COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
HOUSE COMMERCE COMMITTEE HEARING

IN RE: HOUSE BILL 2694

KEYSTONE BUILDING
HEARING ROOM 1
HARRISBURG, PENNSYLVANIA

THURSDAY, SEPTEMBER 18, 2008, 9:03 A.M.

BEFORE:

HONORABLE PETER J. DALEY, CHAIRMAN
HONORABLE MATTHEW E. BAKER
HONORABLE JARET GIBBONS
HONORABLE R. TED HARHAI
HONORABLE DICK L. HESS
HONORABLE CHRIS KING
HONORABLE MARK LONGIETTI
HONORABLE MICHAEL P. MCGEEHAN
HONORABLE JAMES WANSACZ

I N D E X

P R O C E E D I N G S

CHAIRMAN DALEY: I'd like to call the hearing to order. We are going to be discussing House Bill 2624 today with the members. Immediately following opening remarks, I have to leave to go up to the Hilton for another matter. I should be back at some point. But I will turn it over to Representative McGeehan.

REPRESENTATIVE MCGEEHAN: Thank you very much for the introduction and for your indulgence in scheduling this hearing on what is an increasing problem in the Commonwealth. If we read the headlines in the last day or two and, of course, in the last year, you'll see what has been a critical issue, not just here in Pennsylvania, but around the country.

And as you said, Mr. Chair, we need to do something to address this tidal wave of the foreclosures and really a calamity to economy of individual families. The focus of this hearing is to keep people in their homes. You know, I think we all agree that foreclosures are a problem. And the idea of this bill is to establish a conversation between the lenders and members, homeowners meeting their obligations, a consolidation for everyone.

Many people who are caught in this situation were caught because they weren't adequately educated about the borrowing process and the whole issue of mortgages.

In conclusion, Mr. Chairman, I believe that House Bill 2694 is needed, and we need to follow the lead of Philadelphia's lively success of the residential mortgage foreclosure program, which, Mr. Chairman, has already saved people from foreclosure. Over 200 lawyers have already dedicated their time in assisting Philadelphia with this process.

And just for information sake, many other areas of the state, not just Philadelphia, but Allegheny County and Lackawanna County, even Lehigh County have used this successful Philadelphia model for developing their own protocol for lending and borrowing.

Mr. Chairman, it makes sense that if these other counties are doing it, that we establish the program statewide, that enables not just those people in the counties I've enunciated; but statewide, to avail themselves in programs that successfully keep people in their homes. After all, that's the point of this hearing today, and I'm not really here to talk. I'm here to listen, Mr. Chairman, so I'll give the microphone to you.

CHAIRMAN DALEY: Thank you, Representative McGeehan.

Again, I have to leave for the Hilton. I have another commitment.

(Representative Longietti took roll.)

REPRESENTATIVE MCGEEHAN: Thank you very much, Representative Longietti.

And thank you for those who are in attendance here today. We are normally not scheduled to be in on Thursday. That's why there's -- it may appear that there are several members who aren't in attendance. That does not reflect how this Committee, the importance this Committee places on this issue of foreclosures and mitigating foreclosures throughout the state.

And we'll have members coming in and out. We want to begin the hearing by asking Ian Phillips to come up here. He's the Director for ACORN. And I'd also ask Kerry Smith, who is an attorney with Community Legal Services, to join them.

MR. PHILLIPS: Thank you, Representative McGeehan; and I'd like to thank the Committee, Chairman Daley, Chairman Hess. I want to thank you for giving ACORN the opportunity to testify on House Bill 2694. We would first like to thank, like I said, Representative McGeehan, and the cosponsors of this bill for kind of seeing this Philadelphia program take flight and really focusing on moving that, a bill really right off the bat as this was getting started.

In light of the success, it even has more resonance today. I'll spare you the full discussion on what effects subprime lending features like adjustable rates, balloon payments and other toxic products have had on the economy. If you have read the paper, turned on the television, listened to the radio or generally left your home without your hands covering your eyes and ears, you would have seen and heard much more than you would like to.

We are living in troubled times and all because of these risky loans that were made two and three years ago that have turned out to be the most flawed financial instruments in history. Never before have the problems of Wall Street so directly and immediately affected Main Street.

We're here today to discuss what has proven to be the most remarkable solution to this crisis to date, the Philadelphia Mortgage Foreclosure Diversion Pilot Program. It's a bit of a mouthful. I would like to quickly go over the background of how that program was created and share with you its successes that it's had so far.

On March 25th, 150 ACORN members, troubled borrowers and their neighbors met at House of Prayer Episcopal Church in Olney in Philadelphia. The meeting led by Yajaira Cruz-Rivera, a nurse and mother of four, struggling with her adjustable rate loan that went from $925 a month to as much as $1,645 a month; and Christina Jones, who spoke about how both she and her daughter were facing impending rate resets on their loan.

Two days later, City Council offered a resolution calling for a stoppage of sheriff sales and calling on President Judge Darnell Jones to design a program to stem foreclosures caused by subprime lending practices.

The primary motivation listed was the estimated $345 million in losses expected in the City caused by the loans originated in 2006 alone, the vast majority to lost property values for homeowners living around the surrounding areas affected by foreclosure, not those actually involved in the transactions, be it the lender or the homeowner.

Sheriff Green's spokeswoman entered the City Council meeting about 30 minutes after that resolution passed unanimously and said that they were going to postpone the April sales, which at that point, were just a week later.

Two weeks after that on April 16th, the First Judicial District led by Judge Annette Rizzo and President Judge Jones, released an order that stated that the April and May sales would be postponed to allow the pilot program to take place, which would use tried and tested case management tools which have been successful in other types of civil actions for all owner-occupied mortgage foreclosure cases.

All future residential foreclosures were required to be certified as owner-occupied or non-owner occupied by the creditor, and all owner-occupied properties were then scheduled for these conciliation conferences. Later, because we saw such a large number of these foreclosures and dealing with them became quite an administrative task, they postponed later sale dates so that they can make use of the conciliation conversation process as well.

In order for the homeowner to be eligible for this program, they are further required to seek out housing counseling via a hotline that the City had set up. From the hotline, they will be referred to housing counseling agencies in order to formulate an affordable plan and present that at the conciliation conversation.

The counselor is to submit this to the attorney, the foreclosing attorney, and instruct the borrower to file a certificate of participation. You know, hopefully there is a negotiation, but if an agreement can't be reached at the conciliation conference, that is presided over by a Judge Pro Tempore. And that Judge Pro Tempore will kind of try to mediate and offer recommendations to the Court.

So the first round on May 12th and 13th, 678 homeowners whose homes were certified as owner-occupied were sent the court order notifying them of the new pilot program and instructing them to call the Save Your Home Philly Hotline. The individualized orders also listed the date and time of the conference, and they were all scheduled between June 10th and June 13th.

We at ACORN, because we knew that mail has been extremely ineffective in reaching out to folks who are behind on their loans, a substantial amount of Chapter 13 bankruptcy attorney mailings, more and more of these foreclosures actually stand -- we thought it was vitally necessary for folks this close to sheriff sale -- that we did some door-to-door outreach and PSAs to try to get their attention in any and every way possible.

So in light of that, the City did door-to-door outreach, coordinated door-to-door outreach to 434 households. ACORN took on 164 of those households. I won't get into the nitty-gritty in the testimony of all of the details. You can read that for yourself.

But about 25 percent of the homes that we went to were already vacant at that point, or in other words, not owner-occupied. But of the remaining 117 households, we spoke to homeowners at 94 of those homes. Of the 94 homeowners we contacted, 92 called the hotline. And of those 92, 74 showed up for their conciliation conference and went to their housing counselor, so that's 80.4 percent.

A vast majority of this first round of cases, because we did the outreach the week before they took place and the PSAs and things didn't happen until the Friday before the Tuesday conferences, folks did not need a housing counselor before they came to the conciliation conference.

That is different now that the second and third rounds are taking place, but most of the folks that didn't got a housing counselor got their conciliation conference postponed. So on August 7th, 81 homeowners of 140 cases had reached agreements as per the court orders, so that's 58 percent.

And I think it's -- I'm going to note it over and over again, but these are folks who homes would have been sold in April and May, the folks who are far behind and none of the avenues out there had been able to help them to that point. And if not for this program, their homes would have been sold in April and May.

53 of those homeowners, their cases are still being reviewed by their lender. Three were reported as failure to appears, and three had filed bankruptcy at that point in the court. So 96 percent are still, you know, have not gone to sheriff sale if they have followed through with their instructions.

It's not a reality that people are always going to stay in their home. They may have some extraneous circumstances, but, you know, the judge has spoken over and over again the need in those cases for a solution to keep a person in their home that's viable, to have some sort of graceful exit. And that's been a very helpful solution as well, trying to figure out those options.

One of those borrowers is sitting next to me here today, Ms. Jean Ruffin. Ms. Ruffin's home was originally scheduled for sheriff's sale in April, and but for this program and some of the outreach that our staff did, her home would have been sold in April.

That knock on her door from our staff came just a few years after a more unfortunate knock on her door by a contractor that talked her into getting siding on her place and installing a railing to help her get around her home. When she signed what she thought was an agreement to make payments to the contractor, she was actually signing a refinance loan on her home.

Mrs. Ruffin struggled to make payments even though she lives on a fixed income of just over $700 a month. Mrs. Ruffin has trouble seeing, so this is even more egregious when this contractor had her sign this because she couldn't see in any way any of the paperwork that she was signing. She couldn't read the fine print that the contractor told her to sign.

And this is a home -- she'll tell you in a couple of minutes -- she grew up in. She's lived there since high school, and she inherited it from her grandmother. The house was entirely paid off before this unscrupulous contractor, slash, broker came by and put her into this terrible problem.

GMAC, though they did not originate Mrs. Ruffin's loan and did not employ this predatory contractor/broker, when presented with this chain of events and this poor-supervised process, completely discontinued the loan. The loan was originally for $9 thousand. It had ballooned to beyond $27 thousand in legal fees, late fees and some of the broker fees that were added onto the principal at a later date.

They saw this loan and looked at it on a real individualized basis and decided that this just isn't worth it and we need to do the right thing and toss this out. This program represents an opportunity for borrowers to get a fair shake and for lenders to give them a fair shake to their borrowers. The system is broken.

Subprime servicers' contracts with lenders never took into account this level of default and foreclosure, and frankly, they're not equipped to handle the numbers that they're seeing and service this amount of loans going into foreclosure. Until and unless the lenders have to focus with microscopic attention on each and every risky loan, there will not be a solution to this crisis.

Relying on inflexible servicing agreements that set arbitrary terms for correcting these mistake loans will never work. The good news is that when presented with the individual loans in a court-administered program such as this is, the lenders have been shown to err on the side of keeping people in their homes, not only because it is the right thing to do morally, but also financially.

The lenders know that a borrower whose rate adjusts to an unaffordable level means that they will get no money at all in foreclosure. I'm going to turn it over to Ms. Ruffin very briefly so she can tell you what her family and what she went through with this process, and then we'll be happy to answer any questions.

REPRESENTATIVE MCGEEHAN: Ms. Ruffin?

MS. RUFFIN: My name is Jean Ruffin, and God has blessed me to see 74. So, you know, that's been a long time since I've been in that house. There's a lot of history in that house. And I really didn't want to lose my home. This happened one day, that contractor was coming to the block. And he said he wanted to give me siding and the price to have the siding was for $9 thousand, but I got a railing.

So I thought that wasn't bad, and I made the payments, which was 2 something, I think, a month. So what happened, I was getting a balance of different prices. Sometimes it would be, they'd say I owed $27 thousand dollars was the last they had told me. But the other times, it was different prices too, which I think was even higher. But then they said $27 thousand.

So I'm paying, and I just keep getting these high balances. And what made it so bad, I used to get phone calls from the company. If I talked to a lady, she would give me a different price, and I'd talked to another person and they would give me a different price. I talked to someone one day, and they said, well, you only own $400, which that wasn't bad.

But in the meantime, truthfully it was getting, the place was getting next to me because I didn't want to lose my house. I had people saying sheriff sales and foreclosures and all kinds of remarks, so I got into ACORN. And ACORN really did help me out and cleared everything for me, and I appreciate what they did for me because they did help me stay in my house.

MR. PHILLIPS: I guess we're open to answer any questions. Do you want to have Kerry Smith testify first? Would that work?

REPRESENTATIVE MCGEEHAN: Yes.

Ms. Smith, give your testimony, and then we'll ask questions.

MS. SMITH: Thank you.

Representative McGeehan and Committee, thank you for the opportunity to testify today. We applaud Representative McGeehan for introducing House Bill 2694 and holding this hearing today to address legislation that would require a conciliation conference before a foreclosure action is final.

My name is Kerry Smith. I'm a staff attorney with Community Legal Services, the state and city funded program that represents low-income residents of Philadelphia. Throughout its history, CLS has committed substantial resources to protecting consumers from exploitation in the credit marketplace and, in particular, predatory mortgage schemes.

It's hard to pick up the paper or listen to the radio or turn on the TV today and not hear about the massive foreclosure crisis that is affecting our country and really the world's economy at this point. Here at the local level, we're seeing an explosion in foreclosures as well. Every month, the Sheriff of Philadelphia lists 600 properties for sale. About 10 years ago, that number was around 300.

RealtyTrac just came out with their most recent study on foreclosure filings, and it showed that in

Pennsylvania, filings are up 58 percent from this time last year. Are those increases the same and as severe as what's happening in other parts of the country? No, but it's very clear that individual families here in Pennsylvania are facing some unbearable stresses associated with foreclosure.

And unlike the foreclosure crises of the past, this time, it is the result of the explosion of subprime home equity lending. This big part of the story quite clearly illustrates this kind of lending is often pushed by home improvement contractors and brokers who somehow magically turn a $9 thousand siding job into a mortgage on someone's home for tens of thousands of dollars. That includes excessive fees, extremely high interest rates.

And I think there's some myths out there about subprime mortgage lending. There's been a lot of myths that most of this has made credit available to people who didn't have access to credit. That's not been the experience of our clients. For the most part, subprime mortgages have been offered to homeowners who already have mortgages on their home.

In most cases, what they're doing is they end up putting their homes at risk in order to borrow cash for repairs, like Ms. Ruffin did, or to pay back taxes or to consolidate credit card debt. There's no magic bullet to solve this problem. We thank the Committee for its work in passing the mortgage reform package earlier this year. Those bills along with the Department of Banking's proposed ability to pay regulations are really a vital first step in solving this problem.

More work, however, remains to be done. While it may be too late to solve the current foreclosure crisis, we can start taking some actions to reduce the harm that Philadelphia families and Pennsylvania homeowners and communities are facing. Homeowners who are in foreclosure right now need assistance getting into good refinancing programs. You'll hear from PHFA.

They just launched two new programs; the REAL Program, which allows homeowners with good credit to get in, to turn their adjustable rate mortgage into fixed rate mortgages; and the HERO Program, which basically serves borrowers who are trapped in unaffordable, predatory mortgages, but wouldn't necessarily qualify for any other refinancing programs.

In our experience, we think the REAL Program is certainly going to assist some homeowners, but the HERO Program is really necessary for meeting the needs of Pennsylvania's most vulnerable homeowners. In our experience, the vast majority of homeowners who are facing foreclosure fell victim to predatory mortgage lending.

They don't have good credit. They have impaired credit and, in many cases, is caused by the unaffordable nature of the predatory mortgage loans. In fact, we find that many homeowners will default on adjustable rate mortgages long before the first interest rate kicks in.

