

COMMITTEE on COMMERCE  
PUBLIC HEARING

---

Thursday, June 4, 2009  
Philadelphia, Pennsylvania

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COMMITTEE MEMBERS PRESENT:

REPRESENTATIVE ROSITA YOUNGBLOOD,  
Acting Chairwoman  
REPRESENTATIVE DAVID CALLEN,  
Vice-Chairman  
REPRESENTATIVE MICHAEL P. McGEEHAN  
REPRESENTATIVE C. ADAM HARRIS  
REPRESENTATIVE KENYATTA JOHNSON  
REPRESENTATIVE W. CURTIS THOMAS  
REPRESENTATIVE STEVEN SANTARSIERO

OTHERS PRESENT:

JOHN SCARPATO, Analyst  
DESTINY ZEIDERS, Analyst

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HELD AT: Philadelphia City Hall, Room 696  
Philadelphia, Pennsylvania

REPORTED BY: SUSAN L. SINGLAR, Court  
Reporter-Notary Public

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TESTIFIERS:

HONORABLE ANNETTE M. RIZZO, Judge,  
Philadelphia Court of Common Pleas

TERRY GILLEN, Sr. Advisor to Mayor  
Nutter, Economic Development

HIRAM CARMONA, Housing Council, City of  
Philadelphia

GEORGE GOULD, ESQ., Community Legal  
Services

JOHN DODDS, Director, Phila.  
Unemployment Project

DESERIE JONES-WRIGHT, Homeowner

IAN PHILLIPS, Legislative Director, ACORN

ROBERT RUPEL, President/CEO of Lafayette  
Bank of Lehigh Valley

BRUCE FOULKE, President/CEO American  
Heritage Federal Credit Union

PAUL WENTZEL, Department of Banking

BILL FOGARTY, Government Affairs,  
P.H.F.A.

TOM PULEO, Goldbeck McCafferty & McKeever

1                   REPRESENTATIVE YOUNGBLOOD: Good  
2 afternoon, everyone. I am State Representative  
3 Rosita Youngblood and I am the Vice-chair of  
4 Banking and Finance. Unfortunately, our chairman,  
5 Peter Daley, who is our chairman for Committee on  
6 Commerce, was unable to make it today, so I am the  
7 substitute for him, and it's a pleasure to be here,  
8 especially since we're home in my home City of  
9 Philadelphia.

10                   At this time I would like to  
11 introduce my colleague, whose Bill is 1042, the  
12 prime sponsor, Representative Michael McGeehan,  
13 will say a few words.

14                   REPRESENTATIVE MCGEEHAN: Thank  
15 you very much, Chairwoman Youngblood, for convening  
16 this hearing. I want to thank Chairman Daley and  
17 his staff for planning the logistics of this very  
18 important Committee meeting. I want to thank, of  
19 course, the City of Philadelphia for allowing us to  
20 use the facilities of City Hall today, and most  
21 importantly, I want to thank Judge Rizzo and her  
22 staff for the accommodation and the education she's  
23 provided, not only to me, but for the Committee  
24 staff and for my staff and for myself. It is a

1 wonderful program that has really become a national  
2 model for how best to tackle foreclosure problems  
3 in America.

4 I have introduced House Bill  
5 1042, which has a good number of co-sponsors now  
6 based on the great work that Judge Rizzo has done  
7 here in Philadelphia. I must tell you that the  
8 experience of walking into Judge Rizzo's courtroom  
9 today was a little overwhelming. Despite the fact  
10 that I grew up in the rough and tumble world of  
11 Philadelphia politics, the organized chaos of the  
12 conciliation meetings that go on here every  
13 Thursday is something that I have never experienced  
14 before, and I must tell you that the great emotion,  
15 the great fear, the great angst in the foreclosure  
16 process, I didn't see it in that courtroom, and  
17 it's because of the wonderful work of the housing  
18 advocates, and wonderful work of the volunteer  
19 attorneys, and wonderful work of Judge Rizzo and  
20 her staff and the courts, themselves, have really  
21 done a great service to the citizens of  
22 Philadelphia.

23 The House Bill 1042, as I said,  
24 is modeled on the work that Judge Rizzo has done,

1 and really, the road map that she has provided to  
2 us in Pennsylvania. You know, I have served for a  
3 good number of years in Harrisburg, and many times  
4 Philadelphia is singled out as being unique, and  
5 it's true, in many instances, but it's not unique  
6 with the problem of foreclosure. This is not just  
7 a Philadelphia problem. It's not just a  
8 Pennsylvania problem. This is a national problem.  
9 And the blueprint that Judge Rizzo has laid out I  
10 think is long overdue that it be exported to our  
11 suburban communities, our rural communities.

12           The problems of foreclosure are  
13 quite evident. A cursory look at newspapers on any  
14 given day will tell you the extraordinary number of  
15 foreclosures that are happening here in the City of  
16 Philadelphia and around the Commonwealth. It's to  
17 no one's advantage to proceed with a foreclosure.  
18 It's not the lender's advantage. It's not the  
19 homeowner's advantage. And just as importantly,  
20 it's not the community's advantage to have  
21 homeowners foreclosed on, houses abandoned and  
22 communities blighted by unoccupied houses.

23           House Bill 1042 attempts to take  
24 this great program that exists in the City of

1 Philadelphia and expand it state-wide. I'm looking  
2 forward to hearing from Judge Rizzo, Terry Gillen,  
3 from the City, the housing advocates, the banking  
4 community about how best to do that. 1042 is a  
5 work in progress. We hope to be educated by the  
6 people who are testifying today that were here to  
7 listen. And I thank you for the opportunity,  
8 Chairwoman Youngblood and Chairman Daley, for the  
9 opportunity for this hearing.

10 REPRESENTATIVE YOUNGBLOOD: At  
11 this time I'd like to introduce Representative  
12 Harris.

13 REPRESENTATIVE HARRIS: Hi. I'm  
14 State Representative Harris. I reside in Juniata  
15 County. That's a little south of State College. I  
16 represent the 82nd District, which is all of  
17 Juniata County and parts of Mifflin and Snyder.  
18 It's a pleasure to be here. I got to stick my head  
19 into the courtroom a little bit today and I was  
20 very impressed. It's very good work. I hope to  
21 hear a little more about it and look forward to  
22 hearing you testify.

23 MR. SCARPATO: John Scarpato.  
24 I'm Committee staff.

1                   REPRESENTATIVE JOHNSON: State  
2 Representative Kenyatta Johnson.

3                   MS. ZEIDERS: Destiny Zeiders,  
4 analyst for Representative Peter Daley.

5                   REPRESENTATIVE CALLEN: I'm  
6 Representative David Callen. I'm the Executive  
7 Director with the Committee, and I'm also the Chief  
8 of Staff of Representative Daley.

9                   REPRESENTATIVE SANTARSIERO:  
10 Apparently, I have good timing. I'm Steve  
11 Santarsiero. I represent the 31st District of  
12 Bucks County.

13                   REPRESENTATIVE YOUNGBLOOD: We  
14 will be joined by other members who are late.  
15 There is a change in venue, so as they find their  
16 way to this room, we will be joined, as I  
17 previously stated, by more members.

18                   At this time we'll have our first  
19 testifiers, which implore that I am enunciating,  
20 Judge Rizzo, Terry Gillen, Hiram Carmona, and he's  
21 the manager of Housing Council for the City of  
22 Philadelphia. Thank you for coming and testifying  
23 for us today.

24                   THE HONORABLE JUDGE RIZZO: Thank

1 you so, so much. On behalf of the entire First  
2 Judicial District, our President Judge Dembe, our  
3 administrative judge, Judge Sylvester, whose  
4 courtroom we're graciously using; she's in  
5 training, actually, out of the jurisdiction, as  
6 well as our wonderful court staff, FJD, the members  
7 of the Prothonotary, and Donna Cross, our deputy  
8 court administrator, all of us thank you so very,  
9 very much for putting not just the First Judicial  
10 District but the efforts we have placed into the  
11 foreclosure program. It warms our hearts that it's  
12 gotten attention at our home base. Welcome to our  
13 home, all of our home.

14                   We have been the subject of so  
15 much press coverage internationally and nationally  
16 that it's really heartwarming that we are now,  
17 obviously, being focused upon locally. So although  
18 I was told to sort of prepare for discussion  
19 points, I'd like to start off by telling you a  
20 little bit, in general, about the program. First  
21 of all, our mission in Philadelphia is extremely  
22 simple. It is early intervention in the legal path  
23 of foreclosure of the ultimate sale of residential,  
24 owner-occupied properties in the City and County of



1 Philadelphia. And the hope is, and this is the  
2 mission, to save homes from foreclosure one address  
3 at a time.

4 First and foremost, this program  
5 is not about entitlement, giveaways, supported  
6 delay tactics, unwarranted breaks, abuse of the  
7 legal system, coercion to make deals without legal  
8 rights. What this program is about is getting to  
9 stage a setting to promote good-faith negotiations  
10 for parties to come to the table responsibly with  
11 the hope of borrowers remaining in their homes.  
12 That's our mission and that's what we stand for.

13 Now, I'm not going to go into the  
14 history of it, but only to tell you that the  
15 prototype of this program really kicked off in 2004  
16 when I was sitting in Motions Court and Sheriff  
17 Green at that time had postponed sale of all  
18 properties in Philadelphia in a given month in the  
19 summer of 2004. As a result of which, counsel for  
20 the sheriff was supposed to come to the Board to  
21 ask for then judicial sanction approval of such a  
22 moratorium. I call it the M word.

23 As a result of that process, I  
24 did not declare an outright moratorium, but rather,

1 the force that is occurring here today, a  
2 standstill, a brief pause where we can get  
3 face-to-face discussions of possible workouts for  
4 homeowners to stay in their homes. And we did  
5 that. We worked at various lists at that time.

6           The kickoff was more important,  
7 however, to assemble a group of stakeholders in  
8 this process together who remain together to this  
9 day, four years later, to really try to craft, not  
10 only this program, but also many fixes throughout  
11 the four years to the sheriff sale process. We are  
12 the Mortgage Foreclosure Steering Committee, and  
13 many of the members are here today, and if they are  
14 here, I'd like them to stand. Give it up.

15           Those individuals, just looking  
16 at them, and you will hear from some of them, and  
17 we're very lucky to have them here to talk about  
18 their part in this, come from all sides of the  
19 issue. They are the consumer bar, the lender bar,  
20 the nonprofit groups, Office of Housing and  
21 Community Development. They are Philadelphia  
22 Volunteers for the Indigent Program, Philadelphia  
23 Bar Association. They're from the City Solicitor's  
24 Office; all interested parties with their own

1 agenda, appropriately so, coming to the table to  
2 try to craft what would be an overarching program  
3 to really try to swim one way to keep people in  
4 their homes. And I cannot say more sympathy than  
5 you have, Representative McGeehan, that really,  
6 really, what we want to do, all of us, no one wins  
7 when people are displaced from their homes. No one  
8 wins. So I think that is the understanding.

9           So here we are in 2008, and the  
10 sheriff, in April of last year did, because of  
11 responses to a City Council resolution, again  
12 cancelled the April sheriff sale list, and as a  
13 result of which, at that time President Cornell  
14 Jones, President Judge Jones and myself, together  
15 determined that a way to be proactive from the  
16 court's perspective would be to set up a pilot  
17 mortgage foreclosure diversionary program, and  
18 that's what we're here for today. I say pilot with  
19 a capital P, because as you say, we're forever  
20 involved in legislation because we understand what  
21 works and doesn't work and what could be improved.

22           So as we have this discussion,  
23 this sort of academic but yet practical discussion  
24 of what can be taken as best practices here, the

1 hope is that maybe we can take some of these  
2 practices to our sister and brother counties in the  
3 Commonwealth. So with that said, as much as you  
4 have seen sort of the frenzy, the activity that  
5 comes from the courtroom, as I say, we're an open  
6 market, the floor of the Stock Exchange, all of it  
7 has kinetic energy of really doing with really very  
8 simplistic inform, is face to face negotiations.  
9 It's having that interhuman connection between the  
10 borrower and the lender through the attorney to see  
11 if deals can be worked out.

12                   And I call it the George Bailey  
13 financial loan process. George Bailey, who  
14 actually -- Jimmy Stewart is from, what, Indiana  
15 County. That has play. I know it. And actually,  
16 at one conference recently I played a segment from  
17 the movie It's A Wonderful Life, and it's a scene  
18 where there's a run on the bank and people are  
19 obviously anxious about what will happen with their  
20 own facial status and their homes, et cetera. And  
21 George Bailey goes on to say: You, Joe, you missed  
22 your payment for two months. Did I foreclose on  
23 you? No. And you, you, you really had a problem  
24 with your job and you weren't working. Did we come

1 and ask you to pay back on that loan? No.

2                   It's that community lending  
3 situation which puts you hand in hand in the face  
4 of the situation to really craft a deal that,  
5 though, on a microbasis, may not have impact on  
6 that particular borrower, but rather, would be  
7 actually an example, a single symbol of what can be  
8 done on a more aggregate basis if given the chance,  
9 if given the cause. And that's what our theory of  
10 courtroom 676 provides every Thursday.

11                   Approximately 100 cases or more  
12 are called in the morning and afternoon sessions.  
13 They are as a result of being given a formal notice  
14 on court proceedings when you are served a  
15 Complaint in Foreclosure to come into court about  
16 45 to 50 days after you are served; that you are  
17 given a notice up front, plain speaking to save  
18 your home, we call it the Save Your Home Philly  
19 hotline. Call the hotline. Get in the chute. Get  
20 in connection with the hotline, which puts you in  
21 place with the Housing Council, who will work hand  
22 in hand, do your homework, bring your financial  
23 data there when it comes time for your conference.

24                   We have, obviously, all the rules

1 and regs, which I won't review with you now,  
2 although I do have my 150 slide presentation on  
3 each and every nuance of the legal process, which  
4 I'm sure at another time you'd love to see. For  
5 purposes here, suffice to say that a program such  
6 as this, which gives us this hand to hand and  
7 results which come from it takes an inordinate  
8 amount of coordination, effort, energy, mission and  
9 spirit.

10                   And we really do have that. And  
11 I know Terry and Rob will speak to those, but the  
12 thing that is part of the process is community  
13 outreach to bring people into the courtroom through  
14 the Housing Council, who do the wonderful yeoman's  
15 work to actually get these people postured and  
16 ready to negotiate. And, of course, to our  
17 wonderful judicial staff who receive and coordinate  
18 all of this, as well as our wonderful, wonderful  
19 volunteer lawyers who step up, an army of over 300,  
20 who serve as volunteer lawyers for individual  
21 homeowners or actually serve as judge pro tems,  
22 extensions of the Board to actually oversee the  
23 conciliation conferences.

24                   So there's a lot of

1 orchestration, a lot of theater from the court's  
2 perspective. We do not have -- it is not a  
3 problem-solving court. We do not have a separate  
4 budget. We do stretch assignments from our regular  
5 rolls. I carry another caseload to do this mission  
6 work on every Thursday throughout our year, all the  
7 coordination and orchestration of these other  
8 entities. I find it fascinating that the judiciary  
9 and our court operations has a wonderful  
10 ballet-like coordination with nonjudicial entities,  
11 such as the wonderful Mayor's Office and the Office  
12 of Housing and Community Development, and of  
13 course, all the other organizations, the outreach  
14 groups, such as ACORN that step up to bring the  
15 message to the communities.

16                   Just briefly, and I know I could  
17 go on about statistics such as that, I will say  
18 this, in reading House Bill 1042, we have met  
19 criteria. We have established a program. I know  
20 there is concern with passage, but not like  
21 Philadelphia in terms of size to coordinate such a  
22 thing, but I believe the language of your proposed  
23 Bill gives flexibility to the counties to really  
24 take ownership of a program which would exist.

1           The one take away I have, and  
2 I've lectured across the country about this, is  
3 that it's all things locally. They must determine,  
4 the courts, of course, and the community, what  
5 would work best in terms of creating the theater  
6 that we may have on the scale that's appropriate  
7 for every individual county to make the deals  
8 happen. And I believe court mandate forces the  
9 discussion, and that's why I'm a big proponent of  
10 that, obviously, a court mandate for all cases  
11 coming through, not, per se, an Ogden mechanism.  
12 However, if that's what a county can do, given  
13 capacity and infrastructure, then so be it, as long  
14 as there is some effort that can be made to deal  
15 with this.

16           I should tell you foreclosures  
17 constitute less than 20 percent of our overall  
18 caseload. In many jurisdictions that I have spoken  
19 to in pilots across this Commonwealth, mortgage  
20 foreclosure cases comprise well over 50 percent.  
21 Now, that's astounding in small, small counties  
22 where it makes up such a big part of the docket.  
23 It would appear to me then that for extraordinary  
24 times, which we are in, extraordinary response may



1 be to look at old, useful case management tools to  
2 deal with these new problems and this burgeoning  
3 docket. And the hope may be to clarification,  
4 flexibility, direction from our Supreme Court in  
5 Pennsylvania, as well as good partnership with  
6 local agencies. Some craft of some program would  
7 be wonderful to have in each and every county to  
8 have outreach for those home owners in our  
9 Commonwealth.

10                   And I guess that would be my  
11 bottom-line message to this, start with all  
12 stakeholders at the table. That's what we have.  
13 Do not be reluctant to start something and alter  
14 it, expand it or retract where you think it must  
15 and should be done. Know your infrastructure, know  
16 your judicial resources, find someone to champion  
17 it, to really stand behind it and live and rise and  
18 fall by it.

19                   Understand that over time there's  
20 a culture shift. When we started this program,  
21 there was a 30 percent failure to appear rate, but  
22 with knowledge and outreach, such as we have, it  
23 now has dropped to 20 percent, if not less, in  
24 certain case, which is, I think, a very good

1 situation, and that in all of these matters, early  
2 intervention is really the key to success.

3           So whatever best practices we may  
4 have here, or those that we feel have not worked  
5 well, the hope is that we would learn, and through  
6 obviously, the efforts of the House Commerce  
7 Committee and this legislation can bring the best  
8 in practices that would work locally for everyone.

9           How do we measure success, and I  
10 have statistics here that may show that through  
11 2008, through 2009 you've had approaching 70  
12 percent success, meaning at that point in time when  
13 we leave the court system there's been a favorable  
14 response. What we have not been able to track, and  
15 I need to footnote that, is the sustainability of  
16 that success. And the hope is with outside  
17 intervention by noted foundations that objective,  
18 independent looksee will give us that kind of data  
19 that we can obviously leverage off of to see what  
20 our success has truly been in the long run. And  
21 that's yet to unfold, because many of these things,  
22 when deals are struck, time must pass before we see  
23 success.

