

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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House Bill 506

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House Commerce Committee

Irvis Office Building
Room G50
Harrisburg, Pennsylvania

Monday, January 25, 2010 - 10:00 a.m.

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BEFORE:

Honorable Peter Daley, Majority Chairman
Honorable Paul Costa
Honorable Mark Longietti
Honorable Robert Matzie
Honorable Richard Mirabito
Honorable John Siptroth
Honorable James Wansacz
Honorable John Yudichak
Honorable Tom Creighton
Honorable Jim Marshall
Honorable Carl Metzgar
Honorable Donna Oberlander

KEY REPORTERS
keyreporters@comcast.net

1300 Garrison Drive, York, PA 17404
717.764.7801 Fax 717.764.6367

1 ALSO PRESENT:

2 Robert Miller, Jr.
Majority Executive Director

3
4 Sandra Altland
Majority Committee Secretary

5 Destiny Zeiders
Majority Research Analyst

6
7 Barbara Ramsey
Minority Administrative Assistant

8 John Scarpato
Minority Research Analyst

9
10 David Vitale
Committee Legal Counsel
Democratic Caucus

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1 CHAIRMAN DALEY: Being 10:00 or a
2 little bit after, calling this House Commerce
3 Committee to order.

4 Will the secretary call the roll.

5 MS. ATTLAND: Chairman Daley.

6 CHAIRMAN DALEY: Present.

7 MS. ATTLAND: Representative Costa.

8 Representative Cruz.

9 Galloway is on leave.

10 Representative Johnson.

11 Keller.

12 Longietti.

13 REPRESENTATIVE LONGIETTI: Here.

14 MS. ATTLAND: Matzie. Matzie is on
15 leave.

16 Mirabito.

17 Santarsiero on leave.

18 Siptroth.

19 REPRESENTATIVE SIPTROTH: Here.

20 MS. ATTLAND: Thomas.

21 Wansacz.

22 REPRESENTATIVE WANSACZ: Here.

23 MS. ATTLAND: Youngblood is on
24 leave.

25 Yudichak.

1 Chairman Hess.

2 Representative Causer.

3 CHAIRMAN DALEY: He is on his way,
4 Chairman Hess?

5 MS. ZEIDERS: He should be.

6 MS. ALTLAND: Creighton.

7 REPRESENTATIVE CREIGHTON: Here.

8 MS. ALTLAND: Evans.

9 Fleck is on leave.

10 Geist on leave.

11 Harris.

12 Marshall.

13 REPRESENTATIVE MARSHALL: Here.

14 MS. ALTLAND: Metzgar.

15 REPRESENTATIVE METZGAR: Here.

16 MS. ALTLAND: Oberlander.

17 REPRESENTATIVE OBERLANDER: Here.

18 MS. ALTLAND: And Reese on leave.

19 CHAIRMAN DALEY: I thank you.

20 I just want to remind the committee
21 members: This Thursday, we are going to be in
22 Windber, up in Representative Burns's district
23 and pretty close to Representative Metzgar's
24 district.

25 REPRESENTATIVE METZGAR: Yes.

1 CHAIRMAN DALEY: Representative
2 Metzgar, we need to talk to you about possibly
3 someone from the Redevelopment Authority of
4 Somerset County may be able to testify. It is
5 going to be at 10:00 at the Arcadia Performing
6 Arts Theater in Windber.

7 And Representative Burns has
8 indicated that he will take us all to Rizzo's
9 Restaurant, which is a fine dining place in
10 Windber, which is very, very good.

11 This morning, we are gathered to
12 discuss legislation, House Bill 506. And
13 Representative Ross has probably worked more
14 on this legislation in the last several years
15 than most of us in our lifetimes work on any
16 legislation.

17 This is the Motor Vehicle Sales
18 Finance Act, and this was a product of the
19 Joint State Government Commission's Task Force
20 and Advisory Committee on Consumer Credit
21 Code.

22 This act was established, Act 186
23 of 2002, and Mr. Ross chaired both the task
24 force and the advisory committee. This work
25 was done, we began in 2004 and it concluded in

1 2006.

2 We are here today to move this
3 matter forward. In terms of the hearing on
4 the bill, a complicated bill, as you know, but
5 needed in many, many ways. And once we finish
6 this hearing, if there is any other questions
7 that any members may have, we will schedule
8 another hearing. If not, then we are going to
9 try to move this bill on the Floor as very
10 quickly as we can.

11 Also, I want to remind everybody
12 testifying that we have a stenographer here,
13 and she is copiously taking her notes for us,
14 as she smiles. So, please, speak up, identify
15 yourself when you ask a question and also when
16 you make statements.

17 And with that last comment, unless
18 there is anything else that I needed to do or
19 say preemptory, Representative Ross.

20 REPRESENTATIVE ROSS: Thank you,
21 Chairman Daley and members of the committee.

22 And I appreciate your indulgence on
23 this. It, as you pointed out, is a
24 complicated piece of legislation.

25 And I brought with me

1 reinforcements because, although, you are very
2 kind in saying about the amount of work that I
3 did, really the heavy lifting was actually
4 done by the staff of the Joint State
5 Government Commission. Dave Hostetter is here
6 with us, the Director, and also Yvonne Hursh,
7 one of the counsel.

8 And, unfortunately, Steve Rehrer,
9 who did also a tremendous amount of work on
10 this project, unfortunately has been taken ill
11 and is not able to join us today. But we will
12 hopefully be able to answer the questions that
13 the committee has as we go forward.

14 Just by way of background, as the
15 Chairman has pointed out, this is a
16 recodification of the Motor Vehicle Sales
17 Finance Act and also the Goods and Services
18 Installment Sales Act.

19 And really why we went about doing
20 this is Representative -- former
21 Representative Bob Allen actually passed a
22 piece of legislation to update a piece of the
23 code. And as he was doing it, it became
24 obvious that there were large elements of the
25 existing code that were very much out of date;

1 the original codes were adopted a long time
2 ago.

3 And three things had happened. One
4 is, we, in the legislature, had made a series
5 of changes in these. And as many of you are
6 familiar with, trying to work with the codes,
7 sometimes these things wind up getting kind of
8 dog-eared and things sticking out in the wrong
9 place. So I tried to pull things together and
10 recodify them so that the people that are
11 trying to use these laws actually find them
12 more clear, is valuable.

13 In addition to that, there was a
14 fair amount of federal legislation that had
15 occurred. Things like the Truth and Lending
16 Act and others that had intervened and were
17 making parts of the code outdated or
18 duplicative or possibly even where we were in
19 conflict with federal code.

20 And finally, over the past 40 or 50
21 years, technology has moved on. Normal
22 practices in the industries involved that we
23 are dealing with had changed substantially.
24 So there were areas that had gone by the board
25 but were still incorporated in the code that

1 were going to be awkward and confusing for
2 people again that were trying to deal with it.

