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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
HOUSE COMMERCE COMMITTEE

DCED REGIONAL ENTERPRISE TOWER
425 SIXTH AVENUE, 8th FLOOR
PITTSBURGH, PA 15219

WEDNESDAY, MAY 20, 2009

PUBLIC HEARING - HOUSE BILL 1042

BEFORE:

Representative Peter J. Daley, Majority Chairman
Representative Rick Mirabito
Representative Mark Longietti

ALSO PRESENT:

Ronald Lucci, District Chief of Staff
Destiny Zeider, Press Secretary
Sandy Altland, Committee Secretary

Reported by: Marianne Marsilio, RPR

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P R O C E E D I N G S

(10:30 o'clock a.m.)

1
2
3 REPRESENTATIVE DALEY: The House of
4 Commerce Committee will come to order. My name is
5 Pete Daley. I'm the majority chairman of the Commerce
6 Committee. To my immediate right is Rick Mirabito,
7 he's a state representative. To my left is Ron Lucci,
8 my chief of staff of the district. And to his left is
9 Mark Longietti from --

10 REPRESENTATIVE LONGIETTI: Mercer County.

11 REPRESENTATIVE DALEY: -- Mercer County.
12 And Rick Mirabito is from --

13 REPRESENTATIVE MIRABITO: Lycoming
14 County.

15 REPRESENTATIVE DALEY: -- Lycoming
16 County. This is Destiny Zeider, who is my press
17 secretary of research. And the young lady behind me
18 is Sandy Altland. She's the secretary for the
19 Committee.

20 This is the first of a series of hearings that
21 we're holding across the state regarding the issue of
22 mortgage foreclosure conciliation conferences. The
23 next hearing will be in approximately three weeks in
24 Philadelphia.

25 We are in anticipating moving Representative

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1 Michael McGeehan's piece of legislation, which is
2 House Bill 1042. We don't know if it's going to be
3 actually in the way it is right now currently drafted,
4 but the purpose of these hearings are to extrapolate
5 publicly your concerns and your suggestions to improve
6 or to make better legislation or, in some cases, to
7 not proceed with legislation.

8 As you know, one of the major problems that
9 we've been facing throughout the last year and a half
10 now is the tremendous number of mortgage foreclosures.
11 As you know also, probably, that in southwestern
12 Pennsylvania, our numbers are not as high as other
13 parts of the country. However, nevertheless, it's
14 substantially high.

15 With that being in mind, I'm a practicing
16 attorney and I deal with mortgage foreclosures, so I
17 understand that process. I've been in court several
18 times regarding mortgage foreclosures, and I
19 understand the tremendous effect it has both on the
20 lender and also the person, the persons that are the
21 borrowers.

22 So being that said, our first testifier today
23 is a past president judge, Joseph James, Court
24 Commonwealth of Pleas of Allegheny County.

25 JUDGE JAMES: Good morning.

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1 REPRESENTATIVE DALEY: Good morning.

2 REPRESENTATIVE LONGIETTI: Good morning.

3 JUDGE JAMES: Thank you for the
4 opportunity to testify. I will tell you what we have
5 done. In fact, I assume that is what you want. And I
6 have a couple comments on what I've seen across the
7 commonwealth.

8 Allegheny County put together a plan beginning
9 last year at the request of Sheriff Bill Mullen
10 pointing out the large number of cases coming through
11 the system. The sheriff asked me to get involved as
12 the president judge. I left office on December 31st.
13 So my term was up.

14 So, anyhow, I gathered a task force of lawyers
15 practicing in the field, both defense and plaintiff,
16 representatives of various lending institutions,
17 lawyers from Neighborhood Legal Services, from Action
18 Housing, people that actually were involved in
19 defending mortgage foreclosures, and lawyers
20 representing savings and loans, banks who were
21 prosecuting cases.

22 So we put together this plan. It has been
23 implemented. And I'll just give you briefly what it
24 is. It's a conciliation plan. Our idea was to try to
25 attack the cases upstream as far as possible. That

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1 would be not at the time when the property was listed
2 for sale, but like your bill, at the time of the
3 initial filing of the case before the costs
4 accumulated and the lender has spent money on
5 advertising.

6 We then, getting the cooperation with the
7 director of court records, Allegheny County Home Rule,
8 that would be the prothonotary in most counties, we
9 sat down and adopted a new number, an MG number,
10 mortgage number, for properties that are
11 owner-occupied residential properties.

12 Upon the filing of the complaint, that case
13 was put into our system, attached -- the sheriff
14 agreed to attach the Important Notice form, and the
15 county executive to the department -- through his
16 department created an 800 hotline number.

17 The Urgent Notice is here. It's attached to
18 the pleading. It has an 800 number. There are people
19 there who work for the County Development Authority,
20 the County Development Department. When they call
21 that number, people will be put into the plan and will
22 be given a date certain for counseling, counselors are
23 available, and try to do a workout as soon as
24 possible.

25 Part of the plan that is different from other

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1 counties, what we've done is put a stay in place. As
2 soon as the person avails themselves by calling the Save
3 Your Home Hotline, no further pleadings are accepted
4 on the case except entry of appearance. That way,
5 Notice of Default, Summary Judgments, all the various
6 pleadings are put on hold, and conciliations are set
7 up.

8 The time is interesting, whether we stay it
9 for approximately 60 days to get the counselors in
10 play, to get the Pennsylvania Housing Administration
11 in play, to see if various programs that you have
12 already funded are available and try to get a workout
13 with the banks.

14 One of the things that we had always found
15 problems with was having someone from the lending
16 institution accountable and being able to make a deal,
17 if you will, or speak with authority. As you all
18 know, these mortgages are sold, reassigned,
19 transferred.

20 In trying to get somebody with authority, we
21 require that with the filing of a complaint, on the
22 face sheet the lender must identify the person who is
23 available with a phone number, address, who will be
24 able to speak on behalf of the lender.

25 So, that's the plan. That's what we put in

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1 place. We've begun to conciliate. Obviously we find
2 problems. If I might, statistically, since the first
3 of the year -- and I think my statistics are a couple
4 weeks old, so it may not be completely accurate -- but
5 1,165 cases were filed at the MG number in Allegheny
6 County. We have 62 that have already been
7 conciliated. Of those 62, 8 have settled, 4 have
8 been -- the stay has been lifted, and the case has
9 been put back on track because they could not settle.
10 And the other 50 are still open as the parties
11 continue to negotiate and attempt to get numbers that
12 work. We have 120 more settled -- 120 more scheduled
13 to be conciliated over the next four weeks.

14 What do we find? We find just what you see
15 and what you've seen across the state. We have
16 properties under water that won't -- there is no
17 workout. It won't work. We have people who have lost
18 their jobs.

19 I might point out that the loss of the job is
20 not always the most devastating. It's the
21 underemployed who now have to pay an enormous amount
22 of money for health insurance, which then brings them
23 under water and they're unable to pay these mortgages.
24 Health insurance has been a sticking point.

25 I personally -- Judge McCarthy has conciliated

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1 the majority of these. I personally conciliated a
2 dozen or so myself, and will continue to conciliate
3 through June, I have another 40 or 50, so that we can
4 get a flavor for what are the problems and what can be
5 helpful.

6 The refinancing, initially the banks were
7 resistant. I note now that they are becoming more and
8 more helpful. A lot of them are following the federal
9 guidelines, hoping that if that federal statute does
10 pass, that they'll get their reimbursement on the
11 cramp down, if you will, and on the reduction. So a
12 lot of them are following that type of guideline. So,
13 those are the things that are going on.

14 As far as how we got here, Representative
15 Daley, I took a look at Philadelphia's plan, which was
16 the only plan in existence prior to ours. And I might
17 point out that I'm not sure that one size fits all.
18 We looked at the Philadelphia plan. Philadelphia's
19 problems were more complex. Philadelphia has more
20 cases. Philadelphia had more issues that were
21 involved.

22 We took that, we modified it, and we stuck
23 with this streamline program that we have using
24 existing resources. So that you were already funding
25 through the Housing Finance Agency the various

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1 counseling agencies; therefore, we used existing
2 counselors. Rather than appoint masters, which they
3 did in Philadelphia, we used judges. Two reasons:
4 One, we didn't have any money to pay the masters; and
5 No. 2, we felt that the presence of a judicial officer
6 would create more of an attitude from the lenders to
7 settle the case, that it's a judge talking to them,
8 not a lawyer.

9 REPRESENTATIVE DALEY: Let me just say
10 this, Judge --

11 JUDGE JAMES: Sure thing.

12 REPRESENTATIVE DALEY: -- I'm from
13 Washington County, so we're close, and I deal with --

14 JUDGE JAMES: The Post-Gazette covers
15 you. I'm well aware of who you are.

16 REPRESENTATIVE DALEY: Very well. But in
17 Greene County to the south, which has one judge, and
18 will have two judges shortly, but -- or other counties
19 that have one sitting judge, that may be a problem,
20 unlike Allegheny County, which has many, many more
21 judges.

22 JUDGE JAMES: Forty-three.

23 REPRESENTATIVE DALEY: Yeah. So how
24 would you recommend that -- would you recommend a
25 master be appointed at that level?

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1 JUDGE JAMES: We could appoint masters.
2 One thing we did in Allegheny County many years ago,
3 when we had huge backlog in our civil division, so we
4 went to the lawyers, and they did it pro bono, they
5 volunteered to do it with a training program.

6 We have a lot of -- the Allegheny County Bar
7 Association is involved with us offering lawyers for
8 certain indigent people that don't qualify for
9 Neighborhood Legal Services. So we have a training
10 program, and lawyers are being involved.

11 So the judges could do that with the local
12 bar. Not to say that masters don't work, but at least
13 the master can get you some numbers on the table and
14 maybe recommend that the judge hear -- judicial
15 persuasion often is a little more helpful in getting a
16 conciliation settled than a master. They're less
17 likely to say no, and more likely to be more malleable
18 and able to settle the case.

19 REPRESENTATIVE DALEY: So, the fact --
20 and I agree with you about the judicial persuasion --
21 I've been persuaded many times by the judiciary --
22 that in some places they may need to have a master,
23 but ultimately it's going to come back to the court.
24 Nevertheless, it's going to be before the judge on the
25 complaint itself.

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1 So, in those cases, maybe we could look at
2 what you do and sort of modify it for other places,
3 like Elk and Forest counties.

4 JUDGE JAMES: And I'm not sure that every
5 county -- and I know that that's a problem, and I've
6 read your legislation about wanting to make it
7 statewide and mandatory and with the Supreme Court
8 setting up certain guidelines.

9 And, again, I'm not sure of that. And that's
10 certainly up to you in writing the legislation. But I
11 know other president judges across the commonwealth,
12 some have a need for this type of program and some can
13 handle in it their regular motions court, people
14 coming in later in the process.

15 We just thought this would be the more highly
16 likelihood of settlement if we didn't have the
17 advertising costs and didn't have all the attorney's
18 fees, which can amount to 12 to \$2,000 in additional
19 costs, which the homeowner would have to bear or
20 someone would have to pay for.

21 So getting them as soon as they're filed --
22 and one problem that we are having is that, as you can
23 see, with 1165 having been filed and only 180 in the
24 system, it's again getting people to get involved.
25 And you already have programs, such as HERO and HEMAP,

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1 which you have automatic stays in the legislation that
2 you've already written, but people just -- we're
3 trying to get a read for why they're not doing it.

4 And lastly, one of the projects that we're
5 going forward with, probably this summer, is, because
6 we have an identifier on these cases, we're going to
7 get a printout, and a number of groups, some of them
8 here today, are going to do outreach in an attempt to
9 reach these people at their homes and try to get them
10 to come forward and see if the programs can help them.

11 It's sort of -- you realize, of course, that
12 they're already given notice and an 800 number to call
13 and they're already in -- and your programs already
14 exist, and they're automatic stays on those if they
15 come forward with that prior to the filing of the
16 complaint.

17 So getting people to participate seems to be
18 one of the major problems, and we're trying to figure
19 out why they're not.

20 Anybody have any questions for me?

21 REPRESENTATIVE DALEY: Judge, what you've
22 don't here is remarkable, and we're very proud of what
23 you've done. You've done a great job. We know
24 Philadelphia is sort of in a different world
25 altogether, it's a different beast to deal with by the

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1 shear numbers of what's happening, and we think what
2 you've kind of done here may be more applicable to the
3 rest of the state to some degree. And I want to just
4 acknowledge the great job you've done to put that
5 together.

6 And we do pay attention to what happens.
7 Sometimes people think Harrisburg doesn't listen.
8 Believe me, Harrisburg does listen.

9 JUDGE JAMES: If anyone from any other
10 counties, any other president judges, as you go
11 across, if they want to come in here and take a look
12 and see what we're doing, we'll provide them with the
13 forms, the documents we're using. And again, we're
14 not prosthetizing. It may not work in their county, a
15 one-judge county. But we're available, and we'll we
16 happy to consult with anybody who is interested.

17 REPRESENTATIVE DALEY: Do members of the
18 committee have questions? Mark? Representative
19 Longietti.

20 REPRESENTATIVE LONGIETTI: Thank you,
21 Judge.

22 JUDGE JAMES: Mercer County.

23 REPRESENTATIVE LONGIETTI: Yes. I'm sure
24 you're familiar with our president judge, Judge
25 Fernelli.

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1 JUDGE JAMES: Very well.

