

Boston University School of Law

Legislative History Project (Pt. 2/2)

Chapter 258 : An Act Relative to
Mortgage Foreclosures 2010

Gabriela M. Ventura
12/14/2010

JOINT COMMITTEE ON HOUSING
MAY 19, 2009: TESTIMONIES



The Commonwealth of Massachusetts

JOINT COMMITTEE ON HOUSING
STATE HOUSE, BOSTON 02133-1053

SUSAN C. TUCKER
SENATOR
SENATE CHAIR
ROOM 424, STATE HOUSE
TEL. (617) 722-1612

KEVIN G. HONAN
REPRESENTATIVE
HOUSE CHAIR
ROOM 38, STATE HOUSE
TEL. (617) 722-2470

May 19, 2009

TO: All interested parties

FROM: Representative Kevin G. Honan, Chair
Senator Susan C. Tucker, Chair

RE: Joint Committee on Housing Hearing

WHEN: Tuesday, May 19, 2009, 10:30 AM

WHERE: State House, Room A-1

The Joint Committee on Housing will hold a hearing on Tuesday, May 19, 2009 in Room A-1 at 10:30 AM. The committee will hear the following bills relative to residential foreclosures:

- H 1232 An Act to protect tenants in foreclosed properties from evictions.
Rep. Malia
- H 3571 An Act to stabilize neighborhoods through the protection of tenants in foreclosed properties. **Rep. Honan**
- H 3692 An Act relative to stabilizing communities. **Rep. Martin Walsh**
- S 621 An Act creating the Massachusetts Mortgage Resolution System.
Sen. Brown
- S 637 An Act encouraging homeownership in foreclosed properties.
Sen. Galluccio
- S 1379 An Act to stabilize neighborhoods. **Sen. Tucker**

In an effort to conserve resources and save paper we will not be sending a hard copy unless requested. Please contact committee staff at 617-722-2470 with questions.

<u>Bill#</u>	<u>Docket #</u>	<u>Title</u>	<u>Sponsor</u>	<u>Committee</u>
<u>Homestead Bills</u>				
H 1403	H 1137	Act relative to homesteads	Rep. Anne Gobi	Judiciary
H 1591	H 2008	Act relative to the estate of homestead	Rep. Eugene O'Flaherty	Judiciary
H 1656	H 3796	Act relative to the Homestead Act	Rep. Alice Hanlon Peisch	Judiciary
S 1619	S 685	Act relative to the estate of homestead	Sen. Cynthia Stone Creem	Judiciary
S 1590	S 1722	Act relative to homestead declarations recording of deeds	Sen. Scott Brown	Judiciary
<u>Tenants' Rights</u>				
H 1191	H 1232	An Act to protect tenants in foreclosed properties from evictions	Rep. Liz Malia	Housing
S 1609	S 1409	Act requiring just cause for eviction and foreclosed properties	Sen. Harriette Chandler	Judiciary
S 1614	S 1899	Act requiring just cause for eviction and foreclosed properties	Sen. Sonia Chang-Diaz	Judiciary
S 1847	S 1827	Act to stabilize tenancies in foreclosed properties	Sen. Susan Tucker	Judiciary
<u>Judicial Review</u>				
	H 2037	Act establishing judicial review of foreclosures in the city of Lawrence	Rep. William Lantigua	
	H 2491	Act requiring judicial approval of foreclosures of residential mortgages in the city of Worcester	Rep. James O'Day	
S 1613	S 1649	Act to require judicial foreclosure	Sen. Sonia Chang-Diaz	Judiciary
S 1778	S 1642	Act to require judicial foreclosure	Sen. Michael Morrissey	Judiciary
<u>Foreclosure Moratoriums</u>				
H 1510	H 3480	Act to establish a temporary moratorium on foreclosures in the Commonwealth	Rep. William Lantigua	
	H 2581	Act imposing a moratorium on the foreclosure of predatory subprime mortgages in the city of Worcester	Rep. James O'Day	Municipalities
S 1751	S 1472	Act to establish a moratorium on foreclosures in the Commonwealth	Sen. Mark Montigny	Judiciary
<u>PMI</u>				
H 2945	H 2298	Act allowing a tax deduction for private mortgage insurance	Rep. Steven Walsh	Revenue
H 3691	H 3298	Act relative to private mortgage insurance and the affordable housing trust fund	Rep. Steven Walsh	Housing
<u>Miscellaneous/Unknown</u>				
H 858	H 1455	Act providing mortgage customers with additional mandatory information regarding their accounts	Rep. Bruce Ayers	Fin. Services
H 966	H 499	Act relative to nonpayment of insur. prem. from escrowed funds by lending institution	Rep. Ron Mariano	Fin. Services
H 1049	H 3230	Act Relative to mortgagor prepayment fees or penalties for property insurance or tax payments	Rep. Joyce Spiliotis	Fin. Services
S 479	S 2043	Act relative to reverse mortgages	Sen. Brian Joyce	Fin. Services
S 621	S 1832	Act creating the Massachusetts Mortgage Resolution System	Sen. Scott Brown	Housing
S 637	S 529	Act to encourage homeownership in foreclosed properties	Sen. Anthony Galluccio	Housing