So in addition to those programs, the state programs, there's a federal program, the Hope for Homeowners Program, which is a program passed by Congress that will allow FHA to refinance up to $300 billion in mortgages of at-risk borrowers. That's certainly going to help many people, but it does depend on the voluntary participation of mortgage lenders; and even assuming effective participation rates, that law and that program will affect 400 thousand families nationwide to stay in their homes.

And our refinancing programs here in Pennsylvania are also limited in their ability to cover people facing foreclosure. In April, Brian Hudson told Congress that at that point, only 40 applicants had been approved for the REAL Program, and 41 had been approved for the HERO Program. I'm sure that's increasing, but we'll never have the resources to be able to have a refinancing program to help all the Pennsylvania families who need it.

So how can we leverage those programs to really maximize their ability to keep people in their homes? One specific way to do it is to modify existing mortgages that are unaffordable and turn them into affordable, performing mortgages. You know, there's been a growing consensus that the financial services industry, that this is what needs to happen.

It was over a year ago that Senate Banking Committee Chairman Christopher Dodd, the Mortgage Bankers Association and leading lenders announced a set of principles which called on services to modify loans to ensure that the loan is sustainable for the life of the loan. Unfortunately, those voluntary efforts are just not enough.

The most recent HOPE Now report from statistics from July shows that more than three-and-a-half times as many families have lost or are in the process of losing their homes as received loan modifications from servicers. Even Sheila Blair, Chairman of the FDIC, has acknowledged that voluntary programs simply aren't doing enough to deal with the scope of the problem.

Even worse, the modifications that we are seeing, many of those are unsustainable. My former colleague, Alan White, who's now a law professor, just did a study on analyzing loan-level mortgage modification data from the servicer's monthly report, and that report revealed that the voluntary modifications are not reducing principal debt and, in fact, they're increasing it.

And the monthly payments are not being reduced as well. So the voluntary efforts are unfortunately not sufficient to date. Why is that? Well, there's some problems in the way the services are set up. The structure of their business really reduces the effectiveness of those programs.

I've outlined some information about that in my written testimony, but just briefly, they lack economic incentive. They get paid based on the principal amount of the loans that they're managing to reduce the principal amount. They're not going to have as many fees. They get paid for costs associated with foreclosure, but they don't get paid for the cost associated with modifying loans.

So given the structural obstacles, we need new and effective vehicles to ensure that good loan modifications are taking place, and we support the development of programs that would allow preforeclosure loss mitigation as well as the bill before you today that would require a conciliation conference. CLS has been actively involved in Philadelphia's Residential Mortgage Foreclosure Diversion Program that Ian just spoke to you about.

The program's been extremely successful. It's important to note though that those first conciliation conferences, those all have involved homeowners who are very, very far along in the process. These are people who have already been through the court system, had a judgment and a sheriff sale was scheduled. So unfortunately, we don't have a comprehensive statistical report available for you yet on the success of that program, but there's some good anecdotal information.

One housing counseling agency, the Philadelphia Unemployment Project, they've handled 56 cases since the inception of the program. They've alleged that 20 of those resolved through permanent long-term loan modifications; one through payment agreement, and another 27 that continue to do loan agreements.

Again, it's important to note, these are all cases that were about to be sold at sheriff sale, and now that the program is up and running for newly-filed foreclosure action, I think that we're going to be seeing more loan modifications coming out of there. The basic way it works, as Ian explained, for homeowners in foreclosure, there's a hotline. The hotline, in turn, refers the person to housing counseling agencies to help homeowners develop a workout plan that goes to the mortgage company.

The bill before you today is modeled after the Philadelphia program with some differences. As currently drafted, it appears to require lenders and borrowers to participate in a conference before the filing of foreclosure complaint. By contrast, the Philadelphia program involves cases that have already been filed in court and the Court supervises the conciliation process and creates a special administrative track for those kind of cases.

CLS supports mandatory, preforeclosure loss mitigation efforts, and we certainly can envision an effective preforeclosure conciliation process. There's four main things to make sure to have in any kind of program. We'd be happy to work with Representative McGeehan and the Committee in developing the program in greater detail.

But, number one, it needs to be geared that the conciliation program is to explore all options, not just the refinancing programs, but also permanent loan modifications for abusive and predatory loans. You know, as I said before, the refinancing programs are limited in scope, and we need to use the conciliation program as a vehicle for leveraging those dollars.

You can ensure that the resources for those programs are not going for paying off predatory mortgage loans that include excessive fees and interest, so if you have a program where you're actually doing loan modification agreements to reduce principal for a payoff, you can really maximize some of those programs. The second major part that needs to be in the program is homeowners really need reliable, effective advocates to help them through the process.

Under the voluntary efforts, some of the loan modifications and workouts that we've seen are actually just as abusive as the initial loans. Some have left homeowners in worse positions than they were before. Others are simply delaying on foreclosure.

We've seen servicers and lenders charging excessive junk fees and requiring them to be up front in order to get a loan modification, which just ends up resulting in a higher likelihood of future default. So homeowners need advocates, whether it's a counselor or pro bono lawyers to review those loan modifications and workouts to make sure that they are sustainable and do not include excessive or unearned fees.

Third, homeowners really need simple, clear notification about the program. Homeowners in foreclosure are in distress. They are inundated with mail; some of it legitimate, a lot of it not. There are people promising to get them out of foreclosure. They don't know where to turn. So any notice needs to be very simple, clear and short.

I've had a chance to look over some of the other written testimony as I came in today, and I see some people are recommending that this type of notice for conciliation process be combined with the current Act 91 Notice. I would not recommend doing that. First, the Act 91 program does not apply to all residential mortgages.

Anyone with an FHA mortgage will not be getting an Act 91 Notice. Second, the Act 91 Notice has some very detailed information about the loan and the HEMAP program, but it's very long. It's a four- or five-page notice, and I think really what homeowners need is a one-pager with very simple language that explains what they need to do to get into this program to help get some kind of an agreement.

As Ian mentioned, in an effort to ensure that Philadelphia homeowners knew about the program, they did door-to-door outreach so homeowners could speak to an outreach worker. And that significantly increased homeowners' participation in the program. So, again, any kind of effort that could be combined with outreach like that would be helpful.

And the final thing that homeowners need is strong oversight. One key success of the Philadelphia Diversion Program is the supervision of the Court. The Court has made it very clear that there is an expectation that all alternatives to foreclosure must be considered before a house would be sold at a sheriff's sale.

In fact, the Court's case management order requires that a servicer or a mortgage holder who has the actual authority to modify mortgage to attend the conciliation conference.

And that kind of culture, oversight and expectation is what is bringing servicers and mortgage lenders to the table and actually doing workout deals. So I think I've probably gone over my time. I apologize. I appreciate the opportunity to testify. I'd be happy to answer any questions you might have.

REPRESENTATIVE MCGEEHAN: Thank you very much, Ms. Smith.

We've been joined by Representative Harhai and Representative Gibbons.

Thank you for your testimony.

Representative Longietti?

REPRESENTATIVE LONGIETTI: Thank you, Mr. Chairman.

Thank for your testimony today.

Mr. Phillips, reading your testimony correctly and hearing you, it sounds like a good part of the effectiveness of the program in Philadelphia is the outreach element of it. And I think I underlined one section of your testimony where you talked about -- and I think it's true -- the ineffectiveness of mailing to borrowers in default, and we've just heard testimony from Ms. Smith on that issue as well.

There's a lot of mail coming in, some of it's good mail; some of it's bad mail. I can't imagine being in foreclosure. I got a belief that it's a very depressing time where it's hard to deal with things. How do you deal with that -- you know, for example, where I come from -- I mean, in Philadelphia, you all seem to have some pretty good advocacy groups; where I come from, perhaps not so much.

We have some folks that help, but we just don't have the resources. And, you know, when I look at the bill, it talks about notifying defendant of REAL Program and HERO Program. If not by mail, how do we notify, especially in areas where we just don't have people to knock on doors and talk with folks? Do you have any thoughts on that?

MR. PHILLIPS: I think in some respects, when you get to that late stage in the foreclosure process, it's very difficult to communicate by mail regardless. I think catching people earlier, you're not going to be catching people who are inundated with the bankruptcy mailings. So if you're catching them before the judgment on foreclosure is entered -- this is what we're talking about in this bill and what is going to be happening in the Philadelphia program -- they're going to be dealing with a lot less mail that they're getting.

As far as outreach efforts in other areas, I think that there's ways to do it over the phone. Obviously, that would be better for someone who had some knowledge of the program, but there might be ways to automate that type of system as well. I know certain lenders who have had mixed results even on that effort.

But as much as you can kind of break through this and say that there is help out there, I think some of the success will start to build on themselves because unfortunately, when people call their lender, as they're supposed to do and as we encourage people to do, there's still a collections-type mind-set in a lot of these lenders, at least on that first call.

And people are kind of frustrated when they can't make their regular loan payment plan so they are given a repayment plan. They kind of get into that mode and say, okay, there's no help out there for me, and don't make that next step.

As an aside, I would encourage any member of the Legislature to take our packets because we'll do counseling across the state, but I think Brian Hudson will tell you about the housing counseling agencies that, I think, exist in every county in the Commonwealth, so that's a place that people could be referred to as well.

REPRESENTATIVE MCGEEHAN: One more question. In your testimony, you talked about when Philadelphia did their pilot program and a vast majority of cases were postponed, sometimes due to late notice and the other aspect was failure to notify a housing counselor. I guess that's one of my concerns when I look at the legislation.

It talks about participating in a conciliation conference. What happens when the person that is being subject to foreclosure or possible foreclosure doesn't show up? Is that what happened in Philadelphia when it talks about failure to meet with the housing counselor?

MR. PHILLIPS: Well, the first round, there was a lot of folks who had not met with a housing counselor yet, or at least not in recent times, for their foreclosure. So for that first round, a majority of those cases were postponed to meet with housing counselors. You know, effective notice didn't happen until about a week before the conferences, so it was hard to get about 300 homeowners who did participate all going to housing counseling.

Some of the people who got notice on Saturday before the conferences, we had outreach that could help until then. For the last two rounds though -- and I guess this has -- I think this week is the start of our fourth round -- that has been few and far between. You know, you still get an occasional borrower who walks in and says, okay, I didn't call the hotline -- or I called the hotline, and I didn't do the housing counseling.

They're not being -- that first round, they were being very lenient postponing sales. They're not doing that anymore. If a person gets a housing counselor, they have probably about two weeks to meet with that housing counselor and come up with a proposal and show some viability there. And if you fail to appear, the home is going to sheriff's sale as soon as the procedure would have it.

REPRESENTATIVE LONGIETTI: Thank you, Mr. Chairman.

REPRESENTATIVE MCGEEHAN: Thank you, Representative Longietti.

Representative King?

REPRESENTATIVE KING: Thank you, Mr. Chairman.

Mrs. Ruffin, God bless you. You are obviously a saint, and the contractor that scammed you is obviously a criminal. One thing we've passed into law recently, is that situation would be illegal in the mortgage package that we have passed just recently. That contractor would be unable to suck you in in terms of mortgage with the thing that was passed into law recently to help out certain situations.

With respect to this program, it sounds like you've made some tremendous progress, and it seems like a wonderful pilot program. My thought is, do we need to see, do we need a little more time to see how this program goes, how things work before we move forward and put it into law?

And I guess that's a question for you, Ian.

MR. PHILLIPS: I think that some of the early numbers on the first round and now the second round pretty much show that there's pretty extraordinary success out there. You know, I think there's still some that are in the pipeline even from that first round, so that's where I would point to them and say you need more information.

The hazard in waiting though is, as you all well know, these loans, especially these adjustable rate loans, were originated in 2006 up until probably the first -- 2005, 2006 and up until about the first quarter of '07. So most of these carry a two-year fixed term, and then they start to go upward, or a three-year fixed term and then start to go upward.

So these loans are resetting now and resetting over the next, you know, year or so. And if we wait too long, we're going to miss the boat on helping, you know, thousands and thousands of folks across the Commonwealth.

We're going to see some of the upset that they're experiencing out in -- I would compare the market more to a Cleveland or a Detroit rather than the extreme jump in prices and extreme fall that they're witnessing in Florida or California.

But we have seen significant problems on our hands, and just because we're not the number one foreclosure state in the country anymore doesn't mean that we don't need to take significant action. And, you know, I think there could be more data gathered, but there's significant hazard in waiting.

REPRESENTATIVE KING: Thank you very much, and thank you for your advocacy. I see you do tremendous work. Thank you very much.

Thank you, Mr. Chairman.

REPRESENTATIVE MCGEEHAN: Thank you very much, Representative King.

I have a few questions before I turn it over to Executive Director Callen. He has a question. First, I would like to thank Community Legal Services and ACORN for the tremendous work you've done on this issue and also all the members of ACORN who have taken a full day of their time to come here.

I understand you were up early this morning to make it to Harrisburg today, and we want to make sure to hear from you and hear from your representatives here today. And you've helped me understand a lot of this problem. Does it make sense to tailor this to potential homeowner-occupied dwellings?

Because I'm not sure the speculation and the lack of standards identified to investors and those people who will flip properties and a portion of these people who buy and home but don't live in it are also part of this. Does that make sense to you? Can you address an owner-occupied dwelling?

MS. SMITH: Absolutely it's for identification. But here in Pennsylvania, most predatory mortgage lending is not for purchasers of homes. It really is for refinancing. And, of course, we would support owner-occupied.

REPRESENTATIVE MCGEEHAN: At least initially -- and Representative King's question went to this. I think initially, when we think about the mortgage crisis, I think our people who were eligible for -- and Chairman Hess had a sidebar discussion -- some of the tax lending that's existed over the last, two, two-and-a-half years are poorer people who may not have avenues to traditional loans.

Are you finding that the problem's expanding beyond at least that initial group and now are affecting people who had means at least initially and are being trapped in? Are the programs expanding beyond Philadelphia to more affluent communities as well?

MR. PHILLIPS: It's definitely affecting, most threatening outside of those communities, but, you know, it's important to note that every study that's been done on subprime lending, two-thirds of the borrowers that end up with a subprime loan or a predatory loan were eligible for prime loans with prime interest rates and were kind of steered into these types of loans because of higher fees or what have you.

So it's not an entire expansion of loans that folks wouldn't have gotten in the past. And as Kerry said and as Ms. Ruffin said, by and large, these are homes that were completely paid off, at least in Philadelphia and the surrounds. More and more -- and this is not captured in that, you know, the adjustable rate mortgage, when these were originated -- more and more of these, what are called option arms are huge in the counties surrounding Philadelphia.

And they're going to be the next big thing. These are the loans that you're quoted with a certain payment, but then you find out that that payment doesn't even cover your full interest, and that interest that you don't pay by making that minimum payment goes into the principal of your loan, and you end up owing more and more over time. If you can't make what ends up being the third, fourth highest payment on that home, you're not even paying down the principal.

And a lot of times, that is not explained to the homeowners. Folks who get those types of loans usually have exceptional credit when they go into it, and when they come out, they have very terrible credit and can never refinance out of that loan and have very little as far as options and what we can do. So it's definitely spreading outside of what are -- folks who couldn't get loans in the past.

REPRESENTATIVE MCGEEHAN: The time of conciliation, I think you spoke to that, why that's so important. And I understand, but I want you to tell me what you believe is the best language to address the timing of the conciliation. I can imagine myself maybe not being able to pay a mortgage one, two, three months; and then thereafter, I'd give up because the debt is so overwhelming and my options really are starting to run out at that point.

Explain to me, because I think the timing of the conciliation is so important. The earlier the better because, one, for bankers, obviously because they delay the process if we delay the conciliation, but for a mortgage holder or homeowner who are buried in that amount of debt and that number increases every month. So what is the model for Philadelphia? I'm not quite sure of the timing of the conciliation on that model.

