

June 30, 2002

Mr. King Burnett
President, NCCUSL
P.O. Box 910
Salisbury, MD 21803-1910

Re: Request to postpone consideration or approval of Uniform Nonjudicial Foreclosure Act to address the concerns of anti-predatory lending advocates and to make the Act more workable for homeowners in foreclosure.

Dear Mr. Burnett:

Enclosed is a request by 10 major national consumer and community organizations and 17 other organizations and individuals asking the National Conference of Commissioners on Uniform State Laws to postpone approval of the draft Uniform Nonjudicial Foreclosure Act at your Summer 2002 meeting.

Many of the organizations seeking this action, including the National Consumer Law Center¹ on behalf of its low-income clients, Consumers Union,² and ACORN have been working against predatory lending for decades. We can bring to your process a comprehensive understanding of the foreclosure process and the circumstances faced by individual consumers in foreclosure. We can identify the myriad of instances in your Act which will unfortunately facilitate the unnecessary loss of homes and permit abuse by lenders. The enclosed letter, which is being sent to all commissioners, describes some of these policy concerns identified by the National Consumer Law Center and Consumers Union.

The problem of predatory lending has been widely discussed across the U.S., including in a comprehensive report by the U.S. Department of Treasury and HUD, and in the media. We hope that NCCUSL understands the importance of not exacerbating the problem of predatory lending by insisting upon advancing this flawed uniform act.

While the industry views judicial foreclosure as expensive and time-consuming, the proposal to replace it with the nonjudicial foreclosure process outlined in your Act is not an equitable or appropriate solution unless important changes are made. We ask the Conference to take a year to work with us to ensure that your Act does not open the door to new predatory practices in foreclosure.

Some of the most significant changes necessary to make your Act an equitable replacement for judicial foreclosure, include:

- meaningful due process rights for debtors challenging the default or the underlying contract must be assured,
- the proposed appraisal process must include minimum standards to ensure a fair price and to disallow excessive lender profit,
- the special problems of predatory lending must be addressed,
- more protections must be added before debtors can be charged a deficiency judgment, and
- other changes are needed to equalize the benefits of the nonjudicial foreclosure process for debtors.

The enclosed letter provides details on these issues as well as some proposed solutions.

We first learned of this Act only in late May 2002. Consumers Union's Gail Hillebrand sent an email to Bill Henning on May 24, informing him that Consumers Union and other consumer organizations might have a problem with the Act. She also provided courtesy notice to the Chair of the Committee and the Reporter by telephone on June 12th.

In the enclosed letter to all Commissioners the National Consumer Law Center and Consumers Union requests that the Act be postponed so that it can be examined and amended to avoid abuse by lenders. Another approach would be for you or the Executive Committee to remove the Act from the summer agenda and direct the Committee to study the

policy concerns raised in the enclosed letter and to work with consumer advocates to address those concerns. If this Act is postponed, both Consumers Union and the National Consumer Law Center commit to work with the Conference over the next year and attempt to add to the uniform language of the Nonjudicial Foreclosure Act essential protections for consumers who have experienced predatory loans and to close certain significant loopholes in the Act.

If you would like to discuss this matter, please call John Rao at the National Consumer Law Center, at (617) 542-8010 or Gail Hillebrand at (415) 431-6747.

Very truly yours,

John Rao
National Consumer Law Center
Boston, Massachusetts

Gail Hillebrand
Consumers Union
San Francisco, California

Lisa Donner
ACORN
Washington, D.C.

Travis Plunkett
Consumer Federation of America
Washington, D.C.

Ira Rheingold
National Association of Consumer Advocates
Washington, D.C.

Ed Mierzwinski
U.S. Public Interest Research Groups

Uriah King
Miami Valley Fair Housing Center
Dayton, Ohio

Raynell Zuni
Community Reinvestment and Development Taskforce
Campaign to STOP Predatory Lending in New Mexico
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Kirsten Keefe
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Ben Diehl
Bet Tzedek Legal Services
Los Angeles, California

Josh Ard

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Kevin Stein
California Reinvestment Committee
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Chuck Roedersheimer
Legal Aid Society of Dayton
Dayton, Ohio

Diane E. Thompson
Land of Lincoln Legal Assistance Foundation, Inc.
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National Center on Poverty Law
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Legal Assistance Resource Center of Connecticut, Inc.
Hartford, CT

Eric Stein
Coalition For Responsible Lending
Durham, NC

Shirley Bergert
Connecticut Legal Services, Inc.
Willimantic, CT

Cc: Mr. Bill Henning

1 The National Consumer Law Center, Inc. (NCLC) is a non-profit Massachusetts Corporation, founded in 1969, specializing in low-income consumer issues, with an emphasis on consumer credit. On a daily basis, NCLC provides legal and technical consulting and assistance on consumer law issues to legal services, government, and private attorneys representing low-income consumers across the country. NCLC publishes a series of sixteen practice treatises and annual supplements on consumer credit laws, including Truth In Lending, (4th ed. 1999) and Cost of Credit (2nd ed. 2000) and Repossessions and Foreclosures (4th ed. 1999) as well as bimonthly newsletters on a range of topics related to consumer credit issues and low-income consumers.

2 Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide consumers with information, education and counsel about goods, services, health, and personal finance; and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life of consumers. Consumers Union's income is solely derived from the sale of Consumer Reports, its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, Consumer Reports with approximate 4 million paid circulation, regularly carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.