2009-2010 Legislative Session Housing Bills

<u>Bill#</u>	<u>Docket #</u>	<u>Title</u>	<u>Sponsor</u>	<u>Committee</u>
<u>Omnibus Housing/Foreclosure Bills</u>				
S 1379	S 1762	Act to stabilize neighborhoods	Sen. Susan Tucker	Revenue
H 3571	H 1447	Act to stabilize neighborhoods through the protection of tenants in foreclosed properties	Rep. Kevin Honan	Housing
H 3692	H 3303	Act relative to stabilizing communities	Rep. Martin Walsh	Housing
<u>Loan Modification/Partial Payment</u>				
S 471	S 543	Act relative to preserving homeownership	Sen. Anthony Galluccio	Fin. Services
S 1848	S 1872	Act to require commercially reasonable efforts to avoid foreclosure	Sen. Susan Tucker	Judiciary
<u>Mortgage Fraud</u>				
S 1846	S 1764	Act to criminalize mortgage fraud	Sen. Susan Tucker	Judiciary
<u>SAFE Act</u>				
H 980	H 921	Act adopting the federal secure and fair enforcement for mortgage licensing act of 2008	Rep. Ron Mariano	Fin. Services
S 452	S 1386	Act adopting the federal SAFE Act	Sen. Steven Buoniconti	Fin. Services
<u>Foreclosure Process</u>				
H 1310	H 1006	Act imposing a transfer fee on mortgage foreclosures	Rep. Linda Campbell	Judiciary
H 1649	H 3931	Act Regarding Massachusetts Foreclosure Mediation Program	Rep. Vincent Pedone	Judiciary
H 1682	H 3586	Act relative to mortgage foreclosure and active duty servicemembers	Rep. John Quinn	Judiciary
H 2218	H 558	Act relative to community leadership, neighborhood-revitalization and urban-violence protection	Rep. Barry Finegold	Public Safety
H 3521	H 1246	Act relative to publication of notice in mortgage foreclosures	Rep. John Keenan	Judiciary
S 785	S 840	Act regulating the maintenance of vacant and foreclosing residential properties	Sen. Anthony Petrucelli	Municipalities
S 1612	S 1616	Act protecting homeowners facing foreclosure	Sen. Sonia Chang-Diaz	Judiciary
S 1805	S 1725	Act to establish a foreclosure mediation program	Sen. Karen Spilka	Judiciary
S 1828	S 1130	Act relative to community leadership, neighborhood revitalization and urban violence protection	Sen. James Timilty	Judiciary
H 3890	H 4216	Act relative to the prevention of foreclosed property blight	Rep. Jennifer Callahan	
H 3891	H 4220	An Act relative to foreclosed property upkeep	Rep. Jennifer Callahan	

Plihcik, Thomas (HOU)

