



NEW YORK STATE SENATOR

Liz Krueger

Senator Krueger Successfully Amends Foreclosure Law to Help Owners

LIZ KRUEGER June 16, 2010

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Katie Kincaid | kincaid.nysenate@gmail.com | 646-784-0485

(Albany, NY) – In an effort to help homeowners who are fighting foreclosure, State Senator Liz Krueger successfully sponsored and passed new legislation (S7798A) which would amend the New York State Foreclosure Prevention and Responsible Lending Act to further ensure

that homeowners have an adequate opportunity to prevent foreclosure through fair, good-faith judiciary hearings.

“This is a huge victory for homeowners who are struggling to prevent the foreclosure of their homes,” said Senator Krueger. “People who are facing foreclosure deserve the ability to try and negotiate a mutually agreeable resolution and that cannot be done when banks send ill-prepared attorneys to settlement conferences who do not have the power to execute settlements.”

The New York State Foreclosure Prevention and Responsible Lending Act was developed in 2008 to help homeowners with sub-prime mortgages facing foreclosure by creating a court-based, mandatory settlement process, and was amended in 2009 to include all homeowners facing foreclosure. The 2009 law also requires all parties participating in settlement conferences to negotiate in good faith. The intention of this Act was to give homeowners the opportunity to work out a mutually agreeable resolution so that foreclosure could be avoided. Since then, however, numerous reports from homeowners, court personnel and foreclosure prevention organizations indicate that many lenders frequently fail to comply with the law. All too often, lenders send subcontracted attorneys to foreclosure proceedings who have neither the proper documentation nor the authority to execute a settlement. One result of this inadequacy is that only 3% of the nearly 800 settlement conferences which were studied in New York City courts in 2009 resulted in any kind of settlement.

To rectify this loophole, Senator Krueger’s Foreclosure Prevention Amendment states that if a bank twice fails to send a well prepared attorney with the ability to negotiate a settlement, then the homeowner may move to dismiss the case, thus giving them more time to fend off foreclosure. Additionally, the ability to dismiss a case after two fruitless attempts prevents homeowners from wasting their time and money on several more unsuccessful court appearances.

In response to this legislation, letters of support were submitted by NEDAP, the Center for NYC Neighborhoods, and South Brooklyn Legal Services.

“As we all know, banks played a significant role in this foreclosure crisis and it is their responsibility to try to fix the mess they’ve helped create,” said Senator Krueger. “People who are facing foreclosure do not have the time nor the resources to continuously come to the negotiation table without some effort on the part of the banks. With this legislation we hope to force the type of good faith negotiations which should have been taking place from the beginning.”