2 REPRESENTATIVE LONGIETTI: I think he's
3 been on the bench since '81. Just a couple questions.
4 If I heard you correctly, when the filing is made,
5 there has to be a listing of the person at the lender
6 who has some authority. Is that what you've
7 explained?

8 JUDGE JAMES: Yes.

9 REPRESENTATIVE LONGIETTI: Okay. I just
10 wanted to make sure I understood that. Has there been
11 any thought given to will this program sunset? Is it
12 planned to continue on? Or once we get through this
13 crisis, is it going to sunset?

14 JUDGE JAMES: Yeah, it does have a sunset
15 provision in it with the power of the president judge
16 to revisit it. In fact, we had a meeting Monday with
17 some of the stakeholders, basically what are we doing,
18 where are our problems, where are the sticking points,
19 where are we unable to get information passing back
20 and forth, the questions of scheduling. And we'll
21 continue to monitor.

22 You know, it's an interesting byplay. The
23 lenders want it done sooner. The counselors tell us
24 they can't get it done in that amount of time. It's a
25 question of whether we stay it for 60 days or 90 days.

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1 How fast can we get the financials? How fast can we
2 get the workout? So, there's always that dichotomy.
3 And in keeping in mind that the courts have to be
4 even-handed, the lenders have to have equal access to
5 the courts.

6 So we're trying to do it -- we may have to
7 stretch it out. As you can see, 62 conciliations and
8 50 of them had to be continued or relisted because we
9 didn't have the numbers right or we couldn't get the
10 final deal nailed down.

11 So, our time line might be a little short, but
12 we were doing that as a concession to the lenders
13 trying to get them -- not deny them access to court
14 and to try to get them conciliated. But we'll see
15 over the June time frame when we have a lot more
16 scheduled.

17 REPRESENTATIVE LONGIETTI: How long, you
18 know, once it gets to a judge for conciliation -- and
19 I understand every case is a little bit different, I'm
20 sure, but how long does it usually take to determine
21 this is going to work out or this is not going to work
22 out?

23 JUDGE JAMES: If we have the financials
24 and if we have legitimate offers from the lender, 30
25 minutes. I mean, you can look at it in 30 minutes.

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1 And some of them are settled or a go or no-go before
2 they even come in before the judge. If they meet in
3 the hall -- as Representative Daley knows, the lawyers
4 are out in the hall talking, and they're going to know
5 right away, it's either going to go -- it's either go
6 or no-go right there on the spot.

7 So the conciliations are scheduled, I think,
8 20 or 30 minutes apart. Some may need a little more
9 time, another phone call, if you will, call the
10 lending officer one more time, can we sharpen that
11 number. But they're scheduled very quickly. So a
12 judge could do a whole lot in a very short period of
13 time.

14 REPRESENTATIVE LONGIETTI: If I heard you
15 correctly, one of the other issues is, right now the
16 person has to call the 800 hotline to avail themselves
17 of it. So, one of the issues is there's just
18 apparently not enough people making the calls, you're
19 going to try to do some kind of outreach?

20 JUDGE JAMES: Yes. We aren't, but
21 certain agencies within the poverty law section have
22 asked for that. And that's one of the reasons that we
23 created this dedicated number, that we can get them a
24 printout and that data in their hands, and then they
25 can get their people out there.

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1 And we really don't know why. Some of these
2 people may have given up. They may have left the keys
3 and surrendered or they may have moved. We don't know
4 why people aren't responding, because there's two or
5 three different points where they're given 800
6 numbers, free counseling, told that they could maybe
7 do a workout. And they're not responding. So we
8 don't know why. So outreach will probably give us a
9 better idea of why people aren't participating.

10 REPRESENTATIVE LONGIETTI: Our sense, and
11 I know we get calls in my office, and I'm sure
12 Chairman Daley, Representative Mirabito, people just
13 tend to put their head in the sand. It's kind of like
14 they don't even want to open up the letter that comes
15 in the mail, and then finally when it gets to the
16 point of no return, they finally call somebody.

17 JUDGE JAMES: We have found that, the
18 deer in the lights, they just shut down and they just
19 don't want to even try to figure this out. And so
20 we've got all these programs out there. There are a
21 lot of state programs already in place, two percent
22 money, money for repackaging these financing.

23 But again, there are some -- for financial or
24 economic reasons, there are people that it's just not
25 going to work out, and we recognize that. It doesn't

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1 make economic sense to continue. Second mortgages,
2 when you pack the two together, you're under water,
3 and the value is far -- the mortgages far exceed the
4 value of the property. Not a lot in western
5 Pennsylvania, but some.

6 REPRESENTATIVE LONGIETTI: Thank you, Mr.
7 Chairman.

8 REPRESENTATIVE DALEY: Mr. Lucci?

9 REPRESENTATIVE LUCCI: My question was
10 just answered, because I wondered about the disparity
11 between the filings and the people that actually
12 participated. I just -- I was going to ask if you had
13 a gut feeling, but you already answered that, as to
14 why they don't respond.

15 JUDGE JAMES: Unlike the past president
16 of the United States, I don't do gut feelings. I try
17 to do statistics. And I like to look and see, and I
18 don't like anecdotal, and if I could get some numbers
19 that make some sense and statistically figure it out,
20 I would much rather do that. I tried -- my guts not
21 that good at --

22 REPRESENTATIVE LUCCI: I heard that they
23 just quit reading their mail.

24 JUDGE JAMES: That happens. Sort of like
25 people who have pension plans and don't read their

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1 401(k) statements.

2 REPRESENTATIVE DALEY: One of the things
3 was, do you do it early on or closer to the end when
4 foreclosure is imminent? Do you have a --

5 JUDGE JAMES: I feel strongly on that
6 one, Chairman. I think that if you wait until it gets
7 to the sheriff, you've added 1200 to \$2,000 in costs.
8 And if you're going to lay that on that mortgage and
9 finance that, either that or someone's going to have
10 to eat that cost. Those are legitimate advertising
11 costs, legal costs, filing fees.

12 So, if you could minimize the number of
13 dollars that the lender has invested in trying to get
14 this case -- to get to a foreclosure proceeding,
15 you're further ahead.

16 So the further upstream -- and I believe the
17 commonwealth already, the program they have, the
18 lender must send a notice of the HERO and HEMAP
19 programs prior to the filing of the complaint. And
20 that's an 800 number, too, which people are ignoring
21 by the thousands.

22 So, that may be your -- your gut feeling that
23 they're not opening their mail may be true, but we'll
24 try to statistically analyze that. But, yeah, the
25 faster you can get this into a repackaging, Chairman,

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1 the faster you can get it refinanced or repackaged,
2 the less money that's invested in it by the lender,
3 the easier it is it settle.

4 REPRESENTATIVE DALEY: Any other
5 questions? Hearing none -- do you have a question?

6 REPRESENTATIVE MIRABITO: One quick one.

7 REPRESENTATIVE DALEY: Sure, go ahead.

8 REPRESENTATIVE MIRABITO: On the one size
9 may not fit all, is it primarily just the use of not
10 using -- using judges instead of masters? Because
11 there's other things you didn't mention that --

12 JUDGE JAMES: No, there's other things.
13 I would be happy to explain. In a county that may
14 only have a handful, you may be able to do it through
15 your normal motions court. You may be able to set up
16 even -- ours is kind of informal. It's a stay. It
17 happens in 60 days. We hold the pleadings.

18 You may be able to do it if you only have five
19 or six, depending on the county. If you have a county
20 that only has a handful coming through the system, you
21 may be able -- the president judge may be able to do
22 it informally or may work out something with the
23 lenders in that community.

24 I can see a number of ways. That's what I was
25 thinking. The small county that doesn't have a lot of

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1 foreclosures going on may not want to put a program
2 together. That's why it sort of gives me pause to
3 make it mandatory for every county. They may be able
4 to do it a lot less formally in -- it depends on your
5 number, how many cases you have coming through.

6 REPRESENTATIVE DALEY: The only problem,
7 if you don't do it mandatory for everyone, there are
8 people that will miss the opportunity to have this
9 thing mediated or at least reconciled somehow.

10 So, if we do it, we're going to do it for
11 everyone, but we're going to figure a way of doing it
12 so it's going to work for each county.

13 JUDGE JAMES: If you put this whole thing
14 right into rule and creating an 800 number and putting
15 out a dedicated service number, a dedicated filing
16 number, and you only have ten a year, that would be
17 pretty counterproductive.

18 So, I don't know -- you may want to have a
19 mandatory program, but how it's fleshed in, how they
20 do it may be subject to some changes based on the
21 population and by the critical nature of your
22 community, how is the problem perceived in your town.

23 REPRESENTATIVE DALEY: Right. And I'm
24 not quite certain if we're going to let the Supreme
25 Court come up with guidelines, because that may put

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1 another year and a half into the process, too, once we
2 pass the legislation.

3 So right now it's very critical. As you know,
4 it continues to escalate. And I don't know where
5 we're going to be in three years as opposed to next
6 year.

7 JUDGE JAMES: Hopefully the green sprouts
8 are here, and it's a turnaround, and people will be
9 able to live in their houses.

10 REPRESENTATIVE DALEY: Hopefully.

11 JUDGE JAMES: Hopefully.

12 REPRESENTATIVE DALEY: Thank you, Your
13 Honor.

14 JUDGE JAMES: Thank you.

15 REPRESENTATIVE DALEY: The next testifier
16 will be Sheriff William Mullen.

17 Sheriff Mullen, good morning.

18 SHERIFF MULLEN: Good morning. I think
19 Judge James has explained our plan very honorably. I
20 can give you a little history and background of how
21 this started.

22 When I joined the sheriff's office in 2006, at
23 the end of the year I noticed there was an increase in
24 mortgage foreclosures. In reading what I was reading
25 about the housing fall that was going to hit the

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1 country, we tried to take some proactive measures to
2 try to minimize the impact on Allegheny County.

3 So one of the things we did is, we advertised
4 in the Pittsburgh Post-Gazette when we did the sheriff
5 sales about who to turn to for advise in case they
6 were close to foreclosures. If they think they were
7 having problems meeting their mortgage payments or not
8 being able to pay their taxes, we gave a list of
9 numbers for them to call, and then opened a mortgage
10 foreclosure hotline within the office, which we
11 dedicated employees for a few hours each day to answer
12 calls about potential problems that people had in
13 paying their mortgages or their taxes.

14 We then opened a web site, in which the web
15 site, they could contact us through the Internet, and
16 we would give -- we couldn't give legal advice, but,
17 again, we would give numbers where to call, who to
18 contact, we gave information on how the mortgage
19 foreclosure process worked. And we each time we would
20 deliver foreclosure notices, it would include a packet
21 which also gave them written information.

22 We noticed that the foreclosures were going
23 down. But I met with a bank -- a reserve bank, and
24 they had told me about the sub prime and about the
25 resetting of the ARMs in Allegheny County, and they

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1 anticipated that it was going to be very bad.

2 At that time I went to Judge James with a
3 plan, a conciliation plan in order to bring the
4 lenders and the borrowers to the table. That was
5 sometime in -- a little over about a year ago.
6 Actually, Judge James and his staff, Judge McCarthy,
7 took it from there, and they worked out the nuts and
8 bolts of this, as Judge James explained, and that's
9 where we are today.

10 REPRESENTATIVE DALEY: Sheriff, we
11 understand your crucial role in this, and we know that
12 you are really one of the facilitators to make this
13 thing happen in Allegheny County. Our hats off to
14 you, because I really believe what you've done is set
15 in motion what happened in Philadelphia and what's
16 going to happen throughout the Commonwealth of
17 Pennsylvania because of your action.

18 We've been told that the sub prime loans, that
19 the spike has hit, it's coming back up again, but now
20 we're seeing a second round of foreclosures for people
21 that have lost their jobs due to the downturn in the
22 economy.

23 Are you sensing that now?

24 SHERIFF MULLEN: We're not seeing it.
25 Our foreclosures for this year are down probably by 10

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1 percent as compared to 2008, which we're down from
2 2007.

3 It seemed as though we peaked in 2006. And
4 for whatever reason, which I don't think I'm qualified
5 to comment on, the foreclosures have gone down in this
6 area, whether it's the depreciation of the houses have
7 never gone up like the rest of the country or people
8 are more responsible, fiscally responsible. But we've
9 gone through some hard times with even closing most of
10 the mills in Allegheny County. But, in any event,
11 they have never really reached the impact of the
12 numbers they had in 2006.

13 REPRESENTATIVE DALEY: Well, we've always
14 heard -- and I've been in the legislature since 1983,
15 and representative of the Mon Valley, and I used to
16 work for the Steel Valley Council of Governments. So
17 I'm intimately familiar with some of the problems that
18 we've had in Clairton, Duquesne, Homestead, throughout
19 Allegheny County.

20 The fact remains that we in southwestern
21 Pennsylvania, the five or eight counties in
22 southwestern Pennsylvania, we've never really come
23 back from the collapse in the late 70s with the steel
24 industry and the coal industry.

