



strength in members.

For decades, New York's credit unions have tirelessly worked hand-in-hand with members to attain financial wellness and make their dream of homeownership a reality. Today, however, our cooperative ecosystem faces a threat. A.7737/ S.5473-D, with the laudable intent of protecting consumers, has amended Real Property Law in a way that is so restrictive that it will deter good-faith loss mitigation efforts, inject enormous uncertainty into the housing market and result in individuals owning homes for which they did not pay. If this bill becomes law, it will simultaneously hurt lenders, homeowners, and future homeowners. The New York Credit Union Association **strongly opposes** the legislation.

As drafted, we have serious concerns that non-judicial bilateral toll agreements to seek mutually beneficial resolutions may not be accepted. Specifically, the amendments to subdivision 4 of section 17-105 of General Obligations Laws § 1301 prohibit tolling the statute of limitations.

Reduction and Elimination of Loss Mitigation Options

In a good-faith effort to keep delinquent borrowers in their homes, credit unions participate in loss-mitigation practices. These practices often include forbearance, interest rate reduction, capitalizing arrears, and extending the term of the loan. This process calls for underwriting, a test period, settlement conferences, and more. As such, it is very time-consuming. Good-faith efforts should not come at a steep risk for lenders, but should rather be encouraged and facilitated. A strict accrual period will have a deleterious effect on delinquent homeowners and lenders by compelling lenders to expeditiously pursue foreclosures rather than giving homeowners additional time to potentially reinstate the mortgage.

Increased Costs to New York Homeowners

As a corollary to the increased risk for lenders, credit qualifications and requirements for lending will necessarily be significantly more stringent and discerning. Put simply, there will be limited access to mortgage credit for New York consumers and/or costlier mortgage credit driving affordable housing further out of reach of consumers. The increased risk of loss has historically correlated with the Mortgage Credit Availability Index and has even led to Fannie Mae and Freddie Mac's cessation of purchasing some mortgage products in the state.¹

Applying Changes Retroactively is Legally Questionable, Creates Uncertainty for Lenders and Borrowers

¹ <https://www.housingwire.com/articles/freddie-wont-buy-new-york-subprime-mortgages/>

Lastly, there is legal ambiguity surrounding retroactivity (Section 10). As a result of pandemic-related backlogs and social distancing, auctions have been severely limited to reduce court traffic. Thousands of foreclosure judgments have not been able to finish the judicial sale process. Lenders can potentially face dismissals for aiding members with forbearances during the pandemic using practices that had well-established legal precedence.

Credit unions, having a statutory obligation to serve those of modest means, often serve low-to-moderate-income areas and/or communities of color. Recklessly overturning multiple unanimously decided cases can have disastrous effects of driving up the cost of housing for those who struggle the most. This legislation lacks clarity, rewards bunk litigation, and adds costs to be borne by the consumer. The Act will restrict lenders in the state so much so that, in and of itself, harmful to consumers. For these reasons, I strongly encourage you to **oppose** A.7737-B/ S.5473-D.