From: Hunter, Rosie (HOU)
Sent: Tuesday, May 19, 2009 9:30 AM
To: Plihcik, Thomas (HOU)
Subject: FW: MAAPL Panelist List: Tenant Protection Bill

Hi Tom,
Sorry not to have gotten this to you sooner but below is the list of people we expect to testify today in support of H1232.
Thanks,
Rosie

Rosie Hunter, Staff Director
Office of Representative Liz Malia
Room 33, State House
Boston, MA 02133
617-722-2060
fax: 617-722-2849
rosie.hunter@state.ma.us

-----Original Message-----

From: Roxanne Reddington-Wilde [mailto:redwilde@bostonabcd.org]
Sent: Tuesday, May 19, 2009 8:44 AM
To: graccross@aol.com; rosie.hunter@state.ma.us
Subject: MAAPL Panelist List: Tenant Protection Bill

Rosie,

Below are the panels in order with the testifiers for the MAAPL tenant protection bill. Note that Boston city council president Michael Ross may be taken out of order by the Committee. Also that Juan Bonilla (last on panel 2) potentially may not be speaking on it.

Roxanne R-W
ABCD

Panels/Testifiers for May 19th hearing on MAAPL Tenant Protection Bill

- Panel 1:
 - o Lee Goldstein, Harvard Legal Aid Bureau
 - o Judith Liben, Mass Law Reform Institute
 - o Stuart Rossman, National Consumer Law Center
 - o Grace Ross, Coordinator, Mass Alliance Against Predatory Lending

- Panel 2
 - o Christeen Friend, Worcester resident
 - o Alba Ordoñez, Chelsea resident
 - o Lissette Candelaria, Worcester resident
 - o Rev. Judy Deutch, Sudbury
 - o Juan Bonilla, Mortgage Counselor, Lawrence CommunityWorks

- Panel 3:
 - o Elyse D. Cherry, CEO & Venture Fund President, Boston Community Capital
 - o Virginia Pratt, Mortgage Counselor, Ecumenical Social Action Committee
 - o Richard C. Phipps, Licensed Realtor since 1982
- Panel 4:
 - o Jim Brooks, City Life/Vida Urbana
 - o Sacki Freeman, owner, Grove Hall, Dorchester
 - o Inell Mendes, tenant, Egleston Sq., Roxbury
 - o Boston City Council President Michael Ross
- Panel 5:
 - o Amaad Rivera, Racial Wealth Divide, United for a Fair Economy
 - o Kelly Turley, Mass Coalition for Homeless
 - o Dr. Genevieve Preer, Senior Pediatric Resident, Boston Medical Center
 - o Len Raymond, Executive Director, Homeowner Options for MA Elders

End of Panel list: below are the folks City Life are bringing

Staff Jim Brooks

&nb sp; Melonie Griffiths, if necessary

Bank tenants confirmed

Sacki Freeman, owner, Grove Hall, Dorchester (subject of Globe article week ago)

Inell Mendes, tenant, Egleston Sq., roxbury (spoke at breakfast)

L'Merchie Frazier, owner, Dorchester, Ashmont

Miriam Ramirez, tenant, East Boston

Bank tenants not confirmed

Abigail Lugay or Rita Meyers, tenants in Codman sq. who bought home at real value after foreclosure

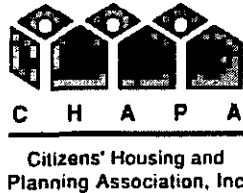
Tom Quinn, owner who got house back (subject of Globe article last week)

A strong credit score is 700 or above. See Yours in Just 2 Easy

Steps!<<http://pr.atwola.com/promoclk/100126575x1221823248x1201398651/aol?redir=http://www.freecreditreport.com/pin/default.aspx?sc=668072%26hmpgID=115%26bcd=Maystrongfooter51909N0115>>

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Testimony before the Joint Committee on Housing in Support of H. 3571, H. 3692 and S. 1379

Submitted By:

Sean Caron
Director of Public Policy
May 6, 2009

Dear Chairman Honan, Chairwoman Tucker, and Members of the Committee:

My name is Sean Caron and I am Director of Public Policy at Citizens' Housing and Planning Association (CHAPA). CHAPA is a statewide affordable housing advocacy organization committed to bolstering community stabilization in neighborhoods impacted by foreclosures.

