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MEMORANDUM IN OPPOSITION

June 1, 2011

**S. 667 Peralta (Senate Judiciary Committee)
A. 626 Weinstein (ON ASSEMBLY DEBATE LIST)**

AN ACT to amend the real property law, in relation to the recording of a transfer or assignment of a mortgage interest

This memorandum in *opposition* is written on behalf of our client, the New York Bankers Association. The Association is comprised of the community, regional and money center commercial banks and thrift institutions doing business in New York State. In aggregate, members of the Association employ approximately 250,000 New Yorkers and hold more than \$9 trillion in assets.

The New York Bankers Association opposes this legislation that would create one more unnecessary, burdensome, and possibly unattainable hurdle to the mortgage process in New York, thereby making it even more difficult for our struggling housing market to recover.

This proposed legislation would (i) prevent recording officers from recording or accepting for recording any mortgage or assignment thereof made to a non-natural person, unless accompanied by a mortgage ownership assignment document, which form would be required to be recorded no later than 90 days after the date of the acknowledgment or proof of such instrument; and (ii) subject the mortgagee or assignee who fails to comply with this requirement to a \$250 penalty. This new requirement would add another layer of unnecessary paperwork to the mortgage process in New York, creating administrative burdens for lenders and recording officers alike. Moreover, as many jurisdictions in the state already are months behind in mortgage recordation, this legislation, adding yet another set of paperwork to the process will only exacerbate this situation. Additionally, because of the possible recordation backlogs, mortgagees and assignees could be subject to substantial noncompliance penalties for failing to meet a deadline over which they may have no control. Thus, this requirement will serve only to fuel increased costs in the mortgage process, further discouraging mortgage lending and borrowing, and chilling the economic recovery of our State.

For all these reasons, we **oppose** this legislation and urge that it be held.

Respectfully Submitted,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP