COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMERCE

Public Hearing re: Financial Services and Banking

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Stenographic report of public hearing held
at Independence Visitor Center
Philadelphia, Pennsylvania

Friday
May 11, 2007
10:00 a.m.

HONORABLE Peter J. Daley, MAJORITY CHAIRMAN

MEMBERS OF HOUSE OF REPRESENTATIVES

HONORABLE Michael McGeehan
HONORABLE Curtis Thomas
HONORABLE Mark Longietti
HONORABLE Joseph Brennan
HONORABLE Chris King
HONORABLE James Wansacz
HONORABLE John Siptroth
HONORABLE Thaddeus Kirkland
HONORABLE Christopher Ross
John Scarpato
David Callen

CLASS ACT REPORTING AGENCY
Certified Shorthand Reporters & Videographers
1420 Walnut Street
Suite 1200
Philadelphia, Pennsylvania 19103
(215) 928-9760

# I N D E X

## E X H I B I T S



## REQUEST FOR PRODUCTION

(Whereupon, the proceeding
commenced at approximately,
10:00 a.m.)

CHAIRMAN DALEY: Ladies and gentlemen, I am going to call the meeting of the House Commerce Committee, this hearing, to order. It is 10:05, we are five minutes behind schedule, but we will make that up as we go if you know how I run a meeting, we usually run it pretty tight.

My name is Pete Daley, I am the majority chairman of the committee and I am going to welcome everyone to this hearing, this is the third in a series of hearings, the first of which was in Carnie (phonetic) outside of Pittsburgh, approximately three weeks ago, last week we had the opportunity to meet in Stroudsburg to hear testimony there, and, of course, we are here in Philadelphia, today, to have testimony. We may or may not have a fourth hearing in the Harrisburg area.

We have been dealing with House Bill 1079 through 1084, and that is the purpose of the hearing.

We have a number of people testifying. If you have any testimony you can hand it up; if you do testify, our stenographer to my right would wish that you do not shake your head and you have to say yes or no and articulate a head shake or a head bump.

I would like to introduce the people and start with them down the line. John Scarpato, Research Analyst; Representative Chris Ross who is the Minority Subcommittee Chairman from Chester County; Representative Thaddeus Kirkland from Delaware County; Representative Mark Longietti from Mercer County; Representative Michael McGeehan from Philadelphia; I am Peter Daley the Majority Chairman; David Callen, Majority Executive Director; Representative John Siptroth from Pike and Monroe County; Representative Jim Wansacz from Lackawanna and Susquehanna County; Representative Chris King from Bucks County; Representative Joe Brennan from Lehigh and Northampton County.

Representative Mike McGeehan, Subcommittee Chair on Financial Services and Banking is going to address you for a few moments.

REPRESENTATIVE McGEEHAN: Thank you very much, Mr. Chairman.

As I look around this hearing, it looks as though I am the only Philadelphian representing here, today.

I want to thank you for bringing this hearing to Philadelphia and thank you, Mr. Chairman, personally, for putting this on the agenda. I want to thank my colleagues for making the effort to be here.

This is not just, as you heard, in Philadelphia, but around the Commonwealth. I want to thank Representative Longietti, who is coming from Erie County to be here. For any Philadelphians who don't know, it is seven hours away by car, so we have to thank him and the other committee members for being here.

Chairman Daley takes this very serious, as he should. This is, as you heard Director Hudson explain, banking as it relates to lending and to home ownership and to the foreclosure surrounding -- a very serious issue that affects, literally, every Pennsylvanian, whether you are subject to foreclosure. Banking has an affect on neighborhoods and has an affect on the City and the entire Commonwealth of Pennsylvania.

So, even though you may not be facing a foreclosure, it is an important issue for you and where you live and where you are -- continue to live during your life.

So, I want to thank Chairman Daley and Representative Hess for including Philadelphia in these important hearings.

CHAIRMAN DALEY: Thank you, Representative McGeehan, who is the subcommittee chairman on financial services and banking and prime sponsor of House Bill 1082.

I would like to introduce Mark Longietti, who is the prime sponsor of House Bill 1081, which is another bill that we are going to be having today.

REPRESENTATIVE LONGIETTI: Thank you, Mr. Chairman, for the feedback there.

I certainly appreciate being out at this hearing this morning, and as Chairman Daley indicated, I am prime sponsor for House Bill

1081.

The subprime mortgage crisis has ushered in the need for reform in lending. While the vast majority of lenders are ethical, it is time to crack down on the unscrupulous players. Stronger oversight of the appraisal process is a key component to real reform.

House Bill 1081 will provide for the necessary oversight. It will clarify that a civil court finding of a fraudulent appraisal is grounds for disciplinary action, including revocation of a certificate where licensed to appraise. It will also add the Attorney General to the appraiser's Oversight Board, and thereby, send a clear message that fraudulent conduct will not be tolerated.

And, finally, it will add teeth to the penalties by increasing the maximum penalty from $1000 to $10,000.

And, so, I think that this bill, along with the package of bills, is the reform that we need.

Thank you.

CHAIRMAN DALEY: Thank you Rep Longietti.

Our first person to testify today will be Mr. William McCloskey, president of WJM Commercial Lending. Will he, please, come forward.

We have a copy of Mr. McCloskey's testimony and if anyone needs it, we have copies, I think, in the back.

Please use the microphone and pull it close to you and you may begin.

MR. McCLOSKEY: Thank you Chairman Daley.

I was employed in the residential mortgage industry from late 2002 to late 2005. I worked at a large national conforming lender, various mortgage brokers and mortgage banks and two large national direct lenders that dealt primarily with subprime mortgages.

To my dismay, I found that it was impossible to make an honest living at the two national subprime lenders. I can give an honest account of how unspeakative lenders operated due to my experience at these two companies. One of my companies, a non-publicly traded, a national mortgage lender, fired me in early 2005 after I reported the fraud I witnessed at government agencies. The fraud that I witnessed included: blatant kickbacks to appraisers, forgery of documents during the origination process and underwriting, the up selling of loans with exorbitant origination fees, the doctoring of title reports, the placement of customers into unsuitable loans, overstating customers income for stated loans, whisking customers to the closing table as quickly as possible.

Subsequent to my termination, I filed a complaint with OSHA and the Department of Labor under the whistle-blower provision under the Sarbanes-Oxley Act of 2002 and I won a judgment before an administrative law judge. In spite of the fact that my former company was not publicly traded, I am currently appealing my award for damages.

Because of my abrupt termination in 2005, I had to immediately find work. Two weeks after my termination I was hired at a legitimate mortgage banker in New Jersey. It was a good company, but it was going through a transition period and it would have taken me at least a year to obtain a substantial income.

Because of this, I forwarded my resume to several national lenders and I was eventually hired at a national lender that was a division of a huge publicly traded company.

In my interview with this company, I was told I would be originating subprime loans. After about two weeks on the sales floor, I realized that a large percentage of my customers fell into the Alt-A range. However, the company priced the loans with a proprietary pricing module, which was a rate-driven tool consisting of about 8 to 10 subprime lenders. Hence, the company priced all of their loans as if the customer fell into the subprime category because they did not have an Alt-A pricing module.

The only way that I could have kept my job at this company was to price most of my loans with three or four points and a five year prepayment penalty, or place customers, some with a middle credit score above 540, into a 2/28 ARM with a prepayment penalty.

At one point I was attempting to price a refinance loan for a customer with a middle score credit around 640, a low debt-to-income ratio and a 90 LTV. The customer did not have any late payments on his mortgage, so I attempted to put him in a 30-year fixed. I asked the senior loan officer for advice. His exact words were, "You don't want to put this guy into a 30-year fixed. If you want to get a customer a great deal, then go work for a bank. If you want to make money here, you are going to have to sell people on a 2/28 ARM with a 3-year prepayment penalty."

This particular loan officer had awards for good salesmanship on his desk. I was appalled by this because a 2/28 ARM is strictly reserved for a customer with a credit score below 540 and on the verge of bankruptcy and without a 3-year prepay, which defeats the purpose of the loan.

Because this company was, essentially, up selling the majority of the customers, I abruptly resigned after a full week tenure. Subsequent to my resignation, I filed a complaint with the State Attorney General and the Department of Banking. I did not register a complaint with OSHA and the Department of Banking (sic) under the whistle-blower provision of Sarbanes-Oxley because I resigned and because I was already involved in a major SOX case against my former employer.

I did, however, inform both government agencies that my former company was violating Section 404 of Sarbanes-Oxley. Because securities fraud was out of the Attorney General's jurisdiction, my complaint was forwarded to the SEC.

Because of my two negative experiences, I decided to temporarily leave the mortgage business at the end of 2005 to start my own business. I attended classes, including the class of business plan writing at the Wharton Small Business Development Center, which is sponsored, in part, by a grant by the Commonwealth of Pennsylvania, Department of Community and Economic Development.

I now own a commercial brokerage and I am an executive partner with the direct lender. I am backed by over 25-years experience through my lending partner and they give me all the training and support that I need to be an honest commercial broker. I also obtained additional training in order to be a competent commercial originator.

Over the past seven months I have written articles for mortgage industry publications, such as Scotsman Guide and Broker Magazine. I am also involved with Mortgagetrap.org, a site collectively constructed by residential mortgage advocates committed to putting professionalism, integrity, honesty and education back into home lending.

In my articles, I have written about the lack of professionalism throughout the subprime industry. Because I established a prima facie case of discrimination under the Sarbanes-Oxley Act of 2002 against a national subprime lender, I have written about using the act as a regulatory tool for the industry.

I am not a proponent of the act as a whole because it was, in many ways, an overreaction to the Enron scandal. However, I did become a quasi-expert on the whistle-blower provision of the act because I initially represented myself before the Department of Labor. I had to do most of the research on my own.

By using due diligence to research the whistle-blower provision of SOX, Section 806, I discovered that companies that issued asset-backed securities have a reporting obligation through, either, 13(a) or 15(d) of the Securities and Exchange Act of 1934, at least for a period of time. All subprime loans are pooled as, either, asset-backed securities or mortgage-backed securities, which are a type of asset-backed securities.

If a mortgage company issued asset-backed securities on the open market and remains the master servicer of the loan pool, the company does not have a suspension of duty to file reports under Section 13(a) and 15(d) of the Securities and Exchange Act of 1934.

Because of this, an administrative law judge and the Department of Labor ruled that I established a prima facie case of discrimination. It is my hope that my case sets a precedent for the mortgage industry.

I reviewed House Bill 1079 through 1084 and they do not contain anything about suitability standards.

In the January edition of Scotsman Guide I wrote, "The federal government has been trying to get mortgage companies to tighten their lending standards for years. But instead of cracking down with tough rules, they chose to use guidance, which many lenders ignored.

"Weak federal laws could preempt strong state laws against predatory lending. Therefore, the first line of defense consists of honest employees of mortgage companies who have witnessed fraud and predatory lending and who are willing to take action.

"When stockbrokers pitch a security, industry rules require them to consider if it is suitable for the customer. When loan officers pitch a mortgage program, however, they do not have to abide by any real industry standard.

"When the Sarbanes-Oxley Act was signed into law in 2002, it essentially transferred the concept of suitability from the securities industry to the mortgage industry, because the two industries are intertwined (i.e., mortgage-backed and asset-backed securities)."

I have sent copies of my article to Congressman Barney Frank. Congressman Frank is proposing a bill that would, essentially, shift legal liability to the investors who buy mortgage-backed securities. Investors have limited control over what goes into the mortgage pool. When pension funds buy mortgage-backed securities, they can analyze, to some degree, the default risk. But how can they analyze the appropriateness of the purchase or refinance of the homebuyers? This is, essentially, up to the originators, processors and underwriters at mortgage companies.

As I wrote in the January edition of Scotsman Guide, "There can be negative effects on the secondary market as well as on pension funds. First, the value of those loans that are sold on the secondary market and pooled as asset-backed securities or mortgaged-backed securities could be lessened or become worthless.

"In addition, a large public or private pension fund may have billions in assets, but if it invests in mortgage-backed or asset-backed securities that are lessened or go belly up, the average American could get hurt."

It is my hope that another PA house bill would include a provision for suitability standards based on the whistle-blower provision of Sarbanes-Oxley. This could set a precedent for a strong federal bill, and, hopefully, Congressman Frank will take notice.

Thank you.

CHAIRMAN DALEY: That you Mr. McCloskey.

Questions? Representative McGeehan.

REPRESENTATIVE McGEEHAN: Thank you very much, Mr. Chairman.

Mr. McCloskey, what was the outcome of your complaint to the Attorney General?

MR. McCLOSKEY: My complaint to the Attorney General was forwarded to the SEC. They informed me that it is not their obligation to inform me whether there is an investigation or not.

REPRESENTATIVE McGEEHAN: That is part of the problem.

MR. McCLOSKEY: Part of the problem, yes.

REPRESENTATIVE McGEEHAN: Thank you.

CHAIRMAN DALEY: Members with questions?

David Callen.

MR. CALLEN: Thank you, Mr. Chairman.

Bill, just for the sake of the members, I wonder if you could explain a little bit about what an Alt-A mortgage is?

MR. McCLOSKEY: Alt-A would be somebody who was in the B paper range.

So, essentially, what the direct lenders were doing, that I worked for, they were placing the customers into D paper, and that was mainly because it generated more revenue and it would help the loan officer make their commission for the month, and it also -- they were also more appealing to the investors on the open market because they generated more revenue. So, they generated more cash for the company, more commission for the originator and they were more appealing to the investor.

So, that is why I feel suitability

standards should exist in the industry. That is part of the problem.

MR. CALLEN: So, what you are saying, if I can translate that, is, Alt-A is between prime and subprime.

MR. McCLOSKEY: Yeah. Somewhere in between there, prime and subprime.

For instance --

MR. CALLEN: But people would be pushed down into the subprime?

MR. McCLOSKEY: That's correct. They were placed in subprime programs and they didn't belong there. So the entire issue isn't whether or not people couldn't afford their house, I think a bigger issue is that a lot of people who had decent credit were placed into D paper and it made their situation worse.

The goal of the loan officer is to act as a consultant and put the customer into a much better financial situation then they were before they did a refinance. Which wasn't the case of the two direct lenders where I worked at; it was all about generating the most revenue.

CHAIRMAN DALEY: Any other questions?

Mr. McCloskey, thank you for your testimony, it is quite interesting, to say the least, of your personal testimony and how it has affected your life and how it has affected many people in this country, not only in Pennsylvania.

We will be talking to you in a more private setting to get further details from you in terms of the possibility of introducing other legislation regarding this issue.

Thank you very much.

MR. McCLOSKEY: Thank you very much Chairman Daley.

CHAIRMAN DALEY: The next group to testify will be Mr. John Dodds and George Gould, Esquire and he is with the Philadelphia Unemployment Project and Mr. Ian Philips of ACORN.

As we've stated before, pull the microphone close so the whole audience can hear.

It is up to you whoever starts; it is up to you.

MR. RUSSELL: Sorry I am not John Dodds, I am Brady Russell. I work for John.

CHAIRMAN DALEY: How do you spell your name, Mr. Russell?

MR. RUSSELL: B-R-A-D-Y R-U-S-S-E-L-L.

CHAIRMAN DALEY: That was just for the record.

MR. RUSSELL: Poor substitute, but I will do my best.

In September, the Philadelphia Unemployment Project testified before the Department of Banking on its proposed rule making under existing laws for the conduct of mortgage originators and brokers. At that time, we brought Mr. John Ivey to testify on the conduct of People's Choice Home Loans, an institution now in bankruptcy. People's Choice promised Mr. Ivey that he would be able to pay off a number of his bills and come away with $5000 in cash for home improvements. At his age and his income level, the deal was ill-advised. In order to make sure Mr. Ivey did not reconsider at closing, People's Choice did not send a representative and forbid the title agent from answering any questions at the time of the closing.

People's Choice then, promptly, sold his loans to Homecomings Financial, thereby washing their hands of any responsibility to Mr. Ivey for the outcome of his loan.

Before I continue, I just want to draw everybody's attention, if you have my testimony with you, if you don't, you can look at it later. We have a number of cases in the back of our testimony, people who have come to our organization, we've provided housing counseling, primarily, on getting people out of foreclosure. And this is a few that really agree -- there are cases in here, they are all relevant to the issue before you today. But, again and again, the theme that you will see, is people who really weren't bringing in that much money, being given loans that, in many cases, weren't affordable at the time, but that definitely weren't going to be affordable much longer.

I had a fellow in the Germantown area who bought a very expensive house in 2005, Mr. G.;

he is earning about $2000 a month working two different jobs and his payments were about $905 a month. $905 a month actually doesn't even cover the interest on his loan. So, he is losing ground every month, but that is all he can do to stay current.

This is the thing that happens all the time. The unfortunate thing in Philadelphia, you know, we actually have houses that he could have afforded at that level of income, and that he would have gotten a mortgage on, but the broker just didn't give him that kind of advice.

So --

CHAIRMAN DALEY: Mr. Russell, what we are going to do is attach that as an addendum to the testimony and mark it as Committee Exhibit-1.

(Whereupon, documents were marked for identification as Exhibit Committee Exhibit-1 and Committee Exhibit-2.)

MR. RUSSELL: Great. And if anybody wants any more information on any of these cases, you are welcome to call us and you can, you know -- we will try to put you in touch with that homeowner. I can't promise I will be able to, but we could try.

So, going on, Mr. Ivey has managed to keep his loan current, though the refinance has moved him from a fixed rate to an adjustable rate, so, whether or not he will be able keep up remains to be seen.

He did not receive the $5000, he only received a few hundred. And while People's Choice did pay off several of his bills as the refinance, they did not pay off the most important debt of all --

CHAIRMAN DALEY: Mr. Brady (sic), could I ask you to do me one favor.

MR. RUSSELL: Sure.

CHAIRMAN DALEY: Our stenographer's fingers have just fallen off --

MR. RUSSELL: I am going too fast, like I always do.

CHAIRMAN DALEY: Yeah. I thought you were from Western Pennsylvania the way you are talking so quickly. I have been scolded for 25 years, so, please, slow down.

MR. RUSSELL: No problem.

CHAIRMAN DALEY: She is going to file a worker's compensation claim.

MR. RUSSELL: I have had the same problem my whole life; sorry.

So he didn't receive the $5000 that he was promised, and they also didn't pay off the most important debt that he had, that is, at closing, he still owed $2000 to Chase Bank, the lender, because they failed to close within the closeout period that Chase Bank first sent him.

So, now, he has retained an attorney at his own expense to clear his obligations with Chase Bank and with Homecomings Financial.

Mr. Ivey is still in his home, but that is not the case for thousands of victims of predatory lenders.

The enormous flexibility of today's financial markets allow many of these to work out means to make a profit, draw down bonuses and leave behind doomed loans that hollow out neighborhoods and, eventually, shock our stock markets and our investors, who are indirectly exposed to thousands of loans with little hope of getting repaid. But what happens to the predatory lenders? In the case like People's Choice, when the economy turns, the atmosphere becomes less conducive to this sort of business practice, they simply get out of the market. But I can assure you that the individuals involved got paid.

I can understand if this body is reluctant to place restrictions on businesses that you fear might inhibit a strong business climate, but is this really the sort of business that we want in our state? In fact, in a report last year from the Center on Responsible Lending, it gave us some cause for hope. That report, The Best Value in the Subprime Market, showed that one government restriction in particular actually had the effect of improving the commercial climate, that is, the report showed that when states acted to ban prepayment penalties, as one of the bills before us does, the average interest rates of all home loans in the state dropped.

While the report made no claims to know

the exact causality of this general drop in interest rates, as students of the industry, the authors were able to make an educated guess. In many states, brokers were able to increase the bonus they get from banks for closing a loan through the use of yield-spread premiums. These premiums are larger bonuses paid to brokers for steering borrowers to higher interest rate loans than that which they qualify for.

It is a sickening business practice, but one hamstrung by bans on prepayment penalties, because without them, lenders have no way to be sure that they will actually make back the extra money that they gave to the broker.

So, without prepayment penalties, more borrowers, even in the prime market, gets the lowest interest they qualify for and everyone comes out ahead.

So, applaud the General Assembly for finally taking on the predacious side of this industry. As an organization primarily focused on the unemployed and jobless, the issue of keeping up with mortgage payments in times of economic downturn have always been an important one to us. We were there at the advent of the Homeowners' Emergency Mortgage Assistance Program, or HEMAP. This is a commonsense program that grew out of a horrible recession in the '80s, when qualified workers went unemployed for two or three years.

HEMAP was a real innovation in public policies. I don't know of any other state that has a similar program, and they are missing out. It has been an excellent tool for preserving homeownership, but the problem with HEMAP is, is that it doesn't directly address the issue of the subprime market.

We were very gratified to hear this morning that Mr. Hudson and this body here, is considering a plan to be able to deal with the people who are in the subprime problem right now.

This legislation, looking forward, is fairly strong, especially combined with the proposed regulations the banking department has put out to deal with issues like affordability.

With that said, it doesn't deal with the issue of where people are at today, the people who are already in these loans.

So, HEMAP hasn't been able -- and the current problem with HEMAP, we just want to draw the folks attention to -- and I know it is a little bit off the topic, but as we work with people every day on HEMAP, we also want to make sure this body is well aware that right now, HEMAP isn't even keeping up with the caseload of traditional mortgages gone awry.

Currently, we see too many of our clients rejected for HEMAP who, in prior years, would have been approved. We are currently at, about, 27 percent approval rating for HEMAP right now, and only five or six percent of those folks get ongoing assistance. So, that is, most people who go in for HEMAP get bailed out just before a sheriff's sale for whatever they are behind on, whereas, once upon a time, HEMAP was originally designed to help people keep up with their mortgage during the time they are out work, if they had a reasonable chance of getting a job again.

The numbers should be lower because the

economy isn't that bad right now, but it should also be higher than five to six percent.

So the final thought I want to put before this body, and I am sure a few folks have already said this this morning, and I think the important consideration to take in, when you are looking at a package to reform the mortgage industry and forbid certain practices in the subprime market is this: it is easy to judge people who fall behind on their mortgages. Some people really do make poor decisions because they want money now, others don't understand, others talk themselves into an unaffordable mortgage and a lot of them are manipulated or even lied to.

But at this point, judging the individuals is beside the point. At this point, it is costing all of our towns and cities, all of our investors and homeowners living next to an empty house. It is costing all of us, so please, do take action.

Thank you.

CHAIRMAN DALEY: Thank you very much. Let me introduce Representative Curtis Thomas, prime sponsor of house Bill 1080, that just joined us.

Welcome Representative Thomas. Do you want to say a few words before we go to the next individual to testify?

REPRESENTATIVE THOMAS: Yes. Let me first thank you, Mr. Chairman, Commerce Committee, my colleagues and all of the presenters and guests here this morning.

I am excited about the fact that we are taking this step forward to try and get a handle on this industry. As you know, here in Philadelphia County, we are witnessing thousands of mortgage foreclosures monthly. Not annually, but monthly. And we are witnessing this rise in mortgage foreclosures in neighborhoods that can least afford to see this kind of economic decline. We have spent a lot of money, here, in Philadelphia, to try and rebuild neighborhoods and reverse the systemic blight which has occurred in many neighborhoods. We do not need to revisit this issue of blight, and I think that it is important that we go forward. The Department of Banking has provided some vision and some guidance in the kinds of things we need to do.

I am going to be working hard to try and make sure that House Bill 1080 becomes a reality because I think that when we look at the predatory lending market and how that market is driving a lot of these mortgage foreclosures, one issue that becomes of paramount importance is, how do we track and how do we keep up with people out there who are just out there to take advantage of folk who might not understand, or folk who are not in a position to understand what's going on.

And, so, what 1080 does, is provide a licensing scheme that requires you to do licensing if you are out there operating in a second mortgage market, it requires some education and it requires some reporting. And we think that through the licensing, through the education and through the reporting, that we will be able to do a much better job as a Commonwealth in tracking these predators. And, you know, I hate using that term, but that is what it is.

And I sit here with dire testimony. You know, my daddy is 87 years old and just a couple of years ago, somebody came to his house and gave him $40,000, to be paid back over 30 years. Now, he is -- he will be 88 come September the 19th. He should not have been given this loan, and this loan has a balloon payment, this loan has a number of excessive fees attached to it.

And, you know, I said to him, I said, you know, Pop, you sent me to law school, why didn't you call me and say something to me. But he said that the people came to his door and made an offer that -- and you know, he asked a question, I am 87, you know, can I do this in less than 30 years; and they said no, we want to give you 30 years so that you have more than enough time. Where, from the grave, you know, to pay the note back.

So, something has to be done. And my father is not an isolated example of what's going on in Hunting Park and Logan and Germantown and parts of South Philadelphia, Frankford, Bridesburg and neighborhoods throughout Philadelphia, and it is not just endemic to Philadelphia, it is across the Commonwealth of Pennsylvania.

So House Bill 1080 is part of a package that will allow us to get a handle on this situation and, basically, say to folk, that if you are not willing to do fair and honest business in the Commonwealth of Pennsylvania, then find another state to do your business, but we don't want you here in Pennsylvania. We value the hard working people of Pennsylvania and there is no room here if you are not willing to do business honestly and above board.

And so, again, Mr. Chairman, I thank you and I ask that we go through this hearing today and leave here with -- enthusiastically committed to shutting this stuff down as soon as possible so we will not have to witness any more people harmed by this predatory lending market. And, yes, PHS, Emergency Mortgage Assistance Program is something that we have to increase. I see some states are talking about floating bonds, and refinancing some of these deals out there to help people.

So, I guess coming in late, I didn't know that we already talked about that, but let me reiterate my support for that.

And, again, I thank you and thank my colleagues, Representative McGeehan, for us moving forward on this.  Thank you.

CHAIRMAN DALEY:  Representative Thomas, thank you for your testimony and presentation, especially your personal testimony, because we have known each other for a long time and I knew you were tremendously enthused about this issue.  Now I understand the personal ramifications in your life that creates part of that enthusiasm and thank you for letting us and the committee know, as well as the public.

I think George is the next person testifying?

MR. GOULD:  My name is George Gould, I am a managing attorney for Housing at Community Legal Services, and for the past, almost, 20, 25 years, I have represented the Philadelphia Unemployment Project, and both of us have been substantially involved in the mortgage foreclosure issue. PUP was instrumental in getting the HEMAP program passed in 1983, an extremely important program in the Commonwealth.

Everyone is extremely happy to hear the news today, and, also, we congratulate the committee for taking such great interest in going around the state and looking at this issue. It is an extremely important issue and something has to be done immediately.

I think the Commonwealth is extremely fortunate that we are -- have someone of the caliber like Brian Hudson running our Pennsylvania Housing Finance Agency. He is on top of this issue, he understands the issue, he knows what kind of program is needed to help folks out, so I think that we are very lucky in the Commonwealth to have someone like that around.

We do have some concerns, however. We are fully in support of the bills. The bills and what the Banking Department is doing is certainly a step in the right direction. There was mention earlier of trying to put into the legislation a suitability clause, which basically means, when a mortgage is lent, it is suitable, it will benefit the homeowner. Obviously, many of these mortgages do not do that. And there is discussion nationally, and I think this committee should look at, imposing some sort of suitability standard with homeowners or mortgages.

The other thing that I would like to mention, this $25 million fund, rescue loan, is extremely important, it can go a long way in helping a large number of people.

The voluntary moratorium may be a first step, but we are very concerned that that may not work. While some mortgage companies may go along with it, many may not, and what happens to the homeowner who is in this situation and ends up getting stuck?

Finally, the other issue is that the mortgage companies being allowed to go up to the sheriff's sale. Well, the problem with that is, that when a mortgage company files a foreclosure, they go out and get an attorney. There is attorney's fees, there is costs in filing the complaint and it ends up -- it could be thousands of dollars that the homeowner must pay in addition to whatever problems they are having on their mortgage.

So, we would suggest some kind of a mechanism like the HEMAP program has, where the mortgage company is not able to institute any proceeding until the appeal of the case is looked at, to be decided whether or not they could get assistance.

We have an existing program in Pennsylvania that applies to every mortgage that has been foreclosed, and maybe what we need to do is, take a look at that program and see whether or not there could be some mechanism where folks with subprime and predatory lending, when they apply to PHFA, if they may not be eligible for HEMAP at that point what can happen is, they can be targeted to this rescue loan, which PHFA is putting up. And if we put something in the law that makes it clear that these laws are also applicable, it effectively could stop most of the foreclosures and give the state an opportunity to review cases to determine whether or not someone is able to get one of these rescue loans.

So, that is the suggestion that we would make.

CHAIRMAN DALEY: Thank you, Mr. Gould.

Ian.

MR. PHILLIPS: I would first like to thank the members of the committee and the sponsors of this legislation.

I would like to call up Miss Patricia Lewis-Bryant and Mr. Darren Evans. I believe Mr. Evans may have had to step out due to his daughter's school calling.

They have predatory lending stories that they would like to share with you.

MS. BRYANT: Good morning.

CHAIRMAN DALEY: Ma'am, can you identify yourself for the record and spell your name?

MR. PHILLIPS: Patricia Lewis-Bryant, B-R-Y-A-N-T.

I live in Southwest Philly. I am a victim of predatory lending. I went to refinance my home, and when we realized what was happening, we would have to pay 18 percent, so what happened was, they sold it to another mortgage company and then our mortgage went up, and we said, let's refinance again.

CHAIRMAN DALEY: What mortgage company did they sell it to?

MS. BRYANT: Tabor (phonetic) sold it to Fair Banks, and then Fair Banks sold it to Select.

CHAIRMAN DALEY: Select.

MS. BRYANT: Select.

So, when we refinanced, we got it down to 11 percent. I lost my job. So it was only one income coming in, so we had to end up going into foreclosure, so, from that I said, well, we can't lose our house, we don't have anywhere to go. So we made the forbearance agreement. But for the forbearance agreement, I had to pay $4000, then I paid 1,165 in a month.

CHAIRMAN DALEY: The forbearance agreement you paid $4000 up front?

MS. BRYANT: Up front.

CHAIRMAN DALEY: Once you signed the agreement, at the time of signing?

MS. BRYANT: Yes.

CHAIRMAN DALEY: Okay.

MS. BRYANT: And then it is for 12 months, July, if we make it, July will be the end of the forbearance agreement. But we have nothing in writing saying that after that, our mortgage will go back down.

Also, we did get HEMAP. We did get them. But what's happening is, we are paying 1,065.06 a month. That is behind.

Now, my gas is not shut off, but it is a lien on my house because we can't afford to pay $1,065, you know, a month, and pay gas -- and it is kind of hard eating, but it is only me and my husband.

But this thing -- somebody has got to help us. Somebody's got to help people. Like, we are a little lucky because we are in this forbearance; we might be able to make it until July. But what is going to happen to the people that can't do anything about it? I have seen several people put out around my way, just put out of their houses, because they went into foreclosure. We need somebody that is going to help us, and that is -- HEMAP, like he said, you need somebody who is going to stand in with you through that, so that when you come out of that forbearance, you will go ahead and take care of your mortgage the way you should.

And I thank you for listening to me.

CHAIRMAN DALEY: Thank you.

What happened to the homes around you that were foreclosed upon; did investors come in and buy the homes?

MS. BRYANT: No. Not yet. Well, I won't say -- two of them, yes. And they have people in them already.

CHAIRMAN DALEY: What happened to the people that left; do you know?

MS. BRYANT: Well, one, she is old. She is about -- I guess about 65, she moved back to Pittsburgh with her mother. The other gentleman, he was just put out, I don't know where he went.

CHAIRMAN DALEY: Wait. She moved back to Pittsburgh with her mother?

MS. BRYANT: Right.

CHAIRMAN DALEY: And she is 65?

MS. BRYANT: She is 65.

CHAIRMAN DALEY: Now, we got a lot of old people in Pittsburgh, I am from Pittsburgh, and we are noted for having some elderly people, but she moved back to Pittsburgh?

MS. BRYANT: Yes. And I am almost 60 myself, so, you know, people can't just, you know -- you can't start all over again. It is just something that you can't do.

But we do need help here, and like I said, as far as people trying to do it themselves, you might be able to stay up on it awhile, but after awhile you fall again, you know. And then everybody thinks that you are just people that doesn't want to pay bills you are trying your darnedest to pay every bill. But, now, look, when I come out of this foreclosure, I have a lien. So, they get you all kind of ways.

CHAIRMAN DALEY: Questions? Representative Wansacz.

REPRESENTATIVE WANSACZ: Thank you. Thank you Chairman Daley.

I am just trying to understand. Thank you for your testimony.

Are you still in the house now?

MS. BRYANT: Yes, I am.

REPRESENTATIVE WANSACZ: Ma'am, when did you purchase the house?

MS. BRYANT: Back in '97.

REPRESENTATIVE WANSACZ: Back in '97; and you said that you got an interest rate of 18 or --

MS. BRYANT: 18 percent.

REPRESENTATIVE WANSACZ: 18 percent in 1997.

MS. BRYANT: Well, if you're not mortgage lived in, you don't know. You think you're all right.

REPRESENTATIVE WANSACZ: Now, when you were -- what I am trying to figure out, when you were looking at the mortgage, were you -- did you go around to banks or did you just go to certain mortgage lenders in the neighborhood, did somebody approach you; I mean, how did this come about?

MS. BRYANT: This was -- my husband heard this on the radio. It is a broker and he went to him, and then he came out to our house, too. That is how we end up getting that mortgage.

REPRESENTATIVE WANSACZ: I am looking at 1065, that is a lot of --

MS. BRYANT: Yeah, this is a forbearance agreement.

REPRESENTATIVE WANSACZ: Yes. What was the original cost when you signed up in 1997; do you remember the original mortgage?

MS. BRYANT: What I paid mortgage for?

REPRESENTATIVE WANSACZ: Yes.

MS. BRYANT: 485. First it started out at 385, and then it went up to 4.

REPRESENTATIVE WANSACZ: So it started out at 385 and went to 4, and here we are in 2007 and it is $1085 (sic)?

MS. BRYANT: Um-hum. Correct.

REPRESENTATIVE WANSACZ: And thank you, that is what I am trying to figure out.

MS. BRYANT: Thank you.

CHAIRMAN DALEY: And the forbearance, with the $4000 down, was that fixed at 18 percent for a period of time till July?

MS. BRYANT: I have no idea. When I

talked to the forbearance lawyer, he said that I had to pay $4000 -- and in order to stop the foreclosure, they would send me a statement of how I would pay each month.

CHAIRMAN DALEY: So you don't know what your payment is going to be each month until you get the payment?

MS. BRYANT: Well, you have to pay that 4000, and then they decide on how much you pay a month.

CHAIRMAN DALEY: Questions? Representative Siptroth.

REPRESENTATIVE SIPTROTH: Thank you, Mr. Chairman.

Real quick, Miss Bryant. When you did the initial mortgage at 485 a month, did that include an escrow account on your taxes and insurance or not?

MS. BRYANT: No.

REPRESENTATIVE SIPTROTH: Okay. This current 1065 does include that, I would assume?

MS. BRYANT: Well --

REPRESENTATIVE SIPTROTH: I would almost imagine that, that --

MS. BRYANT: What, the 165 -- I mean, the 1 --

REPRESENTATIVE SIPTROTH: 1,065 --

MS. BRYANT: No. It doesn't.

REPRESENTATIVE SIPTROTH: It does not include your taxes?

MS. BRYANT: No. We just found that out. They said we would have to pay more in order for that to cover the taxes.

REPRESENTATIVE SIPTROTH: Thank you very much.

CHAIRMAN DALEY: Did they force insurance upon you?

MS. BRYANT: Yes. They do. They have insurance they are paying for.

CHAIRMAN DALEY: And they put that on you?

MS. BRYANT: Yes.

CHAIRMAN DALEY: Did you have insurance prior to the loan?

MS. BRYANT: Well, yes, we did, but we lost it when we -- you know, we're just not able to pay those things now.

CHAIRMAN DALEY: Representative McGeehan.

REPRESENTATIVE McGEEHAN: Yes. Thank you, Mr. Chairman.

I am just doing quick math in my head and the current rate's 1065, would -- and this is quick math, would be on a home valued between 4 or $500,000; what is your home worth, Ma'am?

MS. BRYANT: My home is worth, maybe, 30,000, maybe.

REPRESENTATIVE McGEEHAN: That is a disgrace.

MS. BRYANT: Maybe. There is so many empty houses around there, now. Maybe 30.

REPRESENTATIVE McGEEHAN: That is disgraceful.

Thank you, Mr. Chairman.

CHAIRMAN DALEY: Representative Brennan.

REPRESENTATIVE BRENNAN: Thank you, Mr. Chairman.

Just to clarify what Representative Wansacz said, in 1997 you said that your mortgage was 385, then went up to 4, but that included insurance and taxes?

MS. BRYANT: No. I pay my own -- the taxes was included in that.

REPRESENTATIVE BRENNAN: Yes. But now

they are not?

MS. BRYANT: But at that time, I paid my own homeowners insurance.

REPRESENTATIVE BRENNAN: But the taxes are not, I just heard you say, are not included now?

MS. BRYANT: Not now, no.

REPRESENTATIVE BRENNAN: Thank you.

CHAIRMAN DALEY: Representative Thomas.

REPRESENTATIVE THOMAS: Thank you, Mr. Chairman.

I just want to thank you for your testimony and I want to ask you this, when you leave here, make sure that you drop a note to the Pennsylvania Public Utility Commission and ask them to reject, out of hand, PGW's request for an increase.

MS. BRYANT: Okay.

REPRESENTATIVE THOMAS: Because there are a lot of liens being put on people's homes, and at the current rate it is only aggravating an already bad situation. And before the PUC, now, is a rate increase. So make sure that you drop a note.

MS. BRYANT: Okay.

CHAIRMAN DALEY: Representative Longietti.

REPRESENTATIVE LONGIETTI: Just one quick question; how did you come up with the $4000 that you had to come up with for the forbearance?

MS. BRYANT: Well, they have a lawyer that I had to get in touch with and I got in touch with the lawyer, I think his name is Goldstein, Goldberg. He said, Mrs. Bryant, you are going to have to come up with the $4000, and then when you send the 4000, we will send you the statement of how you pay each month.

Now -- that was already -- because they already know what I made and my husband makes. But when I lost my job I said to them -- I called them and I said, listen, there is only one pay coming in now, is there any way that you can adjust this? No, there is nothing else that we could do for you. If you don't pay it on the 5th of the month, you can still get foreclosed on.

But, what is happening is, we don't pay at the end of the month, it doesn't go into another month, but we pay it at the end of the month and it is really hell sitting here every month thinking there is a foreclosure paper going to come, you know.

REPRESENTATIVE LONGIETTI: Was it an initial payment of 4000 up front?

MS. BRYANT: Yes -- no. 4000 up front I had to send to them, and then each month I paid 1,065.06.

REPRESENTATIVE LONGIETTI: How did you come up with $4000 up front?

MS. BRYANT: I don't know how they came up with that.

REPRESENTATIVE LONGIETTI: No. No. I mean, how did you find that money?

MS. BRYANT: Well, we went to a lawyer to see if we can get them to help us, you know, with the foreclosure or bankruptcy, or whatever, like that, and then I said, if I got to pay these people, I better try to see if we could pay the forbearance people and that's what we did. We borrowed that money from our children, you know. We got that $4000.

REPRESENTATIVE LONGIETTI: So you turned

to family and whatnot to come up with that money?

MS. BRYANT: Yes.

REPRESENTATIVE LONGIETTI: Okay.

MR. EVANS: We couldn't afford to go sleep.

MR. PHILLIPS: That much of the money that was asked for up front was the attorney's fees and cost -- and a hurdle for people to pay in order to get back and be able to make payments.

CHAIRMAN DALEY: Well, it may not have even included the sheriff's fee because they may not have been at that point.

MR. PHILLIPS: Right.

CHAIRMAN DALEY: If they are not down that road where they're executing on it, there would be no sheriff's fees.

MR. PHILLIPS: Well, the problem is, you have advertising costs, and that takes place, obviously, before the sale, and you have very stiff attorney's fees and the cost of filing the complaint, so that can add up very quickly.

CHAIRMAN DALEY: Well, that would be all through the Prothonotary's Office as opposed to the Sheriff's Office; is that correct?

MR. PHILLIPS: Some of it would be, but the attorney would charge their own fees; the advertising fees would be, through the mortgage company, paid to the sheriff.

CHAIRMAN DALEY: Representative Ross.

MR. RUSSELL: Just to be clear, it wouldn't go against the principal of her loan, it would just be money that was lost.

CHAIRMAN DALEY: Representative Ross.

REPRESENTATIVE ROSS: Thank you, Mr. Chairman.

Mrs. Bryant, could you describe the first meeting that you had that introduced you to this loan; what they told you; what made this attractive; did you have a mortgage on your house, already, at that point?

MS. BRYANT: No. We didn't. And what made it attractive is that we needed work done on our house. We needed some work done and we ended up -- after that, we still needed work done because you never get what you, you know, they say you are going to get.

There is another question I want to ask, too, because -- while I am here. I am in a forbearance agreement and my credit report, it still says foreclosure. I called my state representative and I asked a question, why is it when you go into a forbearance agreement, you are still listed as foreclosure; that is here in Philadelphia, they said, and I don't understand, you know.

CHAIRMAN DALEY: Representative Thomas.

REPRESENTATIVE THOMAS: I think a couple of things, more often than not, the mortgage company will retain jurisdiction when they move to foreclosure. So that is going to be reflected on record for at least seven years, with the credit bureau.

The other thing is, Mr. Chairman, she raised an interesting point, more often than not, with these forbearance agreements, you don't know what you payment arrangement is, prior to sending this money in for the forbearance agreement. A lot of these mortgage companies are located in Florida, and Wells Fargo comes to mind right off the bat, because I see a lot of that in my office, where people are forced to wire the forbearance amount, and then, only after you wire the money, where you then get any information on what the agreement is. And more often than not, when you get the information, you see these attorney's fees that you didn't know about and all of those other administrative fees.

So, it is really $4000 that just went into somebody's pocket and has little to do with the loan or the mortgage foreclosure. So you pay the forbearance money, you start making your payments, but as soon as a day goes by, here's the -- and I have seen some situations where you don't get another complaint for mortgage foreclosure, what you end up getting is a writ of execution, because the court has retained jurisdiction on the mortgage foreclosure for whatever the life of the repayment is, so you end up being worse off than when you started, which speaks to what we need to do about notice; what we need to do about due process; what we need to do about, at least, giving people a level playing field in which they can get a handle on their situation.

MS. BRYANT: You have to act fast, people are going to be put out.

CHAIRMAN DALEY: Representative Ross.

REPRESENTATIVE ROSS: Could you describe a little bit more, what the person who sold this mortgage to you said to you about it, in terms of what its terms were, how well they described it to you?

MS. BRYANT: Well, when we went to his office, he mostly talked to my husband because my husband's name was on the deed by himself at the time, but, you know, of course he related to me what happened.

He was just telling him that he could give him a loan to fix up his house and that he would have some money back from it, but, of course, they sent their people out to do the work on the house. They said they have to do the work on the house first, before he could get the loan. So he let them come out and they put a roof on the house, and they did some work on the side of the wall, and then he told my husband to come in and get the check.

REPRESENTATIVE ROSS: So --

MS. BRYANT: So he went in, filled out the paperwork and got the check.

REPRESENTATIVE ROSS: So this is actually a home improvement company --

MS. BRYANT: Right.

REPRESENTATIVE ROSS: -- that connected you with this mortgage company and they were attempting to get your business on the repairs to the house?

MS. BRYANT: Right. Correct. This is a broker, and I think it was people from Pittsburgh that had to come out and do the work.

REPRESENTATIVE ROSS: Thank you.

CHAIRMAN DALEY: Did they put you on the mortgage note, the new mortgage note, when you said your husband was on it initially?

MS. BRYANT: No. What happened was, when we refinanced, I am still not on the deed, but what they did was -- they said, well, you are going to sign as housewife. And -- so I signed, and now I signed that I am a co-borrower and we are in double trouble because maybe one of us could have opted out, but we can't.

CHAIRMAN DALEY: You signed as a co-signer?

MS. BRYANT: No. I signed as a housewife.

CHAIRMAN DALEY: I never heard of that. Someone correct me, I don't know. Have you ever heard of someone signing as a housewife, other than --

MS. BRYANT: Well, that is what I was told. You know, that I was signing as a --

CHAIRMAN DALEY: Yeah.

MS. BRYANT: I mean, that is what I was told.

CHAIRMAN DALEY: That is co-signer.

MS. BRYANT: I found that out.

CHAIRMAN DALEY: You have the mortgage and the note, but you are not on the deed of the property.

MS. BRYANT: No.

CHAIRMAN DALEY: Mr. Callen.

MR. CALLEN: Mrs. Bryant, I just want to clarify something, when you first took the loan out in '97, it wasn't at 18 percent to begin with, or was it?

MS. BRYANT:  Yes.  Yes.
MR. CALLEN:  Right at the beginning?
MS. BRYANT:  Yes.
MR. CALLEN:  So this wasn't an adjustable rate --
MS. BRYANT:  No.
MR. CALLEN:  -- at this point?
MS. BRYANT:  No.  I am not mortgage literate, I don't know if it was adjustable, but I do know when we re-mortgaged, it went down to 11 percent.  So, that is with a different company.
MR. CALLEN:  And that has been since '97 that you refinanced?
MS. BRYANT:  Yes.  We did it the next year, because we didn't -- we couldn't get the stuff fixed with the money they gave us, so...
MR. CALLEN:  So, are you still at 11 percent, now, do you know?
MS. BRYANT:  Yes.
MR. CALLEN:  Okay.
MS. BRYANT:  As far as I know, but, you know, we are in forbearance agreement now.
CHAIRMAN DALEY:  You are down at 11; you

stated that you were initially paying 300, then 400, now you are up to 1100, approximately?

MS. BRYANT: Right.

CHAIRMAN DALEY: That had to be, probably, an adjustable rate, somewhere, to escalate you during this process.

Representative Wansacz.

REPRESENTATIVE WANSACZ: Thank you, Mr. Chairman.

You guys are hitting upon some of the questions that I was trying to get at. That is what I was wondering, if you did know when you purchased it if it was an adjustable rate. Like, how long -- do you remember, pretty much, how long you paid 300, for how many months, and then you -- how long you paid 400 before it went up to the 1000?

MS. BRYANT: I think that we paid that for about a year, and then it was sold to another mortgage company and that's when it went up.

REPRESENTATIVE WANSACZ: Okay. So you bought a house, roughly, for about 30,000, then you borrowed so much more money to fix up the house to make it livable?

MS. BRYANT: Well, the house was given to us, you know, so he didn't have a mortgage on it.

CHAIRMAN DALEY: You do now.

MR. RUSSELL: If I could just jump in. What sounds like, probably, happened is, she went into foreclosure and was behind a certain amount and had an arrearage. That 1,065 probably includes a payment against the arrearage. So it isn't a normal mortgage payment. There is a part of it is the mortgage payment, which is still pretty high, up to 11 percent, and then part of it will be payment against the arrearage, to go off in a certain amount of time.

CHAIRMAN DALEY: Yeah. I know.

REPRESENTATIVE WANSACZ: Can one of you guys, maybe, just explain about the foreclosure process on something, maybe, would happen in her case, of how this works?

MR. RUSSELL: So, one of the things which I think really draws attention, and we've done a lot of work here in Philadelphia, and have been able to get some of the attorneys to work with us on, is, to -- see, once you go into foreclosure, which it sounds like you -- a foreclosure process was actually instituted in your case; right?

MS. BRYANT: Right.

MR. RUSSELL: So, once you go into foreclosure, you get slapped with all these fees, attorney's fees and, here in Philadelphia, $1700 in sheriff's fees, which are a lot higher than they need to be, and the banks won't -- they won't put that into your mortgage. So, even if you got some money in your house that you could work with, they won't finance those fees in, so, if the foreclosure process starts, you got to pay all that money back. And we have succeeded in getting some of the foreclosure attorneys in town to lower their fees pretty dramatically, but not all of them, and we haven't been able to get the sheriff to lower his fees. So that money is just lost. Your principal is out.

And then -- so once -- you got to pay that and then you can go into a forbearance agreement where they are going to have some sort of terms for paying back whatever arrearage you have, which is why it will get kicked up to something like $1000 and then sometimes they will load on extra escrows on there, you know, to deal with other, sort of --

MR. GOULD: The problem is that you have to pay all the attorney's fees and costs up front. They won't even talk about any kind of forbearance agreement unless all that is paid, and that could be several thousand dollars, and I suspect that was probably a good part of that $4000 that she paid.

REPRESENTATIVE WANSACZ: And how many payments do you, pretty much, have to miss before they decide to put you into foreclosure?

MS. BRYANT: Four.

REPRESENTATIVE WANSACZ: Four.

CHAIRMAN DALEY: Mr. Phillips, do you have further testimony?

MR. PHILLIPS: Yes, I do.

CHAIRMAN DALEY: I would ask you to try to limit that.

MR. PHILLIPS: Yeah. I will be as brief as I can. We will submit copies of Ms.

Bryant's paperwork to your office at the close of the session.

CHAIRMAN DALEY: Today?

MR. PHILLIPS: Yes. I will go back to the office and --

CHAIRMAN DALEY: We will attached it to the testimony as Committee Exhibit-2.

MR. PHILLIPS: I would, first, like to draw your guys attention to the charts that we have attached as part of our testimony.

Oftentimes forecloses and other predatory lendings are associated with the Commonwealth's larger cities. Much of native Philadelphia's problem with urban blight and rightly so. However, as these as charts illustrate, Philadelphia's foreclosure rate has been level and it is just, now, starting another dangerous upturn. Other counties, namely Erie, Allegheny and Washington County of those surveyed, have seen a tremendous rise in the number of foreclosure proceedings filed. The need for mortgage reform is evident in urban, suburban and rural communities across the Commonwealth. Many Counties that we wanted to include in our study do not even track foreclosure statistics and cannot produce an annual account.

House Bill 1083 would establish a provision in which the PHFA tracks this data centrally; a necessary tool in terming the scale of the crisis and how widespread it is in the Commonwealth.

Unscrupulous lenders defraud and otherwise take advantage of individuals with added fees, inflated appraisals, and waiting to explain important terms just moments before the borrower signs on the dotted line. Individual licensing would do a great deal in combating many of these practices.

Further, the provision to adjust for inflation the definition of residential mortgages in House Bill 1084 eliminates prepayment penalties for loans under 197,000 and makes HEMAP programs much more effective, which is a life saver for many families in the Commonwealth.

The six bill package is an important first step in stemming the rising tide of foreclosures that threatens to engulf

Pennsylvania, but we must look at these bills as just that, a first step.

If we are to avoid thousands of additional foreclosures and the havoc that they wreak on Pennsylvania's families, the state should: implement a moratorium on foreclosures involving subprime mortgages that were recklessly and inappropriately underwritten and call for the lenders to make new, affordable loans for these customers; two, fund community outreach to borrowers in danger of foreclosure with referrals to housing counseling programs to help these borrowers keep their homes; three, pass comprehensive legislation to protect families against predatory mortgage lending, which includes the following principles, define mortgage fraud as made -- as a loan made through deliberate misstatements, admissions, misrepresentation and provide criminal penalties for gross misrepresentations, prevent equity stripping.

The State should adopt a policy, already in affect in several states, and set a cap of five percent of the loan for total fees, including yield spread premiums that are charged in addition to the loan principal and interest. Ban prepayment penalties for all subprime loans; require that lenders verify the borrower's ability to repay, we've heard a lot about this suitability standard today. Prohibit lenders from steering a borrower to a higher interest rate loan than they qualify for; require loan officers have a duty of good faith and fair dealing and that brokers have a duty to act in the best interest of the borrower in order to cover future predatory practice that may emerge, and give borrower's a private right action so that the borrower can sue the lender if the borrower's rights have been violated.

We are enthused that the Commerce Committee has taken up discussion on this crucial issue and bill package. We commend the sponsors and co-sponsors of these bills, along with the thousands of families across the state faced with a foreclosure through deceptive and complex lending schemes.

CHAIRMAN DALEY: Thank you very much Mr.

Phillips.

Any questions from the Committee; Representative Siptroth.

REPRESENTATIVE SIPTROTH: Thank you, Mr. Chairman.

Ian thank you for your testimony, and Pat, thank you for much for sharing your experience with us.

Regarding House Bill 1084, we heard in my district when we had the hearing up there, that possibly the $197,000 wasn't the threshold -- it was high enough. Now, I am sure you are familiar with the Philadelphia market more so than I, does that 197, do you think, offer the relief that it should for the prepayment penalties or do you think that cap should be lifted?

MR. PHILLIPS: I think it is a good first step, and other people will probably be able to give you a better idea of how suitable it is for different markets, but we would like to ban prepayment penalties on all subprime loans. So many times brokers go in and say, oh, yes, it may adjust upward in two years or three years, but then you will be able to refinance. There is a prepayment penalty.

REPRESENTATIVE SIPTROTH: Sure.

MR. PHILLIPS: So it kind of negates the benefits --

REPRESENTATIVE SIPTROTH: It is a wash at that point.

MR. PHILLIPS: -- of financing.

REPRESENTATIVE SIPTROTH: Thank you very much. Thank you, Mr. Chairman.

CHAIRMAN DALEY: Representative Brennan.

REPRESENTATIVE BRENNAN: Thank you, Mr. Chairman.

I just have a question on the chart that you have as an attachment and the first page, Lehigh County, and it is the area that I represent. I know that we had significant activity up there, in fact, there were people charged with appraising fraud and all kind of other things, and I forget what year it exactly was, but I noticed on the chart that the numbers of foreclosures have steadily been going down there since 2001, which isn't necessarily the case in other parts of the state that you would be able to get information; what do you attribute that to, specifically, or is that --

MR. PHILLIPS: These numbers here are from the Prothonotary's Office out of each individual county. Now, a company named Realty Track tracks foreclosures and has different numbers. This, kind of, just speaks to the fact that there is no central tracking of this data. When I called these offices they said, what do you mean an annual account, we can give you the plaintiff and the defendant, because this is how people go in and, kind of, try to refinance and hurt people even more, but they aren't able to produce an annual account in many cases, so Realty Track has a different number then the county prothonotary has.

Lehigh Valley has had tremendous growth and the foreclosures have not caught up yet, but we know that certain subprime lenders who have gone on in business, here, in Philadelphia, are the number one producers of foreclosures. And I think that people from CLS would be able to talk about that. There is a lag between when these mortgages are originated and when they start going into foreclosure.

REPRESENTATIVE BRENNAN: So, you are saying that protectors stood the potential for the growth and foreclosures because of the growth in the Lehigh Valley in general?

MS. BRYANT: Absolutely.

REPRESENTATIVE BRENNAN: Have there been other cases, the U.S. Attorney, I believe, was the one that eventually took action against the group in the Lehigh Valley that was perpetrating all this fraud; has there been action taken in other parts of the state that you are aware of?

MS. BRYANT: I am not familiar with any.

REPRESENTATIVE BRENNAN: No?

MR. RUSSELL: That is one of the nice things about this package, it gives the banking departments the authority to take action, too, as opposed to just the Attorney General's Office.

REPRESENTATIVE BRENNAN: Thank you, Mr. Chairman.

CHAIRMAN DALEY: Representative Wansacz

for the last question.

REPRESENTATIVE WANSACZ: Thank you, Mr. Chairman.

Brady, this question is for you. You testified in there that interest rates, if we eliminated prepayments, would actually come down in our states; we heard testimony last week of the complete opposite, that if we -- this might be good for consumers by keeping the prepayment. If we get rid of it, interest rates are actually going to rise.

MR. RUSSELL: You probably heard that from the industry; right?

REPRESENTATIVE WANSACZ: Correct.

MR. RUSSELL: Yeah, I mean, I can only point to the data. I mean, the report, that's easy to get your hands on. It is the best value in the subprime market and a responsible lending put it out. I am not, you know -- PUP isn't a think tank. They are, but they looked at cases where states had acted to ban prepayment penalties and there is a general drop in interest rates. It is because you didn't have an incentive to give people a higher rate because you knew if you gave them a higher rate, you could have a very real risk of not holding on to that loan because they would be able to refinance with someone else. So it just makes sense.

I have heard the industry say that before that, you know, we really love giving these people these loans and they really need them, but we just got to lock them in for a little while or we just can't work with these people with lower interest rates, that is what they want to do, but, you know, one of the reasons why I think there is a drop is, I think the first fellow testified, people in the prime market get shoved into subprime loans by, you know, unscrupulous lenders, and that leads to the general increase in interest rates.

So, you know, I just pointed in the Responsible Lenders Report where they show that the average interest rate drops and the prepayment penalties are banned.

REPRESENTATIVE WANSACZ: And quick -- how many states currently ban prepayment penalties?

MR. RUSSELL: Let's see. I could probably dig for a little while and get that out of the report. I don't know if you want me to take your time doing that.

REPRESENTATIVE WANSACZ: You can let us know.

CHAIRMAN DALEY: Can you provide it to Dave, our technical director?

MR. RUSSELL: Sure. It is here, I just got to dig it out.

CHAIRMAN DALEY: Okay. That is fine.

Thank you very much for your testimony to the panel, especially to you, Mrs. Bryant. The Committee has really taken a personal touch, and you have brought it right down where the rubber meets the road, so to speak. So, thank you very much.

MS. BRYANT: Thank you for listening.

CHAIRMAN DALEY: The next person to testify is highly acclaimed this morning, a world renowned, famous, Mr. Brian Hudson, Executive Director of the Pennsylvania Housing Finance Agency, and I apologize for calling you authority.

MR. HUDSON: That is quite all right.

Thank you, Mr. Chairman and Members of the Committee for giving me an opportunity to speak to you once again on the subprime issue and mortgages.

I would like to talk to you a little bit today about the HEMAP Program and then follow up on the announcement earlier regarding the rescue and work out fund and also comment on the legislations before you and before the Committee regarding the changes to the HEMAP law.

I would like to walk you through the process for HEMAP and then if you have any questions, of course -- PHFA is a Commonwealth leading provider of affordable housing. HEMAP was started in 1983 as a result of the downturn in the steel industry.

Since 1983, the Commonwealth has appropriated over 200 million, $200,450,000 for the HEMAP Program. PHFA administers the program on behalf of the Commonwealth. We saved over 39,000 homes from foreclosure.

Generally, the program works, if the homeowner is 60 days or more delinquent, before foreclosing, the lenders are required to send what is known as an Act 91 notice to that homeowner. After receiving the notice, the homeowner has 30 days to have a face-to-face meeting with the Consumer Credit Counseling Agency.

We have 100 counseling agencies throughout the state that are trained to take HEMAP applications as well as provide homeowners with assistance with credit, predatory lending and home purchase.  Upon receipt, the counseling agency then sends that application into PHFA. On receipt of application, PHFA has 60 days to render an opinion.

The eligibility requirement for HEMAP is that the homeowner has to be in control through no fault of their own and it must be at least 60 days delinquent; the home must be located in Pennsylvania and must be a one to two-family residence; mortgage loans insured by FHA are not eligible for HEMAP, and, primarily, the reason being, there, is that FHA has its own loss mitigation procedures that lenders must follow.

But a point in mote here, is that the average HEMAP loan is around $10,000, the average cost of carrying an FHA is around 35,000, and that is one of the reasons why a Federal Legislation was being looked at to create a national HEMAP like program, if you will. The homeowner, again, must be suffering financial hardship due to circumstances beyond their control. It cannot be as a result of poor credit management or that they mortgaged their home to start a business, for instance, which we do see some evidence of that. If approved, the homeowner can receive up to 24 months of assistance, and that is normally in the form of a continuing or one-time arrearages.

If the HEMAP homeowner is denied, the application is denied, he has 15 days to appeal that applications. Typically, we will see about 100 appeals a month, and we overturn about 10 percent of those, quite truthfully.

The program has been very successful. Just recognized by Harvard University as one of the top 18 innovations in American government in the nation. We are now trying to get in the top seven. When we do reach the top seven, it brings us a monetary stipend to help create another HEMAP like program in another part of the country, so, we're hoping that we reach the top seven so we can do this across the State.

I would like to touch a little bit on the statute changes with regard to Bill 1083. The first one is increasing the amount of information that is required to be included as part of Act 91. We are working with the bankers and the lending community to gather more information that would be required as part of the Act 91 notice, as more -- better, quite truthfully. I know that we are looking for the servicing information, which, is the original amount of mortgage.

A lot of loans have been transferred to out-of-state services, and that does present a problem, not only from the HEMAP Administration Program process, but also for the homeowner, because they don't know who they are dealing with in a lot of the cases. We are looking to continue to stay until after the appeal hearing.

Currently, if an application is filed in a timely manner, PHFA contacts the lender and the foreclosure action stops until a decision is reached. We have to issue an opinion within 60 days. Typically, we are running about 15 to 20 days on our opinion. At present time, if a lender already starts an action and a decision is overturned on appeal, the homeowner is responsible for additional costs that incurred between the initial turn down and the appeal reversal.

Changing the interest rate on HEMAP, that is set by law. The current rate is 9 percent; we would like to have that index and the current market would be around seven-and-a-quarter percent requiring the lenders to provide reinstatement information to PHFA in a timely manner. And this has been another issue with regards to providing assistance to homeowners with HEMAP, dealing with lenders who are out of state or services who are out of state, getting that reinstatement number sometimes takes 30, 60, 90 days. So we want to have a little more chief, if you will, to go after these lenders. But have that as a requirement.

And last but not least, to have PHFA do an ongoing analysis of foreclosures in the Commonwealth. We started this in 2003, specifically with Monroe County, and I can tell you, on a personal note, trying to get the information on 67 county foreclosures was a daunting task. You heard information earlier about Realty Track, there is no one source to track this information. We are willing to be that depository, but we want some administrative pieces in place to help us do that. It is a difficult process. That will help us determine where the hot pockets are, where can we be helpful.

In 2003 we created a statewide counseling network to basically educate homeowners. I truly believe it is working. Before they take out the loan, get a second opinion. Talk to our counseling. Is this the right loan for you? Should you stay a renter for a period of time.

And last year, last September of '06, we announced a renovate and repair program. We realized that a number of homeowners were being forced into foreclosure, as you just heard previously, as a result of Mrs. Bryant's testimony, as the result of repairs to their home. So we offer a renovate and repair program that will provide up to $35,000, 120 percent of the loan -- of the value of their property to do just that repairs. And we are actually working with community groups who will go out, work with the homeowner, make sure that they are getting the right repairs for their home. If it is a new roof, a new water heater, that the repairs are done. And we think that is going to be a very successful program. But, again, an attempt to offer a product as an alternative to looking for that predatory loan, if you will. And, again, those are all at fixed rate loans, from 5, 10, 15, 20 years, depending on the homeowner's circumstances.

Now let me touch a little bit on the rescue loan and the work out loan. Just like we created the renovate and repair program that September, we want to get out ahead of the subprime, if you will, the second reset -- another reset coming towards the end of this year. We realize that some homeowners are readily refinanceable out of those loans and some of those interest rates will reset at one, two, and maybe in some cases, three percentage points higher than where they currently are.

So we want to help those homeowners refinance their home, get into a fixed rate mortgage. We would like to use our existing counseling network to find these homeowners and send them into our pipeline. We have an existing network of lenders, which we will train what these new guidelines, to help the homeowners get into the right product for them. We want to pay our lenders a fee to do just that. We are looking at 200 percent of the median income that will put that level at, about, 120,000. Any homeowner who has a credit score 660 or less, counseling will be required. Quite truthfully, I would like to see counseling on all of it, because I think it is a win, win.  We will pay for that counseling. That counseling is free to the homeowner.  So, we want to make sure that they understand what they are donning, explain the escrows to them. We will allow a homeowner to, basically, take a mortgage for the back taxes.  So, let's say, by the time they come to us for that refinancing and they are behind on their taxes, we can actually roll that into the new mortgage to bring them current on their mortgage.  The HEMAP Program currently does that now, and we would like to have this refi (sic) program do that also.

In the case of the workout program, we are looking at where there is a gap between the appraisal and the amount that is sold on the mortgage.  And in some instances, that will occur, particularly where there has been a deterioration or a downturn in that neighborhood.  In that situation, we will instruct our counseling agencies to work with those lenders. Call them up and bring them in. And some of these may be out-of-state lenders. And, basically, put forth that, you need to write this mortgage down to that appraisal value, because we are talking 100 percent of the loan value of the property that will be offered as part of this restructuring. We got to make them understand that this is a win, win. Not only a win for them, but a win for the neighborhood. And by offering this refinance and this workout program, we hope that will stabilize the communities, but, also allow homeowners to stay in their homes, if you will.

That is my testimony; I would be happy to answer any questions for the Committee Members.

CHAIRMAN DALEY: Thank you, Mr. Hudson.

Representative Siptroth.

REPRESENTATIVE SIPTROTH: Thank you, again, Mr. Chairman.

Mr. Hudson, last week as part of my opening statements, and they got reiterated again by Representative Scarpato, there are a number of influences that cause individuals to declare their inability to pay, and I think one thing that we need to do and have the lending institutions and those individuals responsible, are to educate the people a little bit more as to what they are doing. That seems to be a very, very big problem, as Miss Bryant testified a little bit ago, she wasn't really sure exactly as to what interest rate was being charged when, whether her escrow was or not part of the overall picture. And I think that the individuals really need to be educated just a little bit more. I commend your agency for stepping forward in a number of instances and doing that. And that is one statement that I would like to make.

And the other thing I would like to ask is, you indicated an indexing of the interest rate that is statute -- statutorily set, and that would certainly lower -- compared to our interest rates of today, but what would that do to the availability of funds to satisfy the needs of other individuals, would that hamper the agency, itself, or not?

MR. HUDSON: No. The interest earned on our mortgages is a very nominal piece, quite truthfully, in terms of the repayment of the program. We'll average 300, maybe 400,000 a year in interest payments. So that would not be cut substantially; you may be talking about $100,000. Quite truthfully, our feeling is, that you are lending the money to a homeowner to stay in their home. We should give them an attractive rate to help them do that. Nine percent, in this market, is a high rate when you've already lent someone a $10,000 loan to stay there, so, that is not an issue from the PHFA standpoint.

REPRESENTATIVE SIPTROTH: Thank you very much.

Thank you, Mr. Chairman.

CHAIRMAN DALEY: Thank you.

Representative McGeehan.

REPRESENTATIVE McGEEHAN: Thank you very much Chairman Daley.

Good afternoon -- or good morning, Executive Director Hudson, and thank you for your being here and your exciting announcement today.

MR. HUDSON: Thank you.

REPRESENTATIVE McGEEHAN: Mr. Executive Director, I am following up on Representative

Siptroth's question and observation that education is a big component in this whole problem, and I want to pick your brain about your experience, I know the term and the institution and predatory lending has become a bogeyman in this whole discussion and there is a necessity for subprime lenders in the marketplace today; in your experience in this latest crisis, is it predatory lending that is the problem; is it the folks just don't understand the process of applying for a mortgage and refinancing; is it faulty and sometimes corrupt appraising is the problem; in your counseling centers, is there one factor that is a bigger problem contributing to this crisis, in your experience?

MR. HUDSON: A combination of those factors, quite truthfully, Representative McGeehan. And touching on Representative Siptroth's area, Monroe County triggered our first look, if you will, at some of the mortgage foreclosure issues, that happened to be a hot pocket. After that study, clearly, there was an educational issue on the homeowner's part, but up in Monroe County, there were appraisal irregularities and there was collusion between the appraisers and the builders.

There were some indictments brought by the Attorney General in that area. And that still happens in pockets across the country. There were low documentation or no documentation loans that were done. No income verification was done. So, a number of parties were at fault on both sides.

Initially, what we wanted to do was, okay, we know we have an education issue, how can we deal with that? And that's when we first started the counseling network, because I wanted to make sure that we are reaching out to communities and at least tell the consumer what to be aware of: high prepayment penalty fees, high interest rates, a variable rate. These things, if you look -- should you see these on your mortgage application, that should automatically make you question, is this the right loan for me?

All we are asking is that the homeowner

take a step back, if you will, and get a second opinion. And we want to do that as a counseling network.

So, in answer to your question, it's been across a number of fronts. But I believe that the first deterrent is having an educated consumer come to the table regardless of what is being pitched to the other side.

I heard Representative Thomas talk about his father. If he were to have known, or had an alternative product, also, existed, maybe we could stop some of that. But at the same time, there needs to be regulation on the other part.

Now, should these institutions be allowed to continue to approach our most susceptible clients, for instance, the elderly, which, typically, we have seen that is a group that has been targeted and been preyed upon with regards to rehab loans. That is one of the reasons why we are developing Renovate and Repair Program, because we know that there are certain institutions that would go door-to-door, knocking on the doors of the elderly saying, you need a new roof and I am here to help.

So, we want to, basically, fight this on two different fronts, educate our consumers, but at the same time, have some regulation that gives a little more teeth to the regulators that go after those who are truly the violators. Most of the institutions that are the good lenders agree, they are doing a great job that necessarily doesn't impact their loan portfolio, but they are willing to participate in this effort if the violators, for instance, are brought to the table, also. And this is, basically, what I have been hearing.

REPRESENTATIVE McGEEHAN: Well, education is, obviously, important and I think it doesn't end with consumers, it certainly includes this Committee. I am not a banker; I am new to this Committee and certainly Chairman Daley and Chairman Hess has a lot more experience in this issue than I would, so I need you to educate me, what defines a predatory lender.

There is a need -- I understand if people are at greater risk of defaulting on their loan, there needs to be a higher interest rate for that person because the bank or the lending institution is taking on greater risks. It seems pretty basic to me. Where do we draw the line between acceptable risk for bankers and crossing the line into predatory lending; is there a line; is there a definition in law or an interpretation from your agency?

MR. HUDSON: Well, we have what we call red flags, and that is the best way I can describe it. For instance, when a HEMAP application comes through, we are looking for, are there high points and fees that were charged for that loan; does it have a variable rate interest that continues to skyrocket over a number of years; is there a balloon payment attached; is there a prepayment penalty fee that may be high?

And in order to further put this in some sort of perspective, I go back to the time when there was redlining that was done. There were certain loans that would not be made in certain areas. Well, in PHFA, we cannot do that. We created an insurance company to go out and insure those loans. And, basically, showed the private sector that you can make money doing these loans.

I know that to determine when higher interest rates are charged for certain loans or riskier loans, or deemed to be riskier loans, are called Risk Based Lending. But what is the right profit that should be made in that instance? And that is an issue that we deal with at PHFA, and that is one of the bases that we want to create this product, to show, we will still make money in doing these loans, I guarantee you.

There will be some losses there, but that reserve fund that we spoke of this morning, will be here to cover those losses. The net of those losses will still be a profitable venture, and that is the issue from the private sector that we are seeing.

Well, I certainly -- fine observation, if I may, Mr. Chairman.

I'd certainly like to work with you and educate my constituents and the public in Philadelphia about the need to be fully versed in all the intricacies of financing and home purchasing and I hope that to share any material I have, so, collectively, as a body, can do education in our local communities.

MR. HUDSON: Absolutely.

REPRESENTATIVE McGEEHAN: I thank you for being here.

MR. HUDSON: Thank you.

CHAIRMAN DALEY: Representative McGeehan as the Subcommittee Chair on Financial Services and Banking, I suggest and talk about having your subcommittee this summer do something here in Philadelphia so that you can start that education process.

Representative King.

REPRESENTATIVE KING: I knew there was a reason why Representative McGeehan, besides his Irish heritage, you seriously took most of the questions that I had, but it was focused on the education aspect verses the predatory lending and how much, essentially, we could cut the problem simply by having more educated consumers. We probably couldn't put a figure on that, but I think that we can all see here, today, that that is, kind of, the first step in the process, come to the table prepared and, hopefully, we will get a lot more accomplished. But I really appreciate everything that you are doing and your testimony in Monroe and your testimony here, today, is very helpful to all of us.

MR. HUDSON: Thank you.

CHAIRMAN DALEY: Any other questions? Mr. Callen.

MR. CALLEN: Brian, I just wanted to know, in your experience, we are focusing on this education and consumer issue, obviously, I mean, you're talking about it in a pipeline for PFHA programs, but, obviously, we have a lot of these people who are still going to private lenders who may or may not treat them the right way and we do have regulations that's, sort of, coming on board, and I promised all the industry folks that I wouldn't talk about it and I won't talk about it at this point. That will be before the Committee in a month or two, but that, sort of, addresses that issue, but is there any place that you have to go see a counselor before you get a subprime loan, any

state that you are aware of?  Any other states
that have done some reform?
     MR. HUDSON:  Other states are considering
that.  Even with our counseling network, it
doesn't necessarily -- they don't have to take
a PHFA loan.  We'll pay for that counseling
even if they get a loan from XYZ bank.  And all
we are saying is, go to our counseling network.
In addition to that, we will actually apply and
receive -- I think last year we received over
$100,000 from the Department of Housing and
Urban Development to assist with our counseling
efforts.  There are some states who are looking
at having mandatory counseling and --
     MR. CALLEN:  When; that is what I'm
talking about?
     MR. HUDSON:  It is free to the homeowner
and it doesn't have to be a PHFA loan and we
are going to use that and say, we don't care if
you get our loan or not, we just want you to
come in the door.
     MR. CALLEN:  So, you are saying if a
person is going to Wells Fargo for a loan,
their credit isn't so good, it's going to be a

subprime loan, they can be redirected to one of those counselor's and you will pay for it?

MR. HUDSON: Absolutely.

MR. CALLEN: So, Wells Fargo doesn't have to pay for it?

MR. HUDSON: That's right.

MR. CALLEN: And the person doesn't have to pay for it?

MR. HUDSON: That's right. And I reached out to some of the lending institutions to the contributory counts and efforts, but right now we spend about 700,000 a year on the statewide counseling network, and they are up to four hours of counseling at $66 an hour, just about, for those homeowners. And, again, the reason being, is that, what we saw happening in Monroe County, we just did not want a repeat of, so we said, let's -- we'll take the lead on this and we'll set up this network. It doesn't make a difference if it is a PHFA loan or not, I think they will come out thinking our loan is the best product based on the alternative, but there have been cases where they've gotten another loan because it worked out better for them.

So, what we want to happen is, if they get an offer from another lender, just bring it to that counselor; let them evaluate it and point out to that homeowner, here's what is wrong with the loan or here's what is good with this loan or have you considered XYZ.

Now, in addition to that, we'll do community seminars, we are going to do PSAs. Last week I was in Pittsburgh taping what was known -- a new show called The Mortgage Show, that we hope to take on the road statewide, just from an educational standpoint, to talk about, what is an ARM; what does variable rate mean; what is a balloon payment, very basic stuff, but to the average homebuyer who just doesn't understand those terms. And we are going to support in that effort both in the private and public sector. But, again, that counseling agency --

MR. CALLEN: But, still, probably for a lot of people, the only place that agency is going to register is at the point where they are going to want to make a decision.

MR. HUDSON: That's right.

MR. CALLEN: What is your experience, so far, with voluntary cooperation from lenders?

MR. HUDSON: Very good on lenders side. There is nothing to lose. If they have a great product, there is nothing to be afraid of. And more importantly, we want to let the consumer know that it exists as a free service, because then, if they take one hour, they can find out whether or not they are in the right loan. Right now we see about 5000 clients a year -- rather the counseling network.

MR. CALLEN: Thank you, Mr. Chairman.

CHAIRMAN DALEY: Representative Wansacz for the last multifaceted question.

REPRESENTATIVE WANSACZ: Well, I was writing down some stuff that I wanted to talk to you, later, about, but now is a good time, following up on Dave's question; do any states do mandatory counseling for first-time homebuyers, I mean, this is regardless of whether people can qualify for, you know -- but there are people from Monroe County that are buying $300,000 homes that are getting ripped off; there are people from Lackawanna, from Philly, it doesn't matter the price, people don't -- it is becoming a more complicated process. Are any states doing that; is that something that you think our department should be getting involved in and making it mandatory for every first time homebuyer?

MR. HUDSON: The mandatory has normally been tied to your credit score, and in most cases if it is 660, 650, then it becomes mandatory. Whether or not a -- I personally think that a 700 credit score -- because of what -- in talking with individuals who had very good credit just didn't understand it. There may be some value in requiring that, because I think there is -- truly there is a benefit there. So, most states tie it to some sort of credit score. I think others are starting to re-evaluate whether it should be required across the board.

REPRESENTATIVE WANSACZ: And you have a program, so if we did decide to look at introducing legislation that required first time -- again, regardless of counseling that, maybe, the banks would have to put out, or anybody, as these subprime lenders, anyone that is out there, say they have to fill out a sheet asking these consumers, potential business, of saying, have you completed this course that is offered by the state? Because you are just mentioning how you already have something up there that might inform these future homeowners of what, exactly, is happening and then, maybe, for homeowners that haven't bought a house in 15 years, if there is a voluntary thing that even they could be made aware, because that is where we are also noticing some of these other homeowners that are taking place are those elderly, those who haven't bought a house in 15, 20 years. And so, I am just bringing this -- education is a key. We all know knowledge is power, something like that, if that can help.

MR. HUDSON: I am willing to explore the possibilities of that. I know when a homeowner goes to us, we actually issue a certificate that they completed, you know, X amount of hours of counseling for homeownership. So, we offer that and that can be taken to any lender.

REPRESENTATIVE WANSACZ: Thank you, and I know -- I just wanted to throw in there that I had to get one over on Representative Daley for his rubber boots (sic) to the road with knowledge is power, so...

CHAIRMAN DALEY: Thank you, Representative Wansacz for your poignant question, we appreciate the brevity of that.

We are on time and we are going to call Mr. John Ryan with the Conference of State Bank Supervisors.

Mr. Hudson, thank you very much for your testimony, as usual, fine and superlative job and probably will be in USA Today and Tomorrow.

Mr. Ryan, and I am going to turn the meeting over briefly to my Subcommittee Chairman, Mr. McGeehan, to chair the meeting for a brief period of time.

MR. RYAN: Thank you Chairman Daley and Representative McGeehan and Members of the Committee. I am pleased to be here today.

I am John Ryan, Executive Vice President for the Conference of State Bank Supervisors, and we are the professional organization of 50 states, D.C., and the territories' banking departments. In addition to banking, 37 of those departments also supervise mortgage supervision, but we are coordinating with another entity to capture all 50 states as it relates to the mortgage supervision.

I appreciate the opportunity to be here today and while my written testimony hits on a number of things that the states are doing through their professional organization to better regulate and coordinate state mortgage supervision, I am going to focus on the nationwide mortgage licensing system that we are developing to improve state supervision.

Before I get to that, I want to give a little bit of a backdrop on how the mortgage finance industry is regulated, the state/federal components and some of the things that are happening, the trends of the last 10, 15, 20 years that are affecting what we are seeing today, that sort of sets a backdrop of some of -- one being the improvements, the greater opportunity for homeownership has been created, but also some of the problems that we are seeing, particularly at the state level.

REPRESENTATIVE WANSACZ: Mr. Ryan, if I may, I was told that you have some more information on the counseling, so can you answer some of those questions that -- I was just informed that you might have a comment on that and then --

MR. RYAN: Actually, I was going to weave it into this part, but -- as the mortgage finance industry, the banking side as well as the mortgage lenders and consumer finance companies are regulated by both the states and federal regulators, such as the OTS, Office of Thrift Supervision, the old savings and loan regulator, and the OCC, the company who charters national banks.

Well, in the last three or four years, they have aggressively interpreted federal law to preempt applicable state laws and -- for banks and for their mortgage subsidiaries, really any other subsidiaries, and they have determined that really, anything that conditions the operation of a bank or it's subsidiary is preempted, and, specifically, that is related to, for instance, in Georgia, they did have a mandatory counseling requirement for subprime borrowers -- or certain class of subprime borrowers, and Illinois, they had some mandatory counseling that was based on ZIP codes were they were seeing problems. And those have been preempted for a large percentage of the industry.

Not everybody -- not the bulk of the states regulate, but it does create this dynamic, but not everyone is subject to the same law. And just to give you an anecdote, one federally chartered institution in Chicago set up a kiosk in the neighborhood after they passed their law on counseling and said, counseling doesn't apply, you know, your loan will be expedited, we can approve much more quickly, you know, while interest rates are still low, that sort of teasers.

So, we have an interesting dynamic in the states, in terms of how we can legislate, who we can legislate to. So -- and that gets to a bit of the backdrop of this industry and how it has evolved over the last 20 years, and pretty dramatically over the last 5 to 10 years.

Traditionally, mortgage loans were made by savings and loans and banks and, traditionally, held on their own books. The secondary market evolved and there were certain types of loans that could be securitized by Fannie Mae and Freddie Mac, which also had a certain amount of government oversight.

In recent years, the security organization market, really, the Wall Street involvement has changed the industry. There are more standardized -- accepted standardized underwriting practices and automated lending platforms. So loans -- Wall Street became more comfortable buying mortgages and breaking them up into securities or complex financial instruments. There are lots of ways they can slice and dice mortgages now that investors will buy them. And they are bought domestically by hedge funds, or internationally, and it is one of the reasons why we see so much money available for mortgage finance.

The positive of that is, that there is a lot of money available for mortgage financing that's helped the growth of the subprime market. The flip side is that the sort of loose, loose dynamic of mortgage lending, where, if a loan went into foreclosure, the lender would lose. It is, generally, a significant amount of money they would lose in the foreclosure process, having to quickly sell the house, and the borrower would lose. And the current environment, there is a loss there on the lender's side, but it is very diversified internationally. And -- but on the borrower's side, there is definitely a lose.

Along with this, the ability for a lot more complex financial products, and, as I mentioned, the growth of the subprime market and more complex products for the subprime market.

While there is a loss on the investor's side, it is often not distinguished by loan, they are broken up into tranches and various debt obligations, all these complex instruments, and they've purchased these loans because there has been a high rate of return on them, or these investment pools and products, in recent years.

So, with that, there is some expectation that there is some risk and there are going to be, potentially, some losses that might offset that high return. But that has changed the dynamic. There is a much higher tolerance for risk by Wall Street and investors then there traditionally have been in the banking universe.

This is a permanent change. I don't see the world going back, but it has created a new dynamic and part of that is, that -- those who are purchasing these loans are looking for broad distribution networks. Banks, as well, are purchasing these loans and may be selling these to the secondary market, also, looking for a broad network, retail network. And that is where there has really been a growth in the mortgage broker -- mortgage banker, mortgage broker industry who are on the retail side working with a customer to originate these loans that are sold.

So, while we had a traditionally regulated -- more regulated environment of banking, we went to this, what started off as being entirely unregulated world of particularly mortgage brokerage. 25 years ago the states started stepping into this. And this is -- into this realm, to regulate it and recognizing some of the challenges.

With the mortgage broker, there are consequences to, you know, making bad loans, but one of them isn't that they feel the loss directly. They collect their fee, it is sold off, et cetera. But they're reputational risks. But, making that reputational risk stick has been a problem, so that is where the licensing and all of that came in.

So, fast-forward to now, something that I think is important for the Committee to understand is, as the states have filled in, more and more states are licensing mortgage bankers, mortgage brokers, now, going down to the individual loan officers, since there is a turning in this industry.

In Washington, as I see this is where the concentration of all the problems are, they are blaming the states. They are saying, this is a state caused problem. Some of the federal regulators are saying this, some of the congress are saying this. We need to fix this at the federal level. They're not -- and this is evolving and they are starting to take a little more ownership that, you know, the regulation of some of the largest banks who helped create the securitization model, as well as the investment banks, are regulated through the federal level. But the broker retail network are exclusively regulated at the state level.

So, one of the things that is being discussed, I think it is an important backdrop for this hearing, is federalizing all licensing of mortgage brokers and lenders by a federal regulatory agency. I think this would be a terrible consequence to the states.

In my experience, I worked in Washington for about 20 years now, and represented the state for about 10 years now, Washington responds appropriately to the issues, the big issues of the moment. And, so, their attention wanes on things that we have been focused on, really, some of the localized issues of predatory lending for the last 10 years, et cetera. It takes a lot to get their attention and I would really be concerned about their having to license, to deal with the administrative proceedings, all of that, with the mortgage broker industry.

And given the consequences for the states of high foreclosure rates, you know, this is a diversified risk internationally for the entities. Washington focuses on Philadelphia, you have 10 foreclosures on the block that has real day-to-day consequences. So, I think it is important that we, as states, and this is why CSBS -- the states got CSBS involved in improving supervision in this area. That we address these things at the state level, the concerns that have been raised.

And that is where I am going to focus on this mortgage licensing system. One of the major concerns is that we have had some really bad actors in the mortgage lending brokerage industry. And there is not really good understanding at the federal level, we are working on that.

One of the actions that states have taken, is they have gone to individual licensing doing background, criminal background checks, various other background checks with the number of individuals who have been licensed or revoked or denied, et cetera, et cetera. But it is considerable. Just last year alone, there were 3700, and this isn't with all states reporting, actually, Pennsylvania isn't counted in this number, 3700 enforcement actions against mortgage brokers and lenders with 600 of those being criminal and license revocation. That's just in one year alone. So that is very significant. And the reason Pennsylvania isn't reporting, I believe that there are issues with the confidentiality of information that they are building to share that.

The problem, one of the major weaknesses and criticism with the state system is, that information is contained in individual states and not shared as easily. So, you take an action here in Pennsylvania, or New Jersey takes an action, it is not easy to compare that information. It is not easy, as they come to apply here for a license, to know where actions have been taken historically or 10 years ago against someone for your own application process.

What we are doing is pulling together, automating the entire system as happened in the securities industry a number of years ago. And, so, those background checks, one, the states will input all the data on the enforcement actions they have taken over the years past will come into it and going forward for license renewals or license applications in multiple states, that will be available. And it will be available on all entities and individuals that are regulated by the states and that comes to, about, 90,000 corporate entities, and, about, 285,000, and growing, mortgage brokers, individuals. To have that information available to the Pennsylvania Department on individuals in Ohio, New Jersey, et cetera, and when their license is revoked and we know this, we've seen it, we have demonstrable examples, that they just go to another state or another -- they may go to securities or insurance. That has been a problem. When you see that sort of predatory practice and the states have taken action, we should be able to, as a baseline, be able to use that information in regulating this industry. And, currently, that is not the case.

Also, it will be a better tool as you are looking at a more focused enforcement, some of the problems that you see occur, and I would like to strongly support what the previous witness mentioned about the housing agency receiving the foreclosure data. That is not -- it is hard to address the problem if you can't understand it, and the -- you need some of the fundamental information about foreclosure, are these foreclosures on, you know, second homes or investment properties and these are people just overextending themselves, are they located in certain neighborhoods, and then as we get to this licensing system where there will be a single number that will be attached to an individual broker, if you move to loan officer licensing, then that can be matched back to the foreclosures. So, you can see trends with individuals with a high rate of foreclosures. I think these are all important tools that we need to bring to bear on state supervision if we are to preserve our authority, since this is actively being debated in Washington.

And with that, I have brought up a number of issues that I would be delighted to answer any questions that you all might have on the states. There have been a number of questions on what states are doing or not doing in this area.

REPRESENTATIVE McGEEHAN: Thank you very much, Mr. Ryan.

Representative Wansacz.

REPRESENTATIVE WANSACZ: Thank you, Mr. McGeehan, I am glad Chairman Daley is away or he wouldn't let me ask another question.

So my question is, when it comes back to the counseling, you said it would be illegal for us to do it because federal would not allow us to do that throughout the state if we were to say that first time homebuyers must have some type of credit counseling? Did I understand that correctly?

MR. RYAN: It wouldn't be illegal, it just wouldn't apply to all the universe of lenders within your state. It would apply to -- and to give you some perspective on subprime lending, you get into the complex world of who regulates what, whether a bank or subsidiary is -- it is hard to break it up. A bank, subsidiaries and affiliates, federally regulated entities, are about 52 percent of the market. The affiliates would be covered, so, for instance, like Wells Fargo Finance would be covered. A subsidiary of Wells Fargo, of the bank, or the bank itself, would not be covered by that. So, what we have seen in some states, is that they have raised the bar and these entities, kind of, move into federally chartered entities, where they don't have those problems.

REPRESENTATIVE WANSACZ: So, the only way to do something, as I mentioned earlier, is to also try to fix it on the federal level as well?

MR. RYAN: It becomes more of a challenge to do it civil, because it is unequally applied.

This is being debated in congress. There is a Supreme Court decision that came out a couple of weeks ago on this, it was Waters v Wachovia if you have heard any reference to this.

And so, congress is looking at this issue and, you know, and really what authority that they want the states to have and preserved, based on this decision, which went against the states.

REPRESENTATIVE WANSACZ: Thank you.

REPRESENTATIVE McGEEHAN: Representative Longietti.

REPRESENTATIVE LONGIETTI: Thank you.

Your testimony has been very informative. I appreciate it.

From what your testimony indicated and from what I've read, the securitization of the market both opened up the market, but it also gave cover, it seems, for some of these predatory or unscrupulous lenders to operate, and one of the questions that I have is, Mr. Hudson talked about the red flags and many of us have seen those, at what point does that secondary market identify, boy, this lender always seems to have red flags, is it just, they don't care that much because there is acceptable losses that they can consume, or do they actually ferret out, to a certain extent, the lender that seems to have the red flags is a predatory lender?

MR. RYAN: Well, I think what might have been identified earlier as red flags, versus what they would consider red flags, would be different.

REPRESENTATIVE LONGIETTI: Okay.

MR. RYAN: They have been able to sell, kind of, anything that came their way. There was a real hunger for it. Now you are seeing with an increased foreclosure, it went beyond their expectation, where they now are looking more closely at the subprime loans that they are buying. So the foreclosure was a red flag for them. And when it went beyond what they had anticipated, that it is affecting what they are buying.

