466-3350 or email Kevin.Pangrace@ohr.state.oh.us or Representative Driehaus’ Legislative Aide Emma Woodward at (614)466-5786 or email Emma.Woodward@ohr.state.oh.us

The strict deadline to co-sponsor this legislation is **4:00 P.M. Friday, February 13th.**

Thank you for your consideration,



Representative Mike Foley
14th District



Representative Denise Driehaus
31st District