MS. SMITH: The Philadelphia model has two divisions. For the last few months, we issued the Day Backwards Program for people who were already scheduled for sheriff's sale, whose sales were postponed to see what workout can be made. That's not the ideal situation, but we wanted to make sure that people whose homes were about to be sold had the opportunity to work out.

Going forward, the Day Forward Program, as soon as the homeowner -- as soon as a mortgage foreclosure is filed, then -- three months late, notices are filed. As soon as it gets filed, it will be trapped in the special administrative owner-occupied and residential, and there should be a conciliation conference scheduled for 30 to 45 days.

That's how the program is working in Philadelphia because it's a Court-supervised program. It involves conciliation programs for mortgage foreclosure filings. If you're going to do a preforeclosure conciliation program, we agree with Representative McGeehan with doing that early in the process because there will be more solutions and create more opportunity.

We just want to make sure that such a program was set up in such a way that homeowners are going to have advocates for that process. It's easier enough right now in Philadelphia because we have that already-established Court-supervised program. Earlier participation certainly would be more effective as long as these other mechanisms are in place.

REPRESENTATIVE MCGEEHAN: Thank you.

Majority Executive Director Callen?

MR. CALLEN: Ian, Kerry, I think you all did a great job in helping out in Philadelphia, but what I want to know is, for all labor that is used for doing the outreach, was the Court compensated, the folks who did the outreach or was the City?

MR. PHILLIPS: No, actually no. The first three months, there was no payment. I think there was -- for the next two months, it's probably going to cover half the cost for the work that we're doing. And as far as the City contribution, they've put in some additional resources to housing counseling to deal with the increased demand.

But as far as paying for outreach, that hasn't been really done in a large way. And there's struggles with kind of continuing that work without any funding source, and we're trying to figure out how to make it work, honestly. But we feel that it's a very vital part of the program, and without that, a lot of those folks in the cycle are not going to find out about it otherwise.

MR. CALLEN: I think we heard from everyone, mail is just awful in a lot of the cases. And as Representative Longietti mentioned, I know in more rural areas of the state, they have robust advocacy and voluntary programs. And so that's the problem, if we're looking at this with Mr. McGeehan, how to design something statewide so it works as well. That seems to be working. Do you have any substitutions that might help me?

MS. SMITH: We're not opposed to a mailing. We do think there should be mailings. It's just got to be simple and clear. We don't think it should be combined with a lot of pages because sometimes there's just too much information to read through. So we need just a one-pager with clear, simple language which is helpful.

And while the Court is not actually doing an outreach program, there's a program that's being coordinated by the City of Philadelphia and other organizations to put $2 million to the program, a million to HERO and a million to outreach.

I think there are other ways that you could do that that would not be perhaps as financially intensive. You might be doing radio outreach, some advertisement of the hotline, the number telling people to call before they are in foreclosure. So I think there are some creative ways we could do that without having to do the expense of actually going door-to-door. Is that the most useful? Absolutely, but there's other tools that would be helpful.

MR. CALLEN: For the Philadelphia program, how many folks responded to the program through the outreach?

MR. PHILLIPS: That first round, outreach was only done to half the households. And from our numbers, it shows that at least, our homeowners were about three times as likely to attend the conciliation conferences than those not receiving outreach, and that's just on the list.

As far as folks who actually made the call to the hotline and then came through and followed through the process, that was close to 81 percent. So turnout on the whole was just under 50 percent that first round, but a vast majority of that turnout was folks that outreach was done to. And outreach was only done to 343 out of the 678 homes on the list.

MR. CALLEN: Do you happen to know, in the federal legislation from the summer, was there anything included in there for outreach? I thought there was, but I'm not sure.

MR. PHILLIPS: I don't think there was anything specifically targeted towards outreach. There was federal funds put into the Community Development Block Grant

Program that was supposed to prevent vacancies, and that's about as defined as it was. So it was given, I think it's going to be given to the 50 cities with, however it defines the worst foreclosure rate and the rest to state agencies to deal with preventive vacancy.

MR. CALLEN: Thank you, Mr. Chairman.

REPRESENTATIVE MCGEEHAN: Thank you very much.

Are there any additional questions?

(No response.)

I want to thank you, Ms. Smith, Mr. Phillips, Ms. Ruffin for your expert testimony and for your advocacy for the people of Philadelphia. Thank you.

We next want to hear from Laura Taylor. She's at the Office of Housing and Community Development in Philadelphia.

Ms. Taylor, could you state your name and begin your comments?

MS. TAYLOR: Yes. My name is Laura Taylor. I'm a Contract Administrator for the City of Philadelphia's Office of Housing and Community Development.

REPRESENTATIVE MCGEEHAN: Can you speak into the microphone? I think we can hear you better.

MS. TAYLOR: Sure. Good morning, Representative McGeehan and the Commerce Committee. I am Laura Taylor, Contract Administrator for the City of Philadelphia's

Office of Housing and Community Development. In June 2008, the City of Philadelphia initiated a Residential Mortgage Foreclosure Diversion Program for the owner-occupied homeowners. The beginning of my testimony really lays out the basic steps of the program, which you pretty much already know from Ian and Kerry, so I think I will touch on two things in my testimony and then talk more about the role in funding of the city servicers providers in the program.

Just to touch base a little bit about the notice that the homeowner receives, it's actually from the Court. I wasn't sure if that was really clearly stated in the early testimony, but that is how the homeowners receive notice of the conciliation conference, from the Court in the Philadelphia program. And just to speak a little bit more about the door-to-door outreach, ACORN is doing a wonderful job.

It stepped up to the plate to do door-to-door outreach, but the City also has other resources. The Neighborhood Advisory Committee, which, of course, Representative McGeehan, you're right that the city funds that with Community Block Grant funding. They also are involved with knocking on doors in the door-to-door outreach program. I also just wanted to emphasize the centralized hotline system that the City uses.

The homeowner in the court notice is requested to call Save Your Home Philly Hotline, and this is a city-funded hotline that is run by Philadelphia legal assistants who are contacted through community legal assistants. And interesting enough, what we did in Philadelphia is we used an existing hotline, the Don't Borrow Trouble Hotline, which actually is in many areas throughout Pennsylvania, I believe.

We've sort of converted that hotline to emphasize that now the emphasis is to save your home. And we found it to be helpful to have the centralized hotline system for homeowners invited to participate in this program to call, and the hotline really reaches out to and makes the appointment, files an appointment with the housing counselor.

They have the homeowner on the phone. They call one of the 26 agencies that gets funds for housing counseling and sets up an appointment then and there. Of course, then the homeowner attends counseling ideally, and then the housing counselor reviews the situation and helps prepare a proposal to resolve a mortgage default.

Then, of course, the conciliation conference occurs at the court where all parties attend. And starting with the conciliation conferences in June 2008 through the three days that the conferences are occurring this week in

Philadelphia, the City has reached out to 1,266 homeowners facing foreclosure. While not all, for some statistics, while not all have participated in the program, turnouts are very good.

The first round of conferences saw 324 participants. The second round of the conferences saw 210 participants. There is an estimated 63 to 68 percent of participation rate of actual owner-occupied homeowners. Initial data indicates that a significant number of homeowners will benefit from the conciliation process, even this late in the foreclosure process.

Now, I would just like to take this opportunity to emphasize what resources the City has devoted to this program. First, Philadelphia has one of the largest and longest-standing housing counseling program in the nation. Over the past 30 years, Community Development Block Grant funds have been allocated to support housing counseling to low- and moderate-income residents of Philadelphia.

This year, the City is supporting 26 housing counseling agencies with $3.6 million budget of CDBG funds. And in order to meet the increasing numbers of homeowners facing foreclosure, the City has allocated another 700 thousand in City agencies to add 12 counseling -- actually, the notices just went out Friday to 12 of the 26 housing counseling agencies saying, please go out and hire more housing counselors.

Second, the City of Philadelphia supports the Save Your Home Philly Hotline, as I stated. $170 thousand in Community Development Block Grant funds is allocated to this program. And actually, the City is searching for additional resources to fill a funding gap brought on by the increased caller demand on the Hotline.

It's good news that this hotline was used to seeing maybe about 250 calls over the month and is now seeing about 750 calls a month. But that means it takes more manpower to man the hotline, and we're trying to find resources to ensure the hotline is funded. Actually, as stated earlier, the City is also trying to find more resources for the outreach, the door-to-door outreach.

Those are the two areas where we're really looking for more resources because of the need. The City also funds Community Legal Services $350 thousand a year to provide legal assistance to homeowners in foreclosure or those with predatory lenders. As stated, the door-to-door outreach is important since homeowners in foreclosure crisis do not always open or read the mail.

And as I said, in Philadelphia, we've pulled staff from existing funding programs to help with the door-to-door. In summary, I would advise that local resources are needed to support a foreclosure intervention program that involves a conciliation conference. Housing counseling, a hotline or other centralized information center, outreach and legal support directly to homeowners and also to housing counselors as they assist the homeowners are all key.

In Philadelphia, the proof of participation in the conciliation conference can be provided by the Court of Common Pleas. The existing partnership between the Court, the City of Philadelphia and the housing advocates fills the role proposed for the Pennsylvania Housing Finance Agency in Bill 2694. Thank you for this opportunity to present this testimony, and I'd be happy to answer any questions.

REPRESENTATIVE MCGEEHAN: Thank you very much, Ms. Taylor for, first, making the effort to be here today and for educating the Committee on Philadelphia's Office of Housing and Community Development's perspective on this legislation on the Philadelphia model.

Are there any questions from the members?

(No response.)

The question was raised about the role in more rural communities of advocates who can do outreach directly in those communities who probably are in no more or no less stress than any other community. And the funding sources for your Department and how -- learning from what we're doing with ACORN and what Community Legal Services are doing in Philadelphia, where is that money coming from? Is that federal money, state money?

MS. TAYLOR: Yeah. I mean, we're using our Community Development Block Grant funding to support this program. So, I mean, that would be what to look for, how are those rural communities, other communities outside Philadelphia. Maybe existing CDBG funded housing programs can step in. That's what we did in Philadelphia.

REPRESENTATIVE MCGEEHAN: Thank you. You mentioned that, Ms. Taylor, a centralized hotline. Is that something -- how important and what role would it play in a statewide program?

MS. TAYLOR: Well, it's hard for me to speak about what is really practical in other communities outside Philadelphia, but we found it to be a very useful way of really making sure that appointments are made with the housing counseling agencies because, of course, their capacity is being stretched by mortgage foreclosures.

So it's a way of prioritizing these families who are in immediate need. And as I said, Philadelphia legal assistants runs our hotline, so it's not -- it's an experienced paralegal actually who can speak to the homeowners when they call the hotline, and that, of course, is very useful.

As I said, I believe -- we converted our Don't Borrow Trouble Hotline, which a lot of, or some communities outside of Philadelphia, I think -- I know Montgomery County has one, so I'm not sure if farther afield there are existing hotlines like that, that Don't Borrow Trouble Hotline, which can be converted to this purpose.

REPRESENTATIVE MCGEEHAN: Thank you for being here and for educating the Committee.

We next will hear from Rick Stipa -- I hope I'm pronouncing it correctly. He's the CEO of TruMark Financial Credit Union.

Mr. Stipa, please state your name and the company you're representing to the stenographer. Begin when you're comfortable.

MR. STIPA: My name is Richard Stipa, and I'm the Chief Executive Officer of TruMark Financial Credit Union.

Good morning, Chairman Hess, Representative McGeehan and members of the Committee. Thank you for providing me the opportunity to participate in the hearing today on HB 2694. I am Rick Stipa. I'm Chief Executive Officer of TruMark Financial.

We are a community-based credit union. We're located in, headquartered in Trevose, Bucks County. We have 11 branch offices that serve the greater Philadelphia area. We have 91 thousand members, about 945 million in assets. As I mentioned, we are a community-based credit union.

REPRESENTATIVE MCGEEHAN: Can everyone hear Mr. Stipa's testimony?

AUDIENCE MEMBERS: Yes.

REPRESENTATIVE MCGEEHAN: Okay. Thank you. Proceed.

MR. STIPA: As I mentioned, we're a community-based credit union which participates in the community. We've donated more than 800 volunteer hours in the community. We reach out to area high schools by sending supervisors and employees out to the high school to teach financial literacy such as good credit, identify theft, etcetera.

Also as part of that effort, last year we opened up a student-run branch in Plymouth Whitemarsh High School in Philadelphia, which we consider to be a laboratory for learning for the young people to just simply manage their financial affairs responsibly when they get to be adults. More recently, we just broke ground, did the footers and the foundation for a new branch in north Philadelphia, which is approximately ten blocks from the Temple University area.

This is a low-income area. 46 percent of the residents all were partnering with APM, which is a community-based organization, to help that community. They had not had a mainstream financial institution for 60 years in that community, but what they do have are 30 lenders. Well, 30 lenders have a different purpose than what we have. Our purpose is to help our members reach their financial well-being, which brings us back to HB 2694.

HB 2694 would require a conciliation process before a lender could initiate foreclosure proceedings. We agree with the Committee that consumers are better off when they're secure in their homes. Our mission, as I stated, is to help members keep their financial well-being, and I think HB 2694 is consistent with that.

Although we are open to the conciliation process, we do have some concerns about how it's executed, some of the details of that. We have about 25 hundred mortgage loans, and 440 million is the dollar value. Some of those are sold to Fannie Mae, Freddie Mac. But the great majority of these loans we own, and we're able to control the process of when there's a problem and what to do.

The great majority of these problem situations we're able to work out before it even gets to the foreclosure process. You know, we enter forbearance, payment plans, modifications. We look for a win-win for the members to stay in the home and for us to protect the interest of the credit union for the benefit of the other members of the institution. So, again, the great majority don't even get to the foreclosure process.

In fact, we only have three right now out of 25 hundred that are in some stage of foreclosure. One of those has filed a Chapter 13 bankruptcy filing; the other two are just really getting counseling right now. But the one thing in common of these three is we are not able to get a response. We're not able to hear from the borrower, and that is an issue that we face.

One of the challenges is the unresponsiveness of the delinquent member to the Act 91 Notice. And it's not that we don't try. Again, our mission is different probably than other lenders and such. We're dedicated to the well-being, and it's part of the credit union structure to begin with. So we really do try to reach out to reasonable borrowers.

Just a couple examples. Now, we weren't the foreclosure lender. We are in second position, so we're in second position on a sheriff's sale. The sheriff's sale was scheduled a couple weeks, but was continued and scheduled for the conciliation conference for Philadelphia. Our end is we have not been able to make contact with the borrower since November of 2007.

He hasn't returned our phone calls, doesn't respond to our letters. In fact, our Chief Lending Officer went out to the home, left handwritten notes on the member's door to contact us and let's try and figure this thing out. But we still have yet to hear from this borrower. I have another example. A member, again, was foreclosed by another lender. We were in second position.

We bid on the property to protect our interest, so we acquired the property in September of 2007. The member was never delinquent with us, so we immediately started working with the borrower to get them back into the house and we were going to get the financing to do so.

We were scheduled for settlement February of 2008, and for reasons unknown to us, the member decided not to go through with it. We then went through this process of countless attempts to contact the member with phone calls, letters, etcetera. And it was set for an eviction date of July, which is ten months after we actually owned the property. We postponed that because we had heard from another lender that they were trying to refinance to get a postponement ultimately.

Unfortunately, because of the lack of contact, it did go through eviction in the last couple of weeks. We have a very small loan, $6, $7 thousand on the books. This member has been in a protracted battle with Social Security over benefits. She's been in some cash assistance. She gives us a few bucks every month, but this loan has been delinquent since August of 2000. That's eight years ago.