25 So we have not suffered -- I mean, our

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1 suffering has never changed. We're getting better,
2 but we have never really improved to the level of the
3 rest of the country. Therefore, they're tumbling
4 backwards, yet we're still sort of holding our own.

5 I think with the most recent statistics we've
6 seen is that's, indeed, the case in terms of the
7 adverse turn of the economy. It hasn't affected us,
8 because our cost of living, our homes were never
9 overvalued, we've sort of kept it kind of close, and
10 we were just trying to survive in western
11 Pennsylvania.

12 But what you've done is really put your finger
13 on how to really address this issue. But we know in
14 other parts of Pennsylvania, they are going to be
15 suffering tremendously, more so in the eastern side
16 and in central Pennsylvania than we are in
17 southwestern Pennsylvania.

18 Questions?

19 REPRESENTATIVE LONGIETTI: The only
20 question I have, Mr. Chairman, have you seen a fair
21 amount of what you would consider to be inflated
22 appraisals that led to lending that probably should
23 not have occurred?

24 SHERIFF MULLEN: Currently there's some
25 investigation going on. We're a member of the -- with

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1 the federal government of a task force on that very
2 issue. There's been some information concerning that
3 and there's been some recent indictments on some of
4 those problems like that.

5 I can't really comment on how big of a problem
6 it is, but they've addressed it or they're addressing
7 it.

8 REPRESENTATIVE LONGIETTI: I just know in
9 my neck of the woods, which is northwest of here, a
10 relatively small county, about 120,000 people, and I
11 practiced law, as well, for about 18 years, although I
12 didn't do much in real estate, but I can recall as
13 long ago as ten years ago that people in the area knew
14 certain people that did real estate practice or even
15 our prothonotary were talking about these appraisals
16 are going out and they're appraising homes at a value
17 that is totally unrealistic, and this money is being
18 lent, and some day this bubble is going to break. I
19 can remember almost ten years ago somebody telling me
20 that, that this bubble is going to break, this is all
21 -- not all, but a significant amount of
22 over-appraising is going on. These mortgage brokers
23 are lending money that ultimately at some point people
24 are not going to be able to pay back, and the value is
25 not there.

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1 SHERIFF MULLEN: You know, the FBI has
2 kept me informed. I've read FBI information about
3 that very thing happening several years ago. And they
4 targeted it as a coming scam, which was going to cause
5 a lot of problems with the country, which it came to
6 fruition.

7 REPRESENTATIVE LONGIETTI: Thank you.

8 REPRESENTATIVE DALEY: Questions? Let me
9 just read one item to you that -- this was on
10 Harrisburg Online, Friday, May 15, 2007. Sandy just
11 provided it to me.

12 It says, Not Yet The Bottom. It says, the
13 real estate crunch is far -- is still in full force as
14 home foreclosures in Pennsylvania in April tallied
15 more than 5,000, up a couple points from March. It is
16 the highest number of foreclosures in a month since
17 April 2005 when records were first recorded.

18 The only positive in the report is that the
19 Pennsylvania foreclosure rate is one-third less than
20 the national rate, and I think especially western
21 Pennsylvania is not suffering, although we're not out
22 of the woods, we're in a different level of woods than
23 everyone else in Pennsylvania and the country, and
24 what you said was absolutely right.

25 SHERIFF MULLEN: Yeah, I agree with that.

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1 And that's one of the reasons why in checking with the
2 Federal Reserve, we're just trying to stay ahead of
3 the curve since we've been trying to stay ahead of the
4 curve since 2007. So we try to provide that
5 information to the public, and we try to help out with
6 the conciliation program, which Judge James took the
7 ball and ran with.

8 REPRESENTATIVE DALEY: Thank you,
9 Sheriff.

10 SHERIFF MULLEN: Thank you.

11 REPRESENTATIVE DALEY: I appreciate your
12 efforts.

13 Our next testifier is Pete Havern, Allegheny
14 County Assistant Manager.

15 Mr. Havern, I'm sure you know my good friend,
16 Joe Hohmann.

17 MR. HAVERN: I do. Thank you, Mr.
18 Chairman, Representative Mirabito, and Representative
19 Longietti for the opportunity to discuss with you
20 today House Bill 1042 and the Allegheny County
21 Mortgage Foreclosure Prevention Program.

22 Judge James and Sheriff Mullen have discussed
23 their roles in this, and just allow me to talk briefly
24 about what I feel is the pivotal aspect of our
25 program, and that is the coordination between branches

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1 of government.

2 The courts, I'm assuming Judge James and Judge
3 McCarthy, their staff, Ray Billotte, the court
4 administrator, have done a wonderful job along with
5 the IT guys over there.

6 Our department, I'm in development, we're in
7 their offices right now, they have really served as
8 the nerve center for this entire program.

9 Sheriff Mullen's office, other than being the
10 genesis for this entire program, really, the
11 coordination between the offices has been a work in
12 progress. You know, we learn as we go. But I think
13 it's really part and parcel to the fruition of this
14 program.

15 I would also like to thank the counseling
16 agencies. They really are where the rubber meets the
17 road. They're the ones that are in there for the 60
18 to 90 days with the homeowners and with the lending
19 institutions hammering out the modifications.

20 So, with that said, also coming from the
21 manager's office, when we were approached by Sheriff
22 Mullen and Judge James about this program, we just did
23 some background research, and really we just looked at
24 the effect of foreclosures on the county's bottom
25 line, being primarily driven by property tax revenue.

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1 Obviously, if people aren't paying their
2 mortgages, they're not paying their taxes either. So
3 there's a loss of property tax revenue for the county.

4 Foreclosed properties are usually vacant,
5 abandoned properties. Property values decline within
6 the neighborhoods, it leads to human services
7 problems, Department of Economic Development, who are
8 a basic property recommendation program. So, there's
9 certainly a direct effect on the county's bottom line.

10 But also then to move now towards what we do
11 with the county, what our side of this whole equation
12 is. The call comes in from the homeowner, and we'll
13 take the initial phone call, schedule a meeting with
14 the counseling agency, track the process of the
15 counseling sessions, schedule the conciliation
16 conference with the court, and prepare a packet of
17 information to give to the judge about a week before.

18 We're kind of on the eve of a lot of these
19 when -- we have 120 coming up in June, and we're
20 starting that process right now where we're going to
21 get the information on kind of where they are, what
22 their progress is, get it to the judge beforehand so
23 that those conciliation conferences can go as smoothly
24 as possible.

25 What we're finding is that the counseling

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1 agencies are doing a great job of getting a lot of
2 these modified so that the conciliation conference is
3 really just the court signing off on the modification
4 that's been agreed to between the lender and the
5 homeowner.

6 Of course, some of the situations aren't that
7 great, whether -- where it's just not going to work
8 out. But, again, with the court being so heavily
9 involved, I think Judge James alluded to this, that it
10 really does serve as an impetus, a persuasive effect
11 to get people to at least talk and have these
12 conversations.

13 So that's -- from our side, we try to document
14 as much as possible where it is in the process,
15 following the process along so that we can see for our
16 own future records where a lot of these MGs are coming
17 from so that we can use our human -- our allocation of
18 our resources, our human services, our economic
19 development department, we realize that, okay, we got
20 a lot of MGs coming from the Mon Valley. So, maybe we
21 need to do some outreach down there as a county. You
22 know, separate from this program, but with the human
23 services department and with the economic development
24 department, as well.

25 REPRESENTATIVE DALEY: Let me ask you a

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1 question. You indicated the Mon Valley. What about
2 incidence numbers throughout the county, do you find
3 the incidence rate, say, like in Forest Hills as
4 opposed to the Mon Valley? Is it sort of ecumenical
5 no matter what region --

6 MR. HAVERN: Yeah, I was actually
7 surprised, Mr. Chairman, that some of these -- where
8 some of these MGs are coming from. It's funny. I
9 think you look at it immediately and you just guess
10 off the top of your head probably, you know, the river
11 valleys. But we have ones from Bethel Park and from
12 West Deer. So it's really -- it's pervasive.

13 REPRESENTATIVE DALEY: Yeah. See, my
14 philosophy would be that you may have less from the
15 areas that you expect it more because most of the
16 people in those areas have lived roughly, it's been
17 tough, say in the Clairton or Homestead or Braddock.
18 But people that have more means, let's just say, that
19 live in Forest Hills or Squirrel Hill or Mount Lebanon
20 or Upper St. Clair, have overextended themselves
21 possibly to a greater degree than people that have
22 learned to live within their means for several years.

23 I mean, have you seen sort of a correlation?

24 MR. HAVERN: Yeah, we have. I don't have
25 hard numbers with me, but we have seen -- I've been

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1 involved with some cases from, you know -- that the
2 property value is well in the six figures. I mean,
3 we're talking \$300,000 properties where the mortgage
4 -- and they did, that's exactly what happened, they
5 just bit off a little more than that can chew, and the
6 economy hit hard and they lost a job and they're in
7 the program.

8 REPRESENTATIVE DALEY: Do you have any
9 way of providing us the number of -- the statistical
10 number of values of homes that are in foreclosure and
11 the number of individuals?

12 MR. HAVERN: Yeah, we could probably run
13 that through with our -- get the MG numbers. It would
14 take a little bit, but we could get that for you.

15 REPRESENTATIVE DALEY: I mean, you
16 understand where I'm coming from. We got to protect
17 the privacy of the individual, but I really believe
18 that this is sort of like a -- like I said, an
19 ecumenical kind of pain that's felt by everyone
20 regardless of economic classes or financial level in
21 your life. So I think it's almost -- I think it could
22 be a very flat line.

23 MR. HAVERN: Yeah. We can work with the
24 Office of Property Assessment, and we can figure out
25 the assessed value of these properties and give you

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1 the median averages.

2 REPRESENTATIVE DALEY: I think that would
3 be great value to the committee to provide that.

4 Questions? Mr. Longietti? Mr. Lucci?

5 REPRESENTATIVE MIRABITO: Is CCAP, the
6 county association, doing anything on this or have
7 you --

8 MR. HAVERN: We haven't been in
9 discussions with them on any -- right now we're
10 discussing a lot of property assessments, nothing
11 else.

12 REPRESENTATIVE LONGIETTI: I do have one.

13 REPRESENTATIVE DALEY: Go ahead, Mr.
14 Longietti.

15 REPRESENTATIVE LONGIETTI: Just so I
16 understand, the counseling agencies, because it sounds
17 like they're doing a fair amount of the work of trying
18 to get these conciliated, where are they coming from?
19 Are they coming through the Pennsylvania Housing
20 Finance Agency or are they local counseling agencies?

21 MR. HAVERN: They're local counseling
22 agencies, and they volunteer to help out. And they
23 are the ones that are meeting with the homeowner and
24 with the lender. And I would hazard a guess, because
25 we haven't had all these conciliations yet, but

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1 there's going to be a good number of them that when
2 they come into court, they've already been worked out.

3 REPRESENTATIVE LONGIETTI: And the reason
4 that I ask that question, I'm just thinking about my
5 county, for example, where we do have some housing
6 counseling out there, but not to the degree I'm sure
7 that you have in Allegheny County. And I notice the
8 couple of agencies that delve into that in my area are
9 stretched pretty thin right now and are concerned
10 about their budgets.

11 MR. HAVERN: I know our agencies had
12 those same concerns, I'm sure, they're going to talk
13 later on, and they would be better to address it.

14 But, yeah, we are always trying to find
15 funding for them and more funding for -- not only for
16 the conciliations and for the counseling agencies, but
17 for the outreach as well, the outreach program.

18 REPRESENTATIVE LONGIETTI: Thank you, Mr.
19 Chairman.

20 REPRESENTATIVE DALEY: Thank you very
21 much for your testimony. I'm looking forward to the
22 information, if you can provide that to us. I think
23 that would be very crucial.

24 MR. HAVERN: Yeah, I'll send it to Sandy.
25 Thank you.

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1 REPRESENTATIVE DALEY: Our next testifier
2 is Tom Bailey, President and CEO of Brentwood Bank,
3 and also the President of Pennsylvania Community
4 Bankers Chairman who has testified on numerous
5 occasions before the committee in Harrisburg on
6 various issues.

7 Tom, welcome again.

8 MR. BAILEY: Thank you, members of the
9 Committee and Chairman Daley. My name is Tom Bailey.
10 As Chairman Daley remarked, I am the Chairman of the
11 Pennsylvania Community Bankers. I'm also president of
12 Brentwood Bank right here in Pittsburgh, a \$454
13 million institution with three branches.

14 I'm one of over 150 community bank presidents
15 in the commonwealth that belong to the Pennsylvania
16 Association of Community Bankers, and together our
17 banks have over \$100 billion in assets.

18 The core mission of community banks is to make
19 a difference in the local community, and we have done
20 that for over 2300 years, and include doing everything
21 possible to keep neighborhoods, families, and friends
22 in their homes.

23 Let me starting by applauding the spirit of
24 House Bill 1042. No community banker ever wants to
25 foreclosure on a property and no community banker ever

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1 wants to evict their neighbor from their home.

2 Local banks are, as the committee well knows,
3 the pulse of the community, and we survive and thrive
4 based on local relationships. We're old-fashioned
5 bankers. We lend money responsibly and expect to be
6 repaid. There are, however, segments of the financial
7 services industry that have not been prudent or
8 responsible in their lending habits.

