Foreclosure Bill Passes Senate, Goal to Expand Loan Modifications

Sen. Richard T. Moore (D-Uxbridge) recently announced he voted in favor on a Senate bill sponsored by Karen Spilka (D-Ashland), to expand loan modification requirements in foreclosures.

Editor's Note: the following is a press release from the office of state Sen. Richard T. Moore regarding Senate passage of a bill to prevent foreclosures.

In their latest effort to establish greater protections for homeowners, Sen. Richard T. Moore, D-Uxbridge, and his Senate colleagues, passed legislation preventing unnecessary and unlawful foreclosures, reducing the number of abandoned properties across the Commonwealth and helping to remove one of the biggest remaining barriers to our ongoing economic recovery.

“The foreclosure crisis is a component of our economic volatility,” said Moore. “While the issues spawning from this unfortunate period in our recent history must be addressed across all levels and branches of government, I am hopeful that this bill will assist in not only ensuring that homeowners are treated fairly in the foreclosure process, but foster an environment in which they can collaborate with banks and lenders to seek a satisfactory, and equitable outcome for all parties,” the Senator continued.

The bill requires banks and other lenders to offer loan modifications to borrowers in certain circumstances to avoid foreclosures. Lenders must conduct a complete financial analysis of the borrower and determine if it would be more beneficial to receive lower monthly mortgage payments or the anticipated recovery from a foreclosure.

There is a 150-day timeframe for deciding whether or not to offer the loan modification which may come in the form of a reduced interest rate or principal, or an extension of the loan repayment period. The modified loans would allow borrowers to stay in their homes, lenders to avoid foreclosure costs and potential market losses, and neighborhoods to avoid the problem of abandoned properties and vacant lots.

Loan modifications would be available for owner-occupied homes and apply to loans that are considered risky, such as adjustable rate mortgages and interest-only loans. The bill compliments the work of loan modification specialists in the Attorney General's Office who assist borrowers in their negotiations with lenders.

Sen. Moore remarked that the Senate's foreclosure bill was a necessary collaboration between the Legislature, under the leadership of Sen. Anthony Petruccelli, D-East Boston, Senate Chairman of the Joint Committee on Financial Serviced, Sen. Karen Spilka, D-Ashland, the bill's sponsor, stakeholders, and Attorney General Martha Coakley, who not only filed the original bill but has made the consumer protection a priority throughout the foreclosure crisis.

Upon passage of the bill, Attorney General Martha Coakley reflected, "The Senate has taken another critical step in our effort to assist struggling homeowners in Massachusetts and ensure that Massachusetts fully recovers from the foreclosure crisis." Continuing, she said, "These first-in-the-nation standards will promote reasonable loan modifications that keep people in their homes without requiring banks to sacrifice the bottom line. We thank Senate President Murray, Chairman Petruccelli and Sen. Spilka for their leadership on this important issue and we look forward to continuing to work with the Legislature to prevent unnecessary foreclosures and help move our economy forward."

The legislation also includes a provision, added by an amendment from Sen. Spilka during the debate, giving borrowers the right to go into mediation with lenders prior to foreclosure proceedings to work out renegotiated loan terms through a neutral third-party. Under the bill, the mediation program will be run by the Massachusetts Office of Public Collaboration at the University of Massachusetts Boston.

The bill also incorporates a recent Supreme Judicial Court decision requiring lenders to prove they are the current legal holder of a mortgage before commencing a foreclosure.

The legislation also does the following:

•Prohibits lenders from passing on to third parties the costs of correcting prior improper foreclosures;

•Prohibits lenders from imposing a fee upon a borrower for goods or services not provided in connection with a foreclosure; and

•Requires the Division of Banks, in consultation with the Attorney General's Office, to track the resolution of certain mortgage loans and report to the Joint Committee on Financial Services within 90 days of the end of each calendar year through December 31, 2017.

In 2010, the Legislature passed legislation that states tenants in foreclosed buildings can only be evicted for just cause and that lenders cannot evict a tenants for failure to pay rent unless a written notice with proper contact information has been posted and delivered. For homeowners, that legislation also temporarily extended the 90-day right-to-cure period, enacted by the Legislature in 2007, to 150 days. The 2007 law gave homeowners 90 days to come up with past due payments on their mortgage before the lender could require full payment of the unpaid balance. This was intended as a cooling off period for the lender and homeowner to work out a new payment plan to avoid foreclosure.