24           I could go on and on, but you

1 have to hear from those who actually own various  
2 aspects of it, but I leave you with this. There's  
3 an Italian phrase, and yes, my name ends in zero,  
4 and I'm originally from Philadelphia, the phrase is  
5 a ciascuno il suo, to each his own. And I do truly  
6 mean this, as you go forward to contemplate how  
7 this legislation should change and be altered to  
8 take into account the flexibility to know the  
9 mission but to implement and to execute on as best  
10 they see with the resources they have. And the  
11 hope is, of course, that these resources would be  
12 helpful and benefitted by funding, but that's not  
13 my topic, because we all know we're in a crunch.  
14 So everybody has to step up.

15           So I will end my formal testimony  
16 there and be open to any questions or any other  
17 informal discussion after this hearing with the  
18 phrase I started when I was before the U.S. Senate  
19 Committee for Senator Spector: Build it and they  
20 will come. Thank you.

21           MR. GILLEN: Good afternoon,  
22 members of the Committee. Thank you all for coming  
23 to Philadelphia, Representative Youngblood and  
24 Representative McGeehan and fellow Philadelphians.

1 I'm Terry Gillen. I'm a senior advisor to the  
2 Mayor for Economic Development, and with me is  
3 Hiram Carmona who works on this program, and it's  
4 with the City's Office of Housing and Community  
5 Development.

6 As you have heard, this is a  
7 program that literally involves all three branches  
8 of government, so I'm going to talk a little bit  
9 about what the executive branch is doing. You have  
10 heard from the judicial branch, which is the branch  
11 that really got the problem -- got the program  
12 started as early as 2005/6, so when Mayor Nutter  
13 came in in January of 2008, there was already a  
14 really good working group, as the Judge has  
15 discussed, who was thinking about tackling the  
16 issue that we were already seeing in terms of the  
17 statistics.

18 What happened in early '08, as  
19 Judge Rizzo has said, is we started seeing the  
20 foreclosure numbers going up, sheriff sale numbers  
21 were going up, rejection letters were going higher,  
22 and there was an interest in City Council to do  
23 something about it. The sheriff, at that point,  
24 declared a two month moratorium, which was the good

1 news and the bad news. The good news was that  
2 there was two months to try to do something. The  
3 bad news is we all had to get up to speed and make  
4 sure that we did something, because just delaying  
5 people for two months and then putting them back in  
6 sheriff sale wasn't going to be a success.

7           So at that point we then -- the  
8 Mayor's Office, we decided that what we could do to  
9 piggyback onto the work that the legal folks were  
10 doing was to try to get people into the system  
11 earlier and in a way that was going to be user  
12 friendly. So that, as Judge Rizzo has suggested,  
13 the way homeowners were notified that they were  
14 eligible for the diversion program was that they  
15 would get a letter in the mail. But what we know  
16 from a lot of our statistics and from our research  
17 is that a lot of people aren't opening those  
18 letters. It's a scary looking piece of mail to  
19 some people. It's coming from a judge or coming  
20 from the sheriff, and they're not opening it.

21           So we decided that what we would  
22 do would be a door-to-door outreach program to get  
23 the word out to people that they should call the  
24 foreclosure hotline, because as the Judge says, the

1 linchpin of this program is really to try to get  
2 people to call the hotline. The hotline is run by  
3 lawyers and paralegals who work at the Philadelphia  
4 legal assistance sister agency, Community Legal  
5 Services. But if we can't get people to call and  
6 get a meeting with a housing counselor, then they  
7 walk into the courtroom either unprepared or they  
8 just never get into the courtroom at all.

9           So we started a program of doing  
10 door-to-door outreach. We decided we would take  
11 the housing counselors who are paid for with the  
12 City's CBDG money through the Office of Housing,  
13 and we started putting together an outreach plan so  
14 that every month now, for more than a year, we send  
15 outreach teams, that's teams of housing counselors,  
16 to knock on every door of anybody who is up for  
17 sheriff sale in the next month. So we get the list  
18 as quickly as we can get from the court system. We  
19 take those addresses and we map them, and then we  
20 send housing counselors out to knock on doors. And  
21 their goal is to knock on people's doors three  
22 times, if they don't get them the first time, up to  
23 three times, and then to leave them some  
24 information. So we decided that we needed a

1 friendly, sort of messenger, somebody who wouldn't  
2 be scary for our flier, so we picked the Mayor. So  
3 these are the fliers that we give to people, which  
4 says: Mayor Nutter wants you to keep your home.  
5 Call the housing hotline.

6           And we have found that, as Judge  
7 Rizzo has pointed out, that the rate of people  
8 showing up into the courtroom has gone up. We did  
9 an experiment early on and we know that by  
10 knocking on the door and talking to an adult in the  
11 home we are somewhere around 50 percent more likely  
12 to get somebody to show up -- to call the hotline  
13 and to show up in the courtroom. So we want to  
14 advocate that that outreach, in a way other than  
15 mailing, is a critical part of the program.

16           It's not easy to get money for  
17 outreach, so that's always a challenge for us, but  
18 we do use -- the City of Philadelphia has probably  
19 one of the most extensive housing counseling  
20 networks in the country, and so we use our housing  
21 counselors, and then we supplement them with  
22 outside groups, such as ACORN, PUP, Philadelphia  
23 Unemployment Project, to help us hit some of the  
24 neighborhoods where we don't have counselors. So

1 it's been a great effort by the City to get folks  
2 to do the outreach, and we want to sort of say that  
3 whatever you do, if there's a way you can add an  
4 outreach component to the program, you want to  
5 really think about that.

6           Once folks do get the flier or do  
7 get the message from us somehow they then call the  
8 hotline. As I said, when they call the hotline,  
9 the idea is that the hotline person who answers is  
10 supposed to try to schedule them for a meeting with  
11 a housing counselor. That meeting can be either in  
12 a place near where they work or near where they  
13 live, and then that housing counselor then prepares  
14 them to come to the courtroom and tells them what  
15 documents they have to get together.

16           What we have found is that with a  
17 little bit of time on the phone we can solve a lot  
18 of people's problems on the hotline, itself. So  
19 it's a little bit of a triage system, where if they  
20 think in a couple minutes they can get somebody's  
21 problem answered, they try to spend some period of  
22 time, but the goal of the hotline is to get people  
23 to set up a meeting with a counselor. And then, as  
24 I said, we then have these City -- the counseling



1 agencies all over the City, an extensive network,  
2 and that's when people get prepped to then go into  
3 the courtroom, and you have seen what happens in  
4 the courtroom.

5 I do want to say that none of  
6 this is cheap or free, and it is to the credit of  
7 the Mayor and City Council that they have continued  
8 to fund this program in a time of severe economic  
9 restraint in the City. So that last year we put an  
10 extra \$700,000 into the program for the fiscal year  
11 that we're in now. In addition to that, over the  
12 winter the Mayor, personally, raised \$300,000 from  
13 foundations and from private sources to supplement  
14 the money. We were hoping that we would get  
15 funding for foreclosure prevention activities in  
16 some of the HUD assistance that's come down from  
17 Washington. It has not happened. We are  
18 continuing to lobby our delegation, and folks at  
19 HUD, to try to add foreclosure prevention to some  
20 of the eligible activities that we can use some of  
21 the NSP and other funding for.

22 So what we are doing -- City  
23 Council, just today, voted on the funding for the  
24 new recovery act money. The City of Philadelphia

1 is going to get another 14 million dollars of  
2 recovery act money. That's an entitlement under  
3 the ARRA program, and the Mayor and City Council  
4 are proposing that the City put another million  
5 dollars into this foreclosure prevention program  
6 next year. So if HUD approves that, we'll put  
7 another million dollars into that next here. That  
8 not only will go into outreach, it will go into  
9 housing counseling and it will go into funding the  
10 hotline. So all of this is sort of what the money  
11 goes towards.

12 I will just mention some data on  
13 success so that you have a feel, and then I will  
14 wrap up. The results to date from when we first  
15 started tracking the numbers are that the outreach  
16 teams have visited, we think more than 4,000  
17 properties to notify homeowners about the program.  
18 We think about 3,300 homeowners have accessed the  
19 program through the hotline and through  
20 counseling. And we think there are approximately  
21 1,200 homes have been saved through this program,  
22 which is that we have got 1,200 people who have  
23 been able to stay in their homes through a variety  
24 of either renegotiating of loans, sometimes

1 bankruptcy, believe it or not is the best way to  
2 keep someone in their homes.

3           So there are a variety of ways  
4 that we measure success, but the data that we have  
5 kept in the Housing Office, and this is unofficial  
6 data, I just want to say, because the Judge has her  
7 own data requirements, but Hiram is in the  
8 courtroom every week and he tries to keep as good  
9 data as we can on this. We'd, obviously, like more  
10 money so we could have more data collection, but  
11 we're just not there. But we think that at least  
12 1,200 people have been kept in their homes through  
13 this program that we have really put together over  
14 the last year.

15           So I do think that this is a band  
16 aid and it's not getting to the homeowners as early  
17 as we'd like. We think for that we're going to  
18 need federal legislation, but we all think that the  
19 program has been wildly successful, at least what  
20 we have been able to do so far, and if we can help  
21 you in any way that we can extend it to the rest of  
22 Pennsylvania, so thank you all.

23           MR. CARMONA: Hiram Carmona,  
24 manager of Housing Council for the City of

1 Philadelphia. I'm very delighted with the results  
2 we've had with the program. I just want to say  
3 very briefly that the City of Philadelphia is very  
4 -- we feel that foreclosure prevention is a very  
5 important part of the Housing Council program. To  
6 that effect, a couple of years ago we created a new  
7 emphasis on Housing Council where, in order for new  
8 -- the homeowners to -- first-time homebuyers to  
9 be able to get one of our settlement assistance  
10 plans where you do have a settlement grant program,  
11 we wanted to educate them as to how to avoid bad  
12 mortgages. And those are the adjustable rate  
13 mortgages. The sub-prime is really bad.

14                   So we were -- the City of  
15 Philadelphia was already focusing on how to help  
16 prevent foreclosures before the foreclosure crisis  
17 started. So foreclosure prevention is very  
18 important. We implemented that a couple of years  
19 ago, but unfortunately, not every homebuyer goes  
20 through Housing Council. So I think it's very  
21 important to establish the good prepurchase  
22 counseling program so folks can already know how to  
23 avoid the bad notes.

24                   The other thing that the City

1 wants to do is we're looking at -- for the next  
2 fiscal year we're implementing a new type of  
3 counseling, which is counseling after the  
4 homeowners obtain a workout through the diversion  
5 program. We think that the follow-up is very  
6 important. I know that our housing counselors are  
7 there at courtroom 676 right now, like  
8 Representative McGeehan said. They're in there  
9 working very hard. They're very dedicated, very  
10 skilled. We provide training frequently.

11           But we know that coming to court  
12 and resolving the foreclosure is basically just the  
13 first step. You couldn't pay for whatever reason.  
14 It's not the fault always -- people sometimes have  
15 different perspectives of why a homeowner doesn't  
16 pay the mortgage. Well, there's many reasons.  
17 It's not always the homeowner's fault. We can't  
18 just put fault. There's economic issues. There's  
19 other situations, death in the family, employment  
20 problems is very big.

21           But the important thing is so  
22 they come to court to get this resolved in terms of  
23 the loan and some sort of workout. But we're more  
24 interested in making sure that whatever result they

1 obtain through this program is sustainable years to  
2 come, not just through the next couple of months,  
3 not just through a year, couple of years. We want  
4 to go long term. So we're implementing, in the  
5 City of Philadelphia, a new service in Housing  
6 Council. We want to call it Post Diversion  
7 Council, which basically means post counseling,  
8 after you've gotten through the diversion program  
9 and been able to get a successful workout. So  
10 that's a new thing we want to do. Thank you.

11 REPRESENTATIVE YOUNGBLOOD:

12 Before you leave, I'd like to find out if any of  
13 the members have any questions? We'll start to my  
14 left.

15 REPRESENTATIVE SANTARSIERO:

16 Actually, that was the point I was going to get to.

17 Understanding that the program is  
18 more or less in its infancy, what kind of tracking  
19 has gone on to see if folks in these programs have  
20 worked out the problems where they stand right now  
21 and how things are going for them? There are  
22 those two very important components. The first  
23 one, which is more the preemptive, trying to ensure  
24 that people, before they enter into any kind of

1 lending arrangement, they completely understand the  
2 ramifications of it and, in fact, it's an  
3 arrangement they can live with. So hopefully,  
4 notwithstanding some kind of catastrophic problem,  
5 we can avoid a problem down the road.

6                   But secondarily, once we have had  
7 this counseling program and perhaps conciliation,  
8 whether, in fact, now the buyer can fulfill  
9 whatever arrangement is worked out and save their  
10 houses.

11                   So do we have any sense of how  
12 these are working so far?

13                   THE HONORABLE JUDGE RIZZO: I can  
14 address that. Part of it, in terms of just  
15 tracking this, is just how time passes. So very  
16 often some of the deals you have seen come out of  
17 the room are, for example, a three month  
18 forbearance. When looking at a snapshot of the  
19 financials on the conference day, this can be the  
20 workout to keep this person in the house, let's  
21 see, with faith, if can you make payments and we'll  
22 roll into, hopefully, a long-term modification. So  
23 part of this is tracking this after the three  
24 months, and did the loan modification kick in or is

1 this person able to negotiate that. Or, at the end  
2 of that, is it that these terms not correct and we  
3 have to revisit. Or, have you started a repayment  
4 plan or reinstatement, and then down the road  
5 there's a potential for, hopefully, that's what we  
6 never want to do is set up a redefault situation.

7           We have not been able -- some of  
8 the cases, I have to say, have come back into the  
9 room for that adjustment, and interestingly enough,  
10 and I have said this during our luncheon meeting,  
11 first check our clock because any minute now a new  
12 relief package may come from Washington, which may  
13 now be applicable and actually help to bridge or  
14 have this person eligible for HEMAP or something to  
15 actually enter into another agreement. And the  
16 hope is we don't have to keep redoing, but that is  
17 the situation.

18           In terms of data collection, I  
19 just need to tell you that, and I didn't throw  
20 this out before and it may not be responsive, but  
21 3,000 -- in terms of stats, about over 4,000 cases  
22 have come through the system already. And the  
23 stats that we have collected, again, are freeze  
24 frames. We are having the benefit, however, down



1 the road of an independent study to be done by a  
2 foundation and tear all this data apart, which will  
3 not only look at, statistically, what was  
4 sustainable, but also the demographics, what  
5 components in the population we, in fact -- we  
6 talked a lot about seniors in our meeting,  
7 especially caretaker seniors. By the way, in our  
8 program we have a special protocol to deal with  
9 their issues.

10 So in terms of having a looksee,  
11 we are now -- we're not in our infancy. I think  
12 we're toddlers now. Can we say we're toddlers? We  
13 just passed a year mark, Representative, and so  
14 that's a huge mark to get ourselves together in  
15 seven weeks and go forward. So I think on this  
16 look back on this independent study we will and  
17 actually should form success rates we have had in  
18 terms of a sustainable factor.

19 REPRESENTATIVE MCGEEHAN: Thank  
20 you, Chairwoman. I have a few questions, if I may,  
21 Madam Chair. I agree with Terry McGillen and that  
22 the door-to-door outreach program, I think, is  
23 critical to the success you guys have had in your  
24 program.

1                   And my concern is that taking  
2 that, and first of all, because of the tremendous  
3 financial resources needed to replicate a  
4 door-to-door program, but it's challenging in our  
5 suburban, rural communities simply because of the  
6 geography and lay of the land, that it's much more  
7 difficult.

8                   And the statistics about the  
9 failure rate of not having outreach before the  
10 conciliation, I think is something that we're going  
11 to have to get our heads around as this Bill  
12 progresses. So I agree with you that I believe  
13 it's so important, but it's tremendously expensive  
14 and it's challenging physically to the rest of the  
15 State. So we may have to massage data as this Bill  
16 progresses.

17                   To Judge Rizzo, I'm impressed  
18 with this whole concept that I was particularly  
19 impressed with defining volunteer work as mission  
20 work, and I felt that was particularly appropriate  
21 in this instance, and I was very moved by that  
22 characterization of it. Many of the volunteers are  
23 involved in that program. I raised the point with  
24 Executive Director Gillen about the courtship

1 because it's going to be cost, cost, cost. That's  
2 going to be the questions that are raised in  
3 Harrisburg. And sitting around the luncheon table,  
4 I was staggered by the cost savings to the court  
5 system by this volunteer work and whether you see,  
6 Judge, that type of mission work can be replicated  
7 in the rest of the State.

8 THE HONORABLE JUDGE RIZZO: I can  
9 only have hope. But from my connections throughout  
10 the Commonwealth and other counties and with  
11 colleagues, as well as with the Pennsylvania Bar  
12 Association, I was just out there Tuesday as part  
13 of a pro bono recognition that that group can  
14 really be the launching point to really have some  
15 state-wide initiative, coupled with the local bar  
16 association. You know, we, as attorneys, are  
17 tasked with many things in terms of our individual  
18 practices or how we conduct business. But part of  
19 it is and may be -- does anyone have a soapbox, so  
20 I guess I can get on it. But I do think coupled  
21 with that is really an ethical obligation to step  
22 out of our comfort zone sometimes or just our  
23 normal work routine and take up a pro bono service,  
24 end of story.

1                   So as I have seen in this army,  
2 and I do call them an army of attorneys who have  
3 stepped up to the plate in Philadelphia, I as well  
4 see and have hope that there's an initiative  
5 throughout this Commonwealth that local bar  
6 associations would love, even though they're taxed  
7 with a lot of issues in their work, to step up and  
8 be part of a program that really has a direct  
9 impact in their community to see it stabilized. I  
10 am faithful, and I am also hopeful that they will  
11 do it. I really do believe, if called upon, they  
12 will serve. And I know I sound like I'm preaching  
13 from a box, but I think that's part of it. I think  
14 that is a component of this type of a program, just  
15 that intermix of law and really understanding on a  
16 microbasis human drama.

17                   REPRESENTATIVE MCGEEHAN: Help me  
18 understand, Judge, the cost of this conciliation.

19                   Is the court incurring any cost  
20 at this point?

21                   Is it because, after all, lenders  
22 are coming in here and it behooves them to come  
23 into the conciliation process? Homeowners are  
24 being, thankfully, represented by housing advocates

1 and the nonprofits and others.

2                   So where is the cost of this  
3 system, other than your time, or your staff's time,  
4 or the use of these facilities?