But I think their tolerance was a lot higher than, you know, what you might hear from some others, because, yes, they could sell it and they were considered acceptable. And then in terms of some of the red flags, they just wouldn't even see them, because they are not seeing all the data and they certainly are not seeing what occurs, you know, in the room, sort of, which you're hearing all the information presented in the sales practices and all of that.

So, you know, I think there are things that we can do on our end to improve the information that they get and give them better red flags, and then there is some of them that, you know, it would be up to congress or others to decide if they want to hold them more accountable for what they purchase.

REPRESENTATIVE LONGIETTI: You know, I guess it is just a shame that there is not a way to make the market more self policing. It seems like all of this is done on an automated basis now.

MR. RYAN: Pretty much.

REPRESENTATIVE LONGIETTI: A way to write to the underwriting program, if the fees are a certain percentage, you know, let's take a look at this lender, is this a pattern?

MR. RYAN: Yeah, well, one of the things that the federal regulators, in terms of dealing with this on the originators side, so, you know, they can only buy what originated, and we, at the states, have followed suit, are to get down to some principles, basic principles, if they should be able to afford, the borrower, a loan at the fully indexed rate. So, a lot of these loans come -- teaser rates, and I am not sure that the example that you had earlier, 300, 350 was a teaser rate or whether -- I don't know what happened there, but some of them will come with a very low introductory rate and then it resets within just a couple of years to a higher rate and they can't afford at that reset rate. And so some of these basic conditions -- the secondary market would buy any of that stuff. The regular state and federal level had been adopting it. I think that helps.

There are a number of things that we are doing that help. I think we can improve the information for them if we find, you know -- we should be able to let the secondary market know that someone, you know -- that there was criminal enforcement taken against this individual and that should be transparent to the market. It is not, now; it is in a file somewhere.

REPRESENTATIVE LONGIETTI: It is just a shame. I am a new legislator, and, you know, is wasn't an epiphany for me that -- you could see this thing coming. We all live in these communities, we know -- we have a sense for what is going on. The people -- these mortgage brokers are out there. We drive around the community and we realize, there is no way that that house is worth that amount of money.

MR. RYAN: I think that is why you also seen so much interest is that -- the first example of -- the first real illustration of these increased foreclosures, that, you know, people have been fearing, you know, might come. But I think there are things that we can do to improve information, recognizing there is real value to this secondary market and that it provided lower cost and more availability. In terms of making foreclosure data more transparent, that this is so localized and difficult to get, it really doesn't make sense any more.

MR. CALLEN: John, I think -- I assume you are aware in that bill package, in fact it is Representative McGeehan's bill, we do have a way of strengthening disclosure, of the ability of the Banking Department to disclose actions and enforcement actions?

MR. RYAN: Yes.

MR. CALLEN: You do now.

MR. RYAN: Yes. I am aware of that. Thank you.

REPRESENTATIVE McGEEHAN: Mr. Ryan, thank you for sharing your expertise with us and thank you for departing from your written remarks and I want to inform you that your written remarks will be part of this record.

We are going to take a break to give our intrepid stenographer a moment to collect herself and we'll reconvene at 12:15.

(Whereupon, a document was marked for identification as Exhibit Committee Exhibit-3.)

(Whereupon, a brief recess was taken.)

CHAIRMAN DALEY: We are going to call this House Commerce Committee back to order.

It is our privilege and pleasure to once again hear from the Honorable Victoria Reider, Acting Secretary of the Pennsylvania Department of Banking. She testified at the Pittsburgh hearing, she was not with us last week in the Poconos, but she is here, now, and she is going to give her testimony.

We are going to try to keep us on time, we are about 10 minutes behind schedule, but since Representative Wansacz has left, we anticipate the schedule --

Secretary Reider, please begin.

SECRETARY REIDER: Thank you, Mr.

Chairman, good afternoon, and to the members of the committee.

I am very grateful to be here to discuss the importance of mortgage reform in the Commonwealth, and I am grateful, as well, because the hearings that you are holding have significantly enhanced the public dialogue and --

CHAIRMAN DALEY: Could you, please, just pull your microphone a little closer, because I see people stressing they can't hear.

SECRETARY REIDER: Sorry. Is this better?

CHAIRMAN DALEY: Yes.

SECRETARY REIDER: So, I thank you and I am very pleased to be a part of this discussion.

I come to you this morning having just attended the Community Legal Services breakfast in Philadelphia, and I heard a statistic that I felt was heart wrenching, and that is, with respect to the clients that they are seeing in Philadelphia, on average, 50 per month have been coming in experiencing problems with their mortgage. And these numbers have been consistent over a period of time. So, I spoke very briefly with them and the representative from Community Legal Services and I am hopeful that we can be making a difference, with respect to the mortgage reform proposals that are before you.

Over the course of the past several weeks you have been engaging in a series of conversations and heard a wide array of perspectives and I would like to respond to those perspectives, as well as clarify specifics about our legislation and what it does and what it does not do.

Among the most alarming perspectives that you have heard is the assertion that there is simply no problem in the Commonwealth with respect to mortgage reform; that foreclosure numbers are down, the market is correcting itself, that the press and the media have greatly exaggerated the problem of fraud and foreclosures. I wish that that were true.

At the end of May 2007, one in, about, every 1800 Pennsylvanians was in foreclosure. This is a drop from the previous year, but we, also, use the Realty Track information that you referenced earlier, and that rate is actually up 45 percent higher than in the previous month. Further, according to the Mortgage Bankers Association, Pennsylvania's foreclosure rate has not been at or below the national average since 1983, an amazing statistic. The trend is disturbing, but doesn't tell you the whole story.

The good news is, that Pennsylvania enjoys a high homeownership rate; we have less subprime lending than other states, we have about 11 percent, the national average is, roughly, in the neighborhood of 15 percent. The bad news is, that when compared to Pennsylvania's prime mortgage market or the subprime market nationally, our subprime foreclosure rate is disproportionately higher.

Recent data shows that just over one-half of one percent of Pennsylvania's prime loans were in foreclosure, while a substantial five and a third percent of subprime loans have gone bad. Of course, one can find data to support nearly any type of argument.

The point that I am making is this, the package that you are considering has been in development for over two years. We have met with industry groups, we have met with consumers, we worked on this package for a long period of time. It is not a knee-jerk reaction to the hype and press coverage that you are hearing with respect to Wall Street's creativity and greed.

Industry groups and consumer groups have worked together and generally agree that our package is a thoughtful response to a well documented and longstanding problem with Pennsylvania's mortgage lending oversight, quite the opposite of overkill.

Another perspective that you have heard, and it was mentioned at the Pittsburgh hearing, was that our legislation proposal is modest and somehow it comes up short because it does not directly provide borrowers with more information or require lenders to be more cognizant of a borrower's ability to repay a given loan before it is recommended. And while this is true, the package does not address foreclosure or underwriting issues, it is important to remember that this legislative proposal is occurring in a broader context.

The Banking Department has shared with Chairman Daley, and we anticipate shortly sharing with the members of the committee, a regulation that we have drafted that will be coming for the independent regulatory review process, we anticipate within the next few weeks.

In general terms, the regulation requires additional and simplified, but not duplicative disclosures of important loan terms to consumers. It is a one-page simplified document. Such terms include whether or not a loan, escrows, taxes or insurance includes a balloon payment or prepayment penalties, employees a variable interest rate or has the payment set so low that the payment does not even cover the interest due every month, much less the principal. It also requires that state licensed mortgage professionals reasonably determine a borrower's income, debt and ability to repay an offered loan, given all of its terms and conditions, not just the introductory payment. The question then becomes, when looking at the fully amortized amount, can the consumer afford the loan? A pretty basic question.

Another perspective that you heard in the course of these hearings, suggests that even the most basic requirements of our package are administratively burdensome to the industry and that they will result in higher costs to borrowers.

I would like to walk you through the package very briefly so that you can see that this is simply untrue. It creates a new licensing category for individual mortgage loan originators. The people who work directly with consumers, one-on-one, by soliciting, accepting applications or negotiating loan terms.

As I said to you before, Pennsylvania does license the people who sell you insurance, the people who sell you securities, even the people who cut your hair, yet we do not license the individuals who deal with the consumer's largest financial transaction.

None of the industries, insurance or securities, have suffered because of the regulatory or administrative burden associated with licensure and if -- one wonders if, perhaps, because the mortgage market is slightly different, there is some peculiarity to that market. It is interesting to note that 30 other states either license or in some other respect oversee individual mortgage loan originators with no ill effect. Compliance processors are already in place with the large mortgage companies to ensure that their employees are licensed.

In order to receive a license, the package requires that the applicants complete at least 12 hours of instruction and pass tests that are related to mortgage lending, as well as compliance with various federal and state laws. Now, we already require continuing education for loan -- for mortgage originators, but there are currently no barriers to entry. At this point in time, my 17-year-old daughter could become a mortgage broker with absolutely no testing in advance required.

The package also makes licensing and regulatory provisions of the two Acts more uniform, which, actually, in our opinion, reduces the administrative burden for both the industry and the Department, since they are not dealing with two separate, regulatory schemes. It eliminates exemptions for realtors, builders and insurance companies, which, in essence, provides a level playing field for all loan solicitors.

And despite some confusion, there is nothing in the package that requires loan officers of depository institutions, the banks or the credit unions that we regulate, to obtain licenses. The oversight of depository institutions is already rigorous by federal and state government.

Indeed, regulators have taken swift action of late. Last year they issued best practice of guidance with regard to the sale of none traditional mortgage products and are already examining institutions to insure compliance. We have examiners in our institutions regularly looking at a whole host of issues.

The package also makes Pennsylvania's Loan Interest and Protection Law, which you've heard referred to as Act 6, of 1974, relevant to today's mortgage marketplace. At that time, in 1974, the capped amount was set at $50,000. Our package, which was written in 2004, would change that amount to 197,000. However, given that several years have elapsed, it may be a closer amount to be around 205,000, something in that bang. Therefore, accounts for inflation and allows the cap to be adjusted appropriately annually thereafter.

And as you discussed in Monroe County, the primary effect of this change is to eliminate prepayment penalties for a slightly larger segment of Pennsylvania's mortgage lending communities.

And we've discovered, in our experience, that in recent years, prepayment penalties have been used by abusive lenders to entice consumers into accepting disadvantageous products more frequently then they have been used by reputable lenders to mitigate risk.

We would welcome any conversation,

frankly, that would prove our experience to be wrong on that front. And, Mr. Chairman, as the regulatories charged with overseeing such activities, we agree with your assertion last week that to suggest that prepayment penalties are advantageous to consumers borders on the preposterous.

Also with respect to Act 6, as you may know, in 1974 the Attorney General was not an independently elected branch, rather, it was part of the executive office. It was called the Department of Justice, at the time. You may remember that scenario or at least some of us may remember.

The package seeks to reinstate the statute's original intent, which anticipated that the executive agency would enforce the law.

It amends Act 6 to provide the Department with jurisdiction in conjunction with the Office of the Attorney General, which is consistent with other statutes. Violation of the statute would then subject an offender to fines of up to $10,000 for an offense levied by the Department of Banking.

The package, also, minimally, eases the confidentiality provisions of the banking code, which you heard previously, and which has been a constraint in Pennsylvania, in particular, in providing information as part of a national licensing database that was discussed by Mr. Ryan. But we, then, will be able to publicly release information about enforcement orders against non-depository licensees such as mortgage bankers or brokers whenever an order, fine or adjudication is issued by the Secretary against an entity.

The current law absolutely prohibits us from warning consumers about bad actors in the marketplace, which is absolutely unconscionable in my opinion. Why should the mortgage industry receive different treatment in the Commonwealth from the insurance or the securities industries?

Again, the package includes safeguards to protect the industry. The easing of these regulations does not take place until after an order is issued, and that would be following any type of due process or administrative proceeding. And it does not, again, apply to depository entities, so as to maintain bank privacy protections and prevent any run on the bank type scenario, which is why the legislation was developed originally.

The package also contains an amendment to the Real Estate Appraisers Certification Act, which adds the Attorney General and the secretary of banking to the State Board of Certified Real Estate Appraisers and also increases maximum penalties. And as you may know, the improper inflating of homes by appraisers was a consistent abuse and a contributing factor to some of the problems that we have experienced in Monroe County.

And, finally, the package would change the Homeowners' Mortgage Assistance Program, as Mr. Hudson was discussing, to reduce the interest rate on HEMAP loans from the statutory amount, of 1983, of nine percent, to an Act 6 market rate, a rate which we already publish regularly in the Pennsylvania Bulletin. It is based on the yield on long term government bonds, plus two and a half percent. It would extend PHFA's temporary stay of foreclosure proceedings under the HEMAP program through the administrative process, and it would require mortgage lenders to send copies of Act 6 notices, already required by law. This is not something additional, it is merely sending the same type of notice that lenders are required to provide to PHFA so that, as Mr. Hudson said, they can monitor the hot spots and we can, hopefully, prevent any type of activity as occurred in Monroe.

Keep in mind that these notices are not sent until the borrower is at least 60 days past due. And to reduce any administrative burden, we feel that we've made it very easy for the lenders, they can send it by fax, electronically, in any fashion that is easiest for them, even mailing it in, should they be more of a paper -- shock.

In this age of computers, it is hard for us to believe that it is prohibited to merely forward an additional copy of a notice.

I also want to empathize with respect to our regulation that I talked about, that the ability to repay standard was something that Pennsylvania developed earlier on and we had public hearings regarding this past fall. It is not to the point of suitability. When we were having our hearings, we discovered there were problems in the State of New Jersey and other states with respect to how the capital markets treated certain types of loans. So, we felt that we were crafting something that would, indeed, address the specific problems of individuals to ensure that the product they were getting was not abusive or predatory, and so we would look at, can we repay the loan at the fully amortized rate over the term of the loan rather than just at the initial teaser rate.

I also would like to mention, since it was a point of interest with respect to the financial education, that the Department has materials on our back table, here, with respect to the Office of Financial Education. We have a Web site, Moneysbestfriend.com, which you may have heard about. We are hopeful that, at least with respect to individuals who are in school, now, teaching our children, and also teaching our teachers, how to teach financial education and, hopefully, for the next generation, they will be more sophisticated over time.

I, also, would like to address, if I may, Representative McGeehan's inquiry with respect to what makes a predatory loan or what makes a loan abusive.  We view that rather expansively at the Department of Banking and we believe that any dishonesty in the transaction, anything less than honest with the consumer, could conceivably be determined to be predatory.

So, we look at the schemes that have occurred, such as loan flipping, some of the issues which occurred in the Ameriquest case, which we are a member of that settlement, the abusive backroom sales tactics the consumers were subject to solely to generate higher commissions for brokers.  There are a whole host of actions which could be determined, over time, to be predatory, and, of course, subject to any type of hearing. But nonetheless, we view it expansively and will treat it expansively in our enforcement actions to the extent that the committee chooses to give us the authority to do so.

So, in summary, I thank you for the opportunity to, again, appear before the committee and I am hopeful that I offered insight into the Department of Banking's perception of, and response to, this very important dialogue, and I look forward to working with you to advance this package as quickly as possible. As one of the woman who spoke earlier said, something has to happen very quickly, and we agree with that as well.

We want to ensure that Pennsylvania's family's do not become entrapped in mortgages that are mathematically impossible and ultimately lose the place they call home.

Thank you. I am happy to address your questions.

CHAIRMAN DALEY: Thank you, Madame Secretary and we appreciate you and your staff for your wonderful job that you are doing on this issue. You really have given the committee the meat and potatoes of what we need to move this issue forward.

You missed our press conference this morning, I think that you are aware of some of the things that we are trying to do on a fast-tracked basis.

Any members of the committee have a question? Representative Longietti.

REPRESENTATIVE LONGIETTI: I will be brief.

I didn't catch everything that you said on the suitability standards, why not go forward with something of that nature?

SECRETARY REIDER: We felt that the ability to repay really focused on the individual consumer more so than, perhaps, it did subjective standard of suitability, which, as you know, used in the security industry, we heard from the industry that it would be a difficult standard in this area, because ultimately, over time, there is also a goal to foster and encourage homeownership. So, for particular individuals such as, perhaps, a young professional that does not have much in the way of a good credit score or credit experience or collateral up front, but nonetheless has the potential down the road to obtain, you know, that type of financing, that they might be able to manage, perhaps, a balloon type of arrangement or certain type of subprime loan that may be appropriate, to look at those individuals, and it just seemed to be a more subjective standard that was a little bit difficult to police and, also, we viewed the situation with the capital market. So, we didn't want our loans rated a little bit differently by motives or S&P's as well, which became an issue in New Jersey and they actually had to amend their statutes which dealt with tangible net benefit standard.

CHAIRMAN DALEY: Mr. Callen.

MR. CALLEN: Good morning, Secretary.

SECRETARY REIDER: Good morning, or afternoon, I guess.

MR. CALLEN: I would like to explore a couple of questions with you. The first is, you mentioned that 30 other states are already licensing individual loan originators and I am wondering, how does that work with the large national finance companies that have call centers?

SECRETARY REIDER: I don't know that I know the specific details of that and some states aren't actually licensing but have a registration type of standard. But most states are moving toward licensing so as to participate in the national database. I know that when we explored this issue early on with some of the larger companies, we were looking at, administratively, is there a way to make this easier, and we would welcome that type of dialog with the industry. For the large companies that have a huge sales force, and given that these large companies are able to do it in many other states, we feel that we can administratively craft --

MR. CALLEN: That is exactly what I would like to see and how it is going to be done.

SECRETARY REIDER: Yes. We would be happy to work with you on that.

MR. CALLEN: And the second question,

which really is not related, but it is related to some of the other testimony that we had here and both of the other hearings, and especially the Pittsburgh hearing, is, it seems every time we hear the worst stories, there is always a home improvement company involved somewhere, is that something that we should be looking at in terms of excluding those kinds of arrangements or a more established broker to be involved? I mean, it just seems like people are getting set up all over the place.