9 Chairman Daley, I thank you for your
10 leadership in directing the Mortgage Foreclosure
11 Package last session to address some of the
12 unconscionable tactics and unregulated lenders who
13 have tarnished the image of bankers, especially local
14 community bankers.

15 Unfortunately, no one can create the perfect
16 setting for a perfect business transaction. Each side
17 of the contract needs to own its responsibility in the
18 deal.

19 As you know, House Bill 1042 would require
20 residential mortgage foreclosure conciliation programs
21 to be established by the Court of Common Pleas in each
22 Pennsylvania county as a means of assisting homeowners
23 and lenders in reaching agreements on resolving a
24 mortgage foreclosure.

25 House Bill 1042 would impose significant

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1 additional burdens on lenders, filing foreclosure
2 actions on residential mortgage properties when there
3 already is statutory protection for such borrowers.

4 Specifically, Pennsylvania Mortgage Act 60 of
5 2008 amended the already existing Pennsylvania
6 Homeowners Emergency Assistance Program, otherwise
7 known as HEMAP, administered by the Pennsylvania
8 Housing Agency, which also known is Act 91, December
9 of 1983.

10 House Bill 1042 is duplicative of HEMAP
11 because there already is a face-to-face meeting
12 required under the PHFA's HEMAP program required to be
13 offered to the borrower in default on mortgage loans
14 and designated Consumer Credit Counseling Agencies.

15 Act 60 of 2008 removed the option that had
16 been in Act 91 for borrowers to hold a meeting with
17 either the borrower or Consumer Credit Counseling
18 Agency. Instead, Act 60 mandated that such meetings
19 occur between the borrower and Consumer Credit
20 Counseling Agencies.

21 Lenders, particularly community bankers, have
22 regular business hours and basically are constantly
23 available for borrowers to approach to seek resolution
24 regarding residential mortgage defaults.

25 If House Bill 1042 would become law, then the

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1 conciliation conference would be somewhat duplicative
2 of the presently existing face-to-face meeting
3 required between the borrower and Consumer Credit
4 Counseling under HEMAP administered by PHFA.

5 In addition, PFHA revised its Home Emergency
6 Assistance Program policy statement in August 2008 to
7 implement Act 60 required to provide three additional
8 days to make a total of 33 days after the lender mails
9 Act 91 Notice of Intent to Foreclosure for the
10 borrower to meet the Consumer Credit Counseling
11 Agency.

12 If the borrower does actually meet with the
13 Consumer Credit Counseling Agency within 33 days of
14 the notice being mailed, then the borrower receives an
15 additional 30 days subsequent to face-to-face meetings
16 between the borrower and Consumer Credit Counseling
17 Agency to prepare an application for HEMAP assistance
18 to present it to PHFA.

19 A mortgager may not pursue legal action
20 against the homeowner property if the homeowner meets
21 with the Consumer Credit Counseling Agency within the
22 33 days of the postmark dated on the notice, and for
23 an additional 30 days subsequent to the meeting
24 between the homeowner and Consumer Credit Counseling
25 Agency while the application is being prepared and

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1 sent to PHFA.

2 If the application for HEMAP assistance is
3 approved by PHFA, then the lender is prohibited from
4 proceeding with legal action against the homeowner.

5 House Bill 1042 is duplicative of the
6 Homeowners Emergency Assistance Program, which already
7 mandates face-to-face meetings between homeowners and
8 designated credit counseling agencies.

9 House Bill 1042 would add face-to-face
10 meetings between court-designated judges or designees
11 and borrower in default and the lender once mortgage
12 foreclosure complaint is filed in the County Court of
13 Common Pleas. This meeting is in addition to an
14 already-mandated premortgage foreclosure filing notice
15 and face-to-face meeting between borrower and Consumer
16 Credit Counseling Agency.

17 In such cases, an additional delay of the
18 mortgage foreclosure action would commence and persist
19 until the conciliation conference was held, and then
20 an order acknowledging the holding or waiver of such
21 conciliation conference by the borrower in default
22 would be issued by the court.

23 There appears to be no set number of days
24 within which the court conciliation conference would
25 be required to be held under House Bill 1042, meaning

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1 that the delay of a mortgage foreclosure action filed
2 by the lender could be indefinite or last for months.

3 Such a delay in the foreclosure process
4 potentially could lead not only to blight in the case
5 of an owner-occupied property that becomes abandoned,
6 but also to monetary harm to the lender that would not
7 yet have a legal right to physically protect the
8 property that is collateral for the defaulted
9 residential mortgage.

10 House Bill 1042 as presently drafted could
11 result in each county adopting its own separate
12 distinct and potentially different rules on the
13 administration of conciliation conferences. This
14 means as many as 67 standards for 67 counties common
15 pleas to become court rules, making it difficult for
16 banks to engage in the conciliation conference
17 process.

18 House Bill 1042 does not state whether costs
19 incurred when the lender attends and the borrower does
20 not attend the conciliation conference may be added to
21 the costs sought by lenders in the foreclosure action.

22 In conclusion, the House Bill 1042
23 face-to-face meeting with a court representative is
24 duplicate of the existing face-to-face meeting between
25 borrowers and consumer credit counseling and the

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1 preforeclosure Act 91 Notice of the Intent to
2 Foreclosure.

3 The present Act 91 notice that notifies the
4 borrower of his or her opportunity to meet with the
5 Consumer Credit Counseling Agency, apply for and
6 obtain HEMAP loans delay mortgage foreclosure.

7 Multiple rules from 67 county courts of common
8 pleas would make conciliation conferences non-uniform
9 and difficult for lenders to participate in beyond
10 their respective principal counties.

11 Costs to the lender should be able to be added
12 to the lender's foreclosure costs, but such a
13 provision presently is lacking in House Bill 1042.
14 Thus, it may reasonably be argued by community banks
15 that House Bill 1042 proposed conciliation conference
16 substantively would add duplicative process to the
17 delay and length of the mortgage foreclosure process
18 that has the HEMAP pre-foreclosure protection act
19 derived in 1983 and amended by Act 60 in 2008.

20 Together we must find a way to direct the
21 solution to the point of the problem. If community
22 banks are not and have not been part of the problem,
23 then we should be exempt from any additional
24 legislation that would cause duplication of effort and
25 a waste of local taxpayer money that could be used for

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1 additional responsible local lending. Thank you.

2 REPRESENTATIVE DALEY: Thank you, Mr.
3 Bailey. Let me just start with one question, maybe a
4 statement. You had indicated that when you do the Act
5 91 Notice of Intent to Foreclose, it provides the
6 borrower the opportunity to meet with the Consumer
7 Credit Counseling Agency and apply for HEMAP.

8 What is the number of -- can you quantify the
9 number or percentages of people that actually contact
10 you once your bank notifies them that they are going
11 to be foreclosed upon? Do you know a percentage? Is
12 it 5 percent or 10 percent or 100 percent?

13 MR. BAILEY: I don't know that number.
14 But I think based on what we heard from the judge and
15 based on what we heard from the sheriff, these people
16 done react. So --

17 REPRESENTATIVE DALEY: See, what we've
18 found out is that most people, once they go into
19 foreclosure -- and by that time, they could be six
20 months behind -- they pretty much have decided to turn
21 and run. Very few people at that time try to
22 mitigate, they try to evacuate. And that's a concern
23 for us. We need to provide a way of trying to
24 mitigate and make it uniform.

25 And you've sort of seen the same problem,

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1 because most people, when they're at deposition in
2 that Act 91 notice, you start chasing them then to get
3 them out and move the foreclosure forward. Is that
4 correct?

5 MR. BAILEY: Well, I guess unfortunately
6 -- or fortunately, I haven't. I guess community banks
7 are a little different animal. As I said, they lend
8 in the community. They're members of the community.
9 And I can honestly say, in the last year I have only
10 had one foreclosure.

11 So, what we're talking about are the
12 unscrupulous, unfortunately, that fall under that
13 whole umbrella of bankers that provided over-value of
14 loans and things.

15 So, what I'm saying here is, and what I think
16 that our position is, is, let's address the problem
17 that is the unscrupulous lender as opposed to the
18 lenders who are already following the rules.

19 REPRESENTATIVE DALEY: Questions?
20 Representative Longietti?

21 REPRESENTATIVE LONGIETTI: I appreciate
22 what you just mentioned, and we -- Chairman Daley had
23 a hearing earlier this year in Harrisburg where the
24 community bankers made a presentation, and you could
25 clearly see, by and large, your member banks have not

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1 been a part of this problem, and yet you get caught up
2 in it.

3 And the difficulty we face is, sometimes in
4 trying to construct a solution, it's impossible to
5 exempt somebody out of that process. That becomes
6 challenging.

7 But, you know, one of the things -- I
8 understand your testimony, that people in both HEMAP,
9 that they have that face-to-face meeting with the
10 credit counselor, but tell me if I'm wrong on this,
11 that doesn't necessarily mean that they have a meeting
12 with the lender, that it's with the credit counseling
13 agency.

14 MR. BAILEY: No. No. Actually, because
15 the rules were changed last year, they don't. They
16 used to have the option, but now the option was
17 stripped out with the Act 60.

18 REPRESENTATIVE LONGIETTI: I see. Go
19 ahead, I'm sorry.

20 MR. BAILEY: I think we've heard, and
21 we'll continue to hear again, people bury their head
22 in the sand, and no matter how much more regulation,
23 all you're going to do is add costs to it, and
24 unfortunately I don't believe there's going to be a
25 result.

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1 REPRESENTATIVE LONGIETTI: One of the
2 problems that I see, and I would guess my colleagues
3 are similar, once again, it's not -- by and large,
4 it's not the community banks, but no one can find the
5 person in authority with the lender to try to work
6 these situations out.

7 You know, I have had -- and I'm sure many
8 people do bury their head in the sand, and I mentioned
9 that earlier, but the ones that have come to me that
10 have tried to be proactive, they get frustrated
11 because they can't get to somebody at the lender that
12 has some authority to discuss a workout. And when you
13 try to look at it objectively, you look and say, this
14 doesn't make any sense, because everybody is going to
15 lose badly on this situation. And, you know,
16 sometimes a workout is not possible, but sometimes you
17 wonder why can't this one be worked out. It's going
18 to be good for the lender, it's going to be good for
19 the homeowner. But they can't find that person in
20 authority. And that's what was somewhat appealing
21 about the Judge's testimony was, okay, you filed your
22 foreclosure, you've got to list the name, address, and
23 telephone number of that person that can actually --
24 that the borrower can deal with.

25 I see that as not necessarily a problem within

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1 your group, because I think you're right, people know
2 who that is.

3 MR. BAILEY: But is that the exemption
4 we're looking for? And this is my own personal
5 opinion. If the loan isn't sold, can those people be
6 exempt? I mean, we hold traditionally most of our
7 loans. I know that you can sell them, and they may
8 end up in Texas or in California and sold five or six
9 times. But maybe that's the -- maybe that's the
10 possible exemption.

11 REPRESENTATIVE LONGIETTI: I see. So
12 make it as, if I'm a loan originator and I keep that
13 loan, then perhaps I don't have to go through this
14 process.

15 MR. BAILEY: That's my personal opinion.
16 But, I mean, with community bankers, there's no place
17 to really hide. You're there in your bank.

18 REPRESENTATIVE LONGIETTI: The other
19 thing I noticed is, tell me if I'm wrong on this, but
20 not everyone that can do a workout qualifies for
21 HEMAP. HEMAP is a great program, but HEMAP kicks in
22 more, for example, if I lost my job. And there might
23 be some people that don't fall under that category,
24 but still yet have the ability to do a workout, and
25 HEMAP just doesn't apply to them.

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1 MR. BAILEY: I'm not that familiar with
2 the particulars, but I can certainly get those for
3 you.

4 REPRESENTATIVE LONGIETTI: Okay.

5 REPRESENTATIVE DALEY: Tom, my only
6 problem may be that that one person that had
7 foreclosure in your bank, if we would exempt community
8 banks, he or his wife would not be able to avail
9 themselves to a program. And I think that if one
10 person is excluded, then everyone should be excluded.
11 If everyone is included, then that person should be,
12 too.

13 There may be a way of working this out. And I
14 don't think the legislation is really geared toward
15 any particular group, especially your group, because
16 of community banks relationship with the communities.
17 But rest assured that there will be no legislation
18 coming out of this committee that will exclude any
19 organization that by that exclusion will exclude any
20 person from the opportunity. We want to make sure
21 everyone's included. But we'll do it as fair and
22 equitably and with insight and foresight as possible.

23 REPRESENTATIVE MIRABITO: Have you ever
24 looked at the 1,100 foreclosures that the judge
25 mentioned, do you know how many of them involved

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1 community banks in Allegheny County?

2 MR. BAILEY: I can only go by what's
3 published in the paper, and you run down the list. It
4 appears, and maybe because you consistently see
5 certain names, that it maybe is amplified in your
6 mind, but statistically, I don't know, but I would
7 say, gut-wise, it's a few.