3 As a result of that, there was a
4 joint -- a task force created under the Joint
5 State Government Commission. I served on it
6 with members of both the House and the Senate.

7 And we were very fortunate in
8 getting a broad range of people from all of
9 the different industries or government
10 agencies that were affected by this: the
11 Attorney General's Office; Department of
12 Banking; consumer groups; business
13 organizations that were representing the
14 various different parties that were affected
15 by this.

16 And there were three separate task
17 forces worked out underneath this to deal with
18 the automobile finance code, the code dealing
19 with installment sales on consumer goods, and
20 then also a -- sort of a joint federal/state
21 task force that was trying to pick up things
22 that fell in between the cracks.

23 We have some weighty, nicely bound
24 reports here from the two respective areas
25 about goods and services, installment sales,

1 and also motor vehicle finance.

2 But I do want to emphasize a couple
3 of things before I turn it over to Dave to
4 give you some more of the detail.

5 I had a policy which I was pretty
6 rigorous about. To say that if we had areas
7 of controversy that really were policy
8 questions that we did not have broad consensus
9 on, I push them aside and made those issues be
10 things that we dealt with later. So we stayed
11 with the existing code on controversial
12 issues.

13 When we had a broad consensus from
14 all the different parties affected, that a
15 section was either out of step with the
16 federal code, had been made redundant by state
17 action, or from a technical point of view the
18 practices had changed in the industry
19 sufficiently so that a change was warranted,
20 or the fourth one, for clarity's purpose, so
21 that we could be clear for the people that are
22 trying to use this act, to understand what
23 they were doing; that those were all reasons
24 for us to make a change.

25 And we did it by consensus. We did

1 not -- There were a number of issues that were
2 controversial, that were not resolved, but
3 where we stayed with the existing code. And
4 some of them you may hear about this morning.

5 So that is the concept that we
6 worked on. And I want to thank not only the
7 staff of the State Government Commission but
8 also all of the people that worked on the task
9 force and spent considerable time putting this
10 document together that you have in front of
11 you.

12 And at that point, I think I am
13 going to turn it over to Dave to make his
14 presentation.

15 MR. HOSTETTER: Thank you very
16 much, Representative Ross. And thank you,
17 members of the committee.

18 My name is Dave Hostetter. I am
19 the Executive Director of the Joint State
20 Government Commission. I am here on behalf of
21 our counsel, Steve Rehrer, who unfortunately
22 took ill and cannot be here.

23 However, I hope to at least broadly
24 describe, along with Yvonne Hursh, one of our
25 attorneys, some of the issues or some of the

1 provisions which are in this -- in this
2 codification.

3 I would like to point out that, if
4 you are interested in who served on the task
5 force and who served on the advisory
6 committee, in the front of the report that was
7 published by our office on behalf of the task
8 force and advisory committee were listed all
9 of those -- all of those members.

10 I think with the advisory committee
11 that's important because it shows the
12 inclusivity in terms of getting the issues
13 aired out before that group and then on to
14 the -- on to the legislative task force.

15 As Representative Ross indicated,
16 the purpose of our task force and advisory
17 committee primarily was to take two acts and
18 to codify those two acts into a consumer
19 credit code into what is Title 12 of the
20 Pennsylvania Consolidated Statutes.

21 In course of a codification--and
22 Representative Ross has indicated this--there
23 is reorganization. There is reconceptualizing
24 in some ways. There is modernizing the
25 terminology and those basic drafting

1 improvements that are made. In addition to
2 that, there are, of course, substantive
3 changes.

4 What I would like to do, at least
5 with the help of Yvonne, if you -- In the
6 testimony that Steve prepared, if you start on
7 page 11, from page 11 through 16, is a summary
8 of all of the changes. It is very inclusive.
9 And what we thought is, perhaps later in the
10 day as the other witnesses provide you
11 testimony, that that will be -- come up, that
12 will highlight some of the changes that we
13 might be suggesting.

14 But if you turn to page 17, we will
15 just briefly highlight what we think are some
16 of the benefits of this codification. And
17 page 17 really talks about the benefits of the
18 codification of the Motor Vehicle Sales
19 Finance Act, the 1947 act, which has now at
20 least been proposed for codification some 60
21 years later.

22 Again, highlight, trying to update
23 the terminology, which is I think very
24 important for not only the consumers but also
25 those who must implement the statute need to

1 have language which, you know, modernizes the
2 current practice. We needed to coordinate the
3 statute with federal law, and Representative
4 Ross has indicated that.

5 Under the broad category of
6 disclosure and notice, it was important, the
7 group thought, certainly, to make the notice
8 provisions and disclosure provisions clearer
9 and to strengthen to a certain extent the
10 consumer protection aspects of them.

11 And I know, Yvonne, you have a
12 couple examples of that and perhaps you could
13 present that.

14 MS. HURSH: Certainly. I am Yvonne
15 Hursh. Thank you for having us here today.

16 On page 18, under item three,
17 disclosure and notice, one of the things we
18 did was, under current law if the lender
19 determines that they are not sure you are
20 going to pay off the loan, that they have
21 become insecure, they can accelerate the loan
22 and demand payment in full immediately.

23 And that concept of being insecure
24 was undefined. So depending on the attitude
25 of the lender what might be a mispayment, a

1 one-time mispayment or something like that
2 would be considered grounds for insecurity and
3 accelerating the loan.

4 But it was very open to
5 interpretation from lender to lender. So what
6 we had done was spell out specific triggers,
7 specific circumstances under which a lender
8 could declare themselves insecure and
9 accelerate a loan, which gives the lenders
10 more guidance as to when they can declare
11 insecurity and certainly gives the consumer a
12 better picture of what can happen if they do
13 not meet certain requirements of their loans.

14 But the idea was to make it clear
15 for both sides what was and was not in an area
16 that was very ambiguous at the time.

17 The next provision that we have is
18 a prohibition to include a waiver of the
19 choice of law of another jurisdiction.
20 Basically saying you cannot put in your
21 contract that I waive the right to bring this,
22 any kind of action under the statute in
23 Pennsylvania. Without that, the lender could
24 write a contract that said, I am waiving the
25 Pennsylvania law, and we can bring this

1 lawsuit in Minnesota or wherever. So that was
2 the reason we included that provision, and
3 that is also in the goods and services.

4 REPRESENTATIVE LONGIETTI: Mr.
5 Chairman, I just have some quick questions
6 just to clarify.

7 CHAIRMAN DALEY: Yes, please.

8 REPRESENTATIVE LONGIETTI: Are you
9 talking venue or choice of law or both? You
10 know, choice of law being Pennsylvania law
11 will govern the interpretation --

12 MS. HURSH: Talking choice of law.

13 REPRESENTATIVE LONGIETTI: -- venue
14 being where you can bring the action.

15 MS. HURSH: Venue for the actions
16 is actually in either the county where the
17 person resides, where the contract was
18 originally signed. And off the top of my
19 head, I can't think of the third one. But
20 they all bring you back to the county
21 basically where the consumer is, so this is
22 just as choice of law.