5                   Is there a dollar cost, Judge?

6                   THE HONORABLE JUDGE RIZZO: Well,  
7 I think we have people in the room, it's all  
8 stretch. The FJD staff who are in that room right  
9 now running these lists all have other assignments,  
10 and every other day of the workweek are doing it.  
11 The entire staff, I'm not saying that's positive,  
12 and quite frankly, that's for another discussion,  
13 but would we like to have an established budget for  
14 it? I'm sure my superiors would love to hear that,  
15 and my wonderful court administrators. But we see  
16 a bigger picture, so we stretch and we do what we  
17 have to do.

18                   I do think when we started this a  
19 year ago and we threw a lot of aspects of this  
20 together quickly, we really were hoping that the  
21 feds would step in with additional resources and  
22 that we were only doing this for six months or so.  
23 So it's less sustainable the longer it goes. You  
24 can do a lot of volunteers in the short run but not

1 the long run, so that's the one point I want to  
2 make.

3           The other point I want to make to  
4 your point about the counseling is that the State  
5 does get CDBG money from HUD. It's a policy to  
6 rebuild fewer houses and we fund fewer jobs because  
7 we take some of our CDBG money and put it into  
8 this. Now, again, over the long run, that may not  
9 be what we want to do, but I would urge the  
10 Commonwealth to think about this as a crisis  
11 situation, and perhaps for one or two years you're  
12 simply going to have to divert some of that money  
13 to do this because you pay now or you pay later.  
14 If you don't fund these activities up front,  
15 there's no point in using your CDBG money to build  
16 houses that people aren't going to be able to live  
17 in.

18           So if you think about this as a  
19 crisis, some of the problems may be easier to  
20 solve, because I think we're all still hopeful that  
21 the Obama administration will fund some of this  
22 down the road, and if the economy turns around in a  
23 year or two, it probably will not be as severe as  
24 it is this year.

1                   REPRESENTATIVE MCGEEHAN: Those  
2 are excellent points. And I just want to end,  
3 Madam Chair, if I may, by praising the work of the  
4 Mayor, of course, in being farsighted enough to  
5 fund that program; to Mr. Carmona for his advocacy.  
6 I know you've come to my administration, to  
7 Councilpeople that I represent, and to Judge Rizzo  
8 for giving us a template to take this around the  
9 Commonwealth and hopefully save thousands and  
10 thousands of homeowners. Thank you very much.

11                   REPRESENTATIVE YOUNGBLOOD: Are  
12 there any other questions? We would like to thank  
13 you for providing this information for us.

14                   Next we have the advocate group,  
15 John Dodds, director of Philadelphia Unemployment  
16 Project, Ian Phillips, legislative director of  
17 ACORN and George Gould from Community Legal  
18 Services. Thank you.

19                   MR. GOULD: Thank you very much  
20 my name is George Gould. I'm an advocate attorney  
21 at Community Legal Services. Our office has, over  
22 the years, been very involved in the problems with  
23 mortgage foreclosure. Back in 1983 we were  
24 involved with the Common Pleas Court in filing a

1 Petition which stayed sheriff sales and mortgage  
2 foreclosures for almost a period of a year until  
3 working with the Philadelphia Unemployment Project,  
4 the Homeowners Emergency Mortgage Assistance  
5 program could eventually be passed, and it was  
6 passed by the State legislature and is active and a  
7 very important program. We were also involved in  
8 2004, as Judge Rizzo mentioned, when she was on  
9 Motion Court with a Petition to be filed with the  
10 sheriff, also to postpone sheriff sales so people  
11 could have the opportunity to hopefully work out a  
12 resolution with their foreclosure problem.

13           The mortgage foreclosure  
14 divergent program in Philadelphia is a very  
15 important program. It's a unique and innovative  
16 program, and quite frankly, I think it's had its  
17 great success in large part due to the court  
18 system, Judge Rizzo, Judge Jones and the court  
19 staff who have been extremely involved and  
20 extremely proactive and have really made a priority  
21 for the program to work. I think if this program  
22 is going to be replicated elsewhere in the  
23 Commonwealth and some places it has, those kinds of  
24 priorities need to be established.



1 I also want to say that the City  
2 has been very important in making sure this has  
3 been a successful program. The funding of the  
4 outreach and other resources make this program work  
5 was indispensable and we realized soon on, as Terry  
6 Gillen mentioned, that outreach was an extremely  
7 important part of this and many homeowners, in  
8 fact, did not open the mail or stare at their  
9 computers, even if they open it, they do not  
10 understand it and having somebody come out to the  
11 house, as ACORN and other organizations have done,  
12 was extremely important in getting people to get  
13 involved in the process.

14 I wanted to talk briefly about  
15 the Bill, itself. I had some comments on it. The  
16 Section 5109(d), it talks about the court providing  
17 a date for conciliation conference or some other  
18 method, which I assume is having the homeowner opt  
19 in. In Philadelphia the program provides a day for  
20 the conference, so when the foreclosure Complaint  
21 is filed, the homeowner is sent that and we think  
22 that's very important. We think if the homeowner  
23 has to opt in, it creates a confusion. The  
24 homeowner cannot understand it. And I think the

1 experience outside of Pennsylvania has been when  
2 that kind of system is set up, it doesn't quite  
3 work that well. In Philadelphia I think it has  
4 worked well because a date certain has been set up  
5 for the conciliation conference.

6                   Secondly, in 5109(f) there's  
7 mention that if the mortgagee or the legal  
8 representative fails to appear for a conference the  
9 case shall not proceed. I also think it's very  
10 important, and this is part of Philadelphia's  
11 program, that the lender has to have at the  
12 conference, either in person or by phone, a person  
13 authorized to resolve the case. It doesn't make  
14 any sense to have a conference and then say: Well,  
15 we don't know, we have to call somebody. There is  
16 a requirement in Philadelphia that that person has  
17 to be available, and I think that should be part of  
18 this Bill.

19                   Thirdly, the procedure in  
20 Philadelphia is that a default judgment on a  
21 foreclosure case should not be taken until there is  
22 a conciliation conference, and I think that needs  
23 to also be made part of this Bill and part of the  
24 process. Otherwise, a case can proceed and you end

1 up getting right before a sheriff sale. And in  
2 Philadelphia, default judgment cannot be taken  
3 until such time as there is a conciliation  
4 conference. We think that's an important part of  
5 the process. That also adds to the cost. You get  
6 the conciliation conference and then you go ahead  
7 and start scheduling the sale, all sorts of costs  
8 are then put on the homeowner, if they eventually  
9 want to resolve the property.

10 Finally, I wanted to talk about a  
11 couple of issues regarding the conciliation and  
12 this whole diversion process. It is a process.  
13 It's a very important process and I think it's been  
14 a very effective process, but there needs to be  
15 additional resources beyond the conciliation  
16 conference and the diversion program to assist  
17 homeowners, and there are some of those things. I  
18 think everyone is aware that President Obama has  
19 come out with a housing foreclosure plan, which can  
20 assist certain type of homeowners. The problem is  
21 that that program and the way that it is set up,  
22 it's going to be difficult for unemployed  
23 homeowners to be able to participate in that  
24 program.

1           I think as most of you are aware,  
2 when foreclosure prices started, much of it had to  
3 do with sub-prime lending. That has changed, and  
4 while there is still sub-prime lending and still  
5 problems with that, we are now getting more and  
6 more unemployed folks who are getting into the  
7 foreclosure pipeline. Fortunately, in  
8 Pennsylvania, we have created in 1983, and thanks  
9 to John Dodds and to the State legislature, the  
10 HEMAP program. The problem is that program has  
11 been underfunded for many, many years. While it  
12 has gotten some funding, and this year, in fact, it  
13 got 11 million dollars, and the Governor was able  
14 to put in an additional five million to come up  
15 with 16 million, that is still not enough.

16           If you take a look at the  
17 statistics, the approval rates are still not very  
18 high. The number of people who get what is called  
19 continuing assistance, that means they bring the  
20 mortgage current but they continue to get help is  
21 still very low. And quite frankly, what we believe  
22 is needed is substantial funding for HEMAP because  
23 HEMAP is set up to target, specifically, people who  
24 are unemployed. In Pennsylvania, that unemployment

1 rate is skyrocketing, and it's going to continue to  
2 skyrocket, and the resources really need to be  
3 there, so that when someone comes to the  
4 conciliation conference and they have not been part  
5 of the HEMAP program, they can be referred there  
6 and they, hopefully, can get assistance, because  
7 that's why that program is set up.

8                   Secondly, I'd just like to  
9 mention that, and this is somewhat self-serving,  
10 but legal services in this State provide what we  
11 believe to be a very important resource to  
12 homeowners who are faced with foreclosure. And our  
13 funding is somewhat in jeopardy. The State Senate  
14 zeroed out our appropriation for us in the proposed  
15 Bill, and I think it's very important that the  
16 resources be there so the homeowners do get  
17 assistance. Programs like VIP, which provided  
18 court assistance and get involved with lawyers to  
19 participate in the program, also is in great need  
20 of the program. The City has come forward and has  
21 provided some funding, but we also think it's  
22 important that the State set up and also continue  
23 to provide and maybe increase the funding so people  
24 do have legal services and representation.

1                   Finally, I just want to mention  
2 that I know it's not necessarily within the scope  
3 of this hearing, but there are other victims in the  
4 foreclosure process, and they are basically  
5 tenants. In Pennsylvania, when you have these  
6 multifamily properties, or even single-family  
7 properties, you have a lot of landlords who are  
8 being foreclosed, and the tenant ends up, many of  
9 them, paying rent on time, not knowing what is  
10 going on, and the next thing they know, they get a  
11 notice they have to be out. And I think it's an  
12 issue that the State legislature has to deal with.

13                   We thank you very much for coming  
14 here. We're glad the State has taken -- this  
15 Committee has taken a keen interest in this.  
16 You've done great work on mortgage foreclosures and  
17 we look forward to working with you.

18                   REPRESENTATIVE YOUNGBLOOD: We're  
19 going to hold questions until all the testifiers  
20 have had a chance to speak.

21                   MR. DODDS: My name is John  
22 Dodds. I'm the Director of the Philadelphia  
23 Unemployment Project. I thank the Committee for  
24 inviting me. Representative Youngblood is my

1 personal state representative and Representative  
2 McGeehan is the prime sponsor of this Bill. I'd  
3 like to say that House Bill 1042 is an important  
4 piece of legislation. It's modeled after a program  
5 in Philadelphia, the Foreclosure Diversion Program,  
6 which came after the sub-prime crisis was really  
7 wiping out large segments of the country and  
8 Philadelphia.

9           It was just what the doctor  
10 ordered at the time it came in. We had a court  
11 oversight for modification and oversight of  
12 foreclosures where the courts would make sure  
13 people were considering workouts, and it has really  
14 done a great thing. It's really come out of the  
15 sub-prime crisis is what this is. As George said,  
16 that crisis is still there, but it's starting to  
17 diminish.

18           I'll tell you some things that  
19 are in favor of the diversion program, one in the  
20 Philadelphia program, one we have a strong  
21 counseling network funded by OHCD and the  
22 Pennsylvania Housing Finance Agency and the City of  
23 Philadelphia. We have an outreach program. We  
24 also had a strong commitment from the courts, Judge

1 Rizzo and Judge Jones, who really make this program  
2 work, and their commitment has been that people  
3 work something out, and that's not everywhere, but  
4 I think it's important that we have it here.

5 I would also say it's a strong  
6 effort to involve the Bar and the volunteer  
7 attorneys and the VIP program. We have got a lot  
8 of volunteer attorneys, and that's very important.  
9 We also have a history of working relations under  
10 the court leadership between the lender bar  
11 attorneys and homeowner advocates. That's been  
12 going on since 2004 and made it a little easier to  
13 get this program going.

14 Our agency does a lot of Housing  
15 counseling. Statistics are hard to come by in this  
16 program. We have done some between June and  
17 February. We did 155 cases of people facing  
18 foreclosure, many of them two and three years  
19 behind. Of those 155 cases, 57 of them got loan  
20 modifications and mortgages were changed to more  
21 affordable, 66 more are still in process of being  
22 worked out, and only five families went to  
23 foreclosure. We think that's a reflection of this  
24 program. It's also a reflection of the way the



1 market is going and the fact that many of these  
2 mortgage companies really don't want to foreclose.

3           This program forces or requires,  
4 I should say, everybody to get together and think  
5 about whether it's the best thing to take this  
6 property, and I think that's why it's a good bill  
7 across the State. But as I said, we also have many  
8 things going for us in Philadelphia that probably  
9 will not be the case in other counties, so that's  
10 something to think about, if you already are.

11           Once again, as I said, this  
12 program was a response to the sub-prime rate  
13 crisis. President Obama has put together a 75  
14 billion dollar national program called Making Home  
15 Affordable, also to respond to the sub-prime  
16 crisis, and I think it does a pretty good job and  
17 it satisfies the mortgage companies and servicers  
18 to do loan modifications and pays them up to \$3,500  
19 if they work something out with the homeowner.  
20 That's a good thing.

21           The problem is we have got  
22 another crisis coming. The sub-prime crisis has  
23 created this whole recession and now we have got  
24 the second wave coming, and the second wave are the

1 unemployed. In Pennsylvania, our unemployment rate  
2 has gone from 5.6 percent to 7.8 percent in the  
3 last six months. Five thousand homes went into  
4 foreclosure in Pennsylvania in April alone. It's  
5 the highest number since statistics are being  
6 kept. It's a 54 percent increase in foreclosures  
7 in Philadelphia from April of '08 to April of '09.  
8 Much of this is being driven by the unemployment  
9 rate. We have 499,000 people in Pennsylvania that  
10 are currently officially unemployed. And these  
11 folks, it's difficult to get loan modifications for  
12 them.

13                   The purpose of all these programs  
14 is to get the lenders to work something out, and it  
15 can be done, but it's difficult. If people's  
16 income is substantially less, you have a problem.  
17 Now, what has been said across the country, a lot  
18 of the economists from the Federal Reserve Board is  
19 what we need for the unemployed are bridge loans to  
20 get people through until they're back to work. It  
21 makes sense. These are loans, money that would get  
22 paid back.

23                   As George said, we have such a  
24 program in Pennsylvania. It's called the HEMAP

1 program. It's a very highly regarded program. I'm  
2 sure all of you send constituents to HEMAP to get  
3 help. If somebody is out of work, they can't pay  
4 their mortgage, they come to you, you send them to  
5 HEMAP. I think probably they do better than most  
6 people do if they come to the state  
7 representative's office, because the numbers are  
8 not that good in terms of approvals, and there's a  
9 good reason for that. These programs started in a  
10 recession very similar to today back in the  
11 eighties. In the 1983 recession, the unemployment  
12 nationally was over 10.8 percent.

13           The State was putting 25 million  
14 dollars a year into the HEMAP program for three  
15 straight years. Then we came down a little bit, 15  
16 million, 19 million, 18 million. We were funding  
17 the program. And then in 1998 the Ridge  
18 administration decided to run the program by  
19 recovery loans from people that are already getting  
20 assistance. There was no new appropriation for six  
21 years. Six years the program ran just from loans,  
22 and that's an interesting number, because people  
23 pay this back. This is not a grant. This is a  
24 loan paid with interest and people pay it back.

1           In '04 and '05 we started putting  
2 money back into HEMAP, five million dollars, eleven  
3 million, ten million. It's alive, but it's barely  
4 making it. So we have a second crisis that's  
5 coming, a second wave. We have a program in  
6 Pennsylvania that was designed for that. We have  
7 it funded. And as a result, unfortunately, we have  
8 only got about -- if you apply for HEMAP, you've  
9 got one chance in five of being approved. Your  
10 constituents that you're sending for help have 22  
11 percent chance of being approved, and this is  
12 something that I think is a result of being starved  
13 for money.

14           The other problem is people that  
15 are being approved, only 20 percent of those folks  
16 that are approved are out of work and need ongoing  
17 help. Everybody else is already back on their feet  
18 and the program's helped them. And those are the  
19 very people that we can help get loan  
20 modifications. The private sector will help a  
21 family get back on their feet. Once again, it's  
22 being done because the program is starved for  
23 money.

24           One last thing that I want to say

1 is in the history of this program, Pennsylvania has  
2 appropriated 211 billion dollars to help people.  
3 Homeowners have paid back, with interest, 237  
4 million dollars since that time. In other words,  
5 the State has made a 26 million dollar profit on  
6 the HEMAP program since 1983. This is a loan.  
7 It's a good investment in our citizens. And we  
8 really need to take a look at this program that's  
9 been around. It's been allowed to sort of wither  
10 on the vine a little bit because the programs that  
11 we're talking about on this legislation, on 1042,  
12 are very important for getting great results, but  
13 as more and more unemployed face the problem, it's  
14 going to be difficult for them to get help.

15                   So we'd really like to see the  
16 legislature look at this, and we think at least 20  
17 million dollars needs to be put in the budget.  
18 We're in the middle of a recession, a terrible  
19 recession. It's only going to get worse. It's  
20 time we help people save their homes. There's no  
21 reason why you should lose your home because the  
22 economy closes down, and that's what is going to  
23 happen.

24                   So I'd like to thank you all for

1 coming and for putting forward this legislation and  
2 hope you will take a look at the funding and the  
3 mortgage assistance program, also. Thank you.

4 MS. JONES-WRIGHT: My name is  
5 Deserie Jones-Wright. I'm a retired Philadelphia  
6 Police Officer. I was injured. As a result of  
7 that, I was going to face mortgage -- and my  
8 mortgage was going up. It went up to 972. I  
9 called my mortgage company to try to get help and  
10 they wouldn't do anything. And one day I got a  
11 knock on the door and it was Fred and he left the  
12 paper and he told me to read over it and he'd get  
13 back in touch with me.

14 At first I was kind of reluctant  
15 to call because I hit rock bottom, and then he came  
16 back again and I sat down and talked to him and he  
17 told me to call the hotline and I went down and  
18 spoke to Kathryn Russell at ACORN and I took all my  
19 paperwork and we went to room 646 and to no avail.  
20 We didn't get anywhere. But then she brought in  
21 Bob Luken from Community Legal Service. And at  
22 that time I was saving my money and putting money  
23 aside, and Mr. Luken, he negotiated with the  
24 mortgage company and he brought my mortgage back to

1 562 and got me a fixed rate of five percent that's  
2 fixed now.

3           And what I'm here for is because  
4 when you work -- and you always think you're safe,  
5 and I got shot in the line of duty. And I didn't  
6 know I'd have a nightmare like what happened to me  
7 because I did all the right things. And I'm just  
8 glad that they made this program here because it  
9 saved my life. And when I was trying to pay my  
10 mortgage at 972, I had to make a decision of how me  
11 and my kids was going to eat, how the utility bills  
12 was going to get paid. And when I worked as a  
13 police officer, I didn't have that problem, because  
14 I was getting paid every two weeks and I was living  
15 the American dream.