8 REPRESENTATIVE MIRABITO: It's a few?

9 MR. BAILEY: Yeah.

10 REPRESENTATIVE MIRABITO: But there's
11 definitely some there?

12 MR. BAILEY: Oh, yeah. There is the
13 person that loses their job, doesn't make the payment,
14 gets divorced, those things. Those happen.

15 REPRESENTATIVE MIRABITO: I know it's
16 anecdotal, but would you say that out of the 1100 or
17 so, there is maybe 100 that involve community banks in
18 Allegheny County?

19 MR. BAILEY: Purely anecdotal?

20 REPRESENTATIVE MIRABITO: Yes.

21 MR. BAILEY: Less than that. Twenty
22 percent of that.

23 REPRESENTATIVE DALEY: Any other
24 questions? Tom, thank you very much for your
25 testimony.

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1 MR. BAILEY: Thank you for your time.

2 REPRESENTATIVE DALEY: The next two
3 groups of testifiers will be panels. The first group
4 will be Dawn Williams with the Urban League of
5 Pittsburgh, Catherine Martin with the Neighborhood
6 Legal Services Association of Pittsburgh, and Barbara
7 Griffin of the Allegheny County Bar Association.

8 MS. GRIFFIN: I don't believe Cathy
9 Martin is here.

10 REPRESENTATIVE DALEY: I'm sorry, what?

11 MS. WILLIAMS: I don't believe Cathy
12 Martin is here.

13 REPRESENTATIVE DALEY: Cathy Martin is
14 not here. Is there someone you would want to have
15 that person replaced with?

16 MS. GRIFFIN: Not -- I can talk a little
17 bit about what they do. I'm familiar with what they
18 do. I can't talk for them, but I can say maybe a
19 little bit about them.

20 REPRESENTATIVE DALEY: Okay. That's
21 great. Well, make sure that those microphones are
22 near you when you testify. Maybe we need to slide it.

23 Dawn and Barb, right?

24 MS. WILLIAMS: Yes. Good morning. I'm
25 Dawn Williams. I'm the -- I have --

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1 REPRESENTATIVE DALEY: Hold on one
2 second. Okay.

3 MS. WILLIAMS: I have a little bit of a
4 different role. I'm the director of housing for the
5 Urban League of Greater Pittsburgh, which is a housing
6 counseling agency. We are PHFA certified, as well as
7 HUD certified.

8 So, earlier there was a question from the
9 panel regarding housing counseling agencies and how
10 are they basically certified, how have they come to do
11 this work. We come to do this work both through
12 Pennsylvania Housing Finance Agency and through HUD.
13 So that's how we come to this work.

14 I also happen to be a practicing attorney. My
15 area of specialty is mortgage foreclosure defense,
16 bankruptcy, Chapter XIII and Chapter VII.

17 One of the things that the Urban League wanted
18 to really focus on is the uniformity that is presented
19 in this bill. We think that it would be a good idea
20 for uniformity for the mere fact that if that doesn't
21 take place, you will have different homeowners in
22 different jurisdictions conceivably being treated
23 differently throughout the state.

24 And so the issue of certainty, due process
25 that all litigants need to have and need to feel

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1 comfort with would not be there for residents of
2 different counties throughout the state. And if you
3 are unfortunate enough to live in one of the areas
4 that that is not promulgated, then you just kind of
5 lose out. And to your point, chairman, if one person
6 loses out, then everyone loses out in this issue.

7 One of the other things I just wanted to
8 mention was that how important outreach is. We are
9 finding a lot of clients who are entering into
10 agreements with their mortgage company prior to
11 contacting the hotline thinking -- to avail themselves
12 of the conciliation process, and they're thinking that
13 they have a great agreement that says I'm going to be
14 able to keep my house, when, in fact, we find out that
15 they've entered into unconscionable agreements with
16 their mortgage companies that end up make it more
17 difficult in the long run to actually come to a
18 workable solution, because now you have the barrier of
19 an agreement that was entered into that subsequently
20 the client defaults on because they can't -- they
21 could not keep up with those terms, and here they are
22 now trying to get another agreement and facing a
23 hurdle with the mortgage company. And then when we go
24 to represent them, the Urban League does represent
25 clients in the conciliation process, we're finding

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1 that we can't go behind that agreement.

2 So, the outreach to help clients avail
3 themselves of this process is also critical, and funds
4 allocated to that end is going to be critical for any
5 county to implement that process.

6 We also are finding that, going back to what
7 the previous testifier stated, HEMAP does not apply to
8 FHA secured mortgages. So that means that there's a
9 whole group of people who HEMAP does not apply to, and
10 they will not be able to take advantage of those
11 protections. So that if this uniform procedure does
12 not come into fore, HEMAP will not protect everyone
13 that was stated that would be protected, it will only
14 protect those people who have conventional mortgages.

15 We are finding again the efficacy of this
16 process is that we are forcing the lender and the
17 mortgagor to sit down, and hopefully cooler heads will
18 prevail. Many times when clients contact their
19 mortgage company on their own -- because they do do
20 that -- they are met with frustration, they are met
21 with persons who have no authority to make decisions,
22 and persons who have no authority to make the
23 necessary long-term changes to the mortgage that will
24 ensure long-term affordability of those terms.

25 So, when you do have this process, you have

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1 representation on both sides that can present workable
2 solutions that are -- that will pass the muster of
3 business judgment for both parts, will take into
4 account long-term affordability, and will hopefully
5 make loans perform for the mortgage companies, and
6 will keep people in their homes, which would benefit
7 the community at large. Thank you.

8 REPRESENTATIVE DALEY: Thank you.

9 MS. GRIFFIN: Good morning. My name is
10 Barbara Griffin, and I am the pro bono coordinator for
11 the Allegheny County Bar Foundation, which is the
12 charitable arm of the Allegheny County Bar Association
13 here in Pittsburgh.

14 I want to just follow-up a little bit briefly
15 on what Dawn mentioned about the role of lawyers in
16 the conciliation representing the borrower. It was a
17 key element of the Philadelphia plan. We did
18 incorporate it here in Allegheny County. And what I
19 do at the Bar Foundation is, I man the pro bono
20 program. So we have programs that find volunteer
21 lawyers for low income folks in need of free legal
22 help.

23 My partner in many projects here in Allegheny
24 County is Neighborhood Legal Services Association,
25 which is an LLC funded agency. So, they have

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1 full-time lawyers representing low income clients
2 whereas I'm through the bar association foundation
3 using volunteer lawyers.

4 The Neighborhood Legal Services is constrained
5 by fairly low income guidelines, so they can only
6 represent clients up to a certain percentage of the
7 poverty level where the Bar Foundation pro bono
8 programs have more flexibility, so we're able to
9 represent more of the working poor. If you can make a
10 little bit more money, you could be eligible for
11 volunteer lawyers through our programs.

12 We're fortunate in Allegheny County to have a
13 very active bar association. We have about 8,000
14 lawyers in Allegheny County, about 6,700 are members
15 of the bar association. So, we have a great pool of
16 volunteers, and we have about 800 lawyers ready to
17 volunteer to do pro bono work here in Allegheny
18 County.

19 So, when this program was created in January
20 and we saw, I think, in the first week that they put
21 up this MG number, there were about 100 cases filed.
22 So we quickly thought, gosh, you know, there are these
23 volumes of cases, and we wanted to have lawyers
24 available to represent borrowers if they chose to
25 participate in this program.

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1 So, working with Neighborhood Legal Services
2 Association, we did a training program. We had about
3 55 attorneys who participated in that. That's a
4 pretty good turnout.

5 And just as an aside, at a time when we're
6 seeing the downturn in the economy and lawyers paying
7 work is slowing down a bit, it's sort of a bonus for
8 us because lawyers are more willing to do volunteer
9 work to fill in that gap.

10 So we had a good showing for the volunteer
11 training. We train the lawyers and have them ready to
12 take cases representing the borrowers. Some cases are
13 taken by NLS, Neighborhood Legal Services' staff
14 attorneys, and others go to the volunteer attorneys.

15 As Dawn mentioned, we think there's a great
16 value in having a representation for the borrowers.
17 Sometimes it is advocating for them, protecting their
18 interests. We have seen some horrible loans, and they
19 need someone on their side.

20 Other times it's managing the client's
21 expectations. Sometimes they may be presented with a
22 good offer, but because they've been down and out so
23 long, they're hesitant to accept something. But if we
24 can have an attorney say, this is okay, you can do
25 this, they may be more willing to settle.

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1 So I think there's a great role for volunteer
2 lawyers in this program. So, thanks very much.

3 REPRESENTATIVE DALEY: I appreciate your
4 testimony. Questions? Mark.

5 REPRESENTATIVE LONGIETTI: We thought --
6 and all three of us are lawyers. We thought when
7 business was slow, the lawyers just went out and
8 played golf. I'm not a golfer, though.

9 REPRESENTATIVE DALEY: Me, neither.

10 REPRESENTATIVE LONGIETTI: I guess one
11 question I have is, you seem to have a great
12 background, and perhaps you can answer this question.
13 I understand the concern of the need for uniformity.
14 Tell me if I'm wrong on this. If we enact
15 legislation, you're saying, please make it uniform
16 across 67 counties; but in the absence of enacting
17 legislation, don't we also have nonuniformity?

18 Because right now Pittsburgh's got a program,
19 Philadelphia's got a program, and I'm assuming that
20 means -- and maybe I'm wrong -- that any county could
21 decide to enact their own program without any
22 legislation being enacted.

23 MS. WILLIAMS: Well, I do think that any
24 county could decide, but that is the operative phrase,
25 "could decide". If a county does not decide to do

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1 that, conceivably the residents in that county may not
2 have the ability to come together with their lender
3 before the foreclosure process begins.

4 One of the major things that happens when the
5 foreclosure process begins is that attorney's fees are
6 attached to the complaint. That becomes a huge
7 barrier to reinstatement of the loan. And as the
8 process continues, more and more attorney's fees are
9 wracked up.

10 So now that I am three months behind and I
11 borrower my money from my sister and I pulled my
12 401(k) to become current, now on top of that I've got
13 another \$3,000 to come together with to become
14 current.

15 And I do make my comments based on the fact
16 that I did practice legal services in Philadelphia
17 County for seven years before coming here as a
18 foreclosure attorney. So that process that is in
19 place there, I was with one of the organizations,
20 Philadelphia Legal Assistance, that was very much
21 involved in the inception of that process.

22 And so I am a little bit biased toward a
23 process, because I saw how many people we were able to
24 help because of that process and how many people were
25 not helped before that process came about. And these

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1 were individuals who may have had a great shot at
2 keeping their homes.

3 And so the blight that is created as a result
4 of that is something that no city really wants to see.
5 It sounds ethereal, but when you see it on the street,
6 when you see that happening in a community, it makes
7 you passionate about this issue. And that's why I'm
8 so passionate about it, and that's why the comments I
9 made.

10 REPRESENTATIVE LONGIETTI: I'm just
11 thinking of the complications of the legislative
12 process where -- you know, I've only been around a
13 couple years, but you see it, okay, we're going to
14 mandate something for everybody, and then on top of
15 that we're also going to mandate how you do that. So
16 then you get pushed back. People from certain parts
17 of the state say, well, I can't support that because
18 where I live, I don't think that that way you're going
19 to deliver it really works. And then you also get
20 pushed back, well, somebody represents Philadelphia
21 County, and they say, well, we already have our system
22 and it works well, and we don't want to change it and
23 make it different based on this legislation. And
24 ultimately you can end up -- you know, and I may be
25 dead wrong, but ultimately you can end up where

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1 nothing gets done as a result of that because of all
2 these forces pushing back.

3 So then where are we at? We're at
4 nonuniformity anyhow because Allegheny County has a
5 program and they do it their way; Philadelphia County
6 has a program, and they do it their way. Maybe some
7 other county decides we're going to do a program, and
8 they do it their way, because there's no legislation
9 governing it because we couldn't get the legislation
10 done because too many people objected to the idea of,
11 well, don't make me do my program that I already have
12 established in a different way, and other people say,
13 well, don't tell me how to do it in my county, because
14 it doesn't work that way in my county.

15 MS. WILLIAMS: Well, I think that at this
16 critical time in our nation's history, we really do
17 have to put those petty differences aside and really
18 come together to address the needs of these people in
19 these communities. And so you have a very hard job to
20 balance those competing interests as you push forward
21 this legislation.

22 But I would just -- I would just suggest to
23 you as you are thinking of this just the dire
24 importance that this issue raises. And also the fact
25 that when there is a process in place, people are

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1 helped. When there isn't a process in place, we don't
2 fully know what the ramifications of that can be in
3 light of current crisis that we're in.

4 Prior, it might have been, you know, a few
5 people, and maybe they wouldn't have had -- it
6 wouldn't have had such a great impact. But now, in
7 the economic times we're living in, the lack of a
8 process can cause -- we don't know what the impact of
9 that can be.

10 REPRESENTATIVE LONGIETTI: And all that
11 makes sense to me. I'm just observing that -- for
12 example, let me give you an example. You could have a
13 county -- maybe it's my county or maybe a different
14 county -- where, okay, you now get specific enough and
15 say, well, this is how this program is going to work
16 and this is how you have to implement it in your
17 county. Then your president judge comes out and says,
18 that's totally unworkable, that will not work in our
19 county, it will cause more problems than it will
20 solve. Then other people rally around that. And then
21 here's that representative saying, how do I support it
22 because the big players in my county are saying that
23 that's not going to work here the way that they
24 designed it in Harrisburg.

