

GEORGE C. JEPSEN  
ATTORNEY GENERAL



55 Elm Street  
P.O. Box 120  
Hartford, CT 06141-0120

Office of The Attorney General  
**State of Connecticut**

Tel: (860) 808-5270  
Fax: (860) 808-5385

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Via email to [gfeeinput@fhfa.gov](mailto:gfeeinput@fhfa.gov)

The Honorable Edward J. DeMarco, Acting Director  
Federal Housing Finance Agency  
c/o FHFA OPAR  
400 Seventh Street S.W., Ninth Floor,  
Washington, D.C. 20024

RE: Supplemental Comments on State-Level Guarantee Fee Pricing (No.: 2012-N-13)

Dear Acting Director DeMarco:

I write to reiterate my opposition to the Federal housing Finance Authority (FHFA) proposal to increase guarantee fees ("g-fees") assessed by the Federal National Mortgage Agency ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") in certain states, as expressed in the comment letter I submitted jointly with the Attorneys General of Illinois and New York. I urge FHFA to withdraw the proposal because it unfairly punishes states that provide important protections to homeowners facing foreclosure.

In addition, I wish to provide supplemental comments on the loan servicers' systematic noncompliance with key statutes and court orders related to Connecticut's Judicial Foreclosure Mediation Program. FHFA's g-fee proposal fails to recognize that it is primarily the conduct of the loan servicers – and not the existence of home retention programs like Connecticut's mediation program – that cause unnecessary delay in the foreclosure process. Although Connecticut's mediation program has prevented hundreds of avoidable foreclosures by helping the parties reach mutually beneficial resolutions, its efficacy is being undermined by the loan servicers' noncompliance with program requirements.

Specifically, the loan servicers routinely fail to comply with statutory provisions and court standing orders designed to ensure the efficiency and effectiveness of Connecticut's mediation program in the following ways:

- Loan servicers and their attorneys fail to prepare: Although court standing orders require the parties to “make a good faith effort to mediate” foreclosure plaintiffs and their attorneys routinely come to mediation sessions unprepared.<sup>1</sup>
- Loan servicer employees lack authority to settle: In contravention of both the statutory requirements and court standing orders, loan servicer employees assigned to mediation sessions lack authority to settle.<sup>2</sup>
- Loan servicers fail to engage with borrowers between mediation sessions: During mediation sessions, loan servicer employees often point to a particular missing or “stale” homeowner financial document as a reason to abruptly end the mediation session without resolving the underlying issues, but make no effort to contact borrowers regarding missing or outdated documents between mediation sessions.
- Loan servicer employees lack knowledge of loss mitigation programs: Loan servicer employees often lack sufficient understanding of the federal loss mitigation programs to mediate in good faith.
- Loan servicer contact persons not available: Although court standing orders require that the lender’s attorney provide the homeowner with lender contact information, homeowners often complain that they are not able to reach a live person by calling the 1-800 numbers they are provided.
- Improper disclaimer on itemization of fees: Loan servicers typically include a disclaimer on the default itemization required at each mediation session stating that the itemization is for “settlement purposes only.” The disclaimer undermines the purpose of the itemization – to provide the homeowner and mediator with accurate and updated account information to facilitate mediation of the issues.

Such noncompliance often results in multiple unproductive mediation sessions and needless extension of the mediation period and is the primary reason that the foreclosure timeline in Connecticut is longer than the national average. It would be patently unfair for FHFA to penalize all Connecticut homeowners for delays in the

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<sup>1</sup> The Standing Orders are available at: [http://jud.ct.gov/external/super/Standorders/Civil/FMP\\_010510.pdf](http://jud.ct.gov/external/super/Standorders/Civil/FMP_010510.pdf)

<sup>2</sup> Conn. Gen. Stat. § 49-31n(c)(2).

foreclosure process caused by the loan servicers' failure to comply with statutory requirements and court standing orders.

The g-fee proposal also fails to recognize that Connecticut's mediation program saves Fannie Mae and Freddie Mac (and taxpayers) substantial sums by preventing avoidable foreclosures. Indeed, the program prevented 9,313 foreclosures during the four-year period from July 1, 2008 through May 31, 2012.<sup>3</sup> Moreover, two-thirds of mediations result in the homeowner remaining in the home. An additional 15 percent of mediations result in other foreclosure alternatives such as a short sale or deed in lieu of foreclosure.<sup>4</sup> Rather than penalize Connecticut by imposing unfair g-fee increases, FHFA should instead work cooperatively with my office and other stakeholders to address the loan servicers' noncompliance with the requirements of the mediation program.

Finally, the FHFA's g-fee proposal also fails to address the myriad other ways that loan servicers' misconduct caused unnecessary delays and other problems in the foreclosure process. Indeed, the claims arising from such misconduct formed the basis of the National Mortgage Settlement between the five largest loan servicers, the U.S. Department of Justice, and 49 state Attorneys General. The settlement servicing standards – which have been in place only since October – along with the FHFA's recent servicing alignment initiative, will minimize future loan servicer misconduct, prevent unnecessary foreclosures, *and* reduce judicial foreclosure timelines. The reforms, however, need time to work. It would therefore be premature, imprudent, and unfair for FHFA to penalize states like Connecticut that proactively put in place statutory protections prior to these reforms in response to the foreclosure crises.

I look forward to working with FHFA to address loan servicer noncompliance with the requirements of Connecticut's mediation program. If you have any questions or concerns regarding my comments or would like to discuss the issues raised herein, please do not hesitate to contact Assistant Attorney General Joseph J. Chambers at (860) 808-5270.

Very truly yours,



GEORGE C. JEPSEN

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<sup>3</sup> Conn. Jud. Branch, Foreclosure Mediation Program Results (2012), *available at* [http://www.jud.ct.gov/statistics/FMP/FMP\\_pie.pdf](http://www.jud.ct.gov/statistics/FMP/FMP_pie.pdf).

<sup>4</sup> *Id.*