16           Also, I was in the military. So  
17 when you do -- everybody who has this work, it's  
18 not their problem. They do the right things, but  
19 things just happen, and finances turn, and I was on  
20 a fixed -- when you go on a regulation 32, you're  
21 at a fixed rate. Your pension is only once a  
22 month, instead of every two weeks pay. So my  
23 pension was only \$2,000. So if you take 970 from  
24 2,000, there wasn't much left to work with.

1                   And through Ian and Miss Russell  
2 and Fred, and Bob Luken came to my aid. And like I  
3 tell all my friends, there's a song on last night,  
4 a DJ Saved My Life, but I said yesterday ACORN  
5 saved my life, and this program. And I just hope  
6 and pray that you give other people a chance. I'm  
7 sorry for getting emotional, but every time I think  
8 about it -- I'd be sitting in my house, just  
9 pulling my hair, didn't know which way to turn.  
10 And I know there's a God upstairs because he sent  
11 them to my door.

12                   So all I ask is you all think  
13 about when you go to sleep and you're all by  
14 yourselves, people out there, they don't want to  
15 leave their home. I had my home for 12 years, and  
16 I thought I was doing everything right. Just give  
17 everyone a chance, please.

18                   MR. PHILLIPS: My name is Ian  
19 Phillips. I'm the Legislative Director for  
20 Pennsylvania ACORN. I think many of the other  
21 testifiers covered on some of the points that I  
22 had, so I don't have too many, but there's a couple  
23 of things that I want to touch on real quickly.

24                   You know, I think the other



1    testifiers said that this diversion program has  
2    become a national model.  There's been visitors  
3    from all over the country really trying to take  
4    this on.  Just next week the League of Cities is  
5    going to hold a call with Mayor Nutter, Mayor  
6    Blumberg and Mayor Billy DeRosa from LA to talk  
7    about how they want to roll this program out in  
8    their cities.  It's been copied in New York, New  
9    York State; Prince Georges County, Maryland;  
10   Chicago; Minneapolis; Louisville, Kentucky was up  
11   here a few months ago; Orange County, Florida and  
12   many other places.

13                    What we have is a common sense  
14   solution to what has become a kind of global  
15   problem, a common sense global solution to taking  
16   this problem head up.  Firstly, we, at ACORN, felt  
17   it was critical, and the City and courts agree,  
18   that we have intensive door-to-door outreach  
19   because we knew -- there's two reasons for this.  
20   We don't think mail-ins are successful, and the  
21   lenders really agreed with this.  The most  
22   successful mailing was the very first Hope Now  
23   mailing, and that -- reports varied.  It was sent  
24   out from a coalition of lenders and there was a

1 five to seven percent response rate nationwide. It  
2 was sent out to borrowers who were both in  
3 foreclosure and facing an impending rate reset,  
4 meaning their rate was going to reset in the next  
5 three months, telling them to contact their lender.

6 It had a five to seven percent response rate.

7 Especially in Philadelphia, but  
8 more and more across the Commonwealth, bankruptcy  
9 attorneys and increasingly foreclosure rescue scams  
10 are purchasing the public lists of foreclosures and  
11 sending mailings that oftentimes masquerade as  
12 official court documents or documents from their  
13 lender. People don't know what sometimes -- even  
14 if they're paying attention to all the mail that  
15 comes in, and oftentimes, that's not the case  
16 because they're frozen down because everything  
17 seems to be falling apart around them. But even if  
18 they're checking their mail, it's hard to discern  
19 what is an official court document that you need to  
20 respond to, what is an official kind of request  
21 from your lender. It's hard to break through the  
22 mess. So especially early on we felt it was  
23 critical we went through the door-to-door outreach.

24 Now, I know some of you are

1 saying: Okay, door-to-door outreach, that made  
2 some sense in Philadelphia, but it doesn't make  
3 sense in my district. And there's been a lot of  
4 talk about the costs. In Philadelphia we felt it  
5 made sense. Obviously, it's denser than many of  
6 your areas. But door-to-door outreach, and that  
7 means three visits to every home, up to three  
8 visits to every home on this list, given our  
9 density, is about \$25 a household. When you take  
10 into account that all the parties involved are  
11 going to be losing \$70,000 on average from each  
12 foreclosure, you can't afford not to put that  
13 effort in.

14 Another point that should be made  
15 on this outreach piece is that in areas where  
16 there's a high foreclosure rate and a high  
17 sub-prime rate, those areas oftentimes are very  
18 dense parts of the State. So, for example, in  
19 Delaware County, it may not make sense to do  
20 outreach county wide, but the most the  
21 jurisdictions with very high -- municipalities with  
22 very high sub-prime loans three and four years ago  
23 happen to be Upper Darby and Chester. So in those  
24 areas, door-to-door outreach actually would make

1 sense.

2 I think there's also a thought  
3 that some of this could be done over the phone.  
4 This is also true in parts of the Lehigh Valley,  
5 Monroe and Pike Counties that have experienced a  
6 lot of growth in recent times. There's models that  
7 we're rolling out in different parts of the  
8 country, Delaware State is about to roll out its  
9 program that would allow outreach to become -- kind  
10 of make sense in those areas. So that's one piece.

11 The second piece that is critical  
12 and differs from a lot of the programs across the  
13 country is a clear process that pulls the  
14 homeowners in, and that's the Save Your Home Philly  
15 Hotline. From there, they're directly given an  
16 appointment with a housing counselor, and if  
17 they're income eligible, set up with a volunteer  
18 attorney that we spoke about before and told what  
19 materials they need to bring to that counseling  
20 appointment. At the counseling appointment, which  
21 happens well before the conference date, the  
22 counselor prepares an affordable resolution to that  
23 person, sends it over to the lender and lender's  
24 attorney, hopefully ten days before that

1 conference, so the lender can review that and get  
2 back with a response.

3                   Uniformity across the  
4 Commonwealth is one that can help thousands of  
5 homeowners. I just want to kind of -- remember  
6 when we're addressing uniformity, Act 6, passed  
7 earlier, that it was supposed to extend predatory  
8 lending protection across the Commonwealth.  
9 Instead, its real affect was to garner City Council  
10 ordinance that would have saved the City from the  
11 worst of our current housing crisis. Local  
12 jurisdictions should be given the freedom to design  
13 programs that work for them, which this Bill does,  
14 within basic guidelines, door-to-door outreach, as  
15 I said, won't work in every area, but it would work  
16 in many of the areas that are really in crisis  
17 right now.

18                   Solving the housing crisis -- and  
19 this is an important point for folks who say: I'm  
20 not in foreclosure, why do I care about this.  
21 Solving the housing crisis is not only critical to  
22 the lender and the borrower in trouble, but for  
23 every homeowner that lives near a neighbor who is  
24 facing foreclosure. For every foreclosure in that

1 neighborhood, they're losing one percent of their  
2 home's value. And that's to say nothing of the  
3 lost tax base that is caused by those lower  
4 property values, and vacancies, and the increased  
5 cost of policing neighborhoods that are faced with  
6 vacant properties.

7 I'm going to give you kind of --  
8 that's kind of the final point I want to make, but  
9 I want to give you our results through January 15th  
10 of this year. I think, as other people said,  
11 sometimes it takes a while to get these cases  
12 worked out, but we feel pretty confident about  
13 cases through 1/15 of this year. So from June 22nd  
14 of '08 to January 15th, '09 we had 102 cases come  
15 through our doors. Fifty-two -- 53 percent ended  
16 in modification. That is 54. Four ended in  
17 bankruptcies. Two had the foreclosures ended and  
18 the mortgage was just ended. Four were helped by a  
19 PHFA program.

20 As we go on, as John and George  
21 said, we're going to need more help with HEMAP and  
22 other programs. But four percent and four overall  
23 were helped by either HEMAP or HERO. Federal  
24 programs saved two homeowners, two percent. We had

1 one that was not owner occupied and not eligible  
2 for the program. We had 14 -- 13.7 percent that  
3 are still pending, even as their first conference  
4 was January 15th. We had three homeowners get a  
5 repayment plan. Nine went to sheriff sale, about  
6 8.8 percent. Six went to short sale. They were  
7 given time to sell their home at a lower price.  
8 Three were transferred to legal aid.

9           So taking this all together, what  
10 we're calling a successful resolution was 70.3  
11 percent, 16.8 percent are still pending and 12.8  
12 percent ended in an unsuccessful resolution. This  
13 is a higher success rate than any other program and  
14 any millions of dollars or billions of dollars that  
15 have been thrown out there to try to address this  
16 crisis on a federal and different level.

17           I know the other testifiers made  
18 a great deal talking about funding, and I think  
19 that is a critical point, especially on that HEMAP  
20 program. But we really can't afford not to address  
21 this crisis. And I think when you look at the  
22 different pieces that require funding, you're going  
23 to look at it and you're going to say: This is  
24 actually a very small amount of money. Judge Rizzo

1 talked about how she stretched her staff to make it  
2 work. The outreach is inexpensive, in most cases,  
3 and then we have the hotline and some of the legal  
4 aid pieces that require funding for the work that  
5 they do.

6                   So when you look at all the  
7 pieces, they don't -- even altogether don't add up  
8 to a lot of funding. This is a fantastic bill. I  
9 remember sitting up in Holmesburg Recreation Center  
10 with Representative McGeehan, talking to his  
11 constituents. And I'm happy to say that woman that  
12 came up to us at that meeting, her home was saved  
13 by this program, as well. So it's a fantastic  
14 program and something that is catching on across  
15 the country, and we applaud you for taking this on  
16 at the State level. Thanks.

17                   REPRESENTATIVE YOUNGBLOOD: At  
18 this time, do any members of the Committee have any  
19 questions?

20                   REPRESENTATIVE SANTARSIERO:  
21 Thank you, Madam Chair. I just want to explore the  
22 point that Mr. Gould made earlier about the need to  
23 make sure that the lender has someone at the table  
24 who actually has negotiating authority.



1                   In a past life practicing law I  
2 know the frustration many times involved in  
3 negotiations where you don't have someone who  
4 actually has authority and that frustrates the  
5 whole purpose of having conciliation. So that will  
6 be something I would recommend, and I'd be happy to  
7 offer and mimic, that would be included in this  
8 Bill to make it stronger.

9                   REPRESENTATIVE MCGEEHAN: Thank  
10 you, Madam Chairwoman. I want to thank you, Mr.  
11 Dodds, for your recommendations in drafting the  
12 Bill, and I agree with you, and after reviewing  
13 Judge Rizzo's court about knockdown clause, I'm of  
14 the firm belief this must be mandatory  
15 conciliation. And I think it's good for every  
16 borrower that's facing foreclosure, they must  
17 participate in conciliation. So I agree with you  
18 and that's something that we're going to include in  
19 the Bill.

20                   Also, the default judgment can't  
21 be entered without the conciliation, I think, is  
22 another important recommendation for the Bill, and  
23 so I believe we'll include that, as well. You were  
24 heard today and I agree with those sentiments.

1 I wanted to talk to someone  
2 that's been involved in the question. I put this  
3 question to Mr. Dodds, who has been involved with  
4 the Philadelphia Unemployment Project for many,  
5 many years. We had a discussion, and it's  
6 important for us because we are a large state, and  
7 with many of us, all 203 members of the House of  
8 Representatives represent people from every  
9 socioeconomic class, every region, whether it's a  
10 rural community, or a suburban community, or an  
11 urban community, like Philadelphia, and sometimes  
12 we forget the commonality. And it's important to  
13 educate all of us that -- because we're here in  
14 Philadelphia, and with Judge Rizzo's wonderful  
15 program, it becomes, then, a Philadelphia program  
16 solving a Philadelphia problem. And it needs to be  
17 clear that this is a problem that affects everyone,  
18 every district in every part of the State.

19 And my question to you, and you  
20 talked about the recession in the early '80s, and I  
21 remember those days, as well when western  
22 Pennsylvania was rocked with closing steel mills.  
23 They were harder hit than any other region in the  
24 State, and we responded as a Commonwealth as best

1 we could then.

2 I'd like to know, if you know,  
3 Mr. Dodds, the trends now that we're well into this  
4 recession and the foreclosures are beyond the  
5 predatory lending stage where now we're  
6 circumstance-led foreclosures, someone becomes  
7 unemployed as the economy continues and  
8 unemployment rises. It's not just disadvantaged  
9 people who live in big cities who are being  
10 affected.

11 And I wondered if you have  
12 projections or statistics that you can help educate  
13 me and my colleagues?

14 MR. DODDS: Well, I don't have  
15 projections, but I can tell you one thing, we have  
16 a very extensive unemployment benefits program in  
17 this country right now. It's 72 weeks of benefits  
18 for workers that are laid off. People are starting  
19 to come to the end of those benefits before work is  
20 opening up. And I think we're going to see, month  
21 by month, more and more people are going to exhaust  
22 all their income. There's, in effect, no welfare  
23 program in the State. If there were, you couldn't  
24 begin to pay your bills.

1                   And really, if you look at the  
2 unemployment rates by counties, the counties that  
3 are -- Philadelphia is about 9.6 percent, but  
4 there's a lot of counties in the center part of the  
5 State that unemployment is 11, 12, 13, 14 percent.  
6 There's not work up there. It will get better.  
7 It's not going get better for a while. And that's  
8 the beauty of this program, is help you until it  
9 does. It seems like it will never get better. It  
10 will. We have been through these recessions.  
11 People come out the other side, but the trick is  
12 not to let them come out the other side lost their  
13 home, lost their health, you know, family  
14 shattered. We can get people through this.

15                   But it is, it's everywhere. It's  
16 certainly not a Philadelphia problem. It is a  
17 Philadelphia problem, but it's an Elk County  
18 problem. It's all over the State, and the numbers  
19 are very, very high all throughout Pennsylvania.  
20 Actually, now, Allegheny County is probably one of  
21 the best parts. Back in the '80s it was -- all the  
22 mills shut down. Well, they sort of transformed  
23 their economy. They're one of the lowest  
24 unemployment rates in the State. But we have got

1 plenty of places with very, very severe problems,  
2 and the foreclosures are going to continue to rise,  
3 unfortunately.

4                   And we have an opportunity to do  
5 something with that, and I think we have to take  
6 it, I guess in the next month, theoretically, or  
7 however long it's going to take. There's going to  
8 be a budget passed, and we can adequately fund a  
9 loan program that people will pay back to get them  
10 through this, or we can sort of turn our backs on  
11 these families and let them just lose their homes.

12                   REPRESENTATIVE MCGEEHAN: Well,  
13 just an editorial, I remember the '80s. I want to  
14 thank all of you for your testimony. Thank you,  
15 Madam Chair.

16                   REPRESENTATIVE YOUNGBLOOD: I  
17 would like to thank the testifiers for testifying  
18 today before the Commerce Committee, and at this  
19 time we're going to take a five-minute break to  
20 give everyone a chance to stretch.

21                   ---

22                   (Whereupon, a recess was taken at  
23 2:50 p.m.)

24                   ---

1 (Whereupon, testimony resumed at  
2 3:05 p.m.)

3 ---

4 REPRESENTATIVE YOUNGBLOOD: We  
5 also have the pleasure of being joined by State  
6 Representative Curtis Thomas at my far left. Thank  
7 you.

8 At this time, we're going to hear  
9 from our financial services industry group, Robert  
10 Rupel, who is vice-president and CEO of Lafayette  
11 Bank of Lehigh Valley, Bruce Foulke, president and  
12 CEO of American Heritage Federal Credit Union.

13 MR. RUPEL: Thank you very much.  
14 Good afternoon, Representative Youngblood,  
15 Representative McGeehan and the rest of the panel.  
16 Thank you for inviting me to represent the  
17 Pennsylvania Banker's Association and my bank,  
18 which is Lafayette Master Bank located in Lehigh  
19 and Northampton Counties. We are a 1.4 billion  
20 dollar community bank, part of a multi-bank  
21 state-wide holding company that operates in five  
22 states contiguous to Pennsylvania.

23 I'm also the past chairman of the  
24 Pennsylvania Bankers Association and have had an

1 opportunity to travel the State of Pennsylvania and  
2 talk to many, many community bankers over the last  
3 two years regarding many of the issues that we're  
4 discussing today. I very much appreciate this  
5 opportunity. I have had the opportunity, on two  
6 previous occasions, to meet before this Committee,  
7 and I think it's been very worthwhile for the  
8 Bankers Association, and for my bank, and hopefully  
9 for the Representatives.

10 I do support and agree with many  
11 of the comments that were made this morning by  
12 different parties to this overall process,  
13 specifically, certainly a pre homebuyer program,  
14 early intervention, communication, statistical  
15 reporting. And the comments that have been made  
16 about the HEMAP program I think are critical to  
17 working our way through this situation and would  
18 fully support those comments.

19 Certainly, much has changed in  
20 the last year regarding the financial services  
21 business, and I hate to admit this, I have been in  
22 this business for 38 years, and as I look back at  
23 the three most significant recessions of the early  
24 '70s, the early '80s and the early '90s, the

1 current situation certainly is more challenging.  
2 The breadth of it and the depth of it are  
3 increasing pertaining for everyone involved and the  
4 sooner we move on to whatever is normal and  
5 stability will be in everybody's best interest.

6 Representative McGeehan, you made  
7 the comment that nobody wins from a foreclosure,  
8 and certainly, I would support that 200 percent.  
9 Any bank that thinks they win in a foreclosure  
10 doesn't belong in the banking business and doesn't  
11 belong servicing financial communities or their  
12 customers. So it is a very, very significant  
13 problem. Banks are in the lending business. We're  
14 in the business of making loans, giving our  
15 capital, or lending our capital to our customers  
16 and being repaid. We're not in the real estate  
17 ownership business, and we'd greatly prefer not to  
18 be in real estate foreclosure business.

19 Regarding the current Act, we  
20 have a number of things that we would like to see  
21 either included or addressed in that Act, such as  
22 it being temporary or having some sunshine  
23 provision to it so that there is a life to it  
24 beyond, hopefully, and the sooner the better this



1 current crisis. We would like to have it optimal  
2 and optional by county. We would like to have the  
3 borrowers opt in, as opposed to kind of a mandatory  
4 drawing into the process.

5           We would also, and this was  
6 addressed earlier by a number of people, we believe  
7 some form of either quarterly or semiannual  
8 reporting by county is critical to understanding  
9 how the program is working and what changes or  
10 different tacts need to be taken. We certainly  
11 need to understand that success is occurring, and  
12 where it's occurring, and how it's occurring, and I  
13 think that can only happen through reporting.