23 REPRESENTATIVE LONGIETTI: Okay.
24 So jurisdiction would be in Pennsylvania?

25 MS. HURSH: Right.

1 REPRESENTATIVE LONGIETTI: Okay.

2 MR. HOSTETTER: Often, when we do
3 these codifications of law, you will find that
4 the statute is not only unclear but perhaps is
5 unfulfilled by the language. And so, over the
6 course of time, there is practice which fills
7 those voids. And under the general rubric of
8 procedures and how we have tried to provide
9 some clarity, we codified certain business
10 practices which had been adhered to over the
11 years.

12 And, Yvonne, you have perhaps one
13 example there.

14 MS. HURSH: Actually, two examples.
15 The first is with the sale of manufactured
16 homes. A manufactured home sometimes can look
17 more like a real estate transaction. And you
18 will have appraisal fees, brokerage fees and
19 commissions. Those kind of charges, they have
20 been charged all the long.

21 What we have done is now say that
22 it is legitimate for a lender to charge those
23 to a buyer if they represent actual charges
24 and if they are disclosed to the buyer. So
25 the buyer will now formally agree to pay those

1 kind of real estate type charges that are
2 associated with an installment purchase of a
3 manufactured home. So that's what that was
4 for.

5 And the second one, again, was the
6 codification of a longstanding practice that
7 had the sanction of the Department of Banking.
8 That it really doesn't matter how you
9 calculate your finance charge. There are
10 different methods of calculating finance
11 charges, and it doesn't matter how you do that
12 as long as you don't exceed the maximum
13 finance charge set forth in the statute. So,
14 again, that was a codification of a practice
15 that's been 20 plus years in the industry.

16 MR. HOSTETTER: With regard to
17 enforcement, I believe we might have a couple
18 of examples where the language has been
19 improved so that the enforcement procedures
20 are clear to not only the general public but
21 to -- just to those who need to, you know,
22 practice in this area.

23 MS. HURSH: Two of these are really
24 substantive changes that we had consensus
25 among the advisory committee that these were

1 changes that were necessary and important, but
2 they are substantive changes.

3 One of them dealt with the practice
4 of an individual would buy a used car and the
5 car would need repairs. And the original
6 contract would not discuss the repairs, the
7 repairs would be added on at a later date.

8 The car might be paid for, the
9 repairs would not be paid for. If the lender
10 -- If the borrower would then default, because
11 they are rolled together the car could be
12 repossessed even though the full payment for
13 the vehicle itself had been paid for but the
14 repairs had not.

15 So what this did was spell out that
16 you can include repairs in the contract,
17 necessary repairs that allow the person to
18 purchase the car at the time, but if there are
19 repairs that need to take place down the road,
20 you have to have a -- and you want to finance
21 those repairs, you have to have a separate
22 agreement, you can't roll it into the original
23 contract on the car.

24 The second one is in the
25 repossession area as well, and that deals with

1 the -- allows the buyer to bring an action to
2 determine the reasonable value of the motor
3 vehicle when it is resold.

4 It is intended to go after the
5 situation where -- which probably does not
6 occur that much, but where a vehicle is
7 repossessed that is worth more than the loan
8 on the vehicle and the vehicle is then sold,
9 there is a profit. And right now the person
10 who owned the car, who had paid on the loan,
11 is the person who does not get that profit,
12 the profit ends up going back to the dealer.

13 So the idea is that you can, you
14 can determine what the fair market value of
15 the car is. That if it sold for under value,
16 you can recoup that money. So that's what
17 that's going for.

18 MR. HOSTETTER: The other statute
19 which was codified here, or proposed in the
20 complication in House Bill 506, is the goods
21 and services installment sales provisions.
22 Again, broadly, the terminology has been
23 modernized. Again, attempts were made to
24 coordinate this with federal law. Disclosure
25 and notice provisions made to -- were crafted

1 so that they -- that everyone knows the
2 expectations involved.

3 I did want to point out -- or have
4 Yvonne point out one change in the procedures
5 under that particular codification, which I
6 think is an important substantive change.

7 MS. HURSH: Right. Actually, I --
8 Before I do that, I wanted to point out, too,
9 that the Goods and Services Installment Sales
10 Act is a 1966 act. Its scope is pretty
11 narrow.

12 Since the advent of credit cards
13 and the national credit card industry, there
14 are not a lot of people who are doing credit
15 that's based on the seller, that Joe's
16 furniture store having its own revolving
17 credit plan. So we are talking about pretty
18 narrow circumstances any more because so much
19 is now under federal credit card law.

20 But they still exist, some mom and
21 pop operations that do offer their own credit,
22 their own revolving credit, and do closed-end
23 loans, that they are not reselling the loans.
24 So it is a fairly narrow area, but it is still
25 one that is active. And so, rather than just

1 gut it, we try to tailor it to those
2 circumstances.

3 The really substantive thing that
4 we did is if you have a loan that is not
5 revolving credit, that is a closed-end credit
6 agreement of a set term, and for whatever
7 reason there is a balance due after the end of
8 the term--if you missed a payment or whatever,
9 that there is a balance due--there was real
10 question as to what kind of interest could
11 continue to be charged after the end of that
12 term.

13 There were some who felt you
14 couldn't charge any interest because the term
15 of the loan had ended. There are others that
16 felt it was wide open, you could charge any
17 interest. So what we have done in here is
18 say, yes, you can charge interest, but it
19 cannot be any higher than the interest under
20 the original loan. So you cannot jump from a
21 10-percent loan to a 25-percent loan because
22 you had one late payment.

23 MR. HOSTETTER: I think we have --

24 REPRESENTATIVE ROSS: Yeah.

25 MR. HOSTETTER: -- tried to at

1 least identify for you, in a broad sense, you
2 know, some of the changes or some of the
3 benefits that might be contained in this bill.

4 And we are here to observe the --
5 and monitor the testimony of other witnesses.
6 And I appreciate the opportunity.

7 MS. HURSH: Thank you.

8 REPRESENTATIVE ROSS: We will take
9 any questions which you or the committee might
10 have.

11 CHAIRMAN DALEY: Questions from the
12 members? Representative Siptroth.

13 REPRESENTATIVE SIPTROTH: Thank
14 you. Just a couple I would like to clarify.

15 There appears to be two different
16 standards in the manufactured home industry.
17 One whereas they would be titled as a vehicle
18 and be under PennDOT's purview. One where it
19 would be a modular home in most instances that
20 are just placed on a foundation and that would
21 be monitored by the Banking Department.

22 Does this have any affect at all on
23 PennDOT's ability or the consumer's ability to
24 register a vehicle, such as a mobile home,
25 which is actually a manufactured home with

1 axles and wheels, and have it registered
2 through the PennDOT purview?