In 2006 and 2007, we were part of a broad coalition of organizations that partnered with the legislature to develop Ch. 206 of the Acts of 2007. At that time, policymakers were able to grasp the wave of impending defaults in high-risk and predatory mortgage loans made in the preceding years. Consequently, Ch. 206 initiated effective policy actions to help mitigate the impact on homeowners and ensure that predatory and sub-prime loan-making would not endanger the Commonwealth in the future. However, there was no way to identify the full extent of the foreclosure crisis exacerbated by the decline in home sales prices to 2003 levels and significant job losses in the Commonwealth caused by the global recession.

A perfect storm of housing and job instability will likely mean that homeowner defaults will continue to create challenges for the Commonwealth. Through the first three quarters of 2009, 2,755 foreclosure deeds were recorded statewide, down just 2.5 % from 2,827 a year ago despite significant federal intervention in recent months and moratoriums instituted by several major lenders in late 2008 and early 2009. Furthermore, 6,636 petitions to foreclose were filed in January, February and March of 2009, a decline over the same three months in 2008 but still a significant amount¹.

Foreclosures are likely to spike as job losses mount. In March, the Commonwealth lost 20,300 jobs and has lost over 91,000 jobs from October 2008 to March 2009². MassBenchmarks, the

¹ The first quarter 2008 foreclosure petitions were also elevated by lenders trying to initiate the foreclosure process prior to Ch. 206 taking effect.

² Massachusetts Department of Labor and Workforce Development, <http://lmi2.detma.org/lmi/CES.asp>

quarterly journal published by the University of Massachusetts, predicts payroll employment will continue to drop through the third quarter of 2010.

These trends will continue to put pressure on default and foreclosure rates, especially for those that suffer an economic hardship that had assumed a mortgage through refinance or purchase near the height of the market and now have negative equity. Over 10 % of Massachusetts homeowners with a mortgage have negative equity in their property³. This problem exists across the Commonwealth but has a concentrated impact in particular neighborhoods. At least 50% of homebuyers in zip codes in Lynn, Rockland, Haverhill, Methuen, Abington, Brockton, Whitman, Acton, Peabody, Worcester and Lawrence that purchased their properties between 2004 and 2008 have negative equity in their property⁴. Furthermore, MassBenchmarks predicts the median home price low point to hit in the second quarter of 2010 and then remain flat until 2012, which will exacerbate the problem.

In addition to conventional loan default caused by negative equity and job loss, subprime or predatory loans remain a serious issue for the Commonwealth. 23% of Massachusetts subprime adjustable loans were at least 90 days delinquent as of December 31, 2008, up from 18% in the third quarter of 2008⁵. This puts Massachusetts among the states with the highest subprime delinquency in the nation.

Approximately 44% of the units impacted by the current foreclosure crisis have been in two and three family homes⁶. There has been limited government intervention to protect tenant displacement in these properties. Currently, unsubsidized tenants that have paid rent and did not contribute to the foreclosure can be evicted with only 30 days notice. Both branches of Congress have included protections of up to 90 days but a bill has not yet emerged from conference committee for the President to sign. 90 days would still be insufficient to protect significant displacement and housing instability in the current economy. Furthermore, 90 days protection does little to alleviate the issues caused when the property is abandoned and allowed to become a blight on the neighborhood.

To address the continued fallout on neighborhoods, CHAPA supports a package of new tools to keep properties occupied and communities empowered to minimize the impacts of foreclosures.

The most critical tool is to enable tenants in multifamily properties to continue to live in them beyond foreclosure. This legislation would prevent tenants that legally occupied an apartment prior to the building being foreclosed from being evicted. In order to receive this protection, tenants would need to remain in good standing and continue to pay rent to the foreclosing lender's property manager. The protections would last until 60 days prior to the closing of a sale to a third party to ensure that there are no barriers to returning the property to traditional property owners. This will sunset December 31st, 2013.