14           We also -- regarding the  
15 uniformity issue, for many institutions, such as  
16 mine or such as our holding company, we operate in  
17 many counties in the State, and not having it be  
18 uniformed from county to county would be very  
19 difficult and burdensome, and quite frankly, open  
20 up opportunities for mistakes that are in nobody's  
21 best interests. We also believe that the program  
22 ought to be consistent with the current foreclosure  
23 process or the time frames not added onto, and I  
24 will speak to that briefly.

1                   Our current experiences during  
2 this crisis is that it takes approximately 250 to  
3 400 days to get a loan to sheriff sale or through  
4 the foreclosure process. There are, obviously,  
5 significant burdens on everybody during that  
6 process, but there also are significant  
7 opportunities during that time frame for all of us  
8 to work together. In sharing some of our personal  
9 observations that Lafayette has, or Fulton has  
10 experienced, and I think it's important to  
11 understand that we have multiple constituencies in  
12 this process. Certainly our customers, our  
13 shareholders, our regulators, and our communities,  
14 and to be fair to all of those is an artful  
15 balancing act.

16                   Certainly, our delinquencies are  
17 increasing at a concerning rate, but not an  
18 alarming rate, and in central Pennsylvania, and as  
19 one of the gentlemen said I think immediately  
20 before this group, I think a lot of it is  
21 economically related, unemployment related, and I  
22 would add to that also healthcare related. As I  
23 look at our delinquencies, which we review on a  
24 monthly basis, prior to this crisis, if we had

1 four, five mortgages more than 30 days past due,  
2 that was a lot. And probably about half of them  
3 were divorce situations, which tend to be much more  
4 difficult to work through than somebody having a  
5 financial challenge during normal times.

6 I would say today we may have 40  
7 to 50 loans that are in some stage of delinquent,  
8 i.e., more than 30 days past due. And as I look at  
9 those, probably ten of them are situations where  
10 somebody is just trying to beat the system or work  
11 the system, but the overwhelming majority of them  
12 are ones that we would all feel very compassionate  
13 towards and significantly want to help; husband and  
14 wife, or one of the bread winners has a very  
15 significant healthcare problem, can't work,  
16 impacting their income. They have been laid off,  
17 in some cases, both parties have been laid off,  
18 income has been changed significantly, and you  
19 genuinely feel sorry for those people and want to  
20 try to help.

21 In our holding company wide  
22 system, which includes five states, we have about  
23 120,000 loans that we service. We recently sent  
24 out 220 letters to people in that group that were

1 over 30 days past due. So while to those --  
2 anybody on that 220 list they have got a crisis or  
3 situation, 220 versus the 120,000 isn't a  
4 significant number. We heard back from 30 of the  
5 220 people. So again, we're going back up to those  
6 people in other ways, trying to get them into the  
7 process.

8           As I mentioned, in Pennsylvania  
9 it historically takes nine to 12 months to get  
10 something to sheriff sale, and during that time,  
11 typically, taxes aren't being paid, maintenance  
12 isn't being funded, municipal liens or municipal  
13 water and sewer bills or electric bills aren't  
14 being paid, in some counties, municipal liens are  
15 being added to the process, which, again,  
16 substantially increases the overall cost of  
17 resolution.

18           The optimal outcome of this  
19 process is where all parties work together. And I  
20 would echo a previous comment, that there still is  
21 a very common theme that a consumer, for whatever  
22 reason, whether it's denial, whether it's fear,  
23 whether it's embarrassment, whether it's just not  
24 understanding the process doesn't come to the table

1 and participate in the process as early as they can  
2 and participated in a number of different  
3 foreclosure processes in the Lehigh Valley and  
4 continue to stress to customers that they have got  
5 to talk to everyone involved in the process. And  
6 the earlier we sit down together and the earlier we  
7 try to work out solutions, the better off everybody  
8 is. So that's kind of been some of the  
9 experiences.

10 I would also mention that they're  
11 rare, but they're increasing, is that in many cases  
12 when we finally get into a house or when we finally  
13 obtain control through whatever legal means, the  
14 house -- a further nonwin in the process is that  
15 the house has sustained very, very significant  
16 damage in the process, which again, is just a  
17 further everybody losses kind of process.

18 So, also from a reporting point  
19 of view, and I will close on this, from a reporting  
20 point of view, some of the things that we'd like to  
21 see are how many people are eligible to go through  
22 this process in a given county; how many borrowers  
23 actually scheduled conferences; how many actually  
24 attended; how many mediations were successful in

1 the process; what were the outcomes; monitoring  
2 those successes out over some period of time so  
3 that we can better understand what kinds of  
4 solutions really work and which kind are only  
5 temporary and don't work, and then how many  
6 foreclosures are worked out occurred through the  
7 process.

8 I thank you for the opportunity  
9 to share my comments with you and will be more than  
10 happy to answer any questions later. Thank you.

11 REPRESENTATIVE YOUNGBLOOD: Thank  
12 you.

13 MR. FOULKE: Madam Chairman,  
14 distinguished guests, Representative McGeehan, I  
15 want to thank you for giving me the opportunity to  
16 speak here. My name is Bruce Foulke. I am the  
17 President and CEO of American Heritage Federal  
18 Credit Union. We serve memberships that's in the  
19 three county area of Philadelphia, Montgomery  
20 County and Bucks. We have 100,000 members in this  
21 area and 23 branches. We have five branches in  
22 Philadelphia that serve the underserved,  
23 specifically.

24 We think we do something totally

1 unique at American Heritage. Number one, we do  
2 mortgages, not even for American Heritage, but we  
3 do mortgages for a lot of other credit unions  
4 across the State in Pittsburgh, Allegheny,  
5 Danville, Allentown. We do low income credit,  
6 also.

7           We started 2000. We did over 500  
8 million dollars in mortgages, a combination of  
9 different credit unions. The last two years we  
10 have only done two foreclosures. That's all we  
11 have done. I think it's because, number one,  
12 because of good underwriting, the way we handle the  
13 membership to try to deal with them to get them  
14 through their crisis. What Robert said is a  
15 hundred percent right, nobody wins at this. We  
16 don't want the house. There's no way we want the  
17 house, we want to be the landlord here.

18           We think it's really critical  
19 that what you guys are doing, you're taking a step  
20 in the right direction. What the outcome is going  
21 to be, the final bill, is to be seen. There are  
22 concerns we talked about, we already talked about.

23           But I do want to talk about some  
24 of the things that we do at American Heritage,

1 which is kind of mirroring why we have such a low  
2 foreclosure and delinquency rate. Right now we  
3 have over 2,700 members that have mortgages with  
4 us. We have 13 that are delinquent, that are in  
5 the foreclosure process. But out of those 13,  
6 probably half we'll be able to save.

7           Why is it so low? Number one,  
8 these are things that we do. We wait payments for  
9 several months to allow our members to catch up and  
10 add interest on the back end of mortgages. Number  
11 two, we allow our members to make escrow shortage.  
12 We allow them to make up the escrow anywhere from  
13 three months to two years. Number three, we allow  
14 our members to make up past due payments via a  
15 payment plan that fits their financial situation at  
16 the time of their delinquency.

17           Number four, we grant additional  
18 time to members to sell their house without the  
19 member having to make payments while their house is  
20 for sale. Number five, we agree to take the short  
21 payment amounts to allow members to sell their  
22 house in difficult periods. Number six, we suggest  
23 members apply for various State agencies to seek  
24 mortgage relief or financial help. And number



1 seven, once we have continually extended  
2 foreclosure proceedings to give members an  
3 opportunity to secure employment, we extend the  
4 time period that they can make their payments.

5           Before they get in a situation,  
6 we have a financial counseling company called  
7 Balance that we give or have our members call.  
8 It's confidential. It's done by phone. We tell  
9 them to call them. They will do it six days a  
10 week, from 8:00 in the morning until 11:00 at  
11 night. We tell them: Go ahead and help work out  
12 your payments with your other bills you have at  
13 other financial institutions. And we'll even go  
14 back and cut their payments with us with their  
15 credit card, drop the interest rates. We feel if  
16 we catch them right up in the beginning, which  
17 we're doing right now, we feel that that's one of  
18 the success stories.

19           Another thing that makes us a  
20 little more successful in the banks is that people  
21 really enjoy and love their credit union. I've got  
22 to be honest with you, people love their credit.  
23 They tend to pay the credit union first, believe it  
24 or not. So it's nothing to bad mouth the bankers,

1 it's just that they feel ownership to that credit  
2 union movement.

3 We feel that adding more  
4 legislation is appropriate in some areas. What is  
5 the area going to be? Robert said: Is there going  
6 to be a sunshine law to this?

7 When is the limit going to be?

8 Is it going to go forever? I  
9 don't necessarily feel that's a good idea.

10 The other thing is if a mortgagee  
11 doesn't show up at one of the counseling sessions,  
12 how many times do you go back? The mortgagor has  
13 to go back to attend that meeting.

14 Does the mortgagee have to have  
15 an attorney there every time? These are things  
16 that we'd like to know down the road that we hope  
17 you all take into consideration when you draft a  
18 bill. We think it's a great start what you guys  
19 are doing. We think that there's improvements that  
20 could be made with this, but we definitely are for  
21 the consumer here. We really believe in helping  
22 the little guy out, and we appreciate what you guys  
23 have done out there. Thank you.

24 REPRESENTATIVE YOUNGBLOOD: I

1 just have a few comments, not questions. I  
2 understand that both of you are considered as what  
3 you consider community banks and credit unions. I  
4 think overall some of the problems that the  
5 consumer has had have been with some of the  
6 conglomerates, the financial institutions, such as  
7 Wells Fargo, GMAC, PNC and Citibank. I think  
8 you're taking on more responsibility in the  
9 lending, and as you stated, the community is  
10 connected. There is a disconnect when you start  
11 getting into some of these multinational,  
12 multiinternational, such as some of the foreign  
13 banks. There's nothing at stake. So therefore,  
14 they could care less.

15 Now I will continue and ask to my  
16 left: Does anyone have any comments or questions?

17 Representative Thomas?

18 REPRESENTATIVE THOMAS: Mr.  
19 Foulke, thank you for your testimony. In fact, let  
20 me thank both of you.

21 With respect to your testimony, I  
22 didn't understand whether you were supporting the  
23 legislation or whether you believe that it's not  
24 necessary?

1                   Could you clarify that for me?

2                   MR. FOULKE: We're supporting it  
3 to some degree, but we want to see what the final  
4 Bill is, see is everything required, what are the  
5 requirements, what's the legality, what are the  
6 costs that are involved with it, which they have to  
7 be answered.

8                   REPRESENTATIVE THOMAS: Well,  
9 recognizing the climate that we're in, and for some  
10 people, time is of the essence, can I ask that  
11 rather than see what the final product looks like,  
12 why don't you submit some recommendations to the  
13 Chairman, and so as we go through finalizing this  
14 product, we will have those recommendations?  
15 Because sometimes -- I do not want to see this good  
16 legislative prescription get bogged down with this  
17 back and forth stuff on trying to get something  
18 that's perfect when we need to move expeditiously  
19 to do all that we can to save as many homes as we  
20 can.

21                   My next question is, and I think  
22 you mentioned that you only had two mortgage  
23 foreclosures last year.

24                   MR. FOULKE: Last year.

1                   REPRESENTATIVE THOMAS: Are you  
2 saying that the reason for that -- one of the  
3 reasons for that is this premortgage foreclosure  
4 counseling and/or support?

5                   MR. FOULKE: That's one of the  
6 major reasons, too, that we do ourselves.

7                   REPRESENTATIVE THOMAS: How much  
8 weight would you give to the premortgage  
9 foreclosure counseling and so forth?

10                  MR. FOULKE: We have  
11 approximately 1,500 people who take advantage of  
12 that. That's the number I have.

13                   How many are doing the mortgages  
14 and how many are saved? I couldn't say that's  
15 exactly what it is. I would be mistaken to say  
16 that. But I do know it does work, that people  
17 thank us, thank you for helping save my home  
18 because you helped reduce my debt at other  
19 institutions and the credit union. So it's a  
20 combination of both. I can't give you a real  
21 specific number on that, I'm sorry.

22                   REPRESENTATIVE THOMAS: Thank  
23 you.

24                   If I could hear from you, would

1 you also provide some comments with respect to any  
2 recommendations that you have or that you 100  
3 percent support this legislative prescription?

4 MR. RUPEL: Well, I believe you  
5 know far better than I do that in any piece of  
6 legislation or any bill, the devil's always get  
7 details. But we have been -- I believe, we being  
8 the Pennsylvania Bankers Association, have been  
9 fairly consistent over a long period of time in  
10 these hearings. And part of what I was reading  
11 from was a document dated June 4, 2008 where I  
12 think we have consistently communicated things that  
13 we would like to see included in that Bill.

14 I think any piece of legislation  
15 that helps all of us gets through this process and  
16 helps eliminate foreclosures, and helps our  
17 customers and our communities move forward needs to  
18 be seriously looked at, but I do believe that some  
19 of the issues that we articulated, and I believe we  
20 have put that in writing but we'll continue to do  
21 so, Representative Thomas, to make sure that we're  
22 all on the same page. We may not necessarily  
23 always agree, but I do think we have had a good  
24 communication process to articulate what those

1 issues are.

2                   Relative to your second question,  
3 I think, clearly, the homebuyer program and free  
4 counseling is critical. We work closely with an  
5 organization in Lehigh Valley and a gentleman by  
6 the name of Allen Jennings and Community Action  
7 Committee in the Lehigh Valley, and they run, and  
8 we have helped fund, I think, the first class  
9 precounseling homebuyer education program.

10 Unfortunately, that program, many times, does not  
11 get used as much as it should.

12                   Where I believe a homebuyer  
13 program is -- it pays the most dividends or would  
14 have paid was clearly in the sub-prime situation.  
15 And had people gone through a well articulated  
16 first time homebuyer program, they probably would  
17 not have gotten into some of those sub-prime loans  
18 that they did. A lot of our customers today, and  
19 it was talked about earlier, are very good  
20 customers, and they're loans that we have had on  
21 the books for many years, and they have got equity  
22 in their home, but they now have a monthly mortgage  
23 payment of -- pick a number, \$1,000, and they can  
24 afford 500, either because of the health issue that

1 I mentioned or the employment issue that I  
2 mentioned, and no homebuyer program would have  
3 allowed them to deal with that particular kind of  
4 issue. What they now need is something out of the  
5 box in terms of a 40 year mortgage or a 50 year  
6 mortgage.

7                   You can't buy down with a rate  
8 the payment far enough to probably get it from 900  
9 to 400 or 1,000 to 500. You do that with a real  
10 out of the box term program, and unfortunately,  
11 from a conventional money point of view, banks have  
12 a very difficult time with 40, 50 year mortgages  
13 because we can't sell them into the secondary  
14 market.

15                   REPRESENTATIVE THOMAS: Thank  
16 you. I just hope that -- it was July 4th of last  
17 year that we were able to join the Governor in, I  
18 believe it was Montgomery County, to sign a package  
19 of bills designed to deal with this foreclosure  
20 issue. I have already said to my colleagues: I  
21 don't want to wait -- I don't want to do nothing on  
22 July 4th this year, other than be with my family.  
23 So I would like to see us get this done before the  
24 end of the month. And I know that if you help us



1 as much as you have indicated you're interested in,  
2 then we can get this done. Thank you.

3 Thank you, Madam Chair.

4 REPRESENTATIVE SANTARSIERO: A  
5 comment and a question.

6 Mr. Foulke, I think we made a  
7 comment about the time frame in the meeting.

8 MR. FOULKE: I'm sorry?

9 REPRESENTATIVE SANTARSIERO: You  
10 made a comment about time frame of the conciliation  
11 meeting under the Bill that is drafted. The way I  
12 read it, and I may be wrong, but it seems in the  
13 drafting of the Bill it actually gives the  
14 mortgagee a stronger position because the mortgagee  
15 has to be there, whereas if the mortgagor doesn't  
16 show up, they essentially waive their right to the  
17 conciliation process and it goes forward. So I do  
18 think that's a protection for the lender in terms  
19 of being involved in the process and has a little  
20 more control of the timing of the process. I just  
21 throw that out there as a comment.

22 Mr. Rupel, you had made a comment  
23 earlier about consistency or uniformity across the  
24 State due to the fact that you are an institution

1 and a number of other banks obviously operate  
2 throughout the Commonwealth. And I know we have  
3 heard testimony here earlier today, I believe by  
4 Judge Rizzo, arguing for a certain degree of  
5 flexibility on a county by county basis because the  
6 facts and landscape of each county has been  
7 different. And certainly, I can understand  
8 reasonable arguments in favor of both sides of that  
9 coin.

10 I'd like to get a better sense  
11 from you, since you raised this issue specifically,  
12 what things you think we should focus on if we're  
13 trying to craft a legislation to provide for  
14 greater uniformity.

15 What are the issues that you're  
16 most concerned about?

17 MR. RUPEL: Well, part of the  
18 purpose in that comment or taking that position, I  
19 believe there's basically, in the State of  
20 Pennsylvania, one set of foreclosure laws and  
21 there's one set of requirements regarding Act 6  
22 letters and notification requirements and things  
23 like that. So that it would seem to me to be  
24 consistent with that whole process that if there's

1 another part of that whole process that, again,  
2 it's consistent from -- throughout the State of  
3 Pennsylvania. I don't know that right off the top  
4 of my head, but I do believe from an artfulness and  
5 a crafting point of view, well-minded people from  
6 county to county to county could think of different  
7 things that are important to them to have in this  
8 process and tag them on as the process develops,  
9 and just from a lender point of view.

10 But I also would think from a  
11 state agency's point of view, like PHFA or any of  
12 the other organizations that have spoken that are  
13 trying to help consumers across multiple counties,  
14 inconsistencies from county to county might make  
15 that process more onerous and more difficult to  
16 work through.

17 REPRESENTATIVE CALLEN: Mr.  
18 Rupel, you've made a comment about keeping the  
19 conciliation conference within the current process  
20 and so that it doesn't extend the process. And I'm  
21 not sure in realistic terms how you would do that  
22 and not realistically have some facts on the  
23 lending process. If you had one step to the  
24 process, it's inevitably going to --

1                   MR. RUPEL: Well, I guess where I  
2 was coming from on that is let's say the normal  
3 foreclosure process in a given county, and I do  
4 believe it varies from county to county throughout  
5 the State, but let's say it's a nine month process,  
6 and the consumer either ignores all the written  
7 communication or ignores agency requests for help,  
8 and in the eighth month and second week of a nine  
9 month process now says: I want to come into this  
10 process and take another two months or three  
11 months, I'm not sure it's reasonable. So I think  
12 if they come -- I would hope if they would come  
13 into the process early on that we all, as genuinely  
14 concerned people interested in solving a problem,  
15 if we can't get it solved in nine months, shame on  
16 everybody involved.