3 MS. HURSH: We did not change
4 anything --

5 REPRESENTATIVE ROSS: Yeah.

6 MS. HURSH: -- with respect to
7 that. I think that issue is actually going to
8 be dealt with in another arena, but we did not
9 really address that.

10 We did a few things to try to
11 clarify the title to a manufactured home,
12 that's a mobile home versus modular home, to
13 make sure that clear title from PennDOT is
14 transferable. But with the actual licensing,
15 we did not change anything with that.

16 REPRESENTATIVE SIPTROTH: Okay. So
17 the status quo for the time being --

18 MS. HURSH: Yes.

19 MR. HOSTETTER: Right.

20 REPRESENTATIVE SIPTROTH: -- for
21 individuals that finance these mobile homes
22 that are semi-permanently placed still have
23 the ability to finance them as if they were
24 market value homes; is that correct?

25 MS. HURSH: I think that's correct.

1 REPRESENTATIVE SIPTROTH: Okay.

2 REPRESENTATIVE ROSS: Yeah. And
3 again in that area, I think we again try to
4 clarify the actual financing terms through
5 this. But we did not play with, you know,
6 whether it's a PennDOT moving mobile home or
7 whether it's a static facility. That was an
8 area that we did not really get into.

9 We were really working on the
10 financing issues --

11 REPRESENTATIVE SIPTROTH: Right.

12 REPRESENTATIVE ROSS: -- to deal
13 with the clarification of the charges that
14 were allowed; the notices that needed to be
15 provided; that how you settled the --
16 satisfied the note and that sort of thing.

17 REPRESENTATIVE SIPTROTH: In the
18 past -- Well, history would prove that
19 individuals that opt for the mobile home pay
20 slightly higher interest rates versus those
21 that opt for the conventional mortgage
22 scenario.

23 And that was some of my concern.
24 Is this going to impact that at all? Will
25 these individuals now have an opportunity to

1 finance through conventional banking practices
2 rather than --

3 REPRESENTATIVE ROSS: We are not
4 disturbing any of that.

5 MS. HURSH: No.

6 REPRESENTATIVE ROSS: And I would
7 say that although this bill is fat and it has
8 lots of pages to it, there are a lot of things
9 in the existing law that are not disturbed by
10 it, that we either felt were controversial or
11 that there was no crying need to resolve
12 conflict or to modernize.

13 So I make no statement about the
14 idea that we solved all problems. There are
15 outstanding issues that are outside of this
16 bill that we did not resolve, and we did not
17 resolve them on purpose because we saw them to
18 be controversial or major policy changes that
19 we thought were more appropriate for separate
20 pieces of legislation rather than a
21 recodification.

22 REPRESENTATIVE SIPTROTH: Okay.
23 But the late payment portion that we talked
24 about, the definition of that, would apply to
25 either scenario; is that correct?

1 MS. HURSH: I don't think so.

2 REPRESENTATIVE SIPTROTH: Or would
3 it only go through the conventional mortgage
4 piece?

5 REPRESENTATIVE ROSS: Well, the
6 conventional mortgage piece would be outside
7 this legislation.

8 MR. HOSTETTER: Yeah.

9 REPRESENTATIVE ROSS: This is
10 really only dealing with motor vehicle changes
11 and financing. So if it is being worked
12 through the motor vehicle side of the mobile
13 home piece, then this legislation would be --
14 would be applicable.

15 If you have declared yourself to be
16 fixed and really just moved modules in and
17 planted them, then they are outside this law.

18 REPRESENTATIVE SIPTROTH: Okay.
19 Thank you. Thank you very much for the
20 clarification.

21 Thank you, Mr. Chairman.

22 CHAIRMAN DALEY: Questions by
23 members? Seeing none, no further questions.
24 I am sure that there will be questions at some
25 point.

1 REPRESENTATIVE ROSS: Well, I stand
2 ready either today or later to do my best, and
3 I am not going to be shy about calling on the
4 Joint State Government Commission staff to
5 help me on that.

6 CHAIRMAN DALEY: We appreciate
7 that.

8 REPRESENTATIVE ROSS: Thank you.

9 CHAIRMAN DALEY: If further
10 questions do arise, that we will -- then we
11 will proceed to try to set up meetings --

12 REPRESENTATIVE ROSS: Sure.

13 CHAIRMAN DALEY: -- to try and
14 solve those issues.

15 REPRESENTATIVE ROSS: Great.

16 CHAIRMAN DALEY: The next person to
17 testify will be Mark Stine, Vice President of
18 the Legislative and Public Affairs, the
19 Pennsylvania Automotive Association.

20 Mark, it's good to see you again.

21 MR. STINE: Good morning, Mr.
22 Chairman. Is everybody ready?

23 CHAIRMAN DALEY: Mark, whenever you
24 are ready.

25 MR. STINE: Thank you very much.

1 Mr. Chairman, it's a pleasure to see you.
2 Good morning, fellow members of the Commerce
3 Committee.

4 As mentioned by the Chairman, I am
5 Mark Stine. I am the Legislative Director of
6 the Pennsylvania Automotive Association. For
7 the past 90 years, my association has
8 represented the franchised, new vehicle
9 dealers doing business in Pennsylvania.

10 Currently, there are about a
11 thousand such dealers in Pennsylvania. And I
12 say approximately because, unfortunately, the
13 past two years saw the demise of several
14 hundred of these Pennsylvania businesses, most
15 of which are owned and operated by the same
16 family for several generations.

17 We appreciate very much the
18 opportunity to appear before you today to
19 provide some insights into the provisions of
20 Representative Ross's House Bill 506. I am
21 familiar with the great amount of effort and
22 the variety of input, just mentioned here,
23 that has gone into the crafting of this
24 legislation and commend those who took part in
25 its development.

1 We also understand the interest and
2 appropriateness of the General Assembly
3 revisiting the statutes addressed in the bill
4 before you today. Indeed, the act directly
5 affecting my industry, the Motor Vehicle Sales
6 Finance Act, has not been significantly
7 revised since its enactment in 1947.

8 The act has been tweaked on
9 occasion, however, and representing my
10 association, I was involved in the most recent
11 amendment to the Motor Vehicle Sales Finance
12 Act in 2002. At that time this act, which
13 essentially oversees the financing of vehicle
14 sales in Pennsylvania, was amended to
15 accommodate certain industry practices and
16 products that came into existence in the 50
17 years since the act's original implementation.

18 The legislation offered in April
19 2002, referred to earlier, was prepared with
20 the cooperation of the Banking Department and
21 all interested parties, and time-consuming
22 negotiations resulted in an agreed-to proposal
23 that moved steadily through the legislative
24 process.