25 So, we all want to help our people, but when

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1 you have big voices out there potentially that say,
2 well, they've gotten so structured in how they're
3 going to run this program and it doesn't take in the
4 needs of a small county, it becomes more difficult to
5 sell.

6 MS. WILLIAMS: Well, I think that's --
7 that's why it's awesome that you all are having these
8 hearings, because now you're hearing those statements,
9 and then you can put all of that in the hopper and do
10 the hard job that you have as representatives, to come
11 up with something that's workable.

12 REPRESENTATIVE DALEY: That's what we get
13 paid the big bucks for.

14 MS. WILLIAMS: The big bucks, that's
15 right. That's right.

16 REPRESENTATIVE MIRABITO: Miss Williams,
17 I appreciate what you're saying, because one of the
18 things that I think that we lose sight of is that when
19 you lose a house, the family still has to figure out
20 where they're going to live, and you get into all
21 sorts of issues of displacement of families and so
22 forth.

23 A question for you. You mentioned some
24 agreement with the mortgage companies, these
25 agreements that are entered into with the lenders

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1 without assistance of counsel. Could you describe
2 some of the additional hurdles that you found or
3 what's in some of these agreements that's creating
4 problems?

5 MS. WILLIAMS: Okay. I'll speak -- I'm
6 thinking of a specific case that I just had recently
7 just before a conciliation conference. A client said,
8 well, I don't need to go through the process, Miss
9 Williams, we've already got an agreement. I said, why
10 don't you let me take a look at it just to see.

11 Well, the agreement was three payments of the
12 normal monthly mortgage payment, and then the
13 subsequent fourth monthly payment was a balloon
14 payment of \$5,000.

15 So, now this person thinks I've got an
16 agreement with my mortgage company, but, in fact,
17 really they have a balloon payment. And Paragraph 9
18 of the agreement stated that if each and every one of
19 the paragraphs was not complied with and they did not
20 complete each term in the agreement, they would not be
21 eligible for the review of a loan modification.

22 So that means that I have to really cure the
23 arrearage before I get the loan modification. So, in
24 fact, really it didn't do anything for me. I'm still
25 in the same boat that I was in prior.

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1 So, those are the type of agreements that
2 people are entering into, and they're thinking that
3 they're okay because it says, we will review you for
4 loan modification. But attorneys know that I can
5 review you for something, but that doesn't mean I'm
6 going to give it to you. That doesn't mean that I've
7 covenanted to give you a loan modification.

8 And so because people are not sophisticated
9 enough -- nor, frankly, should they be -- to enter
10 into these kind of agreements without counsel, they
11 are looking at something and they're thinking, well,
12 this -- it's going to take the load off my mind, I
13 don't have to worry about this, and sometimes putting
14 off the inevitable has more of a psychological relief
15 than dealing with the issue at hand. And so I hope
16 that answers your question.

17 REPRESENTATIVE MIRABITO: Yes,
18 absolutely. The other question I have for you is that
19 you mentioned that HEMAP doesn't apply to the FHA
20 mortgages, so they can't get the protection.

21 MS. WILLIAMS: Right.

22 REPRESENTATIVE MIRABITO: Now, do you
23 find that a lot of the clients you're dealing with
24 have loans that are not secondary market acceptable
25 mortgages in the first place?

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1 In other words, you're saying that it only
2 protects those with conventional mortgages. Do you
3 find a lot of your clients, because of their situation
4 when they went to buy the property, could not qualify
5 for a secondary market approved loan, so they are in a
6 special program with the lender?

7 MS. WILLIAMS: Well, you're talking about
8 whether these are predatory loans, and most predatory
9 loans are not -- are conventional as opposed to HUD
10 insured loans?

11 There has been an anomaly with certain
12 mortgage companies, and I'm not going to name them,
13 because a lot of people know who these bad actors are,
14 that they did do FHA insured mortgages because the
15 term of what is required to do an FHA insured mortgage
16 is based upon the amount and value of the property and
17 how much of a down payment you're going to put down.

18 So, there are some loans that could be
19 considered predatory. And by that I mean -- let me
20 just say this: There is no accepted industry standard
21 of what a predatory loan is. There are certain
22 hallmarks that attorneys can look to to determine if a
23 loan is predatory: A high interest rate; points and
24 fees; a balloon note; an adjustable rate.

25 So, those kind of hallmarks are typically not

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1 associated with FHA insured mortgages. However, there
2 are some mortgage companies that were giving loans
3 that were FHA insured that were predatory.

4 So, you could have a situation where someone
5 has an FHA insured mortgage that is predatory and it
6 is not going to be covered by HEMAP, which means all
7 of the protections under HEMAP do not apply.

8 And I would also state that because many of
9 these loans are outside of the value that Act 6 places
10 on, its position, that means that neither do they have
11 to have reasonable attorney's fees.

12 So that means I can charge -- typically in
13 Paragraph 8 of the mortgage, it says, you can charge
14 about five percent of the total loan amount for
15 attorney's fees.

16 So that means I can have an FHA insured
17 predatory loan, and they can charge whatever they want
18 for attorney's fees. So how can I ever become
19 current?

20 REPRESENTATIVE MIRABITO: Thank you.

21 REPRESENTATIVE DALEY: Suggestion.

22 Destiny just slid me a little sheet of paper
23 indicating that one size doesn't fit all. Two
24 programs possibly by population is a possible
25 recommendation. We can do it by classes of counties,

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1 too. We can set up a basic minimum program, and then
2 extrapolate from that.

3 So, I mean, there are -- I mean, we're so
4 early in the process, yet we're going to try to take
5 into consideration community banks and some other
6 competing interests. So that's something we're going
7 to deal with.

8 MS. WILLIAMS: Well, you know, we just
9 have faith in you guys doing the hard job that you do.

10 REPRESENTATIVE DALEY: Well, we're going
11 to do it. We did it with the viable mortgage
12 foreclosure package, we did that, we hammered and
13 pushed that out working specifically with some groups
14 in the area that some of you know, and we put together
15 some pretty good stuff.

16 We think this is going to be something that we
17 can hang our hat on as well, a first of its kind maybe
18 in the country that's really dealing with this issue
19 very proactively instead reactively, you know, going
20 after it to try to resolve the issue. If one family
21 is displaced, that is one too many. We've got to
22 figure ways of fixing the problem.

23 Thank you very much.

24 MS. WILLIAMS: Thank you.

25 REPRESENTATIVE DALEY: Our next panelist

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1 is Maryellen Hayden, ACORN of Pittsburgh; Dawn
2 Sullivan, Action Housing of Pittsburgh. This will be
3 our last testifiers this morning. And we want to
4 thank everyone for coming this morning to participate.

5 MS. HAYDEN: I would like to enter this
6 into the record. This is about the Philadelphia
7 conciliation and about basically an impact that
8 outreach is having on the Allegheny County program.
9 And when I say that, I know you had Judge James speak
10 in the beginning and he told you the numbers of -- I
11 can't remember exactly, but over 1,000 people going
12 through the program, getting an MG number, and only a
13 few actually calling the number, and that was 67, was
14 it?

15 REPRESENTATIVE DALEY: Sixty-two.

16 MS. HAYDEN: Sixty-two. I was close.

17 REPRESENTATIVE DALEY: 1165 cases and 62
18 conciliations.

19 MS. HAYDEN: Right. In both of those
20 numbers are much, much, much higher. And the reason
21 that they are is, there is actually a program put
22 together and monies allocated to that program to
23 support that program for a concentrated outreach plan
24 that is really impacting them. They're bringing 80
25 percent of the people that are facing foreclosure into

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1 the conciliation program in Philadelphia.

2 So I think anything that you do really needs
3 to have as a priority an outreach program that is part
4 of it or a bidding place where somebody can -- where
5 some different groups can, you know, write a proposal
6 to receive funds to do real direct door-to-door
7 outreach like they're doing in Philly, because that's
8 making the big difference.

9 I think the Allegheny County program is really
10 wonderful, because I was part of the group that put it
11 together, and there was a whole coalition of housing
12 counselors, community people, activists that worked on
13 that. And I don't think we missed very much. And we
14 knew at the time that we really needed this
15 concentrated outreach plan. And, you know, that's why
16 they're trying to put together a volunteer outreach
17 program.

18 You know, the problems I have are, one, the
19 sunset I think is a problem, because I think we should
20 always be concerned about foreclosure, and we should
21 always have a program that helps. So I don't know why
22 we would end such a program just because there were
23 less people facing foreclosure if, in fact, one person
24 is too many.

25 And the other problem I have is that there's

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1 not a concentrated outreach plan. Other than that, I
2 think the program works -- or can work very well if we
3 could actually bring the people through the door.

4 There's also the short time that the Judge
5 also mentioned. The housing counselors will -- he'll
6 probably talk about how difficult it is to get the
7 lender to the table and so on and so forth at that
8 time.

9 The other thing I wanted to mention was that
10 HEMAP was brought up several times in this whole
11 thing. And there is an expert on HEMAP in the room
12 that is not at this panel, and I would like to ask you
13 to include him. That's Paul Lodico from the Mon
14 Valley Unemployed Committee who worked on the campaign
15 to create the HEMAP and knows everything there is to
16 know about HEMAP. So I don't know how you feel about
17 that.

18 REPRESENTATIVE DALEY: Paul, if you want
19 to participate, you can. You know, you participated
20 in other discussions we've had, and most recently in
21 Fayette County on housing. We do have your testimony
22 from there, and the committee is looking at that
23 currently. But if you want to participate, you're
24 welcome. That's your call.

25 MR. LODICO: Thank you very much.

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1 Perhaps after Dawn finishes.

2 REPRESENTATIVE DALEY: Will you promise
3 to make it brief?

4 MR. LODICO: Absolutely.

5 REPRESENTATIVE DALEY: You and I probably
6 go back 30 years. So I know you very well, as well as
7 Mr. Lucci knows you, and we know where you're coming
8 from.

9 MS. HAYDEN: So back when this whole
10 program started, a group of ACORN members, about 100
11 people, talked with the sheriff, and many people
12 talked about they're losing their home very soon and
13 asking the sheriff to find a way to help them. And I
14 think it was a really important meeting and a place
15 where we could really see the sheriff who represents
16 the community actually listening to the community.

17 And so now you're here doing this, and I've
18 seen you here doing this before. And I just want to
19 thank you for your responses. And, you know, I want
20 to say that there's some of you -- well, all of you
21 that I really would like to sit down and talk with
22 about a bunch of the work that we're doing.

23 We do have somebody in the room here that's
24 facing a sheriff sale in five days who didn't get the
25 HEMAP.

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1 REPRESENTATIVE DALEY: Every hearing we
2 have, you bring us another person.

3 MS. HAYDEN: I am always going to bring
4 you a problem.

5 REPRESENTATIVE DALEY: We always try to
6 resolve your problems on a personal basis, but we
7 appreciate that.

8 MS. HAYDEN: His name is Al Banai. He's
9 here in the room right in front of Paul. He's an
10 electrician. And so I'm hoping that we'll find some
11 way to help him, either today or before five days is
12 up.

13 Those are basically the main things that I
14 wanted to say. I wanted to really say that we need
15 more time to negotiate. And the whole idea that we
16 should, like, exempt some banks or other banks, I'm
17 not so sure of that. Because the crisis that we've
18 got, we're saying that there's not that much of a
19 crisis in Allegheny County or western Pennsylvania,
20 but when we talk about that -- there's so many
21 different public leaders that have said this. And
22 when we talk about that, I don't think we're really
23 considering per capita. I don't think we're really
24 talking about -- yeah, we're saying we have less
25 foreclosures than they have in California.

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1 California's got a lot more people. And, you know, I
2 think that based on per capita, our problem is pretty
3 serious.

4 There's almost 5,000 houses going to sheriff
5 sale in Allegheny County alone every year. That's a
6 problem, you know. I mean, I don't know how many
7 people there is in the county, but I think it's
8 comparable to the problem that's in California.

9 So, I mean, if somebody did a per capita
10 analysis of like how many people there are in
11 California, how many foreclosures are happening, I
12 think that -- and our county is small. We don't have
13 that many people in this county. That's a pretty
14 serious number. And other counties I think would be
15 reflective in the state of Pennsylvania.

16 So, those are the only things I wanted to
17 bring up.

18 MR. SULLIVAN: Mr. Chairman,
19 Representatives, thank you for having me here. I'll
20 kind of go briefly over what we're seeing as
21 counselors, our role in the conciliation process, and
22 why I think a conciliation process that reaches out to
23 everyone is imperative in the commonwealth.

24 I want to say that as counselors, we get folks
25 who are calling us who have already contacted county

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1 and are scheduled for these appointments. And we sit
2 down with them, and we're basically doing a financial
3 analysis. We take a look at their income levels
4 versus debt obligations, all expenses, not just
5 including mortgages, but installment debt, car loans,
6 grocery bills, utilities, we bring it all in.