17                   REPRESENTATIVE CALLEN: I think  
18 one of the reassurances we heard from Judge Rizzo  
19 this morning was that if they have folks they  
20 notify, give a day to, and then they never respond,  
21 but at the last minute they walk in the  
22 conciliation meeting that day with none of the  
23 homework done, none of the counseling done, they do  
24 not have the same kind of entitlement to

1 consideration that somebody who is calling the  
2 hotline and met with the counselor and everything  
3 else. So I think in terms of the model that's here  
4 and appropriately used by the Supreme Court, there  
5 is some recognition of that for correcting the  
6 problem. So I think we're on the same page.

7 MR. RUPEL: Early intervention,  
8 early communication, everybody at the table  
9 together, the overwhelming majority of these  
10 problems can be solved.

11 REPRESENTATIVE CALLEN: Thank  
12 you.

13 REPRESENTATIVE YOUNGBLOOD: My  
14 question is: How do you suggest we handle  
15 international banks and foreclosures because they  
16 don't operate under the same laws that State  
17 chartered, national chartered banks operate in?

18 And would you suggest then that,  
19 let's say, I will just do pie in the sky, that a  
20 foreign bank, if they decided to foreclose and they  
21 don't have, let's say -- put a mortgage on the  
22 borrower, they're not required to really adhere to  
23 a lot of our laws because you have to look -- first  
24 of all, the City has to locate the lender in New

1 York, or wherever, or a responsible person, so what  
2 happens if the borrower misses a month or two and  
3 then they decide to come after them, put their  
4 house up for sheriff sale and solve the problem?

5 What recourse does the borrower  
6 have?

7 MR. RUPEL: Well, Representative,  
8 I'm not an attorney, so I'm going to get out of my  
9 comfort zone I think fairly quickly. But I do  
10 believe that if you're a foreign bank or you're an  
11 out-of-state bank operating in the State of  
12 Pennsylvania, you have to adhere to the same state  
13 laws and the same State requirements, and you have  
14 to adhere to the same federal requirements as we  
15 do. Where I think this process breaks down, and as  
16 my friend at the credit union kind of artfully was  
17 selling the benefits of a credit union, we have  
18 also tried to say to people that one of the  
19 benefits of dealing with a local bank is that if  
20 you run into a problem, that the chance of a  
21 face-to-face meeting is far greater.

22 I participated about a month ago  
23 with Representative Reichley in a mortgage  
24 foreclosure kind of counseling session in his

1 district, and to your point, the overwhelming theme  
2 of the people in the room, consumers in the room  
3 and their frustration was dealing with an  
4 out-of-state financial institution, an out-of-state  
5 mortgage company and trying to get a hold of  
6 somebody, and the almost total inability to get a  
7 face-to-face meeting.

8                   So I don't know that you can  
9 legislate that. I don't know that you can mandate  
10 what we're trying very hard to do as local banks,  
11 as community banks, as people that are going to be  
12 in the Lehigh Valley and central Pennsylvania and  
13 western parts of Pennsylvania when this whole  
14 crisis passes is we're a part of the community,  
15 we're involved in the community, we're here for the  
16 long-term, and if you, as one of our customers,  
17 have a problem, you don't have to call Charlotte or  
18 Los Angeles or Chicago to try to get somebody to  
19 try to speak to. There's somebody available in  
20 your market to sit down face-to-face with and meet  
21 with.

22                   REPRESENTATIVE YOUNGBLOOD: But  
23 all that is well and good, but a lot of the  
24 mortgage companies and a lot of the local banks

1 open to a secondary mortgage company, and that's  
2 where we run into the problem where an  
3 international bank may decide to bundle mortgages  
4 together and pick them up, then they have no one to  
5 talk to. The same thing happens with a  
6 multinational bank where they will say: Oh, we're  
7 multinational. Wells Fargo, as a prime example,  
8 may decide: Well, I'm going to pick up 20  
9 mortgages, or ten mortgages, and the consumer, nine  
10 times out of ten, doesn't even know Wells Fargo,  
11 British Bank, or whatever bank has picked up their  
12 mortgage until they get a letter that your home  
13 mortgage agreement has been refinanced at a  
14 different rate and a different amount. And nine  
15 times out of ten, that's when they're going to go  
16 into foreclosure just because they cannot afford to  
17 pay that mortgage.

18                   So I agree with you, it is better  
19 to deal with your community or a local bank, and  
20 let's hope we can educate people to be careful when  
21 they're getting a mortgage, pay attention to some  
22 of the things coming into your house because nine  
23 times out of ten, your mortgage has been bundled  
24 and sold to a secondary.



1 MR. RUPEL: My only comment on  
2 that is I believe responsible banks, whether they  
3 have sold the mortgage or not, the customer is  
4 still their customer and they will try to help them  
5 work through the process.

6 REPRESENTATIVE YOUNGBLOOD: No,  
7 they're not, because I have experienced some of  
8 that. No, they don't. No, they don't.

9 MR. RUPEL: We do.

10 REPRESENTATIVE YOUNGBLOOD: We do  
11 a lot of -- being in the district and having  
12 constituents come in, no, they don't. Once they  
13 have been relieved as the prime lender and they  
14 sold the mortgage, they're out of the picture.

15 MR. RUPEL: We'll just  
16 respectfully disagree.

17 REPRESENTATIVE YOUNGBLOOD: Well,  
18 I did 30 years in banking, so therefore, that's why  
19 I know about what goes on in banks.

20 Lafayette uses Fulton and Fulton  
21 isn't -- correct me if I'm wrong, Fulton is not a  
22 member of the Federal Reserve?

23 They go through another member  
24 bank?

1                   MR. RUPEL:   Fulton is -- all of  
2   our banks are different regulatory banks.  
3   Lafayette, as an example, is a state fed member  
4   bank. We have national banks. We have OCC  
5   regulated banks. So they're different from bank to  
6   bank.

7                   REPRESENTATIVE YOUNGBLOOD:   I  
8   understand that.

9                   MR. RUPEL:   Fulton is a fed  
10   member bank.

11                   REPRESENTATIVE YOUNGBLOOD:  
12   Meaning that they're processing other local banks  
13   and other credit unions through their system, or do  
14   they go through another bank to do it?

15                   MR. RUPEL:   No.

16                   REPRESENTATIVE MCGEEHAN:   My  
17   questions are for Mr. Rupel, and specifically, the  
18   outreach of your particular institution to  
19   delinquent borrowers, and you talked about you have  
20   seen an uptake in delinquent borrowers and  
21   foreclosure action has been proceeding based on, as  
22   you said, economic foreclosures now.

23                   My question goes to what you're  
24   doing in form of outreach to these delinquent

1 borrowers beyond traditionally sending letters?  
2 In a perfect world, people would respond to those  
3 letters. But the foreclosure process is fraught  
4 with fear and secrecy, and they're hiding stuff  
5 from their husband or their wives, and they're  
6 sticking their head in the sand, hoping it gets  
7 better, or hoping that President Obama is going to  
8 make it all go away. But for whatever reason,  
9 people don't act rationally in a very stressful  
10 situation.

11                   So as a responsible banker, as  
12 someone who has seen these increases, on one hand  
13 we have this conciliation process in Philadelphia  
14 that is enormously successful that does deal with  
15 the emotional denial of what is a very serious  
16 situation, what is Lafayette, what is Fulton doing  
17 if we don't need a conciliation process?

18                   What are you doing to go beyond  
19 the traditional means to reach out to these  
20 delinquent borrowers?

21                   MR. RUPEL: Well, obviously,  
22 we're doing a lot of things different today than we  
23 did '90, '91 or '81, '82, or '83, or whatever and  
24 what we have done in other times. One of the

1 things we have tried to do is look at who made the  
2 original loan and if -- and there tends to be a  
3 connection between that loan officer, that mortgage  
4 officer and that customer, many times having that  
5 lender call that customer to discuss a potential  
6 situation or to try to arrange a meeting to better  
7 understand what the issues are. They will tend to  
8 respond to that individual sometimes far better  
9 than they will respond to somebody they don't know  
10 with the organization.

11 We have a monthly process where  
12 we review all delinquencies, 30, 60, 90 days, all  
13 potential nonaccruals, all potential foreclosures,  
14 and that tends to be upper-level people, and one of  
15 the common themes is does anybody know these  
16 people, can we get them to PHFA, can we get them to  
17 CACLD, what are the intervention methods? We  
18 analyze the property, is there equity in the  
19 property, and then try to determine what is causing  
20 the problem.

21 Now, we do try to outreach beyond  
22 letters. That's a delicate process, also because  
23 you can't hound a customer. You can't call them.  
24 We try to try to be as professional in that as we

1 can. We don't call people in off hours. But if  
2 they're ignoring us, we will then search through  
3 our organization, and we're still of a size where  
4 we can do that and we have enough stability in our  
5 organization that the chance of somebody else  
6 knowing them is still good, and I have worked  
7 for --

8 REPRESENTATIVE MCGEEHAN: How is  
9 that different than how you handled that 20 years  
10 ago?

11 MR. RUPEL: Well, I think the  
12 only difference, the primary difference, sir, is  
13 that '90, '91 a lot of the problems we're starting  
14 to see now -- the duration of '90, '91 we would now  
15 be in a situation where you're coming out of the  
16 tunnel and things are starting to get better. The  
17 unemployment rate was, I think, more localized to  
18 certain specific industries and wasn't as broad as  
19 it is today. We didn't have the depth of the  
20 problems, and we're certainly more acutely aware  
21 today as we look out and say: This may be with us  
22 for another year, and therefore, we need to take a  
23 much more proactive step in the process so that a  
24 year from now we aren't in much worse shape than we

1 are today.

2 REPRESENTATIVE MCGEEHAN: I'm  
3 just trying to understand how it's different.  
4 You're making calls. You're sending letters, the  
5 same things did you 20 years ago in a similar  
6 economic time.

7 MR. RUPEL: I think we're using  
8 community agencies a little more and trying to  
9 partner. We have certainly become more aware of  
10 the strengths of PHFA then maybe when we were 18,  
11 19 years ago. I think we have partnered with some  
12 community organizations more appropriately today  
13 then what we did maybe 18 or 19 years ago.

14 We're also doing training with  
15 our people to how -- either from a sensitivity  
16 point of view, we're trying to be fair to both  
17 party's point of view to solve the problem, knowing  
18 full well, as you stated, that there are very  
19 stressful times and difficult times, and the more  
20 you can get everybody to the table and try to sit  
21 down and determine, and we are doing a number of  
22 the things that were referenced in terms of  
23 waiving payments, in terms of putting delinquencies  
24 on the back end or whatever, and there's been a lot

1 written, if the problem is that the consumer can't  
2 afford the monthly payment, you can waive payments  
3 all day long, and you can waive fees all day long,  
4 and can you go through restructuring, but if you  
5 don't change the monthly payment, 30, 60, 90 days  
6 later you're just going to be right back where you  
7 were and nothing has been accomplished.

8                   REPRESENTATIVE MCGEEHAN: Which  
9 leads me to my next question, and that is the menu  
10 of options offered to consumers who find themselves  
11 in that situation. We had some statistics that I  
12 can't put my hands on right now that Judge Rizzo  
13 had enunciated for the conciliation process. I  
14 think the Judge said there was a -- before the  
15 conciliation, 30 percent failure to respond. Today  
16 it's now 20 or below and 70 percent success rate in  
17 the conciliation.

18                   What is your success rate in  
19 response to these delinquency notices?

20                   What is the compliance after  
21 you've done all the things that you have done to  
22 cause letters to go out?

23                   MR. RUPEL: Well, I don't have  
24 the specific statistics, so I learned a long time

1 ago not to make them up. But I can tell you that  
2 certainly while our delinquencies are up and  
3 they're higher than we would like them to be, we  
4 have not had alarming or dramatic increases in  
5 foreclosures.

6 REPRESENTATIVE MCGEEHAN: If I  
7 may, Madam Chair, just to follow up, my concern is  
8 that, and I understand where you're coming from,  
9 certainly you're a lender who expects to be paid  
10 the original terms of the loan that the consumer  
11 had initiated, and that's certainly reasonable.

12 In the example of the  
13 conciliation, we have an outside party who is  
14 attempting, because of their knowledge about the  
15 alternatives, whether that's refinancing, whether  
16 that's restructuring a loan, whether that's  
17 changing either the term of the loan, the interest  
18 rate of the loan, those advocates are working with  
19 that consumer to lay out the full array of options  
20 that they can work with a particular lending  
21 institution doing.

22 Are you doing that same type of  
23 menu with the consumer?

24 Are you staying in terms of the



1 loan?

2 Are you offering those options,  
3 as is being offered in these conciliation  
4 meetings?

5 MR. RUPEL: We are doing that on  
6 a case-by-case basis and based on the facts and  
7 based on how the consumer is willing to work with  
8 us. I would submit to you that where we have been  
9 able to establish a dialogue, either one-on-one  
10 with our customer or through a third party, and the  
11 customer is willing to be a party to the  
12 restructuring and a party to the process and to the  
13 solution, again, I will restate your point, there  
14 is absolutely nothing to be gained by foreclosing  
15 on that property, absolutely nothing to be gained  
16 by us owning it. The minute we own it, the minute  
17 we have gone through sheriff sale and a mortgage  
18 foreclosure, that property significantly  
19 deteriorates in value because the public knows that  
20 the bank now owns it. We're not in that business  
21 and we don't want to be in it.

22 So if the consumer and our  
23 customers want to work with us and is willing to  
24 participate from a full disclosure point of view,

1 there are a lot of creative things that can be  
2 done, such as temporarily reducing payments and  
3 then trying to, when they're back to work, make up  
4 the deficiency over some longer period of time,  
5 weighting fees, weighting delinquencies or  
6 whatever, but I wouldn't submit to you that that's  
7 -- that there's a cookie cutter structure that  
8 works in every situation. It depends on what is  
9 the loan, the value of the home, how far has it  
10 gone past due, how cooperative are the people, do  
11 they have any income at all.

12 I mean, some of the federal  
13 programs coming out have some very, very ridged and  
14 structured guidelines to it that, quite frankly,  
15 don't help the consumer, or you look at them and  
16 say: Do we meet all those, or you didn't violate  
17 any of those issues, why would you have a problem.

18 REPRESENTATIVE MCGEEHAN: My  
19 concern is, and why I'm asking these questions is  
20 that the safety for an outside party, in this case  
21 a housing advocate or a nonprofit, laying out a  
22 full array of options that are available to the  
23 individual, they make it without that conciliation  
24 process on a one-to-one basis. Now, that's my

1 personal belief. And my concern is that save the  
2 conciliation process, really, the consumer is left  
3 with very little options in dealing with the bank  
4 on an individual basis.

5 MR. RUPEL: I have absolutely no  
6 problem, sir, in dealing with an interested third  
7 party that is willing to help negotiate a  
8 resolution for a customer. I would like to think,  
9 and I agree, we don't live in a perfect world, but  
10 I would like to think that if a customer of ours  
11 walked into the bank with a legitimate problem and  
12 was willing to sit down and say: I can do this,  
13 but I can't do this for this period of time, and  
14 that is verifiable and documentable, and we have  
15 got an ongoing dialogue, and this is a customer  
16 that is in genuine need of help, that we would help  
17 them, whether there's an outside third party or  
18 not. But if there's an outside third party, I have  
19 absolutely no problem with our people and creating  
20 an environment where if they can bring a genuine  
21 solution to the table that's in everybody's best  
22 interest in dealing with them.

23 REPRESENTATIVE MCGEEHAN: It  
24 sounds like an invitation to visit the Lehigh

1 Valley.

2 MR. RUPEL: We have a very good  
3 Community Action Committee in the Lehigh Valley and  
4 CAC, and they do wonderful work. All the banks in  
5 the Valley work very well with them.

6 REPRESENTATIVE MCGEEHAN: Thank  
7 you for indulging me.

8 Thank you, Madam Chair.

9 REPRESENTATIVE YOUNGBLOOD: Any  
10 other questions?

11 No one has any questions? Thank  
12 you for testifying.

13 Our next group, Pennsylvania  
14 State Government Group, Paul Wentzel, Department of  
15 Banking, and Bill Fogarty, Government Affairs for  
16 Pennsylvania Housing Finance. Good afternoon,  
17 gentlemen.

18 MR. WENTZEL: I'm going to try to  
19 be brief. My name is Paul Wentzel and I am  
20 Executive Assistant to Secretary of Banking, Steve  
21 Kaplan, who regrets he can't here today. He has a  
22 speaking engagement in Pittsburgh, so he's going to  
23 Pittsburgh, otherwise he would be here. But we did  
24 have a chance to talk about the Bill with Chairman

1 Daley, and on Tuesday with Mr. Callen, so we look  
2 forward on that.

3 I did want to talk a little bit  
4 about the Department's of Consumer Services staff  
5 and their efforts in trying to assist borrowers who  
6 have a problem with their lenders. A little  
7 commercial there. It's 1.800.PA.BANKS. Anyone who  
8 calls that, and we have a great staff of people  
9 that we actually have tripled in the last couple of  
10 years, the number of people we have from the system  
11 and borrowers. The primary goal of our Consumer  
12 Services staff is to assist borrowers in navigating  
13 through huge bureaucracy of out-of-state mortgage  
14 lenders. And even though we don't license a lot of  
15 these companies, we have contacts with the  
16 companies that we can speak to and they will help  
17 our staff help consumers, constituents of  
18 legislators.

19 We're not always successful. We  
20 have had a lot of success over the last several  
21 years in working with a whole host of lenders,  
22 including Wells Fargo, Countrywide, who has not the  
23 best reputation, J.P. Morgan Chase, Linton Loan,  
24 companies like that, and they will work with us.

1 It's good. Sometimes they will help with the loan  
2 modification or a forbearance agreement to help  
3 the borrower in saving a home. So we feel pretty  
4 good about that.

5                   Now, more recently, in 2009, we  
6 have set up a new program. We haven't given this a  
7 lot of press coverage, but we have been working in  
8 conjunction with PHFA, with Bill's colleagues, and  
9 try to help borrowers. And we have asked many of  
10 these large lenders and the servicers who I think  
11 are really a large part of the problem, they're not  
12 here today, such as City Mortgage and City  
13 Financial, Countrywide, Wells Fargo, Select  
14 Portfolios is a name you probably know, Linton Loan  
15 Company, and we have asked them to prepare listings  
16 of borrowers by ZIP code that are more than 30 days  
17 delinquent in their mortgage.