SECRETARY REIDER: That is often a problem and I actually think that this equity stripping is more of an issue in the Commonwealth because we tend to have an elderly population that has equity in their homes, so, some of these unscrupulous contractors will go out and seek to consolidate debt, as they describe it to the elderly, and it appears, you know, initially at first blush, very good for them, in that they are not only getting their contracted work done, but, also, having a little bit to add to, perhaps, their fixed income.

With the leave of standards that we

proposed adequately addressed the home contractor market. We also work closely with the Office of Attorney General, which is, now, looking at a whole host of standards for these contractors and, so, I believe that we adequately addressed that in the package that we have.

MR. CALLEN: Thank you.

SECRETARY REIDER: Thank you.

CHAIRMAN DALEY: Any other questions for the Secretary? Hearing none, Madame Secretary, I want to thank you for your participation once again, and I am looking forward to working with you in the future.

SECRETARY REIDER: I very much look forward to that. Thank you.

CHAIRMAN DALEY: Thank you.

Our next individual to testify will be Mr. Robert Levy, Esquire. He represents Mortgage Bankers Association of Pennsylvania and Pennsylvania Association of Mortgage Brokers.

MR. LEVY: Thank you, Mr. Chairman, members of the committee, members of the legislature.

There is an old saying, you don't ever want to discuss politics or religion and I am going to add prepayment penalties to that list. Given the word preposterous having come from the chairman and the secretary of banking. I was going to discuss it, but decided in the interest of my own safety, I am going to stay away from that issue. But if anyone is interested, I do have some thoughts on that subject.

CHAIRMAN DALEY: We are interested and would like to share those privately with you.

MR. LEVY: Okay. In any event, I am very pleased to be here and I appreciate the opportunity that you are giving us to air some of these issues. It is interesting that a couple of years back, now, I guess, we -- I sat on a task force with the secretary of banking, then, Secretary Shank, the current secretary was there as counsel and other representatives of the Banking Department, Mr. Winsel (phonetic) and others, and we had a really good opportunity to air a lot of the issues dealing with the mortgage lending and brokerage industries talking about all of these issues such as, we talked about suitability, we talked about tangible benefit, we talked about approaches, we talked about counseling and the like, and as a result of that task force, then, Secretary Shank, then came out with a proposal and part of that proposal incorporated something that we had suggested even before the task force met, namely, licensure of mortgage loan solicitors, as I call them, some call them loan officers, some call them mortgage originators, as the bill does. And, so, I certainly agree with the secretary, wholeheartedly, that the approach that you see in the six bills is certainly not something that was a knee-jerk reaction, it was something that was given a lot of thought and whether we agree totally with every piece of it or not, it is certainly something that was well thought out and deserves a lot of scrutiny and a lot of attention.

I, obviously, am here representing the Mortgage Bankers Association and the Pennsylvania Association of Mortgage Brokers.

We deal with both of those organizations by way of, what we call, a joint counsel, in terms of dealing with legislation regulatory issues.

We are very much aware, obviously, of all the concerns dealing with the subprime market; we share the concerns, I am not here to say that, nor would I be creditable to say, that there aren't any problems out there, all lenders and all brokers are doing the job the way that it should be done. And I find it interesting that -- I think everybody, kind of, agrees that one of the key factors that impacts the market today, and has impacted the market, is the understanding and comprehension of the consumer of the loan products that are out there. I think that everybody universally agrees with that; I haven't heard anyone disagree with that. That is the one constant that I know of, and, so, people all agree, as well, educating the consumer is important and we agree with that as well. And, frankly, we should have better educational approaches to that in the school systems. It is very, very important.

But, how else can you deal with that issue and to something meaningful going forward? And I am not going to address the problems that have already been addressed so well by Brian Hudson and others because dealing with the current situation with foreclosures and like that, that is something that has to be treated now, and it is being treat very well, I think, with the ideas for the rescue and the like. So, that is not something we're really going to focus on.

What we're thinking about, now, is, looking forward, how do we prevent this type of thing from happening in the future? At least the abuses that do take place and, you know, we don't necessarily say that these are as widespread as one would lead one to believe.

We know that 80 some odd percent of the marketplace, the subprime marketplace, the loans are being paid according to their terms. The people that have those loans are very pleased, they are living in houses they might not otherwise live in, the homeownership rate is up there, the pre-market is working well, interest rates today are in the sixes, low sixes. That is still very, very good rates when compared historically.

So, the marketplace does work. It does function. Now, how do we tweak it without destroying it, without undermining it so it continues to work effectively, but make it work better so you don't have those limited situations where you do have abuses or lack of understanding.

The licensure of a loan solicitor is, we think, one key way to accomplish this without disrupting the marketplace or in any way detrimentally impacting it. And the reason for that is, your loan solicitor, obviously, is the person, and the definition, I should add, has to, obviously, fully encompass the people we want to be encompassed and not those that we don't.

But, in any event, assuming that we are capable of doing that, and I believe that we are. The loan solicitor who is meeting and discussing with the consumer at a critical point in time when that consumer is deciding on a loan product and whether they are going to go ahead with a mortgage loan and what type of loan product they want, and we strongly believe that it ought to be the consumer's choice as to which product they should select, if that loan officer -- if that loan officer isn't educated, if that loan officer isn't competent, how can that loan officer communicate with the consumer in a meaningful way?  It can't happen.  And, frankly, I've seen isolated incidents where loan solicitors do not comprehend the loan products because they are complex.  And you get into your pay option ARMs and interest only and readjustments, resetting of rates and so on, these products are complex so, you need an educated person to explain them to the consumer.  And I think if there is a duty on behalf of the mortgage broker or banker, it is to clearly explain the loan products that that individual has available, at that moment in time, to present to the borrower so that the borrower has a comprehension of what the product is all about and how it works.

And so that is why I believe that this

particular Bill 1079 and 1080, both, go a long way toward resolving that problem. But what else is built in there is accountability.

This is also crucial because, in addition to having the knowledge and capability of advising a consumer, you need an incentive to advise a consumer. And that incentive would be provided by the accountability because now, today, in Pennsylvania, obviously, we don't have licensure or registration of loan solicitors, so you do not have any real accountability if a loan solicitor does something that would be considered wrongful or whatever, they jump from company to company, it is easy to do, there is, really, no control there; there is no accountability.

With a license it would be a great deal of accountability because, if, in fact, that loan solicitor were found to have done wrong and sufficient to remove the license or suspend the license, they are out of business. They can't work. They can't go to another company.

And, by the way, with the national database that we are talking about, in a state that has licensing, that licensing information would be on the database. So, that loan solicitor would, most likely, not be able to go to another state either, so -- which benefits Pennsylvania, if there is one solicitor from another state that happens to have licensure as well.

So the bottom line is, you get accountability, you get competency, you have an educational process, you have the 12 hours of education, you have to take an exam, you have the continuing education. You certainly would want to see, and there would be built in, ethics being taught to the loan solicitor as well as all of the other information that they would have to have at their fingertips.

We think this is a very, very important way to go. There are some issues, I am not going to get into them now, we'll have opportunities to talk about them, relatively minor, tweaking the law, tweaking definitions and things of that nature, that we think should be done. But the bottom line is, the contacts of that bill and the proposal of an inherent nature is very, very good, very positive and we think is exactly what's needed.

There are a lot of issues in terms of, it was mentioned, the call centers with the large national multistate companies, we have to deal with that. We believe that there are ways to deal effectively to give the larger players, multistate players, the ability to file and license their loan solicitors in a way that will be easier for them, possibly do it in one filing every six months or every year. There is the statute that is drafted in a way that provides the ability to charge one fee and limit the amount of the fee when you get above a certain number of loan solicitors and that kind of thing. We think it can be made, in other words, done in a way that will accommodate the larger lenders.

As far as the call centers are concerned, that is where you have the definition of loan solicitor and at this point, there are people in call centers that wouldn't be loan solicitors if the definition is done, you know, with specificity because they are not actually, necessarily soliciting or doing the kind of -- having the kind of discussions with consumers that would be considered solicitation to the extent that you would want to control that. If they are just referring a consumer over to a loan solicitor, then they necessarily, or shouldn't necessarily have to be licensed under the statute.

So, we can deal with all of those issues. They are not that difficult to deal with. And I will be meeting fairly soon with some of the lenders in Washington to talk to them about how they feel about licensure, because I am one that is a strong believer that it is very, very important that there be as level a playing field as we can get, today. And, obviously, with the Wachovia decision, the playing field is a little bit less than level with the national banks and the national bank subsidiaries not being subject to state law. Where that is all going to go, you can only imagine. I am sure there is going to be efforts made on a national level to deal with those issues.

I am very concerned about not having a strong state regulatory system. I am a strong believer in it. I have been part of it. I was a deputy commissioner a couple of years ago, I am not going to tell you how many, in another state, and, so, I'm very familiar with the regulatory side of things. I think the state is the appropriate way to regulate this industry and we ought to, you know, keep that in mind.

And the other aspect of all this, that we have to be careful as to how we regulate the industry for a couple of reasons, not the least of which is, that with the national system being what it is, it is very easy for companies to start to shift over and get into the national system hookup with your national banks and such, and just get away from it. If we do things that are to onerous and create an unlevel playing field, that is so unlevel that they just can't stay within the system, and now they have an alternative. So, we need to be very careful to maintain the state system. And I think CSBS is thinking along those lines as well, trying to create some uniformity so that the national companies, you know, feel comfortable working with the state system and not try to get federal laws, federal licensing and the like, which we really deplete what we have, here, in Pennsylvania.

So, with that, I think the free market is important and that's -- I appreciate what the secretary of banking said about loan suitability.

I have, personally, experienced what happened in New Jersey, I was involved in the drafting of the legislation in New Jersey. The first bill was one that contained tangible net benefit language, the Banking Department of New Jersey struggled with that for months trying to find a way to make it work. There was no way to make it work, it was to subjective, to ambiguous. Nobody knew, would ever know, until a judge heard the case, as to whether the loans you made had a tangible net benefit or did not have a tangible net benefit because it combines both economic and non-economic considerations. In other words, maybe your loan payment went up because you refinanced to take money out to send your child to college, but was that a tangible net benefit because you were able to send someone to college notwithstanding that your monthly payment went up, notwithstanding is was more difficult for you to meet your loan payments, who knows.

One judge might say, yes, that was a tangible net benefit and another judge might say, no, it is not. And so Standard and Poor's and other rating agencies said, we can't rate these loans. So, nobody would buy them and nobody would make them and the market shut down. And you will find the same thing with loan suitability. You can't make the mortgage banker/broker a fiduciary, and then destroy the freedom of the consumer to make choices.

I would not want to walk into a car dealer, buy a Chevrolet, for example, and have that dealer say, you know, Mr. Levy, having -- giving due consideration to your circumstances, these cars are not for you, I can't sell you one. Because they won't be able to because of the fear that somewhere down the line I am going to bring an action when I am unhappy with the vehicle and say, you know, you gave me a vehicle that was unsuitable and, you know, you should have given me a four-wheel drive, you gave me a two-wheel drive; you gave me a front-wheel drive it should have been a rear-wheel drive and so on and so forth.

This system doesn't work that way, and we know that it works in the present circumstances. It works well. We need to tweak it, we need to tweak it carefully, and we think that the bills that we have pending, with the exception of a private discussion that I will have with the representative concerning the state of the affairs of the prepayment penalties, it is, overall, a pretty good way to go.

We do have a little bit of an issue and I have to say, we have always strongly, strongly supported strong enforcement in Pennsylvania, as the Banking Department can tell you, Mr. Winsel (phonetic) and I go back to, I hate to admit it, 1985 when we started working on these issues and drafting the Pennsylvania statute and regs after that and so on. We've always favored very strong enforcement. And you have a law, today, in Pennsylvania that is extremely powerful in terms of its rep and scope and the ability of a regulator to regulate within it. I have to tell you that. It is, probably, in my judgment, one of the strongest in the country. I mean, you've got terminology in that statute, such as negligence and competence and so on.

So you pretty much -- the Banking Department pretty much has a broad brush where they can look at the way in which you are functioning and decide whether it is appropriate or not appropriate given the marketplace, given the nature of the lending and so on. So, we do have that strength.

The problem that we are facing now, and, again, I am not going to bore you with all the details, but the new regulation that the IRRC is going to have to take a look at, we do have a bit of a problem with, I was talking about it earlier with some folks and we are going to try to present something that will modify that.

And what I am talking about is the idea that loans should be -- the high bid ARMs should be calculated, if not on the basis of the initial rate, but on the basis of a fully indexed rate over the full term of the loan.

Now on the surface of it that sounds like, gee, that is a great idea, it ought to be done. The problem with it is, is that it was contained in what we call non-traditional mortgage product guidance which came out of the federal authority, was later adopted here in Pennsylvania and was applied only to loans that had deferred interest or principal. Specifically, it was very focused. There is a pending proposal that is being committed to where I am at now, to expand it. But the initial, non-traditional mortgage product guidance, focused solely on those limited products.

When you expand it into other products, and we are going to have a problem with it there, when you expand it in other products, the problem that you have is, for example, self-employed individuals, attorneys and others ought to have the right and ability to be able to qualify for some type of loan on the basis of the initial rate, can be very beneficial for them, because there are circumstances where they wouldn't qualify if you take the rate all the way out on that basis, but they would qualify on the initial teaser rate or whatever you want to term it. And it can be very beneficial for them and not a problem at all for that professional. For a W-2 employee, it can be a big problem and it shouldn't be used. Stated income, for example, should not be used for a W-2 employee.

So we think if we take that regulation and we refocus it on the W-2 employee and we carve out the self-employed, that that would solve the problem and accomplish what, you know, ought to be accomplished with that type of regulation, so...

I don't know -- I could go on for a lengthy period of time and I am known to do that, so, I am not going to do that today.

CHAIRMAN DALEY: We appreciate that you don't. I appreciate you taking the time, Mr. Levy, to come and testify. We've spoken before and I was teasing about the fact that -- I would like to discuss with you privately, but if any members of the committee have any questions regarding that issue, we would be glad to talk and raise that issue today. Do any members of the committee have any questions; John Siptroth.

REPRESENTATIVE SIPTROTH: Just very quickly.

Thank you, Mr. Levy, for your testimony. There was some discussion, if you recall, Mr. Hudson had indicated some sort of mechanism needs to be established at the thorough level to allow exchange between the states of individuals that may practice, other than satisfactory means; would it be prudent to have a federal guideline that the States would have to comply, with similar to other unfunded mandates that they passed down to us, but do you think that it would really be a strong arm in the industry today to help the regulation?

MR. LEVY: Well, I don't know -- if you have state enforcement of a federal law or regulation, that's workable I think, but then you always have the issue of, are you going to have consist interpretation by each of the states that interpret that particular regulation. We've had, God knows, had problems with real estate procedures trying to get interpretations of various provisions of that statute. And when you have different states interpreting the same law, you can have varous interpretations. It can be a problem, but I think, certainly, one of the things that we can do is try to work out reciprocity so that, for example, if you take an exam, here, in Pennsylvania, to pass a test for licensure, maybe we can get enough of the, you know, states to say, yes, if you pass Pennsylvania's test, we will accept it. So you can take one test in one state and it will be accepted in other states.

Reciprocity, I think, is becoming very important, because without it, without some uniformity that it creates amongst the states and state regulations and so on, particularly when it comes to exam and licensure we're more likely to get a federal approach, which may, as I said before, deprive us of our state regulatory system.

REPRESENTATIVE SIPTROTH: Just a followup. If we use the reciprocity, can we also use that as a tool to have licenses removed from other states or licenses that are held in other states?

MR. LEVY: Yeah, absolutely. In fact, that's why I say this database that is being worked on now can be a very effective tool, so that one state will become aware of issues with licenses in other states or judicatory decisions in other states and, therefore, prevent someone from coming into your state from the other state where they already had a problem, and there is something in the bills, the packaging of bills that does that now. It is just a matter of getting that database up and running.

CHAIRMAN DALEY: On the other side of that issue, if we deny them the ability to practice here, let's just say they have a license in New Jersey, I do not believe that we can legislate precluding them from doing their thing in New Jersey with their license, only in Pennsylvania. I don't think that we can yank that license somewhere else.

MR. LEVY: No. You wouldn't be able to do that, but what I am saying is, with a database, what is very likely to occur, I chaired the advisory council to the AARMR, which is not a vehicle in Iraq, it is the American Association of Residential Mortgage Regulators, and they have worked very, very closely together along with CSBS, Conference of State Bank Supervisors, and they -- you see them working more and more closely every day, and what I am sure that would happen would be, with a database in place, if New Jersey saw a license revocation for Pennsylvania say, for a loan solicitor, they would not license that loan solicitor, I am confident of that. So, it would automatically, pretty much, happen. And no state is going to license someone that just had a license revoked in another state, unless you can prove that that revocation was just erroneous for some reason, which, obviously, would be very difficult.

CHAIRMAN DALEY: Any other questions?

MR. CALLEN: We are talking about --

CHAIRMAN DALEY: An analogy of driver's licenses and how they carry --

MR. CALLEN: We have reciprocity with a number of states.

MR. LEVY: All I am suggesting is, just a mere creation of a database that gives you adjudicatory decision and determination including license revocation, suspension will pretty much, you know, create a system that you are talking about, because no state is going to want to bring in and license a person whose license was revoked in the same business in another state. That is just not going to happen. They will find a way to avoid licensing that person.

CHAIRMAN DALEY: Any other questions by members of the committee? Hearing none, thank you very much for your testimony.

MR. LEVY: Thank you.

CHAIRMAN DALEY: We are looking forward to ongoing discussions. You have some very good

points.
MR. LEVY: Thank you.
CHAIRMAN DALEY: Our next testifier will be Mr. Mike Boyd, Fulton Financial Corporation for PA Bankers Association.
MR. BOYD: Good afternoon and I thank you for letting me appear here.
My name is Mike Boyd and I am a vice president and corporate compliance director for Fulton Financial Corporation. We are a 14 plus billion dollar holding company with affiliate banks in five states.
I have, approximately, 11 years in banking, mainly audit and compliance. Prior to that I was in accounting for an engineering firm.
I am here, today, representing --
CHAIRMAN DALEY: Can I ask you how you made the transition from engineering to audit and accounting, because I deal with some auditors and accountants in another way?
MR. BOYD: What I did was, I went to college for an accounting degree, came out of college and actually worked down at 1818 Market

Street for Dane's Engineering Firm. A friend of mine was working at Summit Bank at the time and I made the transition from there. And while I was working for Summit Bank I entered law school in Wilmington, Delaware at Widener and I completed that at night while I was working for Fulton Financial --

CHAIRMAN DALEY: You mean, the Harvard on the Delaware?