25 Besides establishing new causes of

1 action for the Banking Department to pursue
2 against its licensees and the authority to
3 charge its licensees for examinations and
4 investigations, the 2002 legislation included
5 many other key consumer protections including:

6 Requiring the separate itemization
7 of the charges for all items necessary or
8 incidental to the vehicle sale on the
9 vehicle's installment sales contract;

10 Requiring the separate oral and
11 written disclosure, signed by the customer
12 prior to the signing of the installment sales
13 contract, advising the financing applicant
14 that the purchase of nonessential items
15 relating to the vehicle sale, such as service
16 contracts, warranties, are voluntary and not
17 required as a condition of receiving the loan,
18 and;

19 Requiring installment sales
20 contracts to disclose that the seller may be
21 retaining a portion of the charge of a good or
22 service being financed.

23 This act also permitted the
24 financing of after-market products purchased
25 in conjunction with a vehicle sale and

1 specifically prohibited dealers, like my
2 members, from making excessive markups on such
3 products.

4 There is no doubt that
5 Pennsylvania's consumer public was well-served
6 by these relatively recent amendments to the
7 Motor Vehicle Sales Finance Act.

8 However, one amendment offered in
9 2002 that was not part of the legislation when
10 it was introduced continues to trouble my
11 association's membership. Inserted into the
12 bill's provision that prohibited excessive
13 markup of after-market products and required
14 the department to develop guidelines stating
15 what it considers to be excessive was a markup
16 cap on three particular after-market products;
17 specifically, service contracts, warranties,
18 and debt cancellation and suspension
19 agreements.

20 Remember, by law, the statutorily
21 imposed cap on these individual products was
22 to be temporary, quote, until such time as the
23 department adopts guidelines. To date, we are
24 unaware of the development of such guidelines,
25 and the caps remain in place and are

1 aggressively enforced by department auditors.

2 As mentioned earlier in my remarks,
3 the charge for these products are specifically
4 disclosed in the installment sales agreement
5 associated with the vehicle sale, and the
6 consumer is notified that purchasing and
7 financing these products is not a condition of
8 the sale, and that the dealer may be a partial
9 recipient of the some of the charges for these
10 products. These are voluntarily elected
11 after-market products and the customer desires
12 to have included in the finance transaction.

13 It is unclear to my membership,
14 therefore, why three seemingly, arbitrarily
15 selected products have their markups
16 established by state law. I personally am at
17 a loss to think of any other industry or
18 product that is subjected to similar
19 treatment. I wish the restaurant that charges
20 me 300-percent markup on a bottle of wine when
21 I sit down to dinner had similar limitation.

22 Even with that example, though, my
23 decision to purchase that bottle of wine is a
24 voluntary one. Any savvy retailer, whether a
25 restaurateur or a car dealer, should be

1 expected to allow the market to dictate what a
2 customer is willing to pay and price his
3 products accordingly. Isn't that the more
4 traditional business model?

5 Finally, I should add that only
6 financed vehicle transactions are subject to
7 the provisions of the Motor Vehicle Sales
8 Finance Act. Therefore, Pennsylvania
9 consumers using cash or direct financing or
10 leasing their vehicle may be charged any level
11 of markup for these products. We suspect,
12 however, that these customers are not being
13 unfairly charged for these products, simply
14 because the competitive market won't allow it.

15 When considering House Bill 506
16 before you today, PAA, on behalf of the
17 remaining new vehicle dealers operating in the
18 state, respectfully request that you
19 reconsider this unfair cap provision currently
20 appearing in the law.

21 Again, I am available for any
22 questions or any additional information that,
23 you know, may be of help.

24 Thank you very much.

25 CHAIRMAN DALEY: Questions by the

1 members? Representative Costa.

2 REPRESENTATIVE COSTA: Thank you,
3 Mr. Chairman.

4 And, Mr. Stine, Mark, thank you for
5 testifying.

6 MR. STINE: Certainly.

7 REPRESENTATIVE COSTA: A quick
8 question. You said the three areas. Service
9 contracts and warranties, I understand what
10 those are. But debt cancellation, is that if
11 you pay your loan off earlier?

12 MR. STINE: That's what they call a
13 cap product. And actually, you have a
14 resident expert here. If you don't mind if we
15 bring up our chief counsel, Chad Marsar, who
16 is our director, he could give you a better
17 understanding of those particular products.

18 CHAIRMAN DALEY: Absolutely not --
19 Please, come on up.

20 MR. STINE: Another lawyer, Mr.
21 Chairman.

22 CHAIRMAN DALEY: No, that's okay.
23 You are going to get what you pay for, you
24 know.

25 Would you identify yourself for the

1 record and your title, please.

2 MR. MARSAR: Sure. My name is Chad
3 Marsar. I am the general counsel of the
4 Pennsylvania Automotive Association.

5 And a brief description of what a
6 cap product is, or a debt cancellation, debt
7 suspension agreement. Basically, it covers
8 the difference between the loan and the value
9 of the vehicle if there was, let's say, an
10 accident. If a customer were in an accident,
11 the value of the vehicle would be X, the loan
12 might be Y, and that product covers the
13 difference in those two numbers.

14 REPRESENTATIVE COSTA: Okay. Thank
15 you.

16 CHAIRMAN DALEY: Representative
17 Longietti.

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

20 Just so I understand clearly, the
21 provisions that you are concerned about, the
22 caps, were in the 2002 amendment. Does House
23 Bill 506 speak to it at all or just leaves
24 them in place and does not mention the caps?

25 MR. STINE: Yes. Mark, thank you

1 very much. As Representative Ross dictated,
2 much of what is in 506 is really the existing
3 law. So really the Motor Vehicle Sales
4 Finance Act calls for, has that provision in
5 it, as does 506. So what we are suggesting is
6 perhaps when the different -- during its
7 consideration process if perhaps that those
8 caps could be revisited.

9 And, Representative, I would
10 appreciate the opportunity. Again, those --
11 There is a myriad of after-market products
12 that are financed through the vehicle sale.
13 These three were sort of arbitrarily picked at
14 that time--and, again, certainly well-meaning
15 in their proposal--but there was no body of
16 consumer complaints or anything that
17 necessitated it.

18 For instance, I don't think anybody
19 was deluged--and perhaps Mr. Wentzel from the
20 department could speak to that--as far as a
21 body of consumer complaints that said, You
22 know what? These cap products or these
23 after-market or these warranties, we are
24 really getting gouged on these. It really
25 wasn't.

1 At the time, in 2002, there was a
2 lot of what they called predatory lending in
3 the housing market. So the terminology was
4 rife along the General Assembly about, you
5 know, making sure that the consumers are well
6 looked out upon.

7 In this case, though, we were not
8 aware of any instances where, hey, this is a
9 specific problem. We are going to address it
10 right here and right now.

11 And I think if you look at it--I
12 think given that there's some consumers that
13 are imposed on the caps, have the caps imposed
14 on them and others that aren't, and there is
15 no disparity in the pricing--I think it
16 suggests that maybe, like some of the other
17 provisions that are being addressed in this
18 act, maybe there in the modernization of it,
19 we can take care of something that's a problem
20 that does not need addressed any longer.