³ Mass Benchmarks 2009. Volume 11, issue 1. <http://www.massbenchmarks.org/publications/issues/vol11i1/5.pdf>

⁴ Massachusetts Foreclosure Monitor, May, 2009, Massachusetts Housing Partnership.

⁵ Id.

⁶ Massachusetts Foreclosure Monitor, Third Quarter, 2008.

In addition, the legislation creates two local options for municipalities to manage foreclosed properties. H. 3571 and H. 3692 include provisions that would mirror the City of Boston's ordinance that requires a lender to post a Massachusetts-located property management company's contact information on the building and file that information with the municipal building inspector. The filing would be accompanied by a \$100 fee to offset any costs to the building inspector to manage the database and monitor the foreclosed property.

The other local option contained in the Honan, Walsh and Tucker bills would allow municipalities to give a property tax exemption to a nonprofit that acquires a foreclosed property during the course of the rehabilitation of the property. This is critical in weak market areas where there are significant risks in purchasing foreclosed properties because the ownership markets continue to decline. Many of the properties have been stripped of necessities, including appliances, sinks, pipes and wiring. Currently, these properties are sitting vacant because there is an extremely limited for-profit market and non-profits cannot afford the acquisition and rehabilitation costs. Once rehabilitated, the nonprofit could offer the property as rental housing or as an affordable homeownership property. The tax benefits would end once the property is occupied or by a given term.

An additional tool in all three bills would extend the current 90 day right to cure a deficiency to 150 days. This provision from Ch. 206 has allowed struggling homeowners some time to identify what entity has responsibility for their loan amid the web of securitization. However, this time period is often too short to identify the responsible servicer and reach a mutually acceptable agreement. With the new federal tools, we believe the additional 60 days could reduce foreclosures by allowing more time to negotiate the best available outcome.

Finally, the three pieces of legislation includes a provision that criminalizes mortgage fraud. This would give the Attorney General an additional tool to prosecute egregious offenses. We are particularly worried about predatory rescue schemes. We intend for the provision to exclude individual homeowners and are willing to work with the Committee to tighten the language if necessary.

The foreclosure crisis is impacting the entire Commonwealth and it will continue to do so for a considerable amount of time. We believe that these five provisions provide common sense tools to communities to manage the crisis. We urge the Committee to advance this legislation promptly and send this package to the full legislature for passage to mitigate any possible neighborhood destabilization.

Please don't hesitate to contact me to discuss this legislation or other proposals to improve neighborhoods impacted by foreclosures. Thank you for your leadership and support.



H3571
S1379
fav

MASSACHUSETTS CREDIT UNION LEAGUE, INC.

JOINT COMMITTEE ON HOUSING
PUBLIC HEARING
MAY 19, 2009

STATEMENT IN SUPPORT OF HOUSE 3571, HOUSE 3692 AND SENATE 1379
AN ACT TO STABILIZE NEIGHBORHOODS THROUGH THE PROTECTION OF
TENANTS IN FORECLOSED PROPERTIES

AN ACT RELATIVE TO STABILIZING NEIGHBORHOODS

AN ACT TO STABILIZE NEIGHBORHOODS

The Massachusetts Credit Union League, Inc. ("League") is the state credit union trade association, serving 206 federally and state-chartered credit unions that are cooperatively owned by 2.4 million consumers as members and operating as part of the Credit Union National Association (CUNA). On behalf of the Massachusetts credit union movement, the League generally supports the concepts protecting homeownership underlying House 3571, House 3692 and Senate 1379.

Residential mortgage loans are complex transactions that require a consumer to pay significant fees and share their most intimate financial information with third parties. A home mortgage is the largest financial transaction, both the largest asset and largest liability, entered into by Massachusetts consumers. These facts, coupled with the recent increase in Massachusetts foreclosure filings, the decline of home values, the increase in

rates and subprime loans, and the corresponding increase in interest-only and stated income loans, together with the repricing of certain adjustable-rate mortgages, were factors which help create the perfect storm in the local and national mortgage lending arena. In addition, to add insult to injury, many of these products were heavily marketed to high risk, low-income, minority borrowers unable to repay even at the time the loan was made.

