



# Uniform Law Commission

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

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July 22, 2011

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Dear Bill and Barry:

Thank you very much for the excellent report submitted to the Committee on Scope and Program on behalf of the Joint Editorial Board for Uniform Real Property Acts regarding the JEB's proposal to create a drafting committee on mortgage foreclosure practices and procedures. As you know, this proposal was discussed in conjunction with the report from the Committee on Payment Issues.

The Scope and Program Committee had a very thorough discussion of this proposal. Although Scope did not ultimately recommend that a drafting committee be formed, it did recommend that an *expedited* study committee be formed to examine this very important and timely issue.

The resolution approved by the Executive Committee provides:

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that, in view of the current foreclosure crisis, an expedited Study Committee on Mortgage Foreclosure be formed, and that the committee submit a report for consideration at the January 2012 midyear meeting. The report should identify which issues, including the following recommended by the JEB on Uniform Real Property Acts, should be addressed in a drafting project:**

- Who can commence foreclosure?
- What evidentiary proof is required to commence a foreclosure?
- What pre-foreclosure notices must the mortgagee provide?
- What is the appropriate time and place in the foreclosure process for alternative dispute resolution?
- To what extent are statutory redemption periods warranted?
- To what extent do current foreclosure processes impose unwarranted costs that inhibit a borrower's potential ability to redeem?
- To what extent may private actors fulfill the role of government officials in the foreclosure process?
- What post-sale court process, if any, is required to confirm the sale, and for what purpose?

- **To what extent is the purchaser at a nonjudicial sale entitled to a presumption of the sale's validity based on the trustee's representations of compliance with the state's nonjudicial foreclosure statute?**

**The report should also indicate how the committee proposes to relate the act to existing judicial and nonjudicial foreclosure procedures, and identify areas, without drafting, where any conforming changes to the Uniform Commercial Code would be necessary in conjunction with the project that the study committee is recommending.**

**The report should also address the issues of availability of funding for a drafting committee and potential challenges to enactability.**

We hope to form the study committee shortly. Once the committee is appointed, ULC Executive Director John Sebert will be working with the study committee chair to plan the committee's work.

In the meantime, if you have additional comments or materials to share with us, please forward them to ULC Scope and Program Coordinator Katie Robinson in the ULC office; Katie will make sure that any new material is appropriately distributed. You can reach Katie at 312-450-6616, or [katie.robinson@uniformlaws.org](mailto:katie.robinson@uniformlaws.org).

Please express my appreciation to the members of the JEB for the excellent work it does and the input it provides to the Uniform Law Commission. We are very grateful for the time and effort you and the other members of the JEB put into developing this proposal.

Thank you, as always, for your strong commitment and many contributions to the Uniform Law Commission.

Best regards,



Michael Houghton  
President

Cc: Harriet Lansing, Chair, Executive Committee  
Wilson Freyermuth, Executive Director, JEB for Uniform Real Property Acts  
Fred Miller, Chair, Committee on Payment Issues  
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