21 REPRESENTATIVE LONGIETTI: And as
22 far as the caps go is there any indexing or
23 they are still at whatever level was set back
24 in 2002?

25 MR. STINE: Yes, there's a ceiling

1 that's imposed on them. And during the --
2 Every one of our members has what they call an
3 installment seller's license from the
4 department, which has a lot of components to
5 it, but part of it is an audit provision. So
6 when the auditors from the Banking Department
7 come in to make sure that they are in
8 compliance with this act, one of the things
9 they look at is are you in compliance with
10 this cap provision and to ensure that. So,
11 yes, there is oversight going on right now.

12 REPRESENTATIVE LONGIETTI: I guess
13 what I was asking more was if there is a
14 ceiling, does that ceiling ever increase over
15 time?

16 MR. STINE: No, sir. That's a
17 static. It's based on a percentage of the
18 cost to the dealer, and they can only go over
19 a certain percentage of -- that can be
20 imposed. So their profit, essentially,
21 imposed on them as a maximum.

22 REPRESENTATIVE LONGIETTI: I see.

23 Thank you, Mr. Chairman.

24 CHAIRMAN DALEY: Thank you.

25 Any other questions by members,

1 staff?

2 Gentlemen, thank you.

3 MR. STINE: Mr. Chairman, thank you
4 very much.

5 CHAIRMAN DALEY: My pleasure.

6 The next testifier this morning
7 would be Mary Gaiski, the Executive Vice
8 President of the Pennsylvania Manufactured
9 Housing Association.

10 Mary, it's lovely to see you this
11 morning.

12 MS. GAISKI: Nice to see you.

13 Good morning. I wish to thank the
14 Chairman and ladies and gentlemen of the
15 committee for this opportunity.

16 As the Executive Vice President of
17 the Pennsylvania Manufactured Housing
18 Association, I am here today to represent the
19 manufactured housing industry which is
20 regulated by the Motor Vehicle Sales Finance
21 Act and has been since its inception.

22 As we outlined in our written
23 testimony, we were involved in the advisory
24 committee that met to get us here today. And
25 for the most part, we are in support of

1 changes found in House Bill 506.

2 However, since all of this went
3 down, our concerns are not necessarily with
4 the Motor Vehicle Sales Finance Act. It's
5 with the conflict that has been caused with
6 the passage of the Mortgage Licensing Act,
7 also known as Act 31, this past August.

8 This places our industry in direct
9 conflict with the Motor Vehicle Sales Finance
10 Act and the Mortgage Licensing Act. In a
11 nutshell, businesses in the Commonwealth that
12 sell manufactured homes and help their
13 customers in finding a loan to purchase the
14 home must be licensed under the Motor Vehicle
15 Sales Finance Act and the Mortgage Licensing
16 Act.

17 Without any change in their
18 business model, a manufactured housing
19 retailer is now required to get a mortgage
20 lender or a mortgage broker license as well as
21 mortgage originators' licenses for their sales
22 people.

23 Unfortunately, for our industry,
24 financing is a specialty product in the
25 lending industry. Not every lender out there

1 will finance a manufactured home.

2 There is a small pool of companies
3 that will lend on a new manufactured home and
4 an even smaller pool of lenders that will lend
5 on a pre-owned manufactured home; therefore, a
6 consumer needs the help of the selling
7 retailer to find lending for their home.

8 Our retailers have formed
9 relationships with lenders. And once a
10 consumer makes a decision to purchase a
11 manufactured home, they then complete a credit
12 application. The retailer will then make sure
13 that the application is fully completed
14 because many times it is not. They leave, you
15 know, blocks uncompleted there.

16 And since they have many years of
17 working with the consumers and lenders, they
18 are able to review these applications and
19 determine if additional information is needed
20 and ask for it at that time, therefore not
21 delaying this loan application.

22 There is also, many times they
23 understand what lenders are using -- are
24 looking for. They might ask for pay stubs,
25 information verifying other income that they

1 put on their applications.

2 CHAIRMAN DALEY: Mary, can I
3 interrupt you for one second? Are you --

4 MS. GAISKI: I am not going -- I
5 was asked to not necessarily go by the written
6 testimony.

7 CHAIRMAN DALEY: Okay.

8 MS. GAISKI: So I was just trying
9 to highlight some of this.

10 CHAIRMAN DALEY: I appreciate that.

11 MS. GAISKI: Okay. Sorry.

12 CHAIRMAN DALEY: Because as we were
13 scrambling, looking for where you are, I
14 couldn't find you here. But thank you very
15 much.

16 MS. GAISKI: Okay.

17 And advise, they also advise the
18 consumer. When they are working with their
19 lenders, they are given like rate sheets. The
20 lenders determine the rates, what they are
21 going to lend out there. They also are the
22 ones who determine the underwriting guidelines
23 for any loans that they make.

24 And all of that's put into like
25 rate sheets that they pass on, similar to what

1 the mortgage industry does for home builders
2 or realtors out there.

3 So they do -- Our retailers do not
4 negotiate rates in any way, shape or form.
5 All they do is they pass on the rate that is
6 made available to them by the lenders who are
7 financing manufactured homes.

8 So at no time does our retailer
9 negotiate that rate directly with their
10 customer coming in to purchase that home.
11 That would be the responsibility of the
12 lender.

13 They are basically like an
14 intermediary. They do not get paid for their
15 help with this lending process. It is kind of
16 like a bonus for them because if they are
17 going to sell the home, the customer needs to
18 be able to finance that home. Unless they
19 come in, you know, which we all wish for is,
20 are the cash deals.

21 This activity is regulated under
22 the Motor Vehicle Sales Finance Act. These
23 individuals need to hold what are called
24 installment seller's license.

25 If the home is too old to be

1 financed by the traditional lenders, or the
2 consumer has questionable credit, or other
3 elements out there which we see a lot of
4 today, sometimes the retailers will do the
5 lending themselves. And these are usually for
6 homes that are -- They are pre-owned in
7 nature, that are selling for a couple thousand
8 dollars, maybe up into twelve to thirteen,
9 fifteen thousand dollars if the retailer has
10 the wherewithal to do the lending.

11 And also, they have been known to
12 do it on new homes if they have a lot of -- a
13 large down payment and the retailer has the
14 wherewithal to do that lending in order to get
15 the person into the home but they cannot find
16 a traditional lending product. This type of
17 activity is known as the buy here, pay here.
18 Once again, they need an installment seller's
19 license under the Motor Vehicle Sales Finance
20 Act.