MR. BOYD: That is exactly what it is, the Delaware law school.

I am here representing the Pennsylvania Banker's Association and I am a member of the Credit Access Task Force.

The PBA is a statewide trade association representing, approximately, 200 financial institutions of all sizes, located throughout the Commonwealth including national and state banks, banks and trust companies, trust companies, savings institutions and their subsidiaries and affiliates.

The Pennsylvania Banker's Association appreciates the opportunity to appear today, as the committee considers important issues of residential lending in the Commonwealth. We wish to state, emphatically, that the PBA detests and does not support predatory lending. It will not be tolerated by our members of our committee and the PBA and, certainly, not by the regulators who regulate us on a consistent basis, as they would take swift and severe action against any financial institution which prey on consumers.

At the same time, we realize that some unscrupulous individuals do ignore existing laws against fraud and -- for personal gain. In certain instances, those who would collude to deceive consumers as well as the ultimate purchasers of residential mortgages, such as banks, escape discovery until a number of home buyers face financial difficulties and learn that their home purchases involve fraud.

Residential real estate fraud must be prevented, but when it occurs, it must be vigorously investigated and prosecuted. We strongly support enforcement of existing and federal state statutes against those who violate these laws.

We are encouraged by the Office of the Attorney General's prosecutions of residential mortgage fraud cases referred to it and we believe that strong enforcement of existing laws is the best means to dramatically reduce such incentive to commit such a fraud.

As you know, banks that have purchased residential real estate loans, which they later discover were made by fraud, face significant financial losses and reputation damage that is rarely recoverable.

Touching on the education part, I don't want to belabor that, but PBA actively supports the ABA, American Bankers Association, nationwide effort each spring and fall to educate children and adults on personal finance. And I would be willing to give you a list of programs that they do offer. The ABA has a great tool on education for financial literacy.

I would like to turn to the Department of Banking request for statutory amendments and I will not go through the amendment as everybody prior to me did. With regard to 1040, the prepayment penalty, it is PBA's view that free markets are the best means to govern products and services. The mortgage market is very competitive. Most residential mortgages are already obtained without prepayment penalty.

Prepayment penalties are merely a means by which a mortgage loan can be priced differently; borrowers may choose that option or not. Again, it goes back to the education. We don't see the prepayment penalty as an abusive tool throughout the industry. And if you were to cut the prepayment penalty off, the origination cost associated with loans and processing a loan would be affected because you have the loan flippers. It can be better regulated. However, I don't think that it should be. And PBA's position is that it should not be, specifically, not required or not allowed.

With regard to -- the Department requested an amendment to the Department of Banking Code of 1933, code -- Act 1080. This wasn't talked about today, but PBA believes that the Department of Banking Code requires a number of amendments to modernize its administrative procedures and would like the opportunity to elaborate on our suggestions at a later date with respect to specific issues of the release of information by the Department regarding pending enforcement actions against non-depository licensees. The PBA will support disclosure of final fully adjudicated enforcement actions.

Moving on to the Real Estate Appraisals Certification Act 1081. PBA has long advocated for reformation of the State Board of Certified Real Estate Appraisers. In addition to the changes the Department proposes, PBA requests that experienced commercial and consumer real estate lenders be added to the board and at least reviewed on a consistent basis.

PBA also notes that certified appraisers are not required by federal banking regulators in diminish transactions that would be under $250,000, and would appreciate clarification that these amendments are not an attempt to obviate the federal financial institution regulator's ability to govern bank and real estate lending.

Just to touch on the call center, my company has two various call centers, they are called, Direct Banking Centers. We do provide loan originations in those call centers based upon electronic banking. Electronic banking -- we offer these products on our Web site. The customer can call into the call center, which is a direct banking center, apply for a loan and be approved at that call center. One person or two people have that authority to approve the loan and it is on a limited scale of dollars.

So, it is usually a home equity loan of up to, maybe, $250,000 in different loan products, but in order to say that you -- with regards to licensing people, the majority of the people that take the loan applications in the call centers and direct banking centers are more clerical people, and there is, probably, about 25 of them.

If you were to license anybody, it would be licensing the person that is approving the loan at that time. And they do have a loan officer history. The majority of the people that do the loans were loan officers at one time. So that could be something that could be looked into.

With regard to the HEMAP changes, we should note that only a very small percentage of Act 91 notices result in mortgage foreclosure. The PBA believes that its members would be unable to provide, in the time allotted, all the information specified by the expanded notice as well as those documents specified from the original mortgage loan, and cannot support such requirements. PBA members would agree to supply PHFA a quarterly summary of Act 91 notices sent to mortgagers in their current form arrayed by ZIP code versus county or census track. The PBA cannot support extending the statement that very few HEMAP applications are approved after the administrative appeal.

CHAIRMAN DALEY: How about voluntary? Voluntary, not mandatory?

MR. BOYD: Voluntary? The only problem --

CHAIRMAN DALEY: Skip the question.

MR. BOYD: The proposal on amending the mortgage bankers and brokers and the Consumers Equity Protection Act and the Secondary Mortgage Loan Act 1080, as noted above, the financial institutions and affiliates are already highly regulated and are routinely examined for compliance with those rules by federal financial institution regulators, in addition to State Banking Department in the case of state charters.

Now, with respect to the issue of the extent to which states can regulate or license national banks and their subsidiaries, earlier this week, the United States Supreme Court decided that in accordance with the Court of Appeals that have addressed this issue, that the national banks, mortgage business, whether conducted by the bank, itself, or through the banks operating subsidiary, is subject to OCC's superintendence, and not the licensing, reporting and visitorial regimes of the several states in which the subsidiary operates.

This decision avoids a patchwork of duplicative and conflicting federal and state regulations. Now the banking industry can focus on more important issues of compliance versus which set of rules apply.

And that is actually a quick view of PBA's position on the various Acts and I do appreciate your time and didn't want to go through, in detail, what the Act is, because everyone else did.

CHAIRMAN DALEY: No. Mr. Boyd, you did a fine job and we appreciate that.

Any members of the committee have any questions for Mr. Boyd; no.

Thank you very much for you testimony and we appreciate your brevity, it was quick.

The last individual to testify will be Ms. Kerry Smith, Esquire, Community Legal Services of Philadelphia along with Allen White.

Mr. White, are you an attorney?

MR. WHITE: No.

CHAIRMAN DALEY: Allen White, Esquire (sic); did you go to Widener University?

MR. WHITE: No. I happen to be a teacher down there.

CHAIRMAN DALEY: Well, we appreciate you down there. I am on the board, also, at Widener. Just a little plug for Widener University.

MS. SMITH: Chairman Daley and members of the committee, thanks for having us. I know that we are the only thing that is standing between you guys and lunch and this beautiful day.

CHAIRMAN DALEY: Take your time. As the bible says, the first shall be last and the last shall be first. We want you to realize that your testimony is just as important to us as the first person that testified.

MS. SMITH: Well, we really appreciate the opportunity to be here today and your leadership in terms of looking at the issues of predatory lending and mortgage reform.

CHAIRMAN DALEY: We are all working very diligently.

MS. SMITH: So, I am Kerry Smith, I am a staff attorney at Community Legal Services and CLS provides -- we are state and city funded as well as private funded and we provide legal services to low income residents of Philadelphia.

We have a very long history of working to protect borrowers from exploitation in the credit marketplace. More specifically, protecting people from subprime mortgage schemes.

Both Allen and I work up in our North Central office which is up on the corner of Broad and Erie, surrounded by all sorts of row homes, thousands of row homes up there that house many low income Philadelphia families.

And despite the fact that Wall Street is only now catching on to the subprime mortgage crisis, really, the subprime mortgage foreclosure crisis here in Philadelphia is not new. It's been devastating neighborhoods for over a decade. It was back in 1996 that CLS first initiated a lawsuit under the federal anti-predatory lending statute, HOPA against a subprime lender that we actually had to follow into a Chapter 11 bankruptcy. We have been working on these issues for a long time.

Shortly thereafter, in 1998, we were

seeing clients coming into the office with -- facing mortgage foreclosures and about 50 percent of those involved a refinancing, they were not mortgages that they used to purchase their homes.

A lot of the mortgages that were made by subprime lenders in Philly in the years 1998, 1999 and 2000, fully 40 percent of them ended up in foreclosure here in Philadelphia. And a single subprime lender, EquiCredit, was actually responsible for 1 in 10 foreclosures in 2003.

So, just to dispel a couple of myths that the industry has been promoting primarily to the media, subprime lending has often been described as a vehicle for increasing homeownership, allowing people with poor credit the ability to buy homes. That is not our experience at CLS. For the most part, subprime mortgages are offered to homeowners who already have existing mortgages, and, often, other forms of credit as well. And in most cases, these homeowners are targeted by brokers for a refinance, for someone to borrow cash for repairs, we have heard about the home improvement schemes, to pay their back taxes or even to consolidate credit card debt when that could be debt and they could deal with that in other ways.

Nationally, 10 percent of subprime mortgages are going to first time homebuyers, and, on the other hand, 20 percent of subprime mortgages actually result in foreclosure, nationwide, and here in Philadelphia, that is, obviously, much worse.

CHAIRMAN DALEY: How much worse is it in Philadelphia?

MS. SMITH: Unfortunately, we don't have proven statistics that has been previously mentioned, some of it is just compiling that, but in 1998 through 2000 showed that 40 percent of subprime mortgages in Philadelphia were in foreclosure. By -- within the next five years --

CHAIRMAN DALEY: How many?

MS. SMITH: -- within five years of them being originated.

40 percent.

CHAIRMAN DALEY: 40 percent.

MS. SMITH: 40 percent, 1998, 1999 and 2000.

CHAIRMAN DALEY: We don't have data from 2004?

MS. SMITH: I don't. We might be able to compile some of that for you through, maybe, the reinvestment firm which has done some analysis.

CHAIRMAN DALEY: We appreciate that you do that. We would like to hand it to our committee members, especially in Philadelphia, I think they would really like to know that.

MS. SMITH: We have submitted written testimony and I don't think there is a silver bullet that is going to solve this crisis. I think that if we cut a neater arrange of measures in the legislation that is before you today. I think that is a really important step in the right direction.

We support the package of bills and we encourage the committee to consider, actually, going forward. We think more needs to be done.

You've heard discussions earlier today

about establishing a suitability standard, much like already exists in the securities market. Things are functioning well there, why not have them function like that in the mortgage market as well?

I would really like to emphasize the importance of HB 1084 which would increase the cap on Act 6. When Act 6 was first passed in 1974, the $50,000 cap covered the vast majority of mortgages for middle class families, and now that protection is becoming -- it is just less and less coverage and it is really an important step.

I think that I am probably preaching to the choir here about prepayment penalties, but research has shown that those significantly increased the risk of foreclosure. Why, because you have to pay the fee in order to refinance to prevent foreclosure. We've also seen a lot of research that shows consumers aren't getting any trade off. They are not actually getting, for example, a significant interest rate reduction in return for prepayment penalties and, also, research shows that there is a disproportionate impact on African-Americans and other minorities.

Preemption, just to touch on that, briefly, because we heard that discussed previously today. Certainly, it is true, national banks and other federally chartered institutions are not going to be covered by mortgage reform that is passed, here, in Pennsylvania. But it is important to note that much of the foreclosure problems actually results for activities of entities that we can regulate here in Pennsylvania. Mortgage bankers and brokers, from the smallest operators to actually, like, some of the biggest, Ameriquest and New Century, those are all companies would be governed by the regulations and the legislation package --

CHAIRMAN DALEY: Wells Fargo?

MS. SMITH: Well, again, Wells Fargo, as was said earlier, Wells Fargo Financial, yes, some of the banks and the financing subsidiaries would not.

As I indicated, we do think some more needs to be done, suitability standards would be one, requiring written fee agreements between brokers and borrowers would be another important key, but real simple, the key important step.

Finally, we would suggest the committee look at legislation that has been passed in other states that limit fees, the fees and points on a loan. Minnesota, just yesterday, actually, just passed a package of two bills that they are now sending to the governor that caps points and fees at five percent, other states have done that similarly. I believe there are some other bills that are filed right now in Pennsylvania that would cap it at three percent of the loan principal.

We also support a temporary mortgage foreclosure moratorium. You made a very important announcement, today, about the development of a rescue loan program. If we could ensure that people who are involved in these kind of abusive mortgage loans, have the time to do the work out agreements with the mortgage company directly, or just the time until we can get that fund established and in place, that would be an important protection.

And just to also echo what my colleague George Gould had mentioned earlier, one other way we can get at that, other than a mortgage moratorium, is actually trying to use the stay for filing of foreclosure that is already established through the HEMAP program, where if a borrower gets turned down for HEMAP because they might not meet that standard, perhaps an extension on the stay for the filing of a foreclosure action so they could be considered for the rescue fund. That might be a good alternative as well.

One other, just, quick thing that is not in my written testimony, but a lot of discussions have come up about home improvement contractors. There is an important bill right now, HB 507 that would regulate home improvement contractors to require them to be registered with the state and, also, to pay money into a guaranteed fund where homeowners could, who have been ripped off, sued the contractor and won but were unable to collect, to get up to $10,000 to pay off a judgment, and that would be an important improvement and something to consider as well.

So with that, I will let you get to lunch and I will answer any questions that you may have.

CHAIRMAN DALEY: Mr. White, do you have any comment?

MR. WHITE: Let me just respond to one or two things that came up earlier today.

One, I think there was a question about, were there other states that have regulated prepayment penalties; I believe the number is somewhere between 10 and 15 states, including New Jersey and North Carolina. North Carolina, I believe, prepayment penalties are banned on loans less than 150,000, similar to what the Banking Department is proposing. And, of course, in Pennsylvania prepayment penalties are banned, but only for loans below $15,000, a number which was thought to represent, you know, most of the low and moderate income homes, it just wasn't indexed for inflation.

On the business of state regulated entities versus federal regulated entities, I find that discussion fascinating because I also sit on an advisory council for the Federal Reserve Board where the federally regulated banks say, it is unfair to force us to comply with higher standards of mortgage lending because there are all these entities that are regulated at the state level that won't have to comply with these rules, and, therefore, they will be able to engage in unfair, deceptive practices or what have you. And there is really no good answer to that other than to say, the states should do what the states need to do and the federal regulators should do what the federal regulators need to do to get a grip on this problem. And, certainly, a lot of the Banking Department's proposals are only going to affect mortgage brokers and mortgage bankers and businesses, you know, that don't take deposits, essentially.

But that is where a lot of the problem lies. And, I think, it is also worth while to be mindful of the fact that the federal regulators and congress are very aware of this problem and are interested in acting. And we've already seen a situation with the informal agency guidances about non-traditional mortgages where the federal agencies acted and then the state agencies followed suit. And so we now have, pretty much, a uniform application of the guidance for non-traditional mortgages for the federal regulated entities and the state regulated entities. So, certainly the fact that state legislation is going to affect part of the market is not a reason not to take action.

CHAIRMAN DALEY: Can you just, briefly, answer this question; do you believe that prepayment penalties are higher in minority areas as opposed to the non-minority areas?

MR. WHITE: There is some, actually, empirical research to support that.

CHAIRMAN DALEY: I saw Debra Broomstein (phonetic) Bosian (phonetic).

MR. WHITE: That is a published study available on the Internet. And they actually looked at a database called Loan Performance, which has data about millions of mortgages and does, actually, have the borrower in there, so they were able to document that prepayment penalties are charged more frequently on loans to minority borrowers. And it's also been shown, pretty consistently, that the trade-off where you are supposed to get a better rate if you agree to prepayment penalty, that happens at the wholesale level, but it doesn't make it down to the retail. So that is the problem, is that, sure, the originator, the broker is getting a better price on selling the loan to the secondary market, but they are not passing that savings on to the consumer, by and large. It is just a way for originators to make a little more money, and the prepayment penalty, obviously, hurts the consumer, ultimately. Especially when they try to refinance or sell their house. Some people who are facing foreclosure are thinking, well, at least if I could sell my home, I could avoid the trauma of the foreclosure, but, now, in addition to the mortgage, they have to pay another four or five percent fee, and that makes it impossible to sell their house in some cases.

CHAIRMAN DALEY: Any questions from the

committee; hearing none, Miss Smith and Mr. White, we appreciate your testimony.

I want to thank all those who testified today, especially Mr. McCloskey who has gone from the beginning to the end. He is still here and we are going to be in touch with you, personally, to discuss this matter, also to the secretary for spending time with us throughout the morning and throughout the conclusion. Thank you, Secretary Reider for your participation. Also, Mr. Boyd, I see you are still in the back and haven't run out the door, thank you. Ian, thank you. Mr. Phillips thank you. And I want to thank, personally, Renee Helmar, she is our stenographer, Class Act Reporting Agency, LLC, she works out of Philadelphia and just a little plug for you. Also, I want to thank Pam Otto, our executive secretary who helped Representative McGeehan set this up and does a lot of hard work for us as well as Dave Callen, our executive director for the committee, Sandy Altman, my committee's secretary and Destiny Zeiders, our research analyst public relations specialist on our staff. Thank you very much. Everybody have a safe trip home and have a good weekend. Thank you.

(Whereupon, the proceeding concluded at approximately 1:35 p.m.)

C E R T I F I C A T E

I, RENEE HELMAR, a Shorthand Reporter, and Notary Public, certify that the foregoing is a true and accurate transcript of the proceedings which were held at the time, place and on the date herein before set forth.

I further certify that I am neither attorney, nor counsel for, nor related to or employed by, any of the parties to the action in which these proceedings were taken, and further that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

Renee Helmar

Shorthand Reporter