7 We also examine the loan that they're
8 currently paying on for issues of predatory lending or
9 mortgage fraud in some capacity. As counselors, we
10 don't necessarily deal with those directly, but we do
11 work with legal services to help remedy those.

12 At that point in time, once we've done the
13 financial analysis, we put together a proposal to the
14 lender, an idea of what we really need concession-wise
15 to keep this mortgage afloat.

16 That way it's an equitable agreement hopefully
17 between all parties, the mortgage company will
18 continue to get paid, the homeowner will continue to
19 stay in their home, and they won't lose any equity
20 that they've already developed in this property.

21 The issue had always been for decades in
22 counseling was that lenders, especially at the larger
23 national banks, were unresponsive to these proposals,
24 unresponsive to borrowers who needed help. And I
25 think that's why conciliation programs, particularly

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1 in Philadelphia, took off like they did. You had a
2 group of constituents claiming, listen, no one's
3 listening to me. I'm making phone calls and I'm
4 getting answering machines or I'm getting nonresponses
5 or people are just telling me I owe them \$5,000, and
6 that's it.

7 I would like to put a final stake in this
8 HEMAP duplicative process discussion. HEMAP does not
9 facilitate nor require mitigation counseling. All
10 HEMAP is is application. It is an application to the
11 FHA for that assistance.

12 When HEMAP's budget at the state level is 15
13 to \$13 million annually, they probably approve about
14 30 percent of the applicants that they say. So we all
15 know that there's some budget cutbacks. They're on a
16 tab for about 9.9 million. And, of course, that 30
17 percent is going to be lower.

18 So that's 30 percent of the people that
19 actually apply, not everyone who gets the HEMAP
20 application. We know that there are people who are
21 falling through the cracks that are not responding.

22 So, HEMAP is a great program and it does
23 affect a lot of people, but it's not covering nearly
24 the amount of people that are actually in foreclosure,
25 nor is it duplicative in any way, shape, or form,

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1 because it doesn't lead to mitigation counseling.

2 And I think that's the key with a conciliation
3 process. It's no longer just, I'm going to take a
4 PHFA application, send it to the state, and hope that
5 they approve it. It is taking down a financial
6 picture of these borrowers and making real proposals
7 to the lenders. And that's not something that was
8 done in the commonwealth, again, for decades.

9 Between the conciliation program and what the
10 Obama Administration is doing with the Treasury
11 Department program and the National Foreclosure
12 Mitigation Counseling Program issued through HUD to
13 Neighbor Works, it set up this world where we can now
14 go mitigation counseling, and we can be really
15 effective in reaching out and contacting lenders and
16 trying to get reasonable proposals.

17 Now, reasonable becomes the sticking point,
18 because we're not seeing reasonable proposals in a lot
19 of cases. We're seeing short-term payment
20 arrangements, and as Dawn had mentioned, bad balloon
21 payments, or there's no wording whatsoever about
22 modification, it's just a repayment plan. And that
23 doesn't help out a homeowner. Okay. That basically
24 ends up just delaying the inevitable because the
25 payment hasn't adjusted any.

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1 And I think a conciliation program everywhere
2 is key for that, that we can bring everyone to the
3 table and say, listen, there's an equitable agreement
4 to be made, let's make it.

5 That is the role that the housing counselors
6 are playing right now. We've only had one round of
7 conciliations. The ones that I sat in were good. We
8 got one lady worked out, and another one was a 60-day
9 extension, and hopefully they'll get worked out.
10 We'll see as it unfolds. There's a lot more scheduled
11 for June. We're going to be pretty busy next month.
12 And I'm hoping that it's effective.

13 REPRESENTATIVE DALEY: Are you saying
14 that second wave developing now that people are losing
15 their homes?

16 MR. SULLIVAN: Yeah. It used to be you
17 would look at the sub prime market and it would be the
18 adjustable rates on primes, and you can really pick
19 out those pocket communities, you know, Penn Hills and
20 the Valley and things like that.

21 I'm getting more and more folks coming in that
22 are actually unemployed who were living in areas where
23 you didn't think there would be a foreclosure crisis.
24 And they're not bad loans. They're 5-1/2 FHAs,
25 they're maybe 6-1/4 conventional fixed rate all in

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1 tight mortgage payments. I'm seeing more of those,
2 and I'm really -- if you look at the federal numbers
3 and especially with unemployment rates going up,
4 you're going to see this more and more in the
5 pipeline. And I think we're going to see -- we're
6 getting maybe in the middle of the woods with the sub
7 prime stuff, but we've just started going to the prime
8 mortgage market, which is going to start hitting. And
9 that's both portfolio loaned and the secondary
10 mortgages that are out there right now. It's all over
11 the place. You don't have to be a bad lender to have
12 loans that aren't performing.

13 REPRESENTATIVE DALEY: I want to thank
14 you personally on behalf of the committee for your
15 outstanding job here in Allegheny County. Believe me,
16 it does not go unnoticed. We're aware of the
17 tremendous work you do and it's not because of that
18 big salary you're getting.

19 MR. SULLIVAN: That's why I earn the big
20 bucks.

21 REPRESENTATIVE DALEY: Right. Well, we
22 all know the truth. Maryellen, we appreciate what you
23 do. I mean, I know there are detractors out there
24 that are very critical of ACORN and have been
25 historically for years, and personally I appreciate

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1 what ACORN does. Because it does reach out, and it's
2 an advocate for many, many people that do not have a
3 voice. I think it's so important that we have a voice
4 in this society, being that some people don't like
5 what you're saying, but it has sometimes to be said.

6 So being that said, any members of the
7 committee have a question?

8 REPRESENTATIVE LONGIETTI: Just a --

9 REPRESENTATIVE DALEY: Just a short one?

10 REPRESENTATIVE LONGIETTI: Yeah, I'll
11 keep it short.

12 REPRESENTATIVE DALEY: A couple dozen.

13 REPRESENTATIVE LONGIETTI: I'll keep it
14 short. I do appreciate what you testified to about
15 what they're doing in Philadelphia, because I think
16 that kind of outreach is probably the key. Because
17 800 numbers are great, but I don't know that people
18 avail themselves of that all the time.

19 I do want to say this much, and I don't have
20 all of the statistics, I couldn't tell you about
21 Allegheny County. Do we have a problem in
22 Pennsylvania? Yes, we do. I think most every state
23 does right now. Is it the magnitude of California? I
24 would say absolutely not.

25 Because the numbers that I read, for example,

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1 in the USA Today, they always measure it against, 1
2 out of 1,000 homes is in foreclosure in this state or
3 100 out of 1,000 homes. So they always do put it in
4 that context of, you know, how many -- it's not just
5 sheer numbers. If there are 40,000 foreclosures in
6 this state, it's measured against how many homes that
7 have loans and how many are in foreclosure. So I
8 think we do have a different problem than California.

9 And the other thing, and maybe not everybody
10 in the room will agree with this, but every person
11 that comes into my office that has a foreclosure
12 issue, I try to help them. PHFA has been wonderful in
13 that regard. I will always do that.

14 But I think in balancing this out, we also
15 have to look at, are people making the right
16 decisions, too? Not just lenders. Lenders have to
17 make the right decisions, but people also do. And I
18 see too many cases of, you know, maybe this goes to
19 our educational system, too many cases where people,
20 they're not putting any money down on the house. You
21 didn't used to do that in the time gone past. You
22 want these people to be successful, and somebody's got
23 to educate them on not getting into bad situations.

24 My personal situation, that happened in my
25 family. My dad never had credit in his life, never.

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1 He worked in a mill. He didn't make a lot of money.
2 He bought our house with cash because he saved.

3 Now, not too many people can do that today,
4 and I recognize that, but we've got to get back to a
5 level where people are also making the right
6 decisions, putting money down on a house, deferring
7 purchases that they don't have to have until they're
8 in a better situation to do that.

9 And like I said, I am sympathetic to those
10 that have been taken advantage of. There are plenty
11 of those out there, too.

12 MS. HAYDEN: Many people in the community
13 actually get their so-called financial literacy
14 education from predatory lenders. And so, I mean, I
15 think that's a really big problem.

16 And one of the things that I didn't bring up
17 that I really need to bring up is, there was all this
18 deer in the headlights talk earlier, about why don't
19 people -- why don't people get this 1-800 number and
20 just show up and call the number and do what they're
21 supposed to do.

22 I had a member the other day bring into my
23 office every mailing that they received since the time
24 that they first got their Act 91 letter, and the stack
25 was this high (indicating). And many of those letters

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1 looked like they came from the government. And some
2 of them said HUD certified on them. I mean, it was
3 unbelievable what they said.

4 And we've had people walk in through the door
5 that have paid \$3,000 for some company to negotiate
6 them a mitigation that the county provides for free,
7 and then at the end of the whole time period when the
8 foreclosure was about to start and they're frantically
9 calling up this company and saying, I thought you said
10 you were going to negotiate this for me, the company
11 says, well, the lender wouldn't talk to us, so that's
12 all we could do. Can I have my money back? No.

13 And there's lawyers that sell bankruptcy and
14 market, you know, their own mitigation programs. I
15 mean, there's just a stack like this. I should have
16 brought it in today. But it comes to every single
17 borrower. And it gets to a point where you're just --
18 you don't know who to trust, you don't know who to
19 talk to.

20 That's why we need to have concentrated and
21 planned-out outreach programs that are fully funded
22 and that by organizations that know how to do it, that
23 can come in and sit down and say to a person, you got
24 this 1-800 letter from the sheriff, and I have a copy
25 of it right here, and let me tell you what's going to

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1 happen at your mediation and how to get ready for it.
2 Oh, and did you call the number yet? Here's my cell
3 phone. Right?

4 That's how you get the person out of that
5 terror, that space where the light is shining in their
6 eyes and they can't see.

7 REPRESENTATIVE DALEY: Thank you. Sandy,
8 you had made a statement to me. Maybe you can direct
9 it to Dan, and he can reflect upon it.

10 MS. ALTLAND: I just said that a common
11 theme I seem to be hearing or a problem or concern is
12 the unemployed. I also heard that from John Dodds --

13 MR. SULLIVAN: Yes.

14 MS. ALTLAND: -- in Philadelphia. We're
15 working with them to do the next hearing, and his
16 concern was the funding for that, that there's going
17 to be a real problem with funding.

18 MR. SULLIVAN: There's going to be a huge
19 problem with unemployment compensation.

20 MS. ALTLAND: I don't know what all the
21 criteria is, but how does an unemployed in
22 foreclosure, an unemployed person in foreclosure, they
23 cannot get --

24 MR. SULLIVAN: Well, it's going to be
25 even more difficult, because the federal treasury

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1 program, there's two pieces, there's a refinance if
2 you're a Fannie or Freddie insured, but there's a
3 modification program. And most of the major servicers
4 in the commonwealth have availed themselves to it, but
5 unemployment comp is not used as income in any way,
6 shape, or form.

7 I think the two points you guys are making
8 kind of go together with the lack of resources or poor
9 financial decisions and working out the modifications.
10 I think that's where a counselor comes in, because a
11 counselor has to be able to determine if you can make
12 a feasible argument. A win isn't necessarily a
13 proposal or a modification necessarily, because if you
14 do have somebody who is chronologically unemployed,
15 there's no income coming in, and you know this isn't
16 going to work out, I feel it's as important for a
17 counselor to be able to transition them to alternative
18 housing, you know, affordable rental situation. A
19 safe roof over their head is what my objective is as a
20 counselor.

21 I would love to keep the house, but some
22 people are in way too deep, some folks with the
23 unemployment. And again, that's going to affect the
24 treasury department program and are not going to be
25 able to qualify. It's going to be an issue. And

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1 that's why counselors need to be trained on the fact
2 that, well, there's other entities in my region that
3 can get me into -- like, we use Urban League who has
4 rental assistance. We give referrals out to that. We
5 do short-term and long-term assisted housing at Action
6 Housing and try to make that transition. It's as
7 important for me to be able to read the documents as
8 it is for me to figure out what the escape plan is.

9 REPRESENTATIVE DALEY: Thank you very
10 much. Destiny has a question.

11 MS. ZIEDERS: Dan, I just had a question.
12 I did want to ask Judge James, but maybe you know the
13 answer. Tom Bailey's testimony stated concern that a
14 borrower may not attend the conciliation conference,
15 and that can cause added costs.

16 Has that happened that any of the borrowers
17 have not showed up?

18 MR. SULLIVAN: I can't state for the
19 record of every conciliation appointment that was held
20 that day. I was there all day. I saw one case that I
21 know of in which the borrower didn't show up. And I
22 think that would be a concern to a certain extent.

23 I will also say that with most of these
24 conciliation programs, there is some time between the
25 point in time that a borrower avails themselves to the

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1 program and the time that they have to sit in front of
2 a judge. It's at a minimum right now of 60 days.

3 Community banks who do have local
4 representatives who you can call and get on the phone
5 to work out a deal should be able to reach a deal
6 within 60 days.

7 So, I don't see that as a major issue with the
8 community banks. They're very responsive. The
9 communication level is high.

10 Yeah, I think you're going to run into that
11 where plaintiff's counsel is going to show up,
12 borrower doesn't show up, and it will be a waste of a
13 cost. But I didn't see a lot of it.