It would serve us no purpose to foreclose on this person and make someone else homeless for $6 or $7 thousand, so we're continuing to work with her. So we do reach out to members, and we try. And this is really the credit union way. This is what we do as credit unions. I hope these stories illustrate that without response from the members, our hands are really tied.

Some concerns we've had about processing the who, the how, the when, the where; the homeowner should be notified. Ms. Smith very well covered the details of that. I'm not going to go over that. They know more about this than I do.

But I believe the challenges our credit union has faced with unresponsive borrowers and the various recommendations to streamline the process will ensure the consumers' financial well-being is secure without leaving the lender in a vulnerable position. I hope this has been beneficial. Thank you, again, for the opportunity to present my thoughts, and I'll entertain any questions you have.

REPRESENTATIVE MCGEEHAN: Representative King?

REPRESENTATIVE KING: Thank you, Mr. Chairman.

Thank you, Mr. Stipa. Well, I welcome you here away from the fine County of Bucks, since that is my county as well. It's obvious that the credit unions and a number of our financial institutions are not ones that we want to penalize. They're not the ones that really this legislation is aimed at because you are impeccable lenders; you are good financial institutions.

And there is a definite part of this where it has to be a personal responsibility on the part of the member or the owner of that home. I guess my question -- first, I guess I will say, I'm hopeful that the mortgage package passed previously will take care of some of the unscrupulous lenders.

My question is, outside the recommendations you've laid out here, how do we go after or take care of the unscrupulous lenders or people that are in these situations like Ms. Ruffin is versus not putting overdue burdens on institutions like yours?

MR. STIPA: Well, as you pointed out, what happens if it's criminal? If it's criminal, they should be handled in a criminal way. As far as, you know, regulated lenders, that's why we have regulators. If regulated lenders are doing things they should not be doing, then the lender should come down hard on the regulators. That's their job. That's their responsibility, and they should execute that out.

REPRESENTATIVE KING: Well, thank you, and thank you for your services.

MR. STIPA: You're very welcome.

REPRESENTATIVE MCGEEHAN: Thank you very much, Representative King.

Mr. Stipa, if you may, educate the Committee, at least me, on is there a template, a time line that you set for every loan service in the process of foreclosure? I guess that's a convoluted way to ask it, but what's the time line? If somebody is 30 days late, does it get your attention; if it's 60 days late, do they get a letter; 90 days late, do they get phone calls? Is there a standard in the financial services industry?

MR. STIPA: I don't -- credit unions are different. And in answer to your question, it's five days. We start making phone calls at five days. We don't want them to go into foreclosure. It helps no one. It hurts us. Credit unions are member-owned. Another lender, you know, such as a bank, they have shareholders.

That's their mission. Ours is not. So it's a little different for us, so we start calling at five days because we're trying to get them back on track as soon as possible. If there's a problem, we don't want to hide from it. We want to deal with it and help the member and make it a win for everyone involved.

REPRESENTATIVE MCGEEHAN: And just a follow-up because we've heard testimony from Ms. Smith and Mr. Phillips about the timing of conciliation. In your opinion, being an expert and a good-faith player in this situation, what's your feeling about the timing of conciliation?

First of all, do you think conciliation is worthwhile, and secondly, what do you think is the optimal timing for a conciliation to help you get the homeowner back to good standing?

MR. STIPA: I would imagine that there's other lenders that aren't as cooperative as we are. So in answer to your question, absolutely I agree with conciliation process because you're talking about putting two people together in the same room to work it out. Well, how can that be a bad thing? I think it's an excellent idea.

My concern is about the details of the conciliation. There are some people that do abuse the system, and that shouldn't be permitted. So I think the interest of the lender has to be protected as well. So I am -- I agree that the conciliation process should happen. I'm in agreement with it.

As far as the timing, I would just ask that we use the current time frames. If it took ten months for foreclosure to happen, then don't make it 15 months by adding the conciliation process to try to work --

(Audience member making comments.)

MR. STIPA: -- to try to work with the time frames that are already out there.

REPRESENTATIVE MCGEEHAN: Thank you.

Any other questions?

Executive Director Callen?

MR. CALLEN: I know that there are institutions that go the next default or, and I absolutely believe that. I also absolutely believe that it costs more to foreclosure than it does to work out. I mean, are there people on the lender side who are just not that smart? I mean, or are there are people who can't possibly do a workout?

MR. STIPA: Yeah. I mean, I think, again, a different perspective, not a member of a credit union, of a different lender, again, maybe there is -- maybe it does cost less than to foreclose. I don't know what goes through the thought process.

MR. CALLEN: Yeah. I mean, it seems logical that it does --

MR. STIPA: Absolutely.

MR. CALLEN: -- having property get on the market right now for six months or nine months and the realtor fees and everything else.

MR. STIPA: Right.

MR. CALLEN: It does seem like you're losing more.

MR. STIPA: I agree.

MR. CALLEN: I guess it's just mostly servicers going forward with foreclosures?

MR. STIPA: You know, and it's also -- you know, foreclosure affects people in circles. You know, you talk about a house that's foreclosed upon. Well, it affects the other houses in that neighborhood as it reaches out.

And this is part of the problem, some of the problem faced today in the housing crisis, which is now, as you know, spill over to the neighboring properties. Foreclosures are bad because it makes other property values go down. So it affects a lot of people in a lot of ways, so there should be an effort to stop it.

MR. CALLEN: Thank you, Mr. Chairman.

REPRESENTATIVE MCGEEHAN: Thank you very much, Mr. Stipa.

MR. STIPA: Thank you.

REPRESENTATIVE MCGEEHAN: Thank you for coming here and testifying and educating the members.

MR. STIPA: Thank you.

REPRESENTATIVE MCGEEHAN: Let me make one editorial note while we're here. We're dealing with people's lives and their homes, and that's the underpinning of really our communities and who we are as people. And I know it's emotional, but every individual here who is testifying deserves to be heard and deserves to have their opinion expressed to this Committee.

And I would ask the members of the audience and those who are testifying here to refrain from adding extraneous comments while they are speaking before the Committee. We are next going to hear from Don Kelly, who's the Director of Community and Economic Development, Greater Philadelphia Urban Affairs Coalition.

Mr. Kelly, welcome. Please state your name and the organization you represent.

MR. KELLY: Good morning. I'm Don Kelly with the Greater Philadelphia Urban Affairs Coalition. Good morning, and thank you for the opportunity to comment on House Bill 2694 that would require lenders to attend a conciliation conference with borrowers before executing a mortgage foreclosure.

I'm employed by the Greater Philadelphia Urban Affairs Coalition, more known as GPUAC, which is a large nonprofit organization that builds partnerships among major corporations, community organizations and local government, special banks and hopefully credit unions going forward. In response to the crisis in foreclosures, GPUAC convened a

Foreclosure Prevention Task Force in the spring of 2007 to analyze the problem and make recommendations to the various partners.

The task force made its recommendations in the spring of 2008 in the general categories of public education, credit products and public policies. And among those policy recommendations was the endorsement of six mortgage reform bills and two regulations that had been proposed by the Commonwealth's Secretary of Banking. We were delighted with the passage of these bills and regulations and wish to thank you all for your support of them.

Another recommendation of the task force was the establishment of special communication lines between representatives of borrowers and representatives of the mortgage holders for the loan servicers to allow for appropriate loan workouts. Standard communication lines that such servicers set up make it all but possible for borrowers to navigate and reach a representative who actually has authority to make decisions.

So special lines need to be established. In February of 2008, the task force, together with the Federal Reserve Bank of Philadelphia, convened eight major loan servicers and dozens of housing counselors, credit counselors and legal aid attorneys to improve those communication lines. While the innovative Court diversion and conciliation program in Philadelphia was not contemplated at the time of the report, it is certainly consistent with the recommendations of the task force.

The task force applauds the determination and ingenuity of the Philadelphia Court of Common Pleas, Philadelphia Legal Assistance, the housing counseling industry, the City of Philadelphia and the Save Our Homes Coalition, all of whom collaborated for this innovative program for devising a system that provides clear incentives for the loan servicers to actually meet face-to-face with borrowers.

Those incentives are not really present otherwise. The task force believes this is an excellent model for the entire Commonwealth and supports House Bill 2694, which would extend this type of conciliation mechanism statewide. Before concluding here, I'd like to share a vision of a comprehensive foreclosure prevention system that the task force articulated, which may be helpful to this Committee as it seeks to reduce the number of foreclosures in the Commonwealth.

The task force believes that the following conditions would prevent inappropriate mortgage loans to be made and would provide remedies to borrowers who already have inappropriate mortgage loans: The first part of the system is borrowers that are knowledgeable about the importance of good credit, the hazards of predatory lending, how to seek assistance from falling behind in mortgage payments and the availability of good products and services.

So knowledgeable constituency is an essential part of a larger system. Also, the nonprofit housing and counseling industry must have the capacity to educate large numbers of people on personal financial management and counsel large numbers of people on credit repair. This requires highly skilled and experienced counselors and agencies with low employee turnover.

Right now, this industry is very stressed. It's low paid and underpaid and needs infusion of financial support, which is starting to come now through the federal government and state government, which we're happy to see. Housing, credit counseling agencies and community legal services must have close and cooperative working relationships with all major lenders and their loan servicers.

This would require real serious staffing up in the loss mitigation and loan workout departments of the loan servicing agencies so that they would be more accessible to borrowers, counselors and attorneys. So those required a standardization of loan workout solutions by the loan servicers so that they could deal with large numbers of cases on a more systematic basis instead of improvising individual solutions.

And with a larger, more systematic approach, they can be relied more -- their responses would be predictable and can be relied more then on recommendations of the borrowers representing those counseling agencies who deal with different categories or classes of borrowers. The system would also require honest, affordably priced, fixed rate and flexibly unwritten home purchase, refinance and home improvement loans from mainstream lenders for A-grade borrowers.

We really need to remain on the case of mainstream lenders to stay in the market and not withdraw, especially for A-grade borrowers. And for B-grade borrowers, we need special refinance and rescue loans for people in various stages of foreclosure and various levels of bad creditworthiness.

Many of these types of loans will require a partnership of mainstream lenders with government, local government and state government. And we're also happy to see that that is starting to happen as well.

Another part of the system though would be short-term emergency loans or bridge loans being made available to homeowners who are just starting to fall behind to prevent delinquencies or to reinstate recently-delinquent mortgage loans prior to the onset of foreclosure proceedings, the type of credit that would help people through short-term situations; not large, long-term situations, but short-term financial situations that make them fall behind temporarily and end up in foreclosure.

Still those who pass through the whole system and end up in foreclosure, we need partnerships to be established between lending institutions and local community development corporations for the donation or discounted sale of foreclosed and repossessed properties to the community development corporations so they can be rehabilitated and remarketed in the best interests of the community and not be bought by speculators who might continue using the properties in ways that are not in the best interest of the community.

So we really need to give community-based local development corporations the first option in getting a hold of those properties. And, finally, the system requires public policies at the federal and state levels that effectively regulate subprime lendings and protect consumers from predatory lenders, which we're happy to see is also starting to take place. So thank you for your interest and concern about this critical problem and the opportunity to submit our comments.

REPRESENTATIVE MCGEEHAN: Thank you for your testimony, Mr. Kelly.

Are there any questions from the panel.

Yes, Representative King?

REPRESENTATIVE KING: Thank you, Mr. Chairman.

Thank you very much for your testimony. As I asked previously, there are certain situations obviously where Mr. Stipa expressed that the consumer borrower is completely unresponsive. What are your thoughts? What are your recommendations in a situation like that? We certainly don't want to penalize our financial institution for the borrowers being unresponsive.

MR. KELLY: Right. Well, our organization doesn't directly work with clients. We're more at the policy and program level, so I would defer to the people who spoke previously from ACORN and Community Legal Services on that issue. Although I would say that, again, if you look at that situation and ask why are people unresponsive, part of that is because they don't understand the whole financing system.

They don't understand personal management practices, being foreign to credit and foreign to dealing with problems early on, which gets back to the education issue and the counseling issue. We really need to make financial education a priority of all society. When I was in school, there were mandatory workshops on shop classes and home economics.

At that time, it was considered essential skills to function in society. Well, in today's society, really an essential skill is financial management, personal financial management. And if you don't understand that, by the time you graduate from high school or college, you can already be behind the 8 ball with credit cards and debts out the kazoo.

So you really -- it is an important skill, and I think more people that understand that will realize the importance of responding to the letters that come and calls that are being made and people coming and knocking on their doors to try to help them out.

REPRESENTATIVE KING: I actually could not agree more with you on that sentiment, as a number of us who have been to college and seen some of our friends who don't quite understand credit cards and things of that nature. It can certainly get them way behind the ball.

MR. KELLY: Oh, yeah.

REPRESENTATIVE KING: It is something -- I think you made a great point in terms of high school education and moving towards some classes of personal financial management and maybe looking at getting that instituted in their secondary level of education. I think it's a great idea. Well, thank you very much for your testimony.

Thank you, Mr. Chairman.

REPRESENTATIVE MCGEEHAN: Mr. Callen has a question.

MR. CALLEN: And you can imagine what it is. Thank you for coming, by the way. You testified before the Committee before, and you've always done a great job.

MR. KELLY: Thank you.

MR. CALLEN: But it's an honest question. If it is true, and it does seem to be true, that foreclosure costs the lender more than what can be worked out, why are there still so many foreclosures? Is it that the service companies are on auto pilot?

MR. KELLY: It's a -- the loan servicers generally are not the ones that actually pull the mortgages. As reading in the papers these days, these mortgages are packaged and sold to investors and then -- there's all kind of elaborate financial mechanisms that go way, way, way back so that the actual holders of the mortgage could be some remote bond holder in China.

And so to get that person's attention to understand the problem at the street level is not easy. For institutions that hold their own mortgages like the credit unions do, they understand theirs. They have personal relationships with the borrowers. They're not so far removed, and they understand the importance with working with borrowers.

And I think we need to move in the whole direction with credit unions and away from large commercial banks that are owned by stockholders from distant lands if we want to reestablish their financial relationships. I think it's just because it's so far removed and so indirect that it takes a while to get that message all the way up to the actual investor and then back down to the loan servicer to really sit down and pay attention to the property owners in a personal way.

MR. CALLEN: One additional question. There is some speculation now that with the essential federal takeover of Fannie and Freddie, that since they're involved in half of all loans that are out there anyway, that there might be some agreement or movement towards better workout kinds of situations. Do you think that's true?

MR. KELLY: I would hope so. With the federal government, it certainly gives the public more of a handle on the issue with a major financial player on the scene. And the question is, what capacity of government is to make the kinds of accommodations that people need, what use of that, to their investors and bond holders. I think it's beyond my level of comprehension, but I think it's hopeful. It should help.

MR. CALLEN: Thank you, Mr. Chairman.

REPRESENTATIVE MCGEEHAN: Thank you for your testimony.

MR. KELLY: You're welcome.

REPRESENTATIVE MCGEEHAN: We'll next call forward Mr. Brian Hudson, Executive Director and CEO of Pennsylvania Housing Finance Agency. You've been very gracious of your time for this Committee. Mr. Hudson, you were with us yesterday on Chairman Daley's bill on the Rescue Fund, and you're back here today.

MR. HUDSON: Thank you very much, and I appreciate the Committee's support of PHFA's program. I'm here this morning to talk about our programs and how we can help with these issues with you. PHFA was created in 1972 by the General Assembly. Our mission is supplying safe, decent and affordable housing for families and homeowners with disabilities and those with modest means.