18                   And what we have done, Secretary  
19 Kaplan has written a letter that talks about the  
20 Department of Banking and the PHFA is working  
21 together on this foreclosure process and this  
22 crisis. And it says that if you're having  
23 difficulty making your mortgage payment and you  
24 want to stay in your house and avoid foreclosure,

1 we can give you free help, and that's the key, free  
2 help, not -- a little modification, free help. And  
3 there's a toll free hotline, 866.984.5108, and you  
4 call that hotline and schedule an appointment with  
5 a certified housing counselor certified by Bill's  
6 agency, and they will help you address some of your  
7 problems with your mortgage lender or servicers.

8                   And we have a whole list of  
9 servicers or lenders and we dedicate a person we  
10 contact for the housing counselor to work with the  
11 person. Now, we have rolled this thing out. It's  
12 a rolling thing. We're doing it by ZIP code. We  
13 had -- a first sort of problem was in Pittsburgh  
14 and Pittsburgh ZIP codes. We went to Erie and now  
15 we're in Lehigh Valley, which Bob was talking  
16 about. I think the response hasn't been great, but  
17 we're going to stick with it. We're going to go  
18 from the whole state, have that available. And the  
19 people that are counselors that are approved by  
20 PHFA are great people and people in the mortgage  
21 companies they're designated to help are great. So  
22 we're hoping to be able to help a lot of people  
23 with that. It sounds a lot like what the City is  
24 doing, the City of Philadelphia is doing.

1                   In terms of the legislation, we  
2 like the legislation, House Bill 1042. We saw  
3 early drafts of it and pretty much signed off.  
4 Secretary Kaplan's test, I told the Chairman and  
5 Mr. Callen, and as long as it doesn't delay or  
6 significantly lengthen the foreclosure process and  
7 it doesn't do anything afoul HEMAP, we support it.

8                   That's all I have to say.

9                   MR. FOGARTY: Thank you. I feel  
10 like a prizefighter waiting three hours to get in  
11 the ring. First of all, I'd like to thank  
12 Chairperson Youngblood for holding the hearing  
13 today. I'd like to thank Representative McGeehan  
14 for his leadership on this issue and also for  
15 providing PHFA with an opportunity to comment on  
16 the legislation last year. And I think that this  
17 particular version of this concept is much better  
18 than the bill that you had last year, and that's  
19 the way things work in the legislature. You work  
20 together, you come up with a better product.

21                   I am Bill Fogarty, the Director  
22 of Government Affairs for Pennsylvania Housing  
23 Finance Agency. I have worked with just everybody  
24 up there, and most of you know what I'm going to



1 say. We've worked on HEMAP. We've worked on  
2 rental housing projects. We've worked on single  
3 family deals. But the agency basically has three  
4 areas it works in, rental housing. We have done  
5 about 85,000 units across the State. We have done  
6 about nine billion dollars of single family  
7 housing, helped 130,000 people buy their first  
8 home. And we do those two programs without any  
9 subsidy from the State.

10 One program that a lot of folks  
11 have talked about today is the HEMAP program, and  
12 that is the program where the Commonwealth did step  
13 forward in the early '80s. Again, I give a lot  
14 organizations credit for getting that done. And  
15 John Dodds, I remember in the early '80s when John  
16 Dodds was pushing for that and a lot of people  
17 thought it wouldn't work, and here it is all these  
18 years later. Last year he was recognized by  
19 Harvard University as one of the most innovative  
20 government programs that has ever been created.

21 Now, there's two tests for HEMAP.  
22 The person who is applying has to be in that  
23 circumstance by something beyond their control.  
24 They can't be going to Atlantic City and gambling.

1 They have to have lost a job. They have to have an  
2 injury, something like that. The second test is  
3 there has to be a reasonable likelihood they're  
4 going to get back on their feet.

5           If somebody was shoeing horses  
6 and they're not willing to get retrained, why  
7 should the State step up and loan them money if  
8 they're not going to be able to pay that mortgage  
9 because they're unwilling to get retraining? So  
10 there's two tests. It has to be due to  
11 circumstances beyond your control and there has to  
12 be a reasonable likelihood you're going to get back  
13 on your feet.

14           The process for HEMAP is this:  
15 If a lender intends to start foreclosure action,  
16 they have to send a notice -- and the homeowner is  
17 60 days or more delinquent, they have to send a  
18 notice to that homeowner explaining that there is  
19 an emergency mortgage assistance program provided  
20 by the State and they attach a list of housing  
21 agencies for that particular county where they can  
22 go to make the application. The homeowner has 33  
23 days from the postmark date of that letter to get  
24 into a counseling agency. The counseling agency,

1 from the date that person comes in there, has 30  
2 days to get that application to us.

3 Now, if they get that into us in  
4 a timely manner, we contact the lender and all the  
5 foreclosure proceedings are stopped until we make a  
6 decision, and we have 60 days to make a decision.  
7 If they don't get it in there in time, they can  
8 still apply for HEMAP, but we can no longer tell  
9 the bank they have to stop the foreclosure process.

10 If approved, there's two forms of  
11 assistance, continuing assistance, where someone  
12 may need -- they have got \$1,000 a month mortgage,  
13 they can pay 500 right now, we'll pay 500, and  
14 combine that and send it on to the bank, and then  
15 we constantly do reevaluations during the term of  
16 assistance to see how much they can afford and how  
17 much we should contribute. Sometimes our  
18 involvement goes up, sometimes it goes down, but  
19 they have to be at a point where they can take care  
20 of it themselves within 36 months because we can  
21 only provide 36 months of assistant.

22 Now, the program, some of you may  
23 recall, was actually a 24 month program up until  
24 February 1st. And the reason it jumped to 36

1 months is because of the trigger in the  
2 legislation. When unemployment reaches 6.5 percent  
3 over a three month period, on average, we have to  
4 jump that up to 36 months of approval.

5           What that does, quite frankly, is  
6 when we're evaluating them, if there's a year  
7 delinquent by the time they get approved for HEMAP,  
8 it's easier to get approved because they have got  
9 two years to recover, as opposed to one year to  
10 recover at that one year mark. If it's a two-year  
11 program, they have to be back on their feet in 12  
12 months. Two year program and one year delinquent,  
13 the State will only provide 36 months of  
14 assistance. They have two years to recover. So I  
15 think what you're going to see is the continuing  
16 assistance loans are actually going to increase,  
17 which is what we're seeing.

18           Now, the focus of HEMAP is not to  
19 address what we've seen over the last few years,  
20 which is sub-prime lending adjustable rate  
21 mortgages, it's really a dimension for people who  
22 are out of a job. It's a temporary program. It's  
23 not to restructure. So in October, 2007 PH of A  
24 created two programs. One is called REAL, which is

1 a refinancing program for people who are in  
2 adjustable rate mortgages. And the other program  
3 is called HERO, and that's more for people who are  
4 upside down in their mortgages. We fund that  
5 through the sale of taxable securities, and we have  
6 done 22 million dollars in REAL loans and we have  
7 done eight million dollars in HERO loans.

8           Considering that the federal  
9 programs have done very little, I think  
10 Pennsylvania serves as a pretty good template that  
11 some of these programs can work. We think that  
12 education is critical for home ownership. We  
13 require that people go through counseling,  
14 consequently, for the thousands and thousands of  
15 loans that we service. Our delinquency, or rather,  
16 our foreclosure rate is under five percent. It's  
17 about less -- just a little bit over a half a  
18 percent.

19           We do many underwriting. We  
20 really hold their hand going into the process and  
21 make sure they understand the responsibilities of  
22 home ownership. The second part of counseling that  
23 we do, and we started this in response to the  
24 foreclosure crisis, is we do foreclosure mitigation

1 counseling. In 2008 we solved 25,000 people that  
2 deal with either buying a home or saving their  
3 house from foreclosure, and we think in 2009 we  
4 have probably counseled 50,000 people.

5 Now, in Act 16 of 2008, which the  
6 legislature passed, and that's the one of the bills  
7 that Curtis Thomas was busy on July 4th at the  
8 signing ceremony, Representative Thomas, you  
9 required that Act 91 notices come into PHFA. In  
10 the fourth quarter of 2008 we actually got over  
11 21,000 Act 91 notices. Now, that's a little scary,  
12 especially when you consider that we only get about  
13 1,000 to 1,200 applications a month.

14 So what is happening to the folks  
15 that are getting these Act 91 notices? In the  
16 first quarter of 2009 we received about 30,000 Act  
17 91 notices. Now, I have to say, beyond this, we  
18 don't feel 100 percent comfortable with the fact  
19 that there's not duplicates, although our computer  
20 people tell us they have gone through there because  
21 we're just having trouble believing that 30,000 Act  
22 91 notices went out in the first quarter. But it  
23 goes back to the fact that -- let's say that it's  
24 not 30, let's say it is 25, there's a communication

1 problem there.

2           Our counseling is trying to get  
3 lenders and homeowners talking, and that's the key  
4 focus, I think, of what House Bill 1042 is trying  
5 to do. I just want to make some observations with  
6 regard to House Bill 1042. The way it's drafted  
7 now, the way I understand it, the Act 91 process,  
8 which we think is very important that people still  
9 have that available to them, the first step in the  
10 foreclosure process is actually between the lender  
11 servicing the Complaint, or goes through the court  
12 and serves the Complaint. So that would occur  
13 after the homeowner either doesn't take advantage  
14 of Act 91 or takes advantage and is turned down.  
15 So we feel comfortable with that.

16           I know people have mentioned some  
17 counties should opt in opt out. We don't -- the  
18 way we look at it, we will be more than happy to  
19 work with the legislature and some of the  
20 stakeholders, the community bankers, the PA  
21 bankers, credit unions and try to come up with any  
22 legislation, or members of the legislation, you  
23 think is good. But one of the things that one of  
24 the attorneys that work for me, or work for the

1 agency mentioned is we have been having meetings  
2 with Dauphin County.

3           Quite frankly, Dauphin County is  
4 going to start the process, and when they looked at  
5 their foreclosures, they came back to us and said:  
6 We appreciate your help, but we don't think we have  
7 a problem in Dauphin County that a lot of counties  
8 have around the Commonwealth. And the only reason  
9 I suggest this is maybe there should be some kind  
10 of trigger, and this might be an option for certain  
11 counties when foreclosures -- if you're not having  
12 a lot of foreclosures, is it necessary to have this  
13 implemented? I don't know. There's two sides to  
14 that argument. You could say: Well, I think  
15 everybody should get an opportunity to meet with  
16 their lender. But anyway, someone threw it out and  
17 I asked them to please mention that to the  
18 Committee. I don't think this should add much time  
19 to the process. I think that if it's done  
20 properly, I think you tend to work pretty  
21 efficiently, but again, it has to be done properly.

22           Lastly, as I mentioned, we'll  
23 work with our legal folks, who will be more than  
24 happy to meet with anyone and talk about amendments



1 and help the Congress committee draft any  
2 amendments so they fit into the foreclosure process  
3 in Pennsylvania, and most importantly, do not  
4 jeopardize the rights afforded folks under Act 91.

5 MR. THOMAS: I have a comment. I  
6 think Pennsylvania has probably the best government  
7 relations folks in banking and over at PHFA. I  
8 have spent the bulk of my 20 years in the House  
9 interacting with both of you on different kinds of  
10 problems, and you have always been timely,  
11 sensitive and visionary to helping to come up with  
12 public policy that probably makes Pennsylvania  
13 probably one of the -- we have problems all across  
14 the board, but in Pennsylvania, it's not as drastic  
15 as it is in states like Nevada, Ohio and some other  
16 states. And I think that largely has to do with  
17 the leadership over the agencies and you two  
18 gentlemen as stellar human relations people. So I  
19 want to thank you for your testimony.

20 MR. WENTZEL: Thank you,  
21 Representative Thomas.

22 REPRESENTATIVE CALLEN: Bill, one  
23 of the things that we learned this morning is  
24 really important in the process that is running

1 here in Philadelphia is the whole infrastructure of  
2 counseling agencies, hotline, the VIP program with  
3 pro bono lawyers, but in smaller counties, that's  
4 going to be hard to pull off.

5                   And one of the things -- since  
6 you fund a lot of the housing agencies through PHFA  
7 in the smaller counties, would it be conceivable  
8 that they could handle the duties of a hotline in  
9 terms of some place for somebody to call in when  
10 they get a letter and they assign you a housing  
11 counselor and work that up?

12                   MR. FOGARTY: I think the details  
13 of that would not be that tough. I mean, we  
14 operate a variety of programs, and quite frankly,  
15 when HEMAP was started, that was impossible, and I  
16 remember the changes we have made to that over the  
17 years. And certainly, we'd probably want a  
18 State-wide hotline that can come into our offices  
19 and then we filter it out to different housing  
20 counseling agencies. We have coverage in all the  
21 rural areas, and we go into all those areas. So  
22 I'm sure that can be worked out.

23                   REPRESENTATIVE CALLEN: Thank  
24 you. Thank you, Madam Chair.

1                   REPRESENTATIVE YOUNGBLOOD: I  
2   concur with Dave and Representative Thomas. Both  
3   of you have been a true blessing when I have had  
4   problems with my constituents having their homes  
5   foreclosed and helping them to take the time, and  
6   also with the banking issues and dealing with some  
7   of the banks that we have to deal with. I'm  
8   thankful and grateful, and they are, as well.

9                   REPRESENTATIVE THOMAS: Madam  
10 Chairlady, I don't want to delay things too much,  
11 but I have a question. A lot of my constituents  
12 over the last 30, 45 days, and I even noticed it  
13 last week, that on a lot of their credit card  
14 statements and on a lot of their mortgage  
15 statements there's something called predebit  
16 determination. And in other words, if the mortgage  
17 was due on the 15th and you send the payment in  
18 before the 15th, this predebit determination allows  
19 the mortgage company or the finance company to take  
20 their money before it's due. There's a number of  
21 people that's going to have problems, because if  
22 you're operating on a tight budget, and your check  
23 has been treated as a debit card, and you're taking  
24 the money right out of the account, even though the

1 debt or the payment is not due for maybe two, three  
2 days, that can create problems.

3 Can you take a moment to talk  
4 about this predebit determination because I have  
5 never heard of it?

6 MR. WENTZEL: Well, I'm not  
7 familiar with the percentiles. Of course, if you  
8 do mail a check and we get it two or three days  
9 before it's due, a lot of cases, they can process  
10 that check because the check is live as soon as  
11 it's received. But I can see where it would be a  
12 problem if a person is playing it close.

13 REPRESENTATIVE THOMAS: I know  
14 they can process a check if I send a check in for  
15 my mortgage payment and it gets there in a day or  
16 two beforehand, they can process it, which means  
17 that transfer might not occur until the date it's  
18 due. But it's my understanding that through these  
19 predebit terminations they can take the money out  
20 of the account right away.

21 MR. WENTZEL: I'm not familiar  
22 with that.

23 Are you, Bill?

24 MR. FOGARTY: No, I'm not.

1 That's not something we deal in. The only thing I  
2 will suggest is I will look into that new credit  
3 card protection bill that was recently signed by  
4 the President. I will check and see if anything  
5 like that is prohibited.

6 MR. WENTZEL: I would doubt it,  
7 because you're talking about a debit transaction,  
8 right?

9 REPRESENTATIVE THOMAS: No. I'm  
10 talking about a mortgage payment, credit card  
11 payment, which the credit was not secured against a  
12 debit card. I'm talking about --

13 MR. WENTZEL: There's a debit  
14 arrangement with the mortgage company.

15 REPRESENTATIVE THOMAS: Right.  
16 I'm talking about mortgage payments being handled  
17 as though it was a debit card so that you can take  
18 the money right out of the account.

19 MR. WENTZEL: Is there a  
20 particular lender that uses this process?

21 REPRESENTATIVE THOMAS: Yes,  
22 Chase, Citizens. I mean, the last couple of weeks  
23 I have seen at least 15 bank statements with this  
24 predebit debt determination on it. And on the bank

1 statements the constituents share with you, you can  
2 clearly see the earlier statements you never saw  
3 anything called a predebit determination. So it's  
4 something new that banks and mortgage companies are  
5 using, but it is going to create real financial  
6 problems for people living on a tight budget.

7 MR. WENTZEL: I did have a call  
8 from one of your staff about it. He was going to  
9 get back to me with the institutions that were  
10 using this process. I haven't heard back from him.

11 Is it Mr. Haines?

12 REPRESENTATIVE THOMAS: Right.  
13 And Bank of America is also using it very often.

14 MR. WENTZEL: We haven't had  
15 those complaints yet at the Department, but we'll  
16 look into it.

17 REPRESENTATIVE YOUNGBLOOD: In  
18 addition to that, I'd like for you to get to know  
19 Judge Rizzo. Judge Rizzo is running the courtroom  
20 conciliation court, and I think they give you tons  
21 of advice to help you do anything and programs that  
22 they have, and I think it would be a good match.

23 MR. WENTZEL: Thank you.

24 REPRESENTATIVE YOUNGBLOOD: At

1 this time I'd like to call Tom Puleo from Goldbeck  
2 McCafferty and McKeever.

3 MR. PULEO: Good afternoon, Madam  
4 Chairman, Representative McGeehan and other  
5 representatives of the House and Committee  
6 members. My name is Thomas Puleo. I'm an attorney  
7 and partner with the law firm of Goldbeck  
8 McCafferty and McKeever. Our firm is dedicated  
9 primarily representing lenders in the State of  
10 Pennsylvania, as well as the State of New Jersey,  
11 with our primary focus on mortgage foreclosures,  
12 bankruptcies and related areas of law. I have been  
13 invited to speak for a few moments, and I know it's  
14 late in the day, so I will try to keep my comments  
15 on focus and short.

16 I think, first of all, there's  
17 two agencies or two entities actually should be  
18 somewhat applauded for all their efforts. One of  
19 them is Judge Rizzo and the Philadelphia Steering  
20 Committee, Foreclosure Steering Committee, for all  
21 the hours and hours of time that they devoted to  
22 their program. It's been written up across the  
23 country. It's been tallied as a huge success.  
24 It's been emulated. It's been replicated. And

1 we're now moving from what has now been a  
2 Philadelphia program and we're looking to have a  
3 conciliation conference on a State-wide level.  
4 Bearing in mind that now we're going from what is  
5 now local, although Philadelphia is the county with  
6 the largest population in the State, to certain  
7 things that are unique to Philadelphia and certain  
8 things that have developed from our program, which  
9 I think may need to be addressed if we're going to  
10 make this conciliation process work on a State-wide  
11 level.

