



November 28, 2012  
State Representative Marty Knollenberg  
House Banking & Financial Services Committee Chair  
Anderson House Office Building  
Lansing, MI

Dear Chairman Knollenberg

The Michigan Foreclosure Task Force (MFTF) supports SB 1172 as amended by the Senate Banking & Financial Services Committee effectively extending Michigan's 90-Day Pre-Foreclosure Negotiation Law for six months through June, 2013. While we strongly believe the law should be extended for a minimum of two years, we understand the rationale for the "temporary" 6-month extension which is to keep the current law in place just long enough to allow the new Consumer Financial Protection Bureau (CFPB) to promulgate its rules related to loss mitigation (the rules relevant to this law). The official rules will be made public at the end of January. Once these are made public, we look forward to participating in a work group to determine the longer term future of the law.

In the meantime, we would like to remind the committee that the "90-Day Law" has helped thousands of Michigan families get current on their mortgages, stay in their homes and avoid the foreclosures that continue to devastate neighborhoods and communities, drag down the housing market and slow Michigan's economic recovery.

Michigan is among a handful of states across the country hardest hit by the foreclosure crisis. To date, Michigan has suffered:

- A. \$63 billion loss in property value between 2006 and 2010
- B. 416,000 foreclosure filings between 2005 and 2010
- C. Increase of 211,000 vacant homes between 2000 and 2010 Censuses

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And the crisis continues. Since 2010, Michigan has suffered roughly 60,000 foreclosures a year with over a third of Michigan homeowners "under water" – owing more on their loan than their home is currently worth.

The best way to *prevent* a foreclosure is to require that the lender meet with the homeowner to see if together they can come up with an alternative. Yet 50% of homeowners throughout the nation never contact their lender during the foreclosure process. Michigan's 90-Day Law *requires* this meeting and directs at-risk homeowners to free certified foreclosure prevention counselors. These highly trained

professionals have consistently proven to be the most cost-effective means we have of preventing foreclosures. Specifically:

- A. A 2011 nationwide study by the Urban Institute found that foreclosure counseling nearly doubles chances of mortgage modification.
- B. The same study found that homeowners receiving counseling were more than two-thirds more likely to remain current on their mortgages after curing a serious delinquency or foreclosure than those who did not.

A survey of Michigan's network of these counselors and legal service attorneys in July of 2012 indicated that 89% of respondents believe that the 90-Day Pre-Foreclosure Negotiation Law has had a positive impact and should be extended for up to 3 years. Prior to the 90-Day Pre-Foreclosure Negotiation Law, at-risk homeowners were rarely able to get through to their lenders to discuss alternatives to foreclosure. In the same survey referenced above, 60% cited an increase in the past 12 months in the proportion of their clients able to prevent foreclosure through negotiations with their lenders.

We also want the committee to understand that our enthusiasm for extending this law is based on the fact that it guarantees *ALL* of Michigan's at-risk homeowners, regardless of their choice of loan product or lender, a meeting with that lender to attempt to work something out. It also directs *ALL* of Michigan's at-risk homeowners to the free certified foreclosure counselors which not only increases their chances for saving their home, but also keeps them from falling prey to scammers.

We also believe that the 30, 60, 90 day framework that was written into the current version of the law was a much needed improvement that is fair to both homeowners and lenders because it makes clear what both parties must do and by when in order to comply with the law and to move the foreclosure process forward fairly and expeditiously. This framework requires that a lender make a decision on a loan modification within 90 days of initiating foreclosure thus keeping the process from dragging on unnecessarily.

While credit unions and small community banks have publically argued that they should be exempted from the law, the MFTF sees any exemption as inherently *unfair* because it creates a situation where a homeowner with a loan from an *exempted* entity would lack the protection under the law that a neighbor with a loan from an entity *covered* by the law would enjoy. Worse yet, this inequality would be based on a purchase many homeowners made without any awareness that they would eventually have different legal rights based on the financial product they chose.

Further, a homeowner with a loan exempt from the *90-Day Law* would have no clear legal recourse to challenge foreclosure by advertisement. The exemption of any institution from the concrete expectations and timelines by which lenders must abide under the current 30/ 60/90 day framework would make it unclear as to what constitutes mistreatment of a borrower and, consequently, what circumstances would allow consumers to seek legal redress for wrongful foreclosure. This breach of homeowners' rights would constitute a drastic shift of power from consumers to exempted lenders, opening up the potential for exempted entities to re-establish the exploitative foreclosure procedures which made the law necessary in the first place.

Finally, credit unions and small community banks for the most part base their case for exemption on their reputation as the "good guys". We would like to remind the committee that there are *good guys* and *bad*

guys in every stakeholder group. This certainly includes homeowners and every sector of the lending community - big or small, community-based or big box. The current law with its 30, 60, 90 day framework is good public policy, it applies to *all* parties and is fair to *all* parties and most importantly gives us the best shot at solving the problem it was designed to address - reducing the foreclosures that continue to devastate neighborhoods, depreciate property values, erode the local tax base and slow the recovery of the housing market and the economy as a whole. We urge you to support the 6-month extension and in a few short months to support a longer extension with no exemptions.

The Michigan Foreclosure Task Force looks forward to continuing to work with the committee on ways to respond more effectively to Michigan's ongoing foreclosure crisis and to eventually close this unfortunate chapter in Michigan's history.

Respectfully,

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