21 This -- And also, keep in mind that
22 the Motor Vehicle Sales Finance Act provides
23 for mandatory contract language, disclosures
24 and provisions for repossession. So, in
25 short, the consumer protection under the Motor

1 Vehicle Sales Finance Act is much greater than
2 the consumer protection under the Mortgage
3 Licensing Act.

4 Just to give you an example, a
5 retailer, who was impacted by this dual
6 licensing that is required out there today, he
7 engages in both types of these programs for
8 his consumers -- or his customers, I should
9 say. He has today spent well over \$6,000 to
10 come into compliance with the Mortgage
11 Licensing Act and has spent well over 80 hours
12 of people time getting licensed only to find
13 out, in the conclusion of it all, he cannot.

14 Therefore, he will not be able to,
15 no longer, help his customers with their
16 lending. And will no longer be able to help
17 customers, who traditionally would have
18 purchased a home and maybe had it financed by
19 him, to get it financed because he is required
20 to meet the same guidelines as Susquehanna
21 Bank down the road here on the corner.

22 This retailer is a second
23 generation business. And though these may not
24 be homes that you would choose to live in,
25 they are still home to many financially

1 strapped Pennsylvanians and now these
2 opportunities will not be available through
3 this retailer or many others out there.

4 I would also like to point out that
5 the \$6,000 is a lot of -- is a lot of money
6 for these small businesses. We are hanging on
7 by our thumbnails out there, as most of you
8 know. The housing market is deeply depressed
9 out there. And it is no exception in our
10 industry. We are down 43 percent in the
11 Commonwealth on production and sales of
12 manufactured homes. So to place these costly
13 mandates is devastating our industry.

14 We have been working with the
15 Department of Banking to help minimize the
16 impact while at the same time comply with the
17 federal mandates that the Mortgage Licensing
18 Act has addressed.

19 These changes will require
20 legislation. And we hope we can count on the
21 support of this committee to get these changes
22 passed quickly toward -- for further
23 challenges for our struggling industry.

24 And just as another note, with
25 Representative Siptroth, with your question.

1 The Motor Vehicle Sales Finance Act is the
2 guidance that PennDOT uses for the titling
3 process for manufactured homes.

4 And I will just give you a quick
5 101 of the difference between a manufactured
6 home and a modular home. A manufactured home
7 is built to the federal HUD code; it does have
8 the chassis, by mandate, in the definition on
9 it; and that is typically financed in the
10 installment market.

11 And a lot of that goes with the
12 history of our industry. We have
13 traditionally placed our homes in land lease
14 situations, therefore the installment and then
15 the mandatory titling that PennDOT requires on
16 these homes.

17 If these homes do go onto private
18 property, they are eligible for mortgage type
19 products that are out there. And they do
20 comply, and it is done every day.

21 And then also the title, there is a
22 process through the MV 16, with the Motor
23 Vehicle Department, that they can retire that
24 title. And then they would have to comply
25 that product -- the mortgage product would

1 have to comply with any of the mortgage laws
2 that are out there.

3 And a modular home is never placed
4 in installment paper. A modular home is built
5 to the -- in a factory the same as a HUD home,
6 but then it goes on private property. So it
7 goes on its own property. And it is never
8 titled in the Commonwealth. It does -- The
9 titling laws do not require. In fact, they do
10 not allow the titling of a modular product.

11 REPRESENTATIVE SIPTROTH: Thank
12 you.

13 CHAIRMAN DALEY: Let me just
14 respond. Much of your extemporaneous or in
15 your notes had nothing to do with House Bill
16 506, although your testimony does --

17 MS. GAISKI: Correct.

18 CHAIRMAN DALEY: -- your written
19 testimony. You had indicated two times that
20 it was an \$8,000 expenditure?

21 MS. GAISKI: Yes, six thousand --
22 The one retailer spent \$6,000, and there is --
23 We have had others that have spent more out
24 there.

25 CHAIRMAN DALEY: And but your notes

1 on page four indicate 5,000; that's not
2 correct?

3 MS. GAISKI: I don't --

4 CHAIRMAN DALEY: Is that a
5 different matter? I'm on page four.

6 MS. GAISKI: Yeah, I was quoting
7 different -- We -- Since --

8 That was prepared for the December
9 15th meeting. And we have talked to more.
10 And more costs have been incurred by. Some of
11 our members have gotten back to us --

12 CHAIRMAN DALEY: Okay. So this is
13 --

14 MS. GAISKI: -- with higher costs
15 out there.

16 CHAIRMAN DALEY: And I know this is
17 an issue because we have dealt with this
18 issue, we have helped you out.

19 MS. GAISKI: Right.

20 CHAIRMAN DALEY: Although, we did
21 not deal with it in our legislation, which we
22 probably should have to some degree more than
23 we had under the SAFE Act.

24 I know that Paul --

25 Paul, do you want to just respond

1 briefly as to the ongoing negotiation by the
2 department? I know that you have done some
3 things. And I made a request to you about the
4 time frames in terms of putting it into
5 compliance with the --

6 MS. GAISKI: Yeah, we -- In fact,
7 we have been we have been back and forth on
8 some language to resolve this. I did not want
9 to jeopardize any of our negotiations with the
10 department and, you know, give you any of the
11 down and dirty of what we are looking at.

12 We are trying to -- I --

13 You know, Paul, if you want me to
14 tell them or do you want to do it?

15 MR. WENTZEL: Well, what we're --

16 CHAIRMAN DALEY: Paul, you'll
17 probably have to come up to the microphone,
18 please.

19 MR. WENTZEL: Paul Wentzel,
20 Executive Assistant to the Secretary and
21 Legislative Liaison in the Department of
22 Banking.

23 So, this issue, we discovered this
24 issue back about August of '09, right after
25 the legislation was approved, which was

1 Representative Daley sponsored the
2 legislation. And what we have been meeting
3 and talking regularly with the manufactured
4 housing folks and with some members of the
5 General Assembly about, a solution to this
6 problem.

7 The problem is that the
8 manufactured housing dealers and the sellers
9 of mobile homes and manufactured homes were
10 brought in under the Mortgage Licensing Act,
11 under SAFE, under the original bill that was
12 Representative Daley's bill. The -- They were
13 not included.

14 I am driving people out. But --
15 CHAIRMAN DALEY: Well, it is not
16 the scope of the original intent of the
17 hearing.

18 MR. WENTZEL: Right.

19 CHAIRMAN DALEY: But I -- We felt
20 like we wanted to know something on the spot
21 (phonetic).

22 MR. WENTZEL: Right. So it was not
23 in the '08 mortgage licensing bill that was
24 Representative Daley sponsored. But the SAFE
25 Act included mobile homes and manufactured

1 housing, the financing under it. And what it
2 effectively did was included the companies to
3 be licensed under the Mortgage Licensing Act
4 and under the Motor Vehicle Sales Finance Act.

5 CHAIRMAN DALEY: But by definition
6 in the legislation --

7 MR. WENTZEL: Right.

8 CHAIRMAN DALEY: -- they brought
9 them in?

10 MS. GAISKI: Right.

11 MR. WENTZEL: Right.

12 CHAIRMAN DALEY: Because they were
13 doing installment agreements in terms of for a
14 home purchase even though it was a mobile
15 home. But still, they were doing it in
16 installment sales of homes.