12                   The other entity, before I get  
13 off and forget them, is Pennsylvania Housing  
14 Finance Agency and Department of Banking. They  
15 have been more than instrumental in everything that  
16 they have done over the years, beginning with HEMAP  
17 and its adoption in 1983. Unfortunately, or  
18 fortunately, I was around practicing law at the  
19 time the first moratorium started, the sheriff  
20 sales, which began in Allegheny County in 1982,  
21 which led to the creation and the adoption and the  
22 enactment of Act 91 of 1983, and happy to say I  
23 wasn't around when Act 6 of 1974 was enacted,  
24 although I was around when a lot of litigation



1 began for that Bill.

2 I think to make any program work  
3 in the State it's got to be expedient, it's got to  
4 be quick, and it's got to be successful, and it's  
5 got to be resourceful. And as demonstrated by the  
6 committee in Philadelphia, it's got to be worked  
7 out or it's got to be in conjunction with both  
8 sides, both the lenders and the debtors to be a  
9 success.

10 In looking at the program now,  
11 and just to give some time frames, and this is why  
12 PHFA is so important in this process, PHFA is  
13 already set up to handle foreclosure proceedings in  
14 Pennsylvania. In fact, with the recent enactment  
15 last year, as indicated, the lenders are all now  
16 required to submit copies of their Act 91 notices  
17 that were sent out. So right now, as the law  
18 stands, PHFA is being advised of every single  
19 foreclosure action, not every foreclosure action,  
20 but every action that's instituted under  
21 Pennsylvania law to collect on that mortgage by  
22 virtue of the fact they received the Act 91  
23 notice.

24 The Act 91 notice doesn't go out

1 to the lender until the loan is at least 60 days  
2 delinquent, which means now, generally, the  
3 mortgage is now into its third month of default.  
4 If the party acts under the Act 91 notice and seeks  
5 counseling, they have 30 days to do so. They have  
6 another 30 days from that point to now file an  
7 application with the Pennsylvania Housing Finance  
8 Agency. We're now into the fourth, probably the  
9 fifth month of delinquency. The Pennsylvania  
10 Housing Finance Agency now has 60 days to make a  
11 determination. Now we're six months, seven months  
12 into the delinquency.

13                   Everyone can tell you, and you  
14 don't need statistics to prove it, the longer we  
15 delay a process, the further behind the debtor gets  
16 in his mortgage payments, the greater the default  
17 becomes, the more we resort to the court system and  
18 litigation, the more unlikely the success of  
19 resolution happening. If we meet the crisis  
20 quickly and resolve it quickly, the chances of  
21 success have to go up.

22                   Bearing that in mind, one of the  
23 thoughts was that PHFA, and I think they have -- if  
24 they haven't volunteered to do it already, I'm

1 going to suggest they have, would act as actually a  
2 central repository for all the foreclosure actions  
3 that are instituted in Pennsylvania, at least  
4 pursuant to the requirements of Act 91, which is  
5 why we're here and what would be almost, with the  
6 exception of FHA insured mortgages, would be  
7 everything that's contained in the Bill.

8 PHFA has established a hotline or  
9 a central phone number to be given State-wide,  
10 which can be contained in all foreclosure notices  
11 to go out so that the lenders and the lender's  
12 representatives can tell, as they do in Act 91,  
13 this is the number to reach, this is the person you  
14 have to call. And from PHFA, they can direct that  
15 person now to the different county agencies and the  
16 different housing counseling representatives to  
17 reach in the counties without having to try to bob  
18 and weave through a list of counseling agencies.

19 And in addition to that, I would  
20 suggest that the Pennsylvania Housing Finance  
21 Agency also have a list of all the lenders and all  
22 the servicers that are doing business with the  
23 State with regard to any matters that are going  
24 into foreclosure or any matters that are in

1 default, and which lists does not only contain the  
2 names of the lenders, but also the names and the  
3 contacts and the escalation persons in those  
4 different lenders. So not only the agency can  
5 direct a borrower to a counseling agent, but also  
6 can direct that counseling agent or the borrower to  
7 the Loss Mitigation Department in that particular  
8 lender. So we can bypass and shortcut a lot of the  
9 data and wasted time in phone calls in trying to  
10 find out who are we going to deal with.

11           Taken one step further, right  
12 now, PHFA deals with the borrowers and it's  
13 borrowing PHFA one on one. The lenders involved at  
14 this point is to provide PHFA with a copy of the  
15 Act 91 notice that was sent out, and also, when  
16 requested to provide the agency with the breakdown  
17 of the outstanding debt or delinquency. There was  
18 no further involvement from the lender to PHFA  
19 during this process, other than providing  
20 information.

21           What I would suggest is that this  
22 process be opened so that the lender, itself, can  
23 get involved in this program preforeclosure, rather  
24 than waiting to have conciliation post filing of

1 the foreclosure Complaint. This would make -- and  
2 I understand the comments that people don't always  
3 necessarily act quickly, and I understand that  
4 there's probably maybe five percent to 10 percent  
5 of people who even respond to the Act 91 notices.  
6 But certainly, if we can get that five or 10  
7 percent of people response to act in a preComplaint  
8 conciliation process, certainly the amount of  
9 delinquency is going to be less, it's going to be  
10 no attorneys' fees or court costs involved or  
11 service costs involved because we haven't even  
12 gotten to a complaint filing stage. So it would be  
13 probably a good idea for everybody to probably  
14 expand some of the role of PHFA in this regard.

15           Apart from that, if PHA gathers  
16 information, it can act, actually, as a repository  
17 for this information. So if nothing gets done at  
18 the preComplaint stage, the information is there to  
19 hold the information. If we get to a post  
20 Complaint conciliation program, there does haven't  
21 to be a duplication of efforts. There's a housing  
22 counselor already involved, finance and safety is  
23 already provided, the information is there. It can  
24 be used for further purposes without duplicating

1 and wasting more time.

2           This could be accomplished, as  
3 indicated. There could be a secure web site that's  
4 opened up to the lenders, as well as the housing  
5 counselors. And it would alleviate, and I think  
6 this is one of the concerns from the Bar of the  
7 lenders. It would alleviate having to deal -- if  
8 we have a central location where -- to provide  
9 information and where to call, it would alleviate  
10 67 different procedures in 67 different counties.

11           For as long as I have been  
12 practicing law, one of the continuing gripes I get  
13 from attorneys is that every county has their own  
14 local Rules of Civil Procedure on top of the State  
15 Rules of Civil Procedure, and sometimes those rules  
16 aren't even written, or they're inferred in some of  
17 the rules, and it's hard to keep track of what each  
18 and every county wants done.

19           So I think involving PHFA in the  
20 front end, before we get to a Complaint filing  
21 stage and acting as a repository for information to  
22 both the lenders and the housing counselors would  
23 certainly be a helpful step in the long run. It  
24 would help both the lenders the borrowers simplify

1 the process. The more simplified it is, the more  
2 expedient it's going to be, the better it will  
3 work.

4                   Before I go on to other matters,  
5 there's one matter that is mentioned by Mr.  
6 McKeever in his letter to the rest of the House is  
7 about the service commissions that are collected  
8 when a foreclosure action or service is stayed  
9 because the loan is either paid off or the account  
10 is reinstated. And in Philadelphia there is no  
11 poundage collected by the sheriff. Philadelphia is  
12 the only county. In all the other counties in  
13 Pennsylvania, there is a commission of two percent  
14 collected on the first \$250,000, monies that the  
15 lender receives either to pay off the loan, and  
16 then it's a half percent over and above that, and  
17 that is -- that Statute is contained at Title 42  
18 pertinent section 21104.

19                   So I would hope that the House  
20 can take a look at that Act, as well, and suggest  
21 an amendment be made to that Act, that if an  
22 account is somehow reinstated, a loan is paid off,  
23 or any other monies received by the lender in  
24 connection with the conciliation conference

1 procedure that we're establishing, or hopefully  
2 will be established by this Bill, that no  
3 sheriff's fee or no sheriff's commission or  
4 poundage be collected in those in instances.

5 REPRESENTATIVE YOUNGBLOOD: Are  
6 you saying currently -- this is what I'm trying get  
7 clarity on.

8 They're collecting a commission  
9 or a percentage of the property?

10 MR. PULEO: For instance,  
11 Montgomery County, if the loan is delinquent  
12 \$10,000 and the person reinstates and pays \$10,000,  
13 or we work out a deal and they give them a  
14 forbearance for \$5,000 and then you repay, it  
15 comes up \$5,000 now. The lender is obligated to  
16 stay that sheriff sale, report to the sheriff the  
17 money it collected in order to stay that sale and  
18 pay a two percent commission on that. So if it's  
19 ten percent on that \$10,000, that's \$200. If it's  
20 \$100,000, then we're talking \$2,000 commission.  
21 And that's more money that gets passed onto the  
22 mortgagor, the borrower, that they're already stuck  
23 to come up with.

24 REPRESENTATIVE YOUNGBLOOD: So it



1 wouldn't be profitable here in the City of  
2 Philadelphia?

3 MR. PULEO: Well, in the City of  
4 Philadelphia, they only collect commissions on the  
5 sale of a property. Whereas in all the other  
6 counties, it's not only the sale of the property,  
7 but also when it's being paid off or reinstated.

8 REPRESENTATIVE YOUNGBLOOD: It  
9 would be better, just in the City of Philadelphia,  
10 the County of Philadelphia, just to let the  
11 property owner proceed with the sheriff sale, and  
12 at the end of day they will collect their  
13 commission? Because if you call to try to stay a  
14 sheriff sale for a constituent -- now I understand  
15 why.

16 MR. PULEO: In fact, in  
17 Philadelphia the sheriff charges, among other  
18 things, once they service the schedule, besides the  
19 cost of setting up the sale and setting up the  
20 publication, and not to mention the expense of  
21 advertising in Philadelphia and the costs that go  
22 to either the Inquirer, and also in terms of the  
23 Legal Intelligencer, is quite expensive. But the  
24 sheriff of Philadelphia also charges a fee, and I

1 don't recall if it's \$100 or not to stay the sale.  
2 So even though they don't collect a commission,  
3 they still get \$100 to stay the sale.

4           In that case, maybe Philadelphia  
5 is -- any fees or costs incurred as a result of  
6 working out a resolution, or reinstatement, or  
7 repayment, or pay it off or anything else under the  
8 conciliation program, that those fees not be tacked  
9 onto either the lender or borrower in those  
10 instances. I notice we don't have any  
11 representatives from the Sheriff's Department here,  
12 I will leave it at that.

13           There was a case a few years back  
14 where it came out of York County, federal savings  
15 and loan case, where they decided that the sheriff  
16 is entitled to collect commission on the total  
17 amount of debt, regardless of the fact that that  
18 case was eventually overturned. That case was  
19 eventually overturned. That then became a windfall  
20 for the sheriff's arms.

21           With regard to the Bill, itself,  
22 and I have made some notes, and I apologize, I have  
23 highlighted some things. With regard to the House  
24 Bill, itself, one of the items it indicates is that

1 there be a conciliation conference scheduled prior  
2 to the entry of judgment, and you have heard it  
3 before, and I just want to make sure it's clear  
4 that we do have Rules of Civil Procedure presently  
5 in effect, which says that a person has 20 days to  
6 respond to a Complaint after he's been served with  
7 the Complaint. And, in effect, they get another  
8 ten days, because if they don't respond in the 20  
9 days, we send out a notice if they don't follow  
10 some type of response in the next ten days. So  
11 basically, they get 30 days. That doesn't give a  
12 big window to have a conciliation conference.

13           However, we have a conciliation  
14 conference. We want to have it within that window  
15 so we don't run afoul of the other Rules of Civil  
16 Procedure, a problem negated by the Supreme Court  
17 of Pennsylvania, and do not enlarge the time for  
18 responding to a Complaint. Likewise, we don't want  
19 to shorten the Rules, either because that would be  
20 unfair to the borrowers.

21           One of the other issues I see,  
22 and in your Bill it says that the notice shall be  
23 served along with the Complaint and either provide  
24 a scheduled date and time for the conciliation

1 conference or otherwise advise the defendant of the  
2 right to attend a conciliation conference. It  
3 seems to leave open the option, under the local  
4 counties, whether or not they should have a  
5 mandatory conciliation program, as we do now  
6 presently in Philadelphia, or an opt-in program.  
7 Most of the counties that we speak with and we'll  
8 be hearing from have been favoring or leaning  
9 towards an opt-in program.

10                   Personally, that's something  
11 that's been on the table now in the Steering  
12 Committee between lender's counsels and debtor's  
13 counsels since we started this program. Of course,  
14 nobody has ever reached a resolution of it. Of  
15 course, the program is tremendous because neither  
16 the lender's bar, nor the debtor's bar is exactly  
17 happy with the way it stands now. Although, we  
18 understand it's a give and take process, and as the  
19 process is developing, the conciliation program  
20 conference is going on, they seem to have been  
21 worked further and further and better and better  
22 because personnel are now familiar with the way the  
23 program works and the personnel are also familiar  
24 with each other, outside counselors, attorneys and

1 the courts. So it seems because familiarity makes  
2 it a little bit more speedy that the program works.

3           But in speaking with other  
4 counties, in fact, some counties we have received  
5 letters for, they don't even want any parts of a  
6 conciliation program. I don't know if you want to  
7 give the different counties an option whether or  
8 not they want to participate in this or not, but I  
9 think if you enact a rule, it's going to have to be  
10 State-wide and everybody is going to have to be  
11 included. Like I said, it brings us back. We  
12 can't have 67 counties in Pennsylvania doing things  
13 67 different ways. But by and large, I think one  
14 of the concerns of the lender's bar and one of the  
15 concerns of the lenders and some of the courts is  
16 the opt-in provision, that it be included and not  
17 that it's being mandatory conference.

18           One of the things about having an  
19 opt-in program, and even by the statistics, and I'm  
20 not sure exactly where they fall, but I think the  
21 least number I heard is that there was  
22 approximately in Philadelphia 20 percent persons  
23 who are given attendance or set up for a conference  
24 and do not show. That's 20 percent of the caseload

1 that housing counselors are looking at or lender's  
2 attorneys are looking at. The lenders are looking  
3 at. The BIP attorneys are looking at. Everybody  
4 is getting ready for these 20 percent people that  
5 don't even bother to show up. They're resources,  
6 they're time that can be devoted to the persons  
7 that can use the help. So if we go to an opt-in  
8 program, we alleviate spending another 20 percent  
9 or maybe even a greater amount of time or expense  
10 in setting up for people who don't bother to show  
11 up at the hearings.

12 In his materials Mike McKeever  
13 indicated that what they would consider a model  
14 program. And one of them, as we have already  
15 discussed, was to have a centralized telephone  
16 line. And although it's not in his model program,  
17 that PHFA be the repository and source for that  
18 hotline and telephone number. Accordingly, the  
19 lenders, all the information for the lender's  
20 contacts, the Loss Mitigation Departments would be  
21 with the Pennsylvania Housing and Finance Agency  
22 would have to be updated from time to time so it's  
23 current.

24 Service of the notices of

1 conciliation conference, or the availability of  
2 conciliation conference would be served along with  
3 the Complaint so that the Complaint in Foreclosure  
4 would specifically be required that that Complaint  
5 would be accompanied by a notice of conciliation  
6 program, and that would be served personally with  
7 the Complaint, either by the sheriff or process  
8 server. Of course, that only applies to  
9 owner-occupied properties; that it be an opt-in  
10 program.

11           One of the concerns with the way  
12 the program works now in Philadelphia is that there  
13 is basically a stay that goes into effect unless we  
14 get to a resolution, or agreement, or the court  
15 enters an Order allowing us to proceed. What has  
16 happened and what we would like is that once the  
17 conciliation notice or availability of conciliation  
18 conference is given, that the borrower knows that  
19 they have to meet with the housing counselor, that  
20 they know they have to complete a loan resolution  
21 package, that they have to file some type of  
22 certification of participation in the program, and  
23 that all these documents be served on the lender's  
24 counsel so we don't have a situation where a person

1 walks in the day of a mandated counseling program  
2 and comes up with the package and resolution and  
3 requests additional time to be able to review the  
4 program.

5                   Bearing in mind that the court  
6 should always have discretion to agree to a  
7 postponement of a sheriff sale, if there is a  
8 proposal on the table, which may be a workable  
9 solution. It's almost akin to the PHFA regulations  
10 now, that even if you don't timely meet the  
11 deadline required for meeting with the housing and  
12 counseling agency, or you don't file a timely  
13 application for mortgage assistance in a time  
14 prescribed by the Act, that if you make a late  
15 application, the housing agency will still review  
16 and act on that application, but the difference is  
17 because it's a late application or it's filed  
18 tardy, that there's no stay in effect.

19                   So it would be the same as in the  
20 foreclosure conciliation process. If the borrower  
21 acts diligently, everything gets done before the  
22 conciliation process and we don't have to worry  
23 about delays or stays. If they act tardy and they  
24 don't have their applications, or their proposals,



1 or any financial statements submitted in a timely  
2 fashion, there should be no reason why the lender  
3 should have to be delayed, although the lender can  
4 always view a matter and always be make a  
5 determination whether or not they want to work out  
6 a resolution. In fact, the court can still hold  
7 conciliation conference in the meantime just so  
8 that the lenders are not delayed in the interim.

9 I noticed there was a lot of  
10 legal questions directed towards a couple of the  
11 prior speakers, and some of them without any legal  
12 expertise and fumbled around with some of the  
13 answers. So if -- not that I know it all, but if  
14 you have any questions regarding any of the legal  
15 aspects, I would certainly be happy to address  
16 them.

17 REPRESENTATIVE YOUNGBLOOD: I  
18 would like to thank you for coming before us today  
19 and testifying. I also hope that you give  
20 consideration to having the Pennsylvania Department  
21 of Banking involved because it's apparent that the  
22 Department of Banking and Pennsylvania Housing,  
23 they were playing a game. And thank you again and  
24 we appreciate your time.

1 MR. PULEO: Thank you for  
2 allowing me the opportunity to be here.

3 REPRESENTATIVE YOUNGBLOOD: At  
4 this time, the House Commerce Committee hearing,  
5 public hearing on House Bill 1042 is over.

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12 (Whereupon, the hearing concluded  
13 at 4:40 p.m.)

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1 C E R T I F I C A T E

2

3 STATE OF PENNSYLVANIA

4 COUNTY OF BUCKS

5

6 I, SUSAN L. SINGLAR, a Court

7 Reporter and Notary Public in and for the State of

8 Pennsylvania, do hereby certify that the foregoing

9 transcript of the House Commerce Committee public

10 hearing, taken on Thursday, June 3, 2009 is true

11 and accurate to the best of my knowledge, skill and

12 ability.

13

14

15

16 SUSAN L. SINGLAR

17

18

19

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