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Playing The Robin Hood Role

Former debt collection attorney now champions mortgage relief

By THOMAS B. SCHEFFEY

A witty colleague in the legislature once dubbed him Ryan “Not-Ready-For-Subprime-Time” Barry. It was funny, but not exactly fair.

The co-chair of the legislative Banks Committee, Rep. Ryan Barry, D- Manchester, cut his teeth on the darkest sides of debtor-creditor practice as a former foreclosure lawyer, and he has proven himself ready and able to help those who are hurting the most.

For the past three years, he submitted a bill to revive the Emergency Mortgage Assistance Program first enacted in the mid-1990s. But the new version gathered little political support, until the mortgage crisis hit full force this year.

The original EMAP was designed to give strapped homeowners a vital hand when they were at the end of their economic rope. But the 1994 measure had only mixed success, and Barry believes it was doomed by two design flaws.

First, participation by banks was optional. Barry’s 2008 version, modeled after a successful Pennsylvania statute, mandates bank participation in the workout process.

A second flaw was that in the original bill, money from repaid loans returned to the state’s general fund rather than remaining part of a revolving EMAP fund.

The measure also had foes in high places. Before he retired in March after a 32-year tenure, Connecticut Housing Finance Authority Executive Director Gary E. King took the position that EMAP wasted human resources and funds. In 2007, the CHFA’s official view was that Connecticut homeowners already had enough “loss mitigation” tools at their disposal.



Gary Lewis

As co-chair of the legislature’s Banks Committee, state Rep. Ryan Barry helped push through legislation that created loan and mediation programs for distressed homeowners.

But by 2008, with 70,000 subprime home loans in Connecticut, 20,000 of which were scheduled to re-set at a higher rate before the end of 2009, Ryan and his banking committee co-chair, state Sen. Robert Duff, D-Norwalk, felt strong new programs were required.

In the final hours of the legislative session, lawmakers passed House Bill 5577, a sweeping initiative that carried \$140 million in mortgage aid over four years, new regulations to fight predatory lending practices, and an inexpensive showcase feature. For \$2.5 million, on July 1, Connecticut launched a first-in-the-nation foreclosure

mediation program, now successfully underway in state courts.

‘Ill-Advised Concept’

In the past year, Barry and Duff both cheered and jeered the efforts of Gov. M. Jodi Rell to battle the impending mortgage crisis. This was many months before it pushed aside all other news with September’s Wall Street meltdown.

At first, Barry said he was honored to be asked to serve on Rell’s Subprime Mortgage Task Force. But after House Speaker James Amann, D- Milford, opined that Barry’s service on an executive board would pres-

ent constitutional conflicts, he sent regrets.

Then, less than two months after Rell's "CT Families" relief effort began offering \$50 million in mortgage aid, Barry panned the measure as an "ill-advised concept" drawn up by too many bankers with too little input from representatives of low-income and minority communities. Duff called the program an "utter disaster" because, after two months and 400 applications, no one had received a new mortgage.

In its initial version, CT Families was limited to first-time homebuyers. They needed a high credit score to satisfy the bankers – a score so high that virtually no one could qualify.

"It was too tight, not progressive enough," Barry said. "We said we had to do more, and I was surprised that the governor agreed. Negotiations went well. Lisa Moody (the governor's chief of staff) was great."

And so as part of Barry's new bill, CT Families was opened to all homeowners in trouble. So was the Homeowners Equity Recovery Opportunity Loan (HERO) program, which aids people whose home values have fallen below their mortgage debt.

Five months after it was first offered, the surprising disappointment in Barry's bill is the revived Emergency Mortgage Assistance Program. To qualify, a homeowner must experience a 25 percent drop in available income. So few people have met the criteria that since July 1 only three EMAP mortgages have been issued. In contrast, 50 homeowners have qualified for the new CT Families program.

Barry says one of his priorities in the upcoming legislative session is to drop the 25 percent EMAP requirement and change the language to a "substantial decrease" in income. Economic hardship can also be triggered by health problems, fuel and food price spikes, and myriad other factors, Barry noted.

Slapped In Face

As a lawyer for the mid-sized Hartford firm of Sabia & Hartley, Barry used to han-

dle collection tasks for a client renowned for squeezing cash from debtors using all legal means. Once, in New Haven bankruptcy court, Barry had a wrenching and transformative experience that prompted him to leave and start his own law practice.

"At one time I had to do an examination in bankruptcy court," he recalled. "I had to ask a debtor about a *New York Times* article that said fifty thousand Holocaust survivors in America were going to get paid reparations from the German government."

The debtor was an 80-year old man, and Barry asked him if he was going to get any of that money. The man unbuttoned his shirt and rolled up his sleeve and said, "Look at my arm." It bore the tattooed numbers from a Nazi concentration camp. The man asked Barry: "Do you want to ask me that question again, sir?"

"My heart dropped into my ankle, I was so mortified. It was awful. It was totally legal to ask that question, but I felt disgusted by the fact I was a lawyer. As I walked out of there, the guy's daughter slapped me in the face; people were screaming at me from the family."

These days, Barry is happier in the Robin Hood role of a lawyer-legislator attempting to create relief in a fast-moving crisis. Duff is also proud of the Banks Committee's accomplishments so far.

"We did in eleven weeks what it took Congress two years to do. We passed a comprehensive bill that addresses the mortgage subprime foreclosure crisis in the state," said Duff. "It's actually affecting the nation. It's so successful that other states are calling [Connecticut] agencies to find out how parts of our bill work."

To date, the most gratifying reports are coming from the foreclosure mediation program, administered by the Judicial Branch. Another innovative feature of the relief bill is a job training program for southwestern Connecticut that helps homeowners fight foreclosures by giving them a new income stream.



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State Sen. Robert Duff said the mortgage relief measure approved by the legislature earlier this year is 'so successful that other states are calling [Connecticut] agencies to find out how parts of our bill work.'

In the upcoming legislative session, which begins in January, Barry expects renewed controversy as he and the Banks Committee tinker with the existing bill and create regulatory tools to battle unregistered mortgage "experts" who prey on homeowners already drowning in debt.

Barry is aware some people lack sympathy for victims of subprime loans, and resent his efforts to help. "There are those who do believe that programs like EMAP just reward those who speculate, or who are not very bright, or who do not ask for professional advice.

"Everyone has different levels of sophistication. Often people get into products that aren't suitable. That's why we put fiduciary duty language into the bill, because the powers of the lenders and the borrowers are so disparate." ■