

March 17, 2021



To the Members of the House Judiciary Finance and Civil Law Committee:

Thank you for the opportunity to provide comments on HF 12, which creates a foreclosure moratorium. The Minnesota Bankers Association is a trade association representing approximately 95% of Minnesota banks, from the largest to the very smallest. We thought it would be helpful to the committee to have an overview of the federal and state actions during the pandemic impacting foreclosures to provide context as you consider HF 12.

Governor Walz issued Executive Order 20-14 in March of 2020, suspending writs of execution and *requesting* that financial institutions holding home mortgages implement an immediate moratorium on all pending and future foreclosures when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in income or substantial out of pocket medical expenses caused by the COVID-19 pandemic. This Executive Order was later updated by Executive Order 20-79, which will expire when the peacetime emergency is terminated.

The suspension of writs of execution during the peacetime emergency means that lenders cannot request that the sheriff's office require homeowners to vacate the home after foreclosure. So, while foreclosures are permitted, they can't be completed unless the homeowner leaves voluntarily. It is our understanding that the Executive Order merely requests lenders to implement a foreclosure moratorium because requiring a moratorium would present significant constitutional issues, such as impairment of contract. To include a foreclosure moratorium in new legislation would not be an off-ramp from the Executive Order 20-79, but rather an entirely new requirement.

It is important to note that there are currently significant federal restrictions on foreclosures. Approximately 80% of mortgages are backed by Fannie Mae or Freddie Mac. Those government sponsored enterprises have barred foreclosures through June 30, 2021. FHA and VA loans are also under a foreclosure moratorium through June 30, 2021. In addition, the agencies have allowed borrowers to request forbearance for up to a full year or more. Those who have had forbearance will be allowed to pay back the money owed gradually, not in a lump sum.

I hope this information is helpful to the Committee. We would be available to the committee to provide more detail on Minnesota's foreclosure process, which has been worked on over the years by all stakeholders to include numerous consumer protections. Please contact us if there is additional information we can provide.

Sincerely,
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