14 MS. HAYDEN: Wasn't there also a case
15 where the lender didn't show up?

16 MR. SULLIVAN: I didn't see any of those.
17 But, again --

18 MS. HAYDEN: Somebody else told me that
19 there was one, and the Judge held the thing over and
20 said this is postponed.

21 MR. SULLIVAN: Well, yeah. And there was
22 a sticking point between getting a representative from
23 the lending institution and plaintiff counsel. And
24 plaintiff counsel, to my understanding, showed up for
25 most of, if not all of, the conciliations.

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1 There wasn't a lot of plaintiff
2 representatives showing up. And there were issues
3 with counsel calling the plaintiff to get some sort of
4 deal figured out, and plaintiff was nonresponsive.

5 Actually, it was my case where they actually
6 wouldn't pick up the phone. They rubber stamped it in
7 60 days. We sent it out. I got the FHA on it, and we
8 got it resolved in 15.

9 REPRESENTATIVE DALEY: Okay. Thanks.
10 Representative Mirabito.

11 REPRESENTATIVE MIRABITO: You addressed
12 this a little bit in terms of giving people the advice
13 that maybe it's time to move to a different housing
14 situation.

15 Do you have any experience with people who may
16 have worked out agreement and not been able to come
17 through with it?

18 MR. SULLIVAN: Yes. I've actually
19 personally seen clients who received modification
20 requests that they did not send to their counselors
21 for review. They signed it under the gun, some sort
22 of level of duress. And then came back three months
23 later and said, listen, I can't make this payment.

24 REPRESENTATIVE MIRABITO: Well, I don't
25 mean that. I mean where you've worked out situations,

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1 but people have not been able to -- we've delayed the
2 inevitable. In other words, where you've worked out a
3 conciliation, and then they just have not been able to
4 keep the house in any event. I guess --

5 MR. SULLIVAN: The proposal was done,
6 signed off and kept, and they realized that through
7 that proposal they still wouldn't be able to keep it?

8 REPRESENTATIVE MIRABITO: Well, they
9 wanted to keep it, but circumstances were beyond their
10 control.

11 MR. SULLIVAN: I've had clients who
12 signed proposals and went through with it against what
13 my recommendation would have been. I usually don't
14 see them back in again. There's a lack of follow-up
15 in a lot of those cases unfortunately.

16 In most cases, my job as a counselor is not
17 necessarily to say, here, you need to sign everything.
18 I will try to -- not just for my knowledge, but let
19 them know, this is the payment arrangement that you
20 really kind of need. This is the monthly
21 affordability limit that you're at.

22 And we have had cases where borrowers haven't
23 signed those and we've had to move them to alternative
24 housing because the proposal wasn't sufficient.

25 I mean, I feel it's my responsibility to

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1 advise them, listen, you don't want to sign this.
2 Yeah, I think sometimes under duress, they're scared,
3 they will sign them. I haven't had a lot of repeat
4 folks come back in those situations.

5 REPRESENTATIVE MIRABITO: Okay.

6 MR. SULLIVAN: Does that answer your
7 question?

8 REPRESENTATIVE MIRABITO: I think so.

9 REPRESENTATIVE DALEY: Dan, keep up the
10 good work. Maryellen, keep voicing your voice. It's
11 very important what you do, and hopefully we'll be
12 able to bring something back very shortly. Thank you
13 very much.

14 Paul, do you want to give us about two
15 minutes?

16 MR. LODICO: I thought you would skip me
17 and we could get out of here without the two minutes.
18 But I can give you two quick minutes. And that is,
19 HEMAP is wonderful. You were there at the birth. I
20 was there at the birth. I had a picket sign down at
21 the courthouse. And we had a lot of lively discussion
22 in Harrisburg before we finally gave this legislation,
23 which has helped over 35,000 families save their
24 homes. It's not a cure-all. It is not funded well
25 enough to be a cure-all.

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1 And secondly, right now -- you like facts --
2 last month we handled 14 cases. Not a single one did
3 continuing help, which is what it was designed for
4 originally, to help unemployed people, people that had
5 jobs for years. You knew they were going to get a job
6 again, but not next week, not next month. It was
7 going to be a while. And so HEMAP was set up to base
8 the loan on current income for up to three years.

9 That almost never happens now. HEMAP just
10 seems to take those folks who have a problem with
11 their arrears, but can make their current payments.

12 Pete, you're absolutely right, unemployment's
13 a problem. It's going to be a bigger problem. In
14 fact, in our county, it was less than five percent a
15 year ago. Now it's almost eight percent. It's going
16 to take a little while.

17 Clairton Works, big layoffs in the last few
18 months. And some of those folks are down from your
19 neck of the woods. They're folks who have owned their
20 houses for years. They're not going to be there the
21 first month they're laid off. They're going to find
22 some other way to make those payments. But Clairton's
23 not going to reopen again in two, three, or four
24 months.

25 Probably Warren Buffet's ride, it's going to

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1 be a long time, and unemployment's going to go up.
2 And thank you for keeping your eyes on that problem.
3 It will require some national solutions with national
4 amounts of money. We are bailing out all the banks.
5 At some point, we want to help working families even
6 more.

7 This is something you can do right now. I
8 greatly appreciated your thought that you want to do
9 something where you don't throw it to the Supreme
10 Court and it takes another year and a half to get
11 going. We need to get this sort of program going. It
12 won't help everyone.

13 And in terms of costs, I was struck by the
14 fact that the representative from the community banks,
15 who has three branches, had one case last year. Not a
16 prohibitive cost to get on the phone one time and do a
17 negotiation, a conciliation. I don't think that's
18 terribly burdensome. And if you took out the numbers,
19 his was probably proportional to the others. So, I
20 don't think that's a major problem.

21 The major problem are those folks who go to
22 work every day and lost their jobs. This is the new
23 face coming out there. And there's not going to be
24 new jobs to replace them right away. And can you do
25 something to help bridge this gap? And it's not just

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1 arrears. You got to gap the bridge.

2 Thank you very much for the hearing. We're
3 glad you're here. We look forward to your producing
4 effective legislation soon.

5 REPRESENTATIVE DALEY: Any questions for
6 Paul? To answer that urban myth, Paul has more than
7 one shirt and one hat.

8 Jerry. Your name is Jerry, right?

9 MS. HAYDEN: No. Al Banai.

10 MR. BANAI: Al Banai.

11 REPRESENTATIVE DALEY: Just two minutes.

12 MR. BANAI: Sir, that's all I need.

13 REPRESENTATIVE DALEY: State your name
14 and spell it for the record, please.

15 MR. BANAI: My name is Al Banai,
16 B-A-N-A-I. I live in Scenery Hill in Washington
17 County.

18 REPRESENTATIVE DALEY: You live near me.

19 MR. BANAI: Well, I started out in the
20 coal mines in Marianna, and my situation is this:
21 Next Friday I'm -- hopefully I'm not going to lose my
22 home. It's up for sheriff sale.

23 REPRESENTATIVE DALEY: In Washington
24 County?

25 MR. BANAI: Yes, sir. Maryellen and her

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1 agency are doing everything that they possibly can to
2 try to save it. I'm an unemployed electrician. I
3 lost my job in January.

4 I have been in negotiation with HSBC for over
5 a year to try to save my home. And they originally
6 started in the 30 something floor of this building.
7 Every documentation that I have from HSBC, they
8 totally deny it. It's their letterhead. It's
9 everything that they said they were going to give me.

10 They renegotiated my mortgage. It originally
11 started out at \$654 a month. In two years, it went to
12 \$1,248 a month. And I just simply can't afford it.

13 Whenever they renegotiated my mortgage, they
14 said, Al, we're going to give you a mortgage of 4.25
15 percent. Your mortgage is going to be 475 a month.
16 When you get back on your feet, we're going
17 renegotiate your mortgage again.

18 Whenever I approached HSBC, they said, we
19 don't know anything about it. Well, here's what you
20 sent me. We don't know anything about that. And
21 whenever I tried to talk to them on the phone, they
22 said that -- I talked to a representative. Well, you
23 didn't fit our criteria. What's your criteria? Well,
24 I don't have that information in front of me. Can you
25 get it and can you call me back? No. Can I call you

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1 back once you have that information? No. She hung up
2 on me, and that's the last conversation I had with
3 HSBC.

4 REPRESENTATIVE DALEY: Have you had any
5 stay by the courts in Washington County?

6 MR. BANAI: No, not yet.

7 REPRESENTATIVE DALEY: Have you attempted
8 to do that?

9 MR. BANAI: Yes.

10 REPRESENTATIVE DALEY: What happened?

11 MR. BANAI: Well, I'm working with
12 Maryellen with that.

13 REPRESENTATIVE DALEY: Who's your
14 attorney?

15 MR. BANAI: I don't have an attorney. I
16 can't afford one. I'm a single parent. My daughter
17 Joni's at Pitt. She is going to try to graduate in
18 December. Excuse me. My daughter Helen is 20,
19 Stephanie is 18, and Zachary is 9. I'm trying to do
20 the best I can with what I have.

21 I got called by a staffing agency yesterday.
22 There's a job in Martinsburg, West Virginia, waiting
23 for me. All I have to do is show up.

24 REPRESENTATIVE DALEY: What I want you to
25 do is, I want you to talk to me after this meeting. I

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1 practice in Washington County. I will file a stay for
2 that mortgage foreclosure on your behalf pro bono.
3 I'll be glad to do that. I need some relevant
4 information from you so that we can file with the
5 court. What's today? Today is Wednesday. We'll
6 probably have to do it -- when is the foreclosure
7 action?

8 MR. BANAI: Next Friday.

9 REPRESENTATIVE DALEY: We have time. So,
10 why don't you talk to me after this, and I'll be glad
11 to represent you to stop the foreclosure, and we'll
12 argue with the courts to get you some time so we can
13 get you on your feet.

14 MR. BANAI: Thank you. Another thing I
15 would like to state, some of the paperwork that HSBC
16 was sending me, and women that were here before,
17 they're exactly right, there's attorneys that have
18 added \$15,000 in attorney's fees to my mortgage, which
19 I can't afford.

20 REPRESENTATIVE DALEY: Off the record.

21 (Discussion off the record.)

22 MR. BANAI: There are -- actually HSBC is
23 what they call the main server, but there are actually
24 five other agencies or lenders or whatever it is that
25 actually hold my mortgage. I guess they sold it four

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1 or five, six times now.

2 REPRESENTATIVE DALEY: Oh, yeah.
3 Everybody's making money in the transaction except
4 you.

5 MR. BANAI: Exactly. Sir, thank you for
6 your time.

7 REPRESENTATIVE DALEY: Don't run off. Is
8 there anyone else that would like to say anything?

9 MR. ANDERSON: I would like to say
10 something.

11 REPRESENTATIVE DALEY: Yes, sir.

12 MR. ANDERSON: My name is Dan Anderson.
13 I'm here for Curtis Thomas. I think you know him.

14 REPRESENTATIVE DALEY: Very well. You
15 should have told us you were here, Dan.

16 MR. ANDERSON: That's okay. The reason
17 why I'm here is to confirm what the two attorneys were
18 saying, Dawn Williams and Barbara Griffin. They don't
19 know me.

20 For years they have been going through this
21 situation of foreclosure, and I'm trying to find out,
22 where were you then, but that's another story. They
23 are familiar with what's going on.

24 And we have to find a way of eliminating the
25 so-called bias in this foreclosure. Nobody speaks

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1 about that. You were saying, attorney, that you feel
2 that some counties should have their own mandate as
3 far as dealing with the foreclosures. I think it
4 should be legislation on the state level. And I'll
5 tell you why, because you had mentioned it, you were
6 saying there are certain judges and certain
7 organizations that wouldn't allow certain policies to
8 come into your area. Well, if that's the case, that
9 means there's control there. We want to eliminate
10 that control, just have one mandate come through where
11 everybody can deal with it.

12 You also should put a cap on the attorney
13 fees, allowing them only so much money for
14 foreclosures. Because if you don't, it's going to go
15 out of proportion as the gentleman just said.

16 We have difficulties in this foreclosure, and
17 I think it's up to you guys to do something about it.
18 I have nothing against attorneys. My daughter's an
19 attorney. Okay. So I wish you would do the best that
20 you can. I don't want to say too much more. That's
21 my problem.

22 REPRESENTATIVE DALEY: Mr. Anderson,
23 thank you very much. For the public, Curtis Thomas is
24 a member of the House of Representatives. He also
25 serves on our committee. Chairman Thomas is a

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1 chairman of the Intergovernmental Affairs Committee,
2 and he and I have a tremendous working relationship
3 over the last 15 years. And I wish I would have known
4 that you were representing him. We just saw your name
5 on the list.

6 MR. ANDERSON: No problem.

7 REPRESENTATIVE DALEY: If there's no
8 other questions or comments, ladies and gentlemen, I
9 want to thank you for your attendance. This meeting
10 is adjourned.

11 (The hearing concluded at 12:55
12 o'clock p.m.)

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C E R T I F I C A T I O N

I hereby certify that the foregoing transcript is a true record of the House Commerce Committee Public Hearing on House Bill 1042 on May 20, 2009.

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Marianne Marsilio, RPR