The Massachusetts credit union community remains sensitive to the significant number of foreclosures in the Commonwealth and their impact on working families and the resulting destabilization of our local communities. For 100 years, credit unions have been helping Massachusetts consumers with all of their financial needs. Attached to this statement is a press release highlighting credit union support for the Patrick Administration's first attempts at providing transitional assistance under foreclosure circumstances. As a result, the League supports the Committee's current consideration of House 3571, House 3692 and Senate 1379 in the beginning of this legislative session.

The general thrust of the recommendations before the Joint Committee on Housing ("Committee") seeks to address just cause tenant evictions, create an abandoned/foreclosed property registration program, formalize a mediation process, extend the right to cure timeframe, create the crime of larceny for intentional misrepresentation of the ability to pay or for false statements of financial condition and

create the crime of mortgage fraud. These goals are applauded by the Massachusetts credit union community as part of the many tools needed to assist our troubled housing market.

The League notes that the issue of criminalizing mortgage fraud was also reviewed at length in working groups formed by the Massachusetts Commissioner of Banks in 2007. The working group was entitled "Rules and Enforcement" and was comprised of a cross-section of seasoned industry leaders at every level, including the Massachusetts credit union community. A final report detailing the results and recommendations of the working groups was released in April 11, 2007. Moreover, this Committee and this Legislature tirelessly worked to successfully address this issue through the enactment of Chapter 206 of the Acts of 2007 to help address mortgage foreclosures and at-risk borrowers. The League applauded the work of this Committee throughout that process and believes that these actions address issues raised in the pending bills.

Each of the pending proposals before the Committee contains various provisions intended to protect consumers by addressing certain practices. The League offers its comments on the following provisions set forth in the pending bills:

A) Just Cause Eviction

The Massachusetts credit union community acknowledges that this standard creates a new chapter within the Massachusetts General Laws, Chapter 186A, to mandate that tenants or occupants in a property in foreclosure can remain in the property unless a sufficient reason or "just cause" for eviction exists. The League has serious concerns over requirements which mandate that written notices must be provided individually to tenants or other occupants which may have no relationship with lenders required to provide such notices. Requirements to send notices to tenants presume that lenders have access to names, mailing addresses and other necessary information relative to tenancy. In some areas of the Commonwealth such as Fall River, the prevalence of multiple family properties occupied by members of one extended family are common. In such instances, individual leases or tenancies are nonexistent, recordkeeping by tenants is weak and little if any information is provided to lenders. Furthermore, liability for properties with significant health and safety code violations may exist. Without safe harbors in these areas, local lenders who did not create the problem will be reluctant to enter the market to assist in stabilization efforts.

The League also recognizes that some proposals mandate a mitigation program. This Committee is reminded that all Massachusetts credit unions engage in extensive financial counseling throughout every aspect of the mortgage loan transaction. By the time foreclosure proceedings have begun, a borrower has had numerous opportunities

to resolve the matter to his or her satisfaction in a fair, reasonable and timely manner, including utilizing the current 90 day right to cure period. The League questions the necessity of this provision, coupled with a further extension of the right to cure period, for mortgage loans entered into between consumers and responsible local lenders. The League is unaware of any difficulties experienced by consumers with lending relationships with credit unions that suggests an extension from the required 90 days to 150 days is warranted at this time. This Committee is reminded of lender concerns over the safety of properties from unconcerned tenants, persons in possession, vandals and other damaging or illegal activity that is invited during significantly extended periods as proposed by these bills.

B) Mortgage Fraud

The League supports provisions which make mortgage fraud a crime. Including provisions in legislation that address appraiser activity, define fraud and provide for patterns of fraud is also welcomed. Permitting prosecutors additional flexibility to try cases efficiently, since fraud may occur in overlapping jurisdictions is also supported. Finally, the League supports language