17 MR. WENTZEL: Yeah. What they did
18 under the federal law and then we adopted it,
19 was that we adopted the definition of dwelling
20 which brought mobile homes and manufactured
21 homes under that definition.

22 Now, where we erred--although we do
23 not think, at the time we did not really know
24 it--was that we included the companies, the
25 mortgage, the manufactured home companies and

1 the mobile home companies that sell and
2 finance these homes, under the company
3 licensing requirements of the Mortgage
4 Licensing Act. The federal law, the SAFE Act,
5 only requires that the individual loan
6 originators, those people who deal with the
7 public, be licensed as loan originators.

8 So what we have been discussing in
9 terms of an amendment to the Mortgage
10 Licensing Act would be to eliminate or delete
11 the requirement that the companies be licensed
12 but retain the requirement that the
13 originators be licensed.

14 And we provided draft legislation
15 to the association to review, and I think they
16 have completed that review.

17 MS. GAISKI: Yes.

18 MR. WENTZEL: I think Mary has
19 their letter available for us to -- for me to
20 take along back to the department, and we will
21 study their response.

22 But that's where we would go with
23 it. And I think that it's a good solution
24 because they would, the companies, would
25 continue to be licensed as they have been for

1 many years under the Motor Vehicle Sales
2 Finance Act, and the consumer protection would
3 still -- would be retained, and we would not
4 have this double licensing requirement.

5 And the costs, as you know from
6 working on the Mortgage Act, the costs and the
7 requirements placed on mortgage companies and
8 mortgage brokers are pretty -- are pretty
9 tough and pretty strict, as was necessary with
10 the problems in mortgage, the mortgage
11 business over the past couple of years. So
12 that's where we are going.

13 And did you have any comments?

14 MS. GAISKI: No.

15 CHAIRMAN DALEY: Mary or Paul, if
16 you could provide that to Robb and to John so
17 that the committee can look at that as soon as
18 possible?

19 MS. GAISKI: Right.

20 MR. WENTZEL: Right, yeah.

21 CHAIRMAN DALEY: So we are going to
22 try to get this matter to move forward to
23 correct the use on these.

24 MS. GAISKI: Yeah, we --

25 CHAIRMAN DALEY: Representative

1 Ross.

2 REPRESENTATIVE ROSS: Thank you,
3 Mr. Chairman.

4 I just want to briefly comment on
5 both of the last two testifiers. And I am
6 quite sympathetic to the problem that the
7 Manufactured Housing Association is struggling
8 and the Banking Department is struggling with
9 here. And this was obviously something that
10 came up after the task force and the advisory
11 groups had already completed their work, and
12 it gets into the issue of mortgages.

13 And I did just want to note that
14 the solution that they seem to be working
15 towards an amendment to the mortgage
16 legislation rather than this legislation. So
17 I am hopeful that it will be sorted out and
18 probably, therefore, needs to be done through
19 another vehicle rather than this particular
20 bill.

21 CHAIRMAN DALEY: I have no
22 anticipation of holding this bill back --

23 REPRESENTATIVE ROSS: Right.

24 CHAIRMAN DALEY: -- based upon any
25 negotiations. What we had scheduled was this,

1 but it was going to move tomorrow. Due to the
2 Appropriations Committee hearing, lecture in
3 your caucus --

4 REPRESENTATIVE ROSS: We have got a
5 problem.

6 CHAIRMAN DALEY: -- we have
7 rescheduled that until I think next week.

8 MS. ATTLAND: February 2nd.

9 CHAIRMAN DALEY: February 2nd?

10 REPRESENTATIVE ROSS: Second or
11 third?

12 MS. ATTLAND: Second.

13 CHAIRMAN DALEY: February the 2nd
14 as a voting meeting if the vote is still on
15 committee, unless there is any other problems
16 we have from some members of the committee.

17 MR. WENTZEL: Right.

18 REPRESENTATIVE ROSS: I did also
19 want to comment on the Automobile
20 Association's comments. And we had an
21 extended discussion about the issue of maximum
22 markups. And it was kind of interesting
23 because they have done some studies indicating
24 that by looking at dealers that the maximum
25 markup that they were seeing were in the 50-

1 to 60-percent range, well below the
2 hundred-percent limit.

3 And I had personal sympathy for
4 their position about not having arbitrary
5 limits on transactions between a buyer and a
6 seller. That as long as they both understood
7 the deal that was being presented to them
8 fully, if they wanted to make that deal, like
9 the 300-percent markup on the bottle of wine,
10 or whatever, that I had no problem with that.

11 What I did have some concern about
12 was the fact that this had been explicitly
13 added to the code in 2002 by the will of the
14 General Assembly, signed off on by the
15 Governor. And given the nature of our efforts
16 to recodify, we were trying to stay into
17 consensus area.

18 And I felt it was beyond my
19 capabilities to state the will of the General
20 Assembly and insert that change in this
21 legislation. I felt that that ought to be
22 something that was clearly brought up
23 separately and voted on separately.

24 If it is the will of the General
25 Assembly, at large, to remove that

1 hundred-percent cap, then I certainly and
2 personally do not have any problems with it.

3 But I felt it was inappropriate,
4 given the work that we were trying to do and
5 the efforts and the whole thrust of what this
6 recodification was, to try and introduce that
7 controversial element in the legislation at
8 this time and that's why I deferred it off.

9 So I would hope that if it was the
10 will of the General Assembly, that it be dealt
11 with in a separate matter.

12 CHAIRMAN DALEY: It will be. Thank
13 you, Representative Ross.

14 Thank you, Mary.

15 And thank you, Paul, for your
16 testimony and contribution.

17 I want to thank everyone for coming
18 this morning. Unless there is any other
19 questions? Seeing none. The room is pretty
20 well evacuated.

21 We will be having a meeting on
22 February 2nd in 205 Ryan, on your bill, on Mr.
23 Ross's, a voting meeting.

24 We had originally scheduled that
25 meeting for tomorrow, along with

1 Representatives Hannah's bill and
2 Representative Lentz's resolution.

3 Representative Lentz's resolution
4 will not be considered in the near future.

5 But Representative Hannah's bill,
6 the committee had a hearing on it in -- at Ag
7 Progress Days, will be considered soon. We
8 had a meeting last Wednesday, with all the
9 players, in a teleconference. We are trying
10 to work out the difficulties and the problems
11 with that manufacture's bill on large
12 equipment.

13 February 11th, we are going to be
14 in Representative Wansacz's district. March
15 11th, we are going to be in Representative
16 Mirabito's district. And March 25th, we are
17 going to be in Representative Marshall's
18 district. And this Thursday, again, we are
19 going to be both in Somerset and in Cambria
20 County.

21 Thank you for your attendance.

22 This meeting is adjourned.

23 (At 11:05 a.m., the hearing was
24 concluded.)

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