Statewide, the Agency has provided over $9 billion in funding. We've provided homes for over 130 thousand Pennsylvanians and over 80 thousand apartment loans. Additionally, the Homeowners' Emergency Mortgage Assistance Program known as HEMAP, which PHFA administers for the Commonwealth, has saved over 41 thousand homes from foreclosure.

It is the HEMAP program that initially brought

PHFA into contact with homeowners facing foreclosure. Act 91 of 1983 authorized PHFA to develop the Homeowners' Emergency Mortgage Assistance Program for homeowners who were in danger of losing their homes due to no fault of their own. Typically that's a job layoff, medical reason; divorce is another reason for application for HEMAP.

The change in the PHFA statute was brought up by the early recession in the '80's, steel mills closing, particularly in the southwestern part of the state. The program has been very successful and has been recognized by Harvard University as one of the top 18 innovations in American government two years in a row, and it's getting national attention also, particularly as a result of this crisis, but over the last two years.

A number of my counterparts in other states, North Carolina, Delaware and Tennessee, have started or are considering starting HEMAP programs. The program has lent, dispersed loans totaling 427 million. Over 19 thousand loans have been paid in full, so it's not an entitlement program. Someone questioned that it was. We are getting repayments, and we've received over 239 million in repayment to the program.

The repayments are recycled into new HEMAP loans assisting additional Pennsylvanians. State appropriations have totaled 217 million. The average loan -- I do want to talk about this issue because when you talk about entitlements and what works for this program, the average loan in the HEMAP program is a little over $10 thousand. The average cost of carrying an FHA loan as it goes through foreclosure is about $35 thousand, so you see why some members of Congress are looking to create a nationwide HEMAP program.

In addition, who are we serving with HEMAP? The average income for the borrower or homeowner in HEMAP is around $38 thousand, so we're helping those who we should be helping, not to consider the impact that foreclosure has on families, neighborhoods, communities. House Bill 2694 would require a conciliation conference prior to a foreclosure action in the Commonwealth.

It would also require information about two additional foreclosure abatement programs that the Agency started last year, REAL and HERO. To put what House Bill 2694 hopes to accomplish into context, I want to talk a little bit about the HEMAP process and what we go through at PHFA. If someone with a mortgage in the Commonwealth becomes 60 days or more delinquent and a lender decides to start the foreclosure process, the first step is sending out what is known as the Act 91 Notice.

This notice informs the homeowner of the HEMAP program and directions on how to apply for assistance.

After receiving the notice, the homeowner has 30 days to have a face-to-face meeting with a consumer credit counseling agency, which then has 30 days from that date to get the application to PHFA. PHFA has 60 days from receipt of the application to make a decision. If an application is made within the above time frames, the Agency notifies the lender that a timely application has been made and the foreclosure action is stayed.

Until a decision by PHFA is made, applications may be filed any time before an actual sheriff sale; however, untimely applications do not stay the foreclosure process from continuing. Approved applicants are eligible to receive up to 24 months of assistance. If denied a HEMAP loan, a homeowner can appeal the process, and they have 15 days from the denial to file an appeal.

This appeal process is not part of the law, but rather was instituted by the Agency to provide applicants with a second opportunity to resolve any misunderstanding or circumstances that have changed. A lender may continue the foreclosure action during that appeal process. We have 86 counseling agencies that are under contract with PHFA to prepare applications for HEMAP.

They also counsel homeowners on financial matters including the REAL and HERO programs, spending habits and often serve as negotiators between homeowners and mortgage lenders and other creditors in forbearance actions. The mortgage reforms that this Committee developed and recently signed into law make several changes to the HEMAP law. One of the key amendments requires lenders to provide PHFA with information regarding Act 91.

This will allow PHFA to keep track of foreclosure actions and hot pockets around the state, and we keep track of these foreclosure actions at the start of the process rather than after a sheriff sale has occurred. And HEMAP does not cover FHA loans. We have our own loss mitigation process. We are working with FHA to send us their foreclosure activity in Pennsylvania.

In addition to that, we are requiring databases to a third-party provider to tell us where these foreclosures are happening. We want to track, not just by receiving the numbers, but we want to make sure we have a database all throughout the Commonwealth. House Bill 2694, as presently written, could delay the sending of the Act 91 Notice.

It's going to increase the total length -- our concern is making sure that the homeowners can stay in their home, and if they are eligible for HEMAP, we want them to try as soon as possible. If that is delayed, their arrearages go up and could cause HEMAP more in the long run when you talk about arrearages and taxes. And I don't think that was addressed in the bill, so that's an issue that we wanted to clarify.

With regards to the conciliation meeting, it should be made clear that this can occur currently in addition with the sending of the Act 91. It's a process that certainly our counselors understand. We've been educating and training our counseling agencies with regards to the Act 91 process and bringing the lender to the table.

A lot of times, those counsel meetings are frontline to start the negotiation process, so that coincides, occurs simultaneously. PHFA encourages people who are delinquent and have received an Act 91 Notice to apply, even if they're attempting to restructure their mortgage, because if restructuring doesn't come through, they still may be eligible for HEMAP.

So we don't want to stop that process from happening. We do encourage the homeowner to still apply for HEMAP and see if they're eligible. At the very least, a timely filing can buy them time in the event the application is approved. With regards to certifying that a conciliation meeting has taken place, I would recommend that an affidavit signed by both the lender and the homeowner may suffice to reduce tracking costs there.

Getting REAL and HERO information into the public's hands is a priority to PHFA. And I know we were talking earlier with Committee, some of my previous testifiers mentioned modifications. With HERO, we've hired seven new staff members at PHFA. We've sent out over 53 hundred inquiries. We have about 5 hundred applications that are being reviewed now. So far, we've committed to HERO and REAL about $21 million in loans, so about 160 homeowners, and only one is 30 days delinquent.

And we're calling the homeowner to make sure there's nothing unusual going on there. The qualification for REAL is a streamline process, only one or two months late on their payment and just beginning to slip. For that program, we will originate for a network of about 80 lenders on a statewide basis. Those lenders have a guideline, and it's a fast-track process.

For HERO, it's much more intensive. We ask the homeowner to supply records to us. PHFA would serve as the negotiator on behalf of the homeowner with the lender. It's very staff-intensive, as I mentioned. We've also teamed up with banks, and if we find irregularities in the lender's practices, then we also refer them to the Banking Bar (ph) for banking to follow-up and vice versa.

They have a hotline where homeowners can apply to REAL or HERO. They'll send those calls over to PHFA. So we certainly would welcome modifications, and that's one of the reasons why we're seeing lenders step up to the plate and make those modifications. The key is education. We're educating our counseling network and educating the consumer. To qualify for HERO and REAL, we're looking to see, can we improve that homeowner situation in offering our advice for REAL and HERO? Otherwise, are we reducing their monthly allocation?

If we cannot improve their monthly situation, we can't qualify with REAL or HERO. When we talk in terms of outreach, in March of 2008, PHFA received about $3.5 million under the National Foreclosure Mitigation Fund. Approximately, $500 thousand of that could be used for advertising. We've done PSAs, commercials, community seminars, all the outreach to get homeowners into the counseling network.

The other $3 million is going to pay the counseling network. In addition, we're going to be sending a direct mailing to over 20 thousand homeowners who have an adjustable-rate mortgage, along with a letter signed by myself, the Governor and the Secretary of Banking with that, basically telling that homeowner, we understand you have a problem and need a reset; please contact the counsel network.

We want that counseling network to be the first line of defense to the REAL and HERO for PHFA, and they will see in the counseling network and talk to the homeowner even if they have an FHA mortgage and they qualify for HEMAP. We want all of them to come to the counseling network. So we're trying to get the word out regarding our programs, and we certainly applaud the Committee for its efforts on mortgage reform.

On behalf of PHFA, to members of the Board and staff, I want to thank the Committee for its support, and I certainly would be happy to answer any questions you may have.

REPRESENTATIVE MCGEEHAN: Any questions?

Representative Longietti?

REPRESENTATIVE LONGIETTI: Thank you, Mr. Hudson, for your testimony and really you and PHFA's hard work. I've seen your commercial, by the way. It's very well done. I appreciate that.

MR. HUDSON: Thank you.

REPRESENTATIVE LONGIETTI: It sounds as though one of your concerns is if we move forward on a measure like this, that it augments the Act 91 Notice and perhaps could create problems with it. We heard a little bit of testimony earlier, a feeling from some of the groups that perhaps a notice that comes prior to a foreclosure proceeding is more helpful.

And I just want to kind of get your feel for that. And we certainly don't want to put a monkey wrench into what may already be working, but at the same time, offering something that might provide a benefit.

MR. HUDSON: Well, it's a delay in sending the notice. The first thing we want to do is get the homeowner into a counseling network, even though they've had a conciliation conference with the lender. The delay in sending that notice and the arrearages are continuing to increase, ultimately if they may apply for HEMAP, it may be a loan that we may not be able to help.

I like people to go in the counseling network as soon as possible. And that's the only concern that we have. So if all that can occur as rapidly as possible, that's what we want because, in the end, it's going to cost more for HEMAP or REAL or HERO, whatever their situation is.

REPRESENTATIVE LONGIETTI: Thank you, and I can certainly state that times that I've interacted with your agency, that has worked well; getting the folks to apply for the Act 91 assistance, getting them into the counseling network and exploring what actually might work for them and what they might qualify for. We truly have seen good results.

Thank you, Mr. Chairman.

REPRESENTATIVE MCGEEHAN: Thank you, Representative Longietti.

And I'm going to echo the remarks concerning your agency. Your agency certainly set the template for innovative programs for keeping people in their homes and making them eligible for unique programs that help them keep their homes and be homeowners of Pennsylvania.

Have you thought about -- this bill envisions that -- and I saw that you contract with 86 agencies to deal with the HEMAP considerations. Have you thought about how, in a scenario where this bill passes, how you would handle that conciliation process throughout the state?

MR. HUDSON: Well, one of my suggestions was to have a certification stating that the counseling between the homeowner and lender did occur, and we could do that, possibly do that through our counseling network to streamline that process.

But the issue is that our counseling agencies understand the process as it stands now. So if we had a certification, if you will, stating that the lender and the homeowner, that the conciliation did occur, we could probably streamline it that way.

REPRESENTATIVE MCGEEHAN: There's -- and it's a geographic question. I have been around long enough to understand that some problems in Philadelphia, whether it's Philadelphia or Allegheny County -- and you're seeing this crisis going well beyond these large counties. And we have a diverse Legislature, people from suburban communities and urban communities; we also have rural communities.

And are you finding, as the Executive Director, the problems now cropping up in places where you never saw these problems before? Because I think it's important that people understand it's not just people I represent in the City of Philadelphia; it's people that others may represent in suburban or rural counties that are also being affected by this problem.

MR. HUDSON: It is all over. I was -- as you mentioned, in larger cities, there are a lot more resources. For example, we have 30 counseling agencies in Philadelphia alone, but I can tell you that it's happening in rural, PA. I was in Fayette County speaking to a small group, about 15 individuals.

After the meeting, one elderly gentleman asked if he could talk to me. He said he was helping his son pay his mortgage to the tune of over a thousand dollars a month. After I sat down with him and I got documentation, I found his son was given a mortgage by a finance company of 18 percent. So we were able to get him a HERO loan.

Another case in -- at the Committee hearing actually, there were some individuals that were there, one in particular that had a mortgage that, the lenders owed over 126 thousand. The house was only worth 60 thousand.

We ended up getting them a refinance at about $45 thousand. One of the things that we are doing with HERO and REAL is doing new appraisals, but it is occurring all over, in the big cities and in the rural areas of Pennsylvania.

I am a firm believer of education on both fronts. We are also in the rental housing business. When we did a press conference on the two programs, we would rather have a homeowner wait or a potential homeowner wait before they buy a house if their debt is too high, for instance; come to our counseling network so we can educate you about the responsibilities of homeownership.

In 2003, Pennsylvania had ranked eighth and ninth in foreclosure, and they did a statewide foreclosure study. At that time, Monroe County was the hot pocket, and that's when we created our counseling network, before this crisis even started. PHFA needed from the Commonwealth 500 thousand in loan resources to start the network, and we now have about a million dollars.

And as the prices ballooned, it became recognizable that counseling is a key piece there. But nonetheless, I know that we have over 200 thousand subprime mortgages in Pennsylvania. They're about 17 percent delinquent. Of those 200 thousand, approximately 60 thousand are adjustable-rate mortgages.

Those loans are the people that we have targeted right now. Those loans are about 24 percent delinquent. So we want to get them out of those adjustable-rate mortgages into the fixed-rate mortgages. Absolutely, it's a statewide problem, and we're trying to address it as fast and accurately as we possibly can.

REPRESENTATIVE MCGEEHAN: Well, this question goes to your successful efforts to have homeowners meet their obligations and lenders if they need to modify their loan, so it begs the question. You've done the great job; you've done the outreach; you had successful, for this Committee, changes in mortgage lending and mortgage oversight.

Is this bill needed then? I mean, is PHFA doing the job that it needs to be doing and acting essentially as a conciliator in many of cases, in most of these cases?

MR. HUDSON: That's a great question. Our intensive outreach is just beginning with regards to our programs. I am requesting more money for HEMAP. I am requesting 13 million. We've received 11. I expect to be back with more resources. We're all talking to each other. Maybe we could see, could determine where we go from there, and that may be an approach that may be taken.

REPRESENTATIVE MCGEEHAN: Thank you.

Executive Director Callen?

MR. CALLEN: Thank you, Chairman.

Good morning, Mr. Hudson.

MR. HUDSON: Good morning, Mr. Callen.

MR. CALLEN: I think that I misheard something that you said when you were talking to FHA about getting -- are you talking about getting their data?

MR. HUDSON: Yes, their data.

MR. CALLEN: Not their clients?

MR. HUDSON: No. I want their data on activity of Pennsylvania, and it's tough to get that out of them. If we can't get it directly from them, we'll use a third-party source to try to get it for us, but we need that piece to see the whole picture.

MR. CALLEN: Sure. And you and I have talked about some time ago that you were working with Congress on revising a HEMAP program for FHA?

MR. HUDSON: Yes.

MR. CALLEN: Where does that stand?

MR. HUDSON: Well, in the midst of this crisis, that's not moving anywhere, quite truthfully right now, but a number of congressional members recognize that cost will carry around 35 thousand compared to that HEMAP program.

MR. CALLEN: Right. In terms of the outreach program, do the certified agencies that contract with PHFA have the manpower to be able to actually do what the ACORN folks and the CLS folks and in Philadelphia literally, you know, like door knocking? Is that feasible?

MR. HUDSON: The larger ones have more resources to continue. Part of the recent federal legislation has a piece for legal services. Now, those legal services cannot be any kind of bankruptcy action, but we expect PHFA to come up with as much as $10 thousand of this new wave of counseling funds, a component of which would be to serve the legal, or hire a legal person to advise clients.

That coupled with the outreach and the committee seminars, PHFA's willing to pick up some of that and do that. The counseling that we are hearing now actually are done geographically by region, and we're telling the consumer, the homeowner, these are the counseling agencies in your region that you can go see.

So each one has tag lines to refer to those counseling agencies. The capacity is not there for some of the smaller agencies. The larger ones usually do that, but we're going to have the smaller ones set up those community seminars and get the awareness up.

MR. CALLEN: Now, one of the problems in the Philadelphia experiment is that the advocacy agencies are getting direct referrals from the Court to say, here's all these folks in trouble; please go talk to them because either they need some help or they haven't been responding to letters from their lender or whatever. But at this point, you don't have a source of data like that other than somebody getting, responding to their Act 91 Notice to call you?

MR. HUDSON: That's right.

MR. CALLEN: All right. Is there a need for some kind of thing like that, a follow-up that refers to you?

MR. HUDSON: Yeah. The follow-up is definitely a requirement.

MR. CALLEN: Yeah?

MR. HUDSON: Yes. I mean, that would be --

MR. CALLEN: Because they'd be sliding down the tubes before --

MR. HUDSON: That's right. And I've had conversations with Judge Jones in Philadelphia regarding our program. We are certainly all talking to each other, but that follow-up has to occur; don't delay, get help now, don't be embarrassed, all the things that make homeowners delay. But you still have to get them in the door, and that follow-up would be very helpful in tracking individuals so they won't slip.

MR. CALLEN: Thank you, Mr. Chairman.

REPRESENTATIVE MCGEEHAN: John Scarpato?

MR. SCARPATO: You made a point that the REAL and HERO programs, you're only putting folks into those programs that are actually able to stay in the home and help them stay in the home?

MR. HUDSON: That's correct.

MR. SCARPATO: I think that's why you only have one delinquency so far.

MR. HUDSON: Correct.

MR. SCARPATO: But my question is, how many, do you have just a sense of how many folks are out there that cannot be helped? Is there something that can be -- you know, you're helping them, and the federal government has a package that goes to that. How many people cannot be helped, and how easy is it for lenders and folks like you to say, you know, this person can't be helped? Is it easy to help?

MR. HUDSON: It's tough because we don't know that entire universe. The universe that we're looking at now are the subprime loans. My first target is that group of 60 thousand that I mentioned that are about 25 percent delinquent. I mentioned earlier that we sent out 53 hundred applications or inquiries for HERO. About a thousand of those, we heard no response.

We got 5 hundred to review, and we've approved about a hundred. We are underwriting individuals to the net income, which is where it should be in the first place; and then we're taking a look and saying, are we improving that cash flow. In most cases, we're seeing interest rates in a range from 10 to 12 percent. Currently, I'm qualifying HERO at 7.95, and some of them will qualify for a tax-exempt solution, bringing that financing rate down a full percentage point.

The federal bill that was passed had a window of loans that originated from 2001 December to January of '08. My main issue with that piece was what about the fixed rate subprime lending, so that's my next category, about 130 thousand loans that we want to target.

So in a sense, I have a taxable REAL program and a tax-exempt REAL program, and a tax-exempt HERO program and a taxable HERO program to help these loans. I just don't know how large that universe is that we cannot help. Once PHFA starts to have conversations with the lenders -- some lenders do the modification themselves, and I encourage that. And we don't care if it's a PHFA loan or non-PHFA.

I also try to work with FHA to see if we can benefit to take a little more other risks, if you will, and work with us. For instance, one of the things we know in the current legislation, PHFA is willing to pay up to 90 percent value for the loan. 5 percent of that is going to loss reserve. 85 percent will be paid to the original lender.

So they're telling the originating lender, based on a new-appraised value, we're going to give you 85 percent of what you have on your books. What I'm telling FHA is, let's take that a little higher. Let's go to 95 percent because we still run the 95 percent loan program, and could we partner with them to help them.

So they're already helping the lender with 85 percent that they have on their books. When I met with the Committee, I wanted to restructure FHA to be a little more flexible to work with PHFA. We're doing it directly with HERO. In some cases, we want to give the lender less than 85 percent, but I just don't know how large that universe is at this point. That's a long answer.

MR. SCARPATO: So it's not easy to just look at somebody's financial history and say, hey, they're never going to be able to pay that back?

MR. HUDSON: Well, we don't know that. And in my case, I always refer to the homeowner, but when you talk about cash flow, you know what cash flow is. For HEMAP, it's unknown whether they'll get another job where they will be able to make payments. I always fair in favor of the homeowners, but when you're underwriting new loans, if this is the cash flow, we can help you. If our program can't improve them, I really can't help.

REPRESENTATIVE MCGEEHAN: I just have one, just one last question. You said that somebody is looking to housing statistics, and we'll look for your reports and evaluations. I want you to share with me as best as you can where are we in this subprime crisis. If it's an ark and the top of the ark is the worse, are we even --

MR. HUDSON: If you asked me that last week, I would have had a different answer, before AIG had to get a $85 million bailout from the federal government. But with that occurrence, I just don't know. And that's the best answer I can give you. I mean, I don't know where we are in this crisis. I know where Pennsylvania is fairing right now in terms of foreclosure.

We're ranking in the 30s, and part of that is because of the network that we had and the coordination that has occurred and support of committees such as yours. But this crisis, each week, each weekend, I should stay, there's a new entity it affects and what we do and how we do it.

That is a good question. And I know that if we stick to how we are doing it, the protection that you have put in place, it will turn around. That may be three, four, five years away.

REPRESENTATIVE MCGEEHAN: And that's where my question goes, Executive Director, to the staggering 200 thousand subprime mortgages that were given in this

Commonwealth. When's the chicken coming home to roost? Have you seen that adjustment period, adjustable rates?

MR. HUDSON: Yes. We've seen the rate spike in adjustments, and that's why we're sending it directly to those who have had those loans so that we can help them before the spike hits. We've got to get them --

REPRESENTATIVE MCGEEHAN: Is that the time to come?

MR. HUDSON: There's another spike rate adjustment that will be coming at year-end also.

REPRESENTATIVE MCGEEHAN: Compounded by the stronger lending standards that are in place now, we see today that the crisis is far from over in the Commonwealth, and that's why these hearings with this Committee is so critical and so forth.

MR. HUDSON: Exactly. And that's one of the reasons why we're pushing House Bill 2600 for the Trust Fund because those are resources that will be needed to support the full front of the housing. We had experienced activity going back to 1983. Ourselves and Ohio were hard hit. Ohio's getting hit now, and I'm not criticizing what they did or didn't do.

But when 1983 happened, the Legislature created HEMAP, which has been around since that time. All the states are now in this crisis looking at the HEMAP program for an economic downturn in their own states. In addition, we had a number of county issues. So I will say that we've been proactive, but we're far from out of the woods getting the statistics that we currently see.

REPRESENTATIVE MCGEEHAN: Thank you very much, Mr. Hudson, for your advocacy and for educating this Committee.

MR. HUDSON: Thank you.

REPRESENTATIVE MCGEEHAN: We're going to take a short break to use the restroom, stretch your legs and we'll convene here in ten minutes and get back to the testimony. Thank you for your indulgence and your patience.

(A brief recess was taken.)

REPRESENTATIVE MCGEEHAN: Our next testifier is Michael McKeever. He's an attorney with Goldbeck, McCafferty and McKeever in Philadelphia. Please state your name and the company you represent and begin when you're ready.

MR. MCKEEVER: Thank you very much. My name is Michael McKeever. I'm the managing partner of the law firm of Goldbeck, McCafferty and McKeever, with offices in both Pittsburgh and Philadelphia. Our firm has represented mortgage lenders for over 27 years here in the Commonwealth. We have been actively involved in the

Philadelphia Conciliation Program, and it's been in existence for seven months now. We've worked with the Court in developing that program.

And I welcome the Pennsylvania housing initiative in this regard to look at the issue of conciliation, and I believe that we all can work together, as we had in Philadelphia, to create a program that provides an opportunity for homeowners to take responsibility prior to foreclosure or during the foreclosure and for lenders to uphold their responsibility to review those loan proposals or loan resolution workouts in a timely and effective manner.

I just wanted to define briefly what a mortgage servicer is. Mortgage service companies are large companies generally that are responsible for the collection of mortgage payments and payment of real estate taxes and insurance. They are also responsible on behalf of their investors on the loan to do all those routine activities, but also could work with homeowners who are in default in an attempt to resolve loan delinquency.

Servicers have the right and the responsibility and the power on behalf of those investors to make modifications to mortgage loans or adjust the payment schedule. That can include reducing the principal, capitalizing the amount owed to the back of the loan or reducing the interest rate or a combination of any of those activities.

While there are delays in obtaining investor approval, those delays have substantially been reduced over the last 12 months, as mortgage companies have provided increased funding and outreach to their -- increased funding to their home retention departments and have provided funding to groups such as Hope Now, ACORN and other organizations to create a more effective outreach program.

I think there's a -- in listening to the previous testimony -- I'm going to deviate a little bit from my written testimony because I think it's important to be responsive to some of the things that we've heard today. Mortgage companies, mortgage lenders -- and I'll call them all lenders, but although some are servicing lenders -- spend an enormous amount of time and effort trying to contact borrowers who are delinquent.

And there clearly is a miscommunication. I mean, it goes from the borrower perspective, the homeowner perspective; and you've heard it today from Ian Phillips and Kerry at Community Legal Services. The borrower's saying, hey, we're spending a lot of time trying to reach you. The lender, and the lender's saying -- now, I'm here to tell you that the lender spends a lot of time to reach the borrower.

And it is clear, it's documentable by my clients that those outreach programs generally don't help. And they have engaged -- they've done a number of things; special mailing campaigns, postcards, unmarked envelopes, special colored paper, door knocking companies, hiring local real estate agents to go out as their representative and drop off material with special phone numbers.

The most successful of those programs on behalf of the lender, from the lender's perspective, their statistics show the most successful are about a 15 percent response rate from borrowers. And I would suggest to this Committee that the reason of the low response rate has to do with the fact that it's coming from the lender.

That role of a housing counselor or other advocate on behalf of the homeowner is of critical importance. We see it especially in the Philadelphia program. It's why the Philadelphia program starts with the phone call to the Save Your Philly Home Hotline, and that hotline immediately assigns a housing counselor to that homeowner.

That homeowner has the opportunity at that time to discuss all their options, provide financial information and whatever else is needed. The housing counselor then is in the position under the Philly program or at the hearing, the conciliation hearing, to review the particular circumstance. And they may well advise that homeowner to seek legal counsel because the terms of that particular loan may contain elements that are of concern to that counselor or to the homeowner.

What we have seen in the Philadelphia program -- I can only speak for our firm because, as everyone else has testified, there's not yet been a statistical analysis of what's been going on. I will start out with the fact that there were 800 properties sale for April and May. The entire list was 800 properties. Of those, only about 300 homeowners took advantage.

Now, a lot of those were investor properties or whatnot. And the reason I bring that up is because that means that 500 properties that should have gone to sale in April and May were delayed until June, July, August or so. There's a substantial cost to all of us for those delays, and we have to keep that in mind.

And what lenders have consistently said about this program -- our office represents another lender representative at the table -- to delay for that sake of delay is not appropriate. Additional notice requirements; we've heard testimony that homeowners are inundated with notices, so additional notice requirements aren't going to help.

We worked hard in Philly to come up with a one-page document that provides the Save Your Philly Home Hotline. Unfortunately, because you have to include that with the court order and the financial forms that the homeowner has to fill out, they now get a package with five or six pages in it. It's still a lot better, very clear, and it has helped in getting some response.

Again, going back to our experience in the program, in the April, May group of cases, we had approximately 121 properties that our firm had scheduled for sheriff sale. Of those 125, we are, our response rate for homeowners was about 25 homeowners. This is homeowners of owner-occupied properties scheduled for sale given the opportunity to pursue the court order and come to court and try to work something out.

And of those 125, about 25 appeared. We actively have worked with those 25 homeowners, got the list down to about 16 homeowners that were rescheduled in August conciliation conferences. And despite substantial delays, only 5 homeowners had completed the necessary financial information. And you'll hear that a lot, what financial information? Well, it's not very difficult.

It is your income and expense statement; how much do you make each month; how much do you spend each month and your pay stubs, W-2 forms, statement from your employer, something. Some lenders looking to modify your loan is going to ask for last year's tax return. There's a lot of difficulty for borrowers to get that information and present it consistently, and oftentimes, the borrower does not have all the information readily available.

Again, the benefit of the Philadelphia program is using the counselors as a first step because they deal with homeowners in distress and other borrowers in distress all the time. They know how to get that information and put it into a consistent format for the lenders to look at.

I did want to talk about, as I said in my testimony, a delinquent mortgage relationship is like a marriage in trouble. Assessing blame among the parties may make for interesting conversation, but it is generally not constructive to restoring the relationship.

The key element, I believe, in the Philadelphia program and any other statewide program would be to create a framework to provide effective communication among the parties, and that framework necessarily would include housing counselors, housing consumer advocates; that is, homeowner attorneys to homeowners and lenders and their counsel.

That is the framework that has worked in Philadelphia; when the complaint is made that lenders are not being responsive, what lender and what law firm represents that lender in that action because that attorney then has to answer to the Court as to why their client has not returned phone calls, has not resolved this loan.

Providing the details of denied loan resolution requests is a major issue as well, and that, again, is a communication issue. Lenders' counsel and lenders have stepped up. They're providing more information as to why plans are being denied or what needs to be done in order for a plan to be submitted.

My experience with the Philadelphia program has been -- and frankly in my representation of lenders over the last 20, almost 20 years, is that the overwhelming majority of mortgage foreclosure default is based on one simple thing. The people either don't have a job, or they have a job that doesn't effectively pay their obligations. They've either had a cutback at work.

Perhaps they lost their job for a period of time. They may have someone disabled in the family or a medical issue for a temporary period of time. The subprime reset, lenders with subprime resets have reached out. They've been reaching out for the last 12 to 18 months warning people about it; take action; contact us, etcetera.

I think that people are making economic decisions to vacate their homes. I think that people are making economic decisions to allow foreclosure to continue.

And we need to remember that there's a group of homeowners out there that know that no matter what is done, that the lender is not -- that they cannot resolve that loan default.

And our concern from the loan perspective is to add additional delay, simply adds to the cost. And the next thing that will happen is you'll be hearing a lot from municipalities about the house that's sitting in foreclosure that hasn't been moved that's an eyesore, and the lender can't do anything to it. And the borrower has clearly taken off and reaping the benefits.

We certainly like the prohibition on investor properties being a part of any conciliation program. I think it is a little early to push conciliation statewide. I do believe it's a local issue that the judges in the local counties had encouraged such participation, and I also believe, as a matter of borrower education, that the ability to get a judge to take a look at your foreclosure case is already present in the Rules of Procedure.

It is not that difficult to file an answer to the Court of Common Pleas. Trust me. In my 20 years, I've seen answers filed on the back of an envelope with a docket number. And then we have the process in place of, well, are we going to contest this and take it to trial in three years, or are we going to sit down and talk to this homeowner and find out how we can resolve it. Because we look at borrower contact and homeowner contact, whether filing an answer, calling our office, filing bankruptcy as an opportunity to resolve the loan.

We will help them advocate the large lenders and servicers that are out there who are trying and trying very desperately to resolve these loans without taking it to foreclosure. We also work closely with homeowners in the graceful exit situation to try to provide opportunity to cash in their keys, to vacate the property, maybe a deed in lieu of foreclosure if that's appropriate.

There are a number of options there for homeowners other than just a loan modification. We do believe that there are benefits to including additional notices about the REAL and the HERO program and the existing HEMAP notice. I am concerned about any additional notices to the homeowners.

The amount of time and effort spent to comply with the current statute, which we fully support -- that is the Act 91 of 1983 -- is enormous. And right now, implemented by January 1st, the most recent changes that were in Senate Bill 486, those changes are regarding additional details and whatnot.

Lenders will tell -- and I've seen it because I've visited my clients on numerous occasions and since we do demand letters for clients as well -- boxes and boxes of returned, unclaimed, certified mail and returned regular mail that are required under the HEMAP Program. That's not -- I can safely say after sitting here this morning, that what's important is effective communication, and I think the Committee in their questioning has focused on that as well.

That door knocking in the early stages by an independent party, let's say, by a counselor or by the City, by an agency is probably far more effective than any additional notices that any of us would send. We know it statistically. We know it from our practical everyday practice. I am concerned -- the way the bill is drafted at this time, it would require the conciliation to occur prior to the filing of a complaint of foreclosure.

The concern we have with that is that takes the court annex part of it. And having the Court's influence in this process has been very helpful. It has kept people on both sides from straying too far from what the program's about. What the program is about is not trying this case and whether you're a bad guy or they're the bad guy or who's the bad guy.

It's about resolving this loan and what can be done. I have participated in talking to other attorneys in my office that have said, you know what; we never need to see that Judge Pro Tempore. We should never see the judge because we should know how to get this loan resolved; and the only time is when, the only time you should see that is where the parties are very close and there has to be a judge to jump in or the Judge Pro Tempore to jump in and provide some guidance to the parties.

Nobody needs to tell lenders that they're going to lose moneys on this. We know it. We know it everyday. The lenders are denying requests because their concern is the recidivism rate. The default rate following a loan modification is extremely high, so they're very careful about making sure that this isn't just a short-term solution that isn't a true solution.

I would suggest that you could -- if we look at a preforeclosure conciliation that perhaps HEMAP in its current environment and structure be the overseer of that, if you will, and perhaps it's a program that -- right now, lenders are not part of the HEMAP Program. Essentially it's through the borrower to meet with the housing counselor, and the housing counselor sends that notification to the lender.

For 60 days, they just wait until HEMAP decides one way or another if they're going to be approved for assistance. Well, you know, HEMAP does have a limited funding source unless the Legislature changes that. They can't help everyone. I believe they get about 8 thousand applications a year on average, and they approve about 3 thousand. That group of 5 thousand, a lot of those may not be saveable, may not be able to save their home anyway.

But if there was communication at that time, early on with the lender, then perhaps some of those people could be saved and not have to be sent to foreclosure. The Philadelphia program has designed the Day Forward Program right now. The Court has designed it in such a way as to not create substantial delay.

The complaint is filed. We file it today. We get a notice back from the Court immediately. We get the notice back. It's served with a complaint -- and it's not a notice; it's a court order that tells the homeowner, if you want a conciliation conference, you've got to check this box, file this form and we're going to set this down for a hearing in 30 or 45 days.

It provides a very effective method for a homeowner to take responsibility at that time and provide documentation in response of that conciliation hearing so that the lender can effectively review it. The homeowner has until ten days before the hearing to provide a workout package, which is their income and expense and pay stubs, and a written proposal; what do you want to do; do you want to say in the house and what do you think the lender should do, and a little bit about why this default occurred.

The lender then must respond by way of conciliation conference or suffer further delays in foreclosure. One final word about the Philadelphia program is, I just want to stress again, that the Court looked at this and presented it to both the lenders' counsel and borrowers' counsel as a pro bono initiative.

All the groups spent numerous hours, thousands of hours collectively working with the Court over a three-, four-month period to craft this program. And I would encourage the House to be sure that all parties are involved and represented in the process. And, again, I thank you for this opportunity for our office on behalf of lenders to present our position on this. Thank you.

REPRESENTATIVE MCGEEHAN: Thank you very much, Mr. McKeever, and thank you for your patience in waiting to testify.

Any questions?

Representative Longietti?

REPRESENTATIVE LONGIETTI: Thank you, Mr. Chairman.

Thank you for your testimony. I have to take advantage of the fact that you're here today as an expert to some extent of the foreclosure process. Tell me about, because I got at least one constituent complaint about foreclosure fees, a belief that the fees are basically unlimited that can be charged in the midst of foreclosure. I was skeptical if that's the case. The constituent is insistent on it. I wanted to hear your comments on that.

MR. MCKEEVER: Ian made reference to it earlier. We hear it all the time, and I want to be clear about it. One of the things that Ian said about Ms. Ruffin's case -- and I don't know the particulars, but that $9 thousand loan becomes $27 thousand. My guess is it's probably been in foreclosure for probably six, seven, eight years.

My guess is there may have been some delays due to other legal proceedings. Each month -- each day, the lenders in foreclosure may be doing things, inspecting the property on a monthly basis, which they're required to; is the property still there; is the homeowner vandalizing the property; have they vacated the property. That's why they inspect on a monthly basis.

There's lender expenses on a monthly basis. There's late charges, property inspection, maintenance of the property. They need to cut the grass. Those are lender fees, for example, or lender expenses that would add up over the course of a foreclosure. Once it's referred to our office, there's fees and costs for counseling. We have to order a title search. We have to review the documents.

We have -- we're lawyers. We've got to charge a fee for that. But I can tell you, I can tell you that the maximum fee for a routine foreclosure in the State of Pennsylvania is about $13 hundred. In this day in age, $13 hundred for an attorney fee is a pretty low amount. You know, not to begrudge realtors of their commission, but a realtor gets 6 percent to sell that house.

You know, a $100 thousand mortgage, $13 hundred is not substantial. Early in the foreclosure process, before we file a complaint in various stages, almost all firms that do this work on behalf of the lenders charge a step rate, $3 or $4 hundred, $5 or $6 hundred, 9 hundred once it's scheduled for sale or close to sale.

Where you run into issues is where lenders have taken advantage of bankruptcy court, numerous times, more than once. So over the course of that, that foreclosure is no longer routine, and these costs continue to occur. If we file bankruptcy, we have to file a motion. There's charges for that. We're extremely sensitive to complaints about fees and costs, and we work very hard to keep them reasonable.

We're required under statute to be reasonable in any event, and the lenders, our clients are very concerned with that as well. And they police us on a regular basis to make sure that we're not exceeding those fees and costs, but the problem cases are the ones where you see a substantial -- Philadelphia County -- well, Philadelphia, like almost every other county, just to set the sheriff sale is about $2 thousand.

And in some counties, there's two or three -- the sheriff gets a 2 percent commission. That 2 percent goes to the sheriff, and the homeowner pays it. That can substantially affect the ability of a homeowner to make their mortgage payments or to bring the loan out of foreclosure. 2 percent on $150 or $200 thousand loan, you're getting some pretty big numbers that go to the sheriff.

And I don't want to begrudge the sheriff. They do a lot of hard work and their general fees have not increased, yet their volume has. And their requirements for electronic enhancements has increased, but that's another aspect of where fees and costs can get out of control. You know, if a homeowner calls me and says, I owe a $200 thousand mortgage and they've got a sale scheduled, I've got to add that 2 percent.

So it looks like I've got these enormous fees and costs. We actually break it out now, but it's really -- it's not going to the lender. It's not going to me. It's going to the sheriff. And that's just one aspect of it, and, again, I don't want to -- that may be an issue for another day, but I wanted to point that out.

REPRESENTATIVE LONGIETTI: Thank you. Just one quick comment, and Representative King alluded to it. And it's certainly more a long-term solution, but if communication is a problem, the other problem is education. And that's something I know the Accountants Association nationally has dedicated large dollars to public education. And I took advantage of that with a seminar in my district.

I'd like to see all the parties kind of push, from the accountants to the bankers to PHFA, pushing for education, financial literacy education in our schools and elsewhere because it's a problem. And Representative King mentioned it. It crosses all demographics.

Kids that are going on to college today don't understand what a credit card means and what interest rates mean, and even being simply taught -- if you face a problem like foreclosure, you need to reach out to a housing counselor.

MR. MCKEEVER: I couldn't agree more. I think what -- I talk to homeowners all the time, and I am continually surprised at the appalling lack of basic financial information. I'm no expert, but when you buy a new car, your insurance goes up and that may prevent you from making your mortgage payments; or people who constantly say, well, I'm paying the credit card companies because they're calling me more.

Well, you're not going to have a place to live if you're doing that. And a big chief complaint is, I can't afford an attorney to help me in this foreclosure. Well, when else are you going to call an attorney and spend -- and I'm going to say about $15 hundred or 2 thousand, whatever it takes to get a qualified attorney to help you navigate this process other than your losing your home?

I mean, it is a major financial issue, and homeowners continually bring that issue to my attention in the context of not really understanding the cost benefit of houses, if you will. I believe that part of the Philly program's success could be, and we've talked about this generally, is doing more of a monthly forum for homeowners that are in or close to default; here's how to work the system; here's how to -- you know, these are the things you have to do; you've got to get your financial mess in order.

Many people will tell you that they don't know their income expenses. They think because they're paying a bill payer cash, that that's not part of their expenses. And I'll relay the story. I've been thinking about this a lot. When I was in grade school at (inaudible) would come by every other Friday and collect our penny envelopes and talk to us about what a savings account was, how to write a check. It's as simple as that sometimes.

REPRESENTATIVE LONGIETTI: Thank you.

REPRESENTATIVE MCGEEHAN: Thank you, Mr. McKeever, for coming here and for educating us. I appreciate your testimony.

MR. MCKEEVER: Thank you.

REPRESENTATIVE MCGEEHAN: Next, we have Frank Pinto. He's the President and CEO of Pennsylvania Association of Community Bankers.

MR. PINTO: With me is Reg Evans, Counsel with Shumaker Williams. I lost my props. I'm really disappointed that I lost my props. I don't know if you guys had the chance to see when the ACORN people were here, they had that big fish. Did you see what it said on the big fish? It said, beware of predatory lenders; they steal your home. And I just want to reinforce that statement. We lost our thunder.

REPRESENTATIVE MCGEEHAN: Can you state your name, please?

MR. PINTO: My name is Frank Pinto. I'm President and CEO of Pennsylvania Association of Community Bankers. To my left is Reg Evans, former Chief Counsel for the Department of Banking and currently a partner with the law firm of Shumaker and Williams. If a picture is worth a thousand words, that said it all. But if I may, community banks are not part of what you're reading in the Wall Street Journal, the New York Times, USA Today.

These are all the headlines yet that give you an image that the financial services industry is in chaos. Let me suggest that many of you guys can remember a Tale of Two Cities, Charles Dickens; the best of times, the worst of times, if I could extrapolate that analogy and say we have those who are part of the problem, who are the problem and those that are not.

And I'm going to be here today to try to tell you, both statistically and emotionally, that the community banks are not part of the problem. You know, our association --

REPRESENTATIVE MCGEEHAN: Can you hold that mike closer?

MR. PINTO: Hold it right here?

REPRESENTATIVE MCGEEHAN: That's better.

MR. PINTO: All right. What I was basically saying about the Tale of Two Cities is, if you could have a picture, there are those who are not part of the problem and those who are part of the problem. We're not part of the problem.

We haven't been involved in predatory lending. We don't do subprime lending. We don't do payday lending.

We don't do foreclosures to the degree that you guys have been hearing today. We represent 175 local community banks. I know in your district, Mike can tell you about Washington Savings. These are local banks whose purpose in life is to reinvest in the local community, whose purpose in life is to lend prudentially so they can lend to the next person in that community.

And for 23 thousand years, these 175 banks have survived wars, booms, busts, recessions, depressions because they lend locally. It's really a great cycle. Most people think because we're community banks, oh, they're the little guys. Well, collectively, they have $90 billion collectively, and that $90 billion is reinvested in your hometown in the northeast, in your hometown, Mark, and the Chairman's hometown.

That's the whole purpose of life. So when we have a chance to testify, the first thing I wanted to say is you guys have already set the stage and you've done a wonderful job. You have set the tone to try to aleve the crisis. But, you know, this is the American dream. I could feel the passion coming from these people carrying their signs and coming up from Philadelphia.

Well, I'm a south Philadelphia kid. I also happened to experience firsthand foreclosure and the emotional and psychological pain that comes with that. My mother-in-law tells me the story -- and she passed away last year -- how in 1934, in Libertyville, Illinois, she was a victim, her brother and her mother. They were out of their home. Just one day, they came in and threw them in the street. And the trauma that lived with her for 60 or 70 years, none of us, even if it's one family that's a victim, no community banker wants to see that.

We have the same passion that you have. If we failed one time, that one time is too much. So even when I give you the figures -- and you have the testimony in front of you, and you have the statistics. What I decided to do is give you the empirical impact. We'll have Reg Evans tell you about the specifics. But you need to understand the empirical impact of what we're talking about.

So 53 of our banks responded to the survey, not bad, one-third; you know, gave them about ten days to respond. But it's right there in front of you.
The actual number of foreclosure filings last year was 165. Now, the actual number of mortgages originated in that same period, 14,259. And so you say, wow, 165 out of 14,259? No. That's a false number. The 14,259 were just the mortgages issued in 2007.

If you take the mortgages that were issued in 2006, 2005, 2004, all of those mortgages collectively came up with 165 filings. So that number is really perhaps 165 filings -- and I don't have it, but I'll give it to the Committee -- of well over 100 thousand mortgages. You guys can do the math. 99,835 people paying right on time.

165 are 90 days delinquent, so they send out the message. The community bank doesn't want this house. It's part of their community. It's the fabric of their community. They want to do everything in their power to work out all kinds of deals to try and make sure that if it's Frank Pinto that's in trouble, Frank Pinto's family stays in the house.

And they'll bend over backwards. And I think the numbers reflect that. The numbers also reflect there isn't a crisis. The money is there in the community banks. The dilemma you have very simply is there really isn't one bank in the industry. You've got people who purport to be banks, just like here reading these things. The investment bank isn't a bank. You're nuts if you consider that a bank.

A bank to us is locally-owned, driven to serve the community. And I heard one of the speakers earlier talk about how he has shareholders or doesn't have shareholders. Well, half of my members, they don't have shareholders either. You know, not everybody is in it for the big bucks. You take a look at the community banks and what they do and the thousand of hours in the community that they do.

So I want you to try to understand the difference in the banking industry. You've got those guys who are part of the problem. They're always a part of the problem, subprime lenders, the wheeler and dealers. You know, Ms. Ruffin's siding guy, your job is to get him in jail.

If you're in consumer protection, put that guy in jail. That's probably the same guy that I testified when Councilwoman Tasco (inaudible) for bring this to the attention of subprime lenders and banks, a couple banks. It wasn't a banker. It was this aluminum siding guy. It was a window guy, scam artist.

He goes, hey, I'll give you windows and blah, blah, blah; I'll get you some financing. Where do they get the financing? Do they get that financing through a local bank? You bet not. A local banker would just look at it and laugh and say, your nuts; these people can't afford this.

Poor Ms. Ruffin's taking all those calls, and I think that's one of your first steps is go after that guy. Now, the passion that you guys have -- that's difficult for a public policy question. How do you balance out the crisis in Philadelphia and some in Allentown, some in Reading, some here, some there? I say that if you do this, I'll oppose it, 100 percent oppose it. I already do. I already do conciliation.

People before talked about community reinvestment. I do it. Our members do it. They live and die by it. But if you decide to think this is the way to go, for whatever the motive, then exempt community banks. We're not part of the problem. You work out a formula. If you single out banks and I had 10 thousand mortgages and no foreclosures, what are you going to do to me?

You're going to burn me with excessive regulation and take time away from what I'm supposed to be doing. When I first learned that there was a little place outside of Allentown that's called New Tripoli -- I thought it was Tripoli. I'm a kid from south Philadelphia. I don't know how to speak. They corrected me.

The chairman of the board said, you know, Frank, he said, they want me to have a loan lost reserve policy. They demand to have a loan lost reserve policy. I said, what's so problematic about that. He said, I haven't had a loan loss in 23 years. I've loaned to people that I know; they paid me back; why do I have to assign an officer.

You know, I've been in this job for 23 years and I've relatively remained silent, but I'm sick of it now. You guys have to listen to the needs of the community banks and the 90 billions in the communities that are reinvested, the people who are doing their work.

And I know you have a difficult balance because there are subprime people who are scam artists, who are predatory lenders; and I say that you go after them and put them in jail. I support jail. I lived next door to one in south Philadelphia. It really works wonders when people see people in jail. And if they happen to disguise themselves as bankers, so be it. They're destroying our community. They're destroying what we do every single day. Look at the numbers. I don't think the numbers would lie.

But I know you have the difficult task, and it's -- I don't relish your position because when you see the passion of these people and you see Mrs. Ruffin -- and there's probably hundreds of Mrs. Ruffins; but at the same time, there's probably hundreds and thousands of Callens, McGeehans, Longiettis who are being pushed and responsible for doing this thing and the delicate balance that you have is how to resolve this dilemma.

The one thing that I've found being an old college professor is you can't legislate honestly. As much as you try, it isn't a perfect world, and all banks that I represent, 175, guess what? They're not all perfect, and they've probably made some mistakes too. But the majority of looking empirically and saying, 99.99 percent of people are doing their jobs, then I don't think it behooves you not to take the next step and decide to make us an exemption.

Now, Reg Evans is here also. I gave you the scenario, but I hope you put that scenario into perspective that community banks are not part of the problem. They'd like to be part of solution. So with that, I'll pass this over to Reg, and we will entertain questions at the end. So bear with me, guys.

MR. EVANS: Thank you. Thank you for this opportunity to speak today. Pennsylvania has one of the most comprehensive mortgage foreclosure notice processes in the country. Community banks follow the processes and appreciate the seriousness of the mortgage foreclosure issue.

However, there's concern that additional mortgage foreclosure rules will deter lenders from making loans and could be expected to add to the credit crunch that is presently out there. A quick summary of the bill, as you know, we have the conciliation conference with the lenders, including the community bankers as a potential requirement; notifying the borrowers of the REAL and HERO programs and PHFA issuing a statement of compliance.

The present mortgage foreclosure process takes about six months, from two months of the loan being delinquent to another four months to go through the Notice of Intention to Foreclose and then the meeting with the consumer credit agency and then application to PHFA potentially for a mortgage, a HEMAP loan. Add to that another six to nine months, and you end up with a total of approximately 14 months or more as the average for a mortgage foreclosure process.

The community bankers feel that this is a substantial period of time and allows an opportunity for the borrower to have access to a third-party consumer credit counseling agency to obtain independent advice. At the same time, the banks have branches that are open and available to meeting with the lenders.

But as has been expressed today, oftentimes the borrowers are reticent to meet with their banker. The new Act 60 of 2008 provisions to the Notice of Intention to Foreclose added a number of days for the borrower to engage in the meeting with the consumer credit counseling agency.

The same law also added that the lenders are required to provide to the PHFA quarterly a list of the mortgage foreclosure notices that they file. So with that, there's a significant recognition and a slight tweaking basically of the process. The same Act 60 also changed the rules regarding banks or consumer credit agencies meeting with the borrowers and has made that now that it's the consumer credit agencies with the borrowers.

And that we would take as the recognition that the borrowers, that it's more important and primarily more the focus for the borrowers to meet with a third-party independent counseling agency as opposed to the banks; and at the same time, recognition that the banks are there and available to meet with them at all times.

The identification of the banks is already on the Notice of Intention to Foreclose, for example. Regarding the REAL and HERO programs, instead of implementation in the law, it's respectfully suggested that PHFA could revise its Statement of Policy, which it just revised August 30, 2008, regarding the Notice of Intention to Foreclose and could specifically reference the availability of the REAL and HERO programs.

Persons who are applying to PHFA for a HEMAP loan are certainly going to become aware of those programs along the way through interaction with PHFA. However, that could be specifically referenced, and it would just be a matter of revising the Statement of Policy, which really becomes mandatory January 1, 2009. So there's time to have that done.

As mentioned, the bank branches are open and the banks are available to meet, but the borrowers are reticent to do that oftentimes. Banks are dedicated to their communities. They hold many of their mortgage loans. They have a commitment to the local community doing well, so this is an important factor to keep in mind, as Frank has mentioned.

You do have technically somewhat of a freedom of speech issue regarding getting the borrower to actually meet independently with the lender and then getting the borrower to sign, as was pointed out earlier today by the Executive Director of PHFA, getting the borrower to sign an affidavit that the borrower had a meeting with the lender.

These types of things can slow the process and become very difficult to implement, and as mentioned, we already have a year, year-and-a-half mortgage foreclosure process in place with opportunity for the borrower to meet with the consumer credit agency and to apply for emergency assistance.

As mentioned, the longer the mortgage foreclosure process is potentially hurts the community. You have ongoing devalued or decreases in value of the homes, neglect going on until the mortgage foreclosure can be completed and the lender can really get in there and protect the building. So there's a regulatory burden concern there regarding the timing and any addition to the already very detailed process that exists.

That was part of a multi-bill package that was passed in July regarding mortgage lending, mortgage licensing, mortgage foreclosure. The mortgage foreclosure survey filings that have been referenced that PACB has done, as Frank specified regarding filings in the last year and a half, they do not necessarily point to how many have actually gone all the way through the process to actual taking of the home.

And certainly, as Frank has mentioned, the banking institutions would much prefer to have solid loans that are being repaid as opposed to going through the very costly mortgage foreclosure process and implementation of preparing property for sale. The community banks, I would submit to you on behalf of PACB, are not part of the problem.

You have press accounts. You have the two mortgage studies, Monroe County and the statewide residential mortgage foreclosure studies that had been done in 2004 and 2005 as commissioned by the Department of Banking and the Legislature. And based on those results, based on regulators, based on press accounts, community banking institutions are not part of the problem.

Community banking institutions are much smaller than the large banking institutions, some of which have been pointed to regarding subprime lending, holding subprime loans and mortgage foreclosure process; banking institutions like Freddie Mac, for example, which has been taken into receivership. So in conclusion, the community banks, we submit to you are not part of the problem; therefore, should not have a cure imposed upon them that would be very difficult to administer.

It will be very difficult for PHFA to sign off on a stated compliance that makes an indication that a satisfactory meeting was done and that the REAL and HERO program notices were provided. It's going to be very difficult to implement, respectfully. The community banks value their local communities tremendously. It's in their interest. They're located in the local communities.

They have a very high percent of returning loans, and that's because they are close to their communities, evaluate their loans, applications, mortgage loan applications very well and seek to benefit the community by making rational and reasonably-valued loans that people can repay. Based on the foregoing, we would request that the community banks be made exempt from the provisions of this bill. I thank you very much for your time.

REPRESENTATIVE MCGEEHAN: Thank you. Mr. Pinto, Mr. Evans, thank you for your testimony. Thank you for being here, for your patience and educating the Committee.

As the final presenter, we want to hear from Michael White. He's the Senior Vice President of VIST

Mortgage based in Reading, Pennsylvania.

State your full name and begin your testimony.

MR. WHITE: My name's Michael L. White for VIST Mortgage. Good morning -- afternoon at this point in time. Members of the House Commerce Committee, my name's Michael L. White. I'm Senior Vice President of VIST Mortgage, which is part of VIST Financial, formerly Leesport Financial; at one point, a $1.1 billion state chartered institution based in Wyomissing, PA.

I am responsible for the mortgage and consumer lending at VIST Financial and have over 25 years in banking and the mortgage lending business. I also serve on the Board of Directors (inaudible) Servicers of Reading and chaired my own committee, working closely with low- and moderate-income buyers to achieve homeownership.

I appreciate the opportunity to appear before you today as a member of the Pennsylvania Banker's Association, Credit Task Force Committee, in order to provide PBA's view on House Bill 2694, Representative McGeehan's legislation that would require residential mortgage lenders to participate in a conciliation conference with a borrower before commencing a mortgage foreclosure action.

The Pennsylvania Bankers Association is a statewide trade association representing just under 200 financial institutions of all sizes located throughout the Commonwealth including national and state banks, trust companies, saving institutions and their subsidiaries and affiliates.

We appreciate the opportunity to work with the members of the Committee on the recently-enacted mortgage lending reform legislation that received careful consideration by the Commerce Committee prior to it being signed into law by the Governor in early July as Acts 56 through 60 of 2008.

As you know, the Department of Banking and PHFA have begun working on the implementation of these new laws, and we are hopeful that the new licensing procedures and other changes will address the problems that we've all seen from the less-regulated participants in the mortgage market in Pennsylvania.

While accurate residential mortgage foreclosure statistics are hard to come by, Pennsylvania, according to the firm RealtyTrac, Pennsylvania ranked 32nd in terms of the rate of foreclosures with 1 in every 524 households receiving a foreclosure notice for the second quarter of 2008. Nevada posted the highest foreclosure rate at 1 in every 43 households. And states like California, Florida, Ohio, Michigan, Arizona continues to see the most activity.

While foreclosures may be up in some areas of the Commonwealth, we are fortunate that we have not seen significant increases as these other states have seen. PBA shares your concerns and the concerns of many about the rising number of foreclosures and need to limit such actions wherever possible in order to preserve homeownership.

Borrowers, lenders, investors and the neighborhood where a property is located all suffer when a foreclosure occurs, so it's in everyone's best interest to find ways to avoid such an outcome. The last thing a bank or a saving institution wants to do is foreclose on a property and would much rather develop a workout plan for the borrower. Financial institutions are in the lending business and not in the real estate business.

Pennsylvania banks and savings institutions do encourage involuntary efforts to work with borrowers when they could avoid foreclosure. According to the American Bankers Association, independent studies have found that losses from foreclosures amounted to over $50 thousand per foreclosure or between 30 and 60 percent of the outstanding loan balance.

Avoiding foreclosure is not a simple process by any means, and it is complicated by the fact that a phone call or a letter from the lender may not be welcomed by a fearful borrower. For example, according to a recent press paper by the Mortgage Bankers Association of America, borrowers in 21 percent of foreclosures initiated in the third quarter of 2007 either could not be located or would not respond to repeated attempts by lenders to contact them.

Considering this fear, it's also no surprise that 57 percent of late-paying borrowers still do not know that their lenders may offer alteratives to help avoid foreclosure, according to a report by Freddie Mac. When a homeowner does not contact a mortgage lender, the first step is an evaluation process, where the lender and the borrower seek to determine whether it makes the most sense to work out an alternative payment plan or modification or simply get out of the property from some means other than foreclosure.

Unfortunately in some cases, foreclosure is the only option. If it's determined that some modifications will work, there are several options that lenders may consider. Informal forbearance and repayment plans are generally the first tool that lenders and servicers employ to help borrowers. Mortgage borrowers may be allowed to miss a payment with the explicit understanding that the payment will be made up in time.

This is often used for people suffering short-term cash crunch due to temporary unemployment or illness. A borrower may also be given a special forbearance plan, which will typically combine a period of postponed or reduced payments followed by repayment of the arrearage over an extended period of time, but within the original term of the loan.

Loan modifications are the next level of options. A loan modification is a change in the underlying loan agreement. A lender or servicer might extend the term of the loan, change the interest rate, change repayment terms or make other alterations such as writing down the principal. Similarly, a servicer may attempt to refinance the delinquent borrower into a new loan.

Loan modifications are one solution for borrowers who have the ability to repay a loan and have the desire to keep their home, but may need some help in meeting this goal because the current loan terms are not sustainable for that borrower.

Finally, if the financial situation is such that a workout or modification does not make sense, a borrower can turn to other options, such as deed in lieu of foreclosure or a short sale, which is the sale of a property, with the authorization of the creditors for less than what's owed on it. These options will avoid foreclosure in the case where a borrower no longer desires the property or is financially unable to continue owning it, even with a different payment plan.

Many mortgage lenders have added staff in their loss mitigation areas in order to reach out to more customers earlier in the delinquency process. Lenders have added information on their websites, monthly statements and other methods to try to reach out to customers to let them know what options are available to them.

I hope this demonstrates to you that banks and savings institutions already do work with borrowers on a voluntary basis to avoid foreclosure, and we continue to emphasize that homeowners should contact their mortgage lender as soon as they begin to experience difficulty in making their payments.

Pennsylvania's mortgage foreclosure processes already one of the longest in the country. The Department of Banking's March 2005 Statewide Mortgage Foreclosure Study contains a description of the foreclosure process in Pennsylvania, which we have attached as an addendum to this testimony. According to this study, it can take anywhere from 253 to 401 days from the time the initial note of default is sent to the time of the sheriff sale where the property is sold.

During this entire time, the borrower has an opportunity to approach the lender to try and work something out. In addition, the process for applying for

HEMAP assistance requires the borrower to meet with a credit counselor. PBA is very concerned with the requirements of House Bill 2694 and cannot support this legislation.

It appears the bill is an effort to duplicate on a statewide basis a similar mortgage foreclosure diversion process instituted by the Philadelphia Court of Common Pleas earlier this year. The Philadelphia process includes the requirement that a conciliation conference be held between the lender and borrower for owner-occupied homes already in foreclosure, whereas House Bill 2694 would require a conciliation conference prior to commencing a foreclosure action.

We respectfully suggest that the Commerce Committee contact the Philadelphia Court of Common Pleas and ask the Court to provide information to the Committee on the success of that program. We recommend that the following questions be asked: How many foreclosures have been filed? How many were eligible for the conciliation conference? How many borrowers actually scheduled a conference? How many borrowers failed to show up at the conference? How many mediations successfully produced a workout agreement? How many times were the mediators unsuccessful at finding any viable workout option? How many workouts were actually performed?

Until the answers to these questions are provided, it may be premature to consider implementing a similar program on a statewide basis. In addition, we believe the legislation as written is very vague. It provides no time line in terms of when the conciliation conference must be held and no protocol is set forth in the bill.

For example, what happens if the borrower fails to appear at the conciliation conference? Owner-occupied is undefined, and we question whether PHFA would have the resources and personnel to handle the administration aspects of this.

With a lack of protocol outlined in House Bill 2694, it's unclear how the conciliation process is to take place. We also recommend that an exception in the legislation be provided for lenders that may already provide preforeclosure counseling.

In conclusion, PBA hopes the Committee understands that the Pennsylvania banks and savings institutions already engage in many voluntary efforts to help borrowers avoid foreclosure. Although we applaud the intent of the legislation, we cannot support House Bill 2694 in its current form and are concerned that it will lengthen Pennsylvania's already-long foreclosure process.

We do believe there are existing avenues for borrowers to try and avoid foreclosure. I, again, appreciate this opportunity to appear before you on behalf of the Pennsylvania Bankers Association and will try to answer any questions you may have.

REPRESENTATIVE MCGEEHAN: Thank you very much for your testimony. It's scary, but looking at your head, it looks like I'm looking in a mirror.

MR. WHITE: That's what 30 years of banking will do to you.

REPRESENTATIVE MCGEEHAN: Some of the concerns that you have, I think, are well-founded, and the issue is that the Committee shares some of those concerns about tightening the language in the bill. I think many of them are spot-on, and certainly we reviewed your testimony before you appeared today.

Many of the objections you have can be addressed in the Committee process as this legislation moves forward. I want to thank you. I want to thank you for your participation and patience today and for educating this Committee and sharing with us your tremendous experience in the business. Thank you very much for appearing.

With no further business before this Committee, I'm going to adjourn this hearing of the House Commerce Committee. Thank you all for attending.

(The hearing was concluded at 12:35 p.m.)

I hereby certify that the proceedings and evidence are contained fully and accurately to the best of my ability in the notes taken by me on the within proceedings, and that this copy is a correct transcript of the same.

Jennifer L. Sirois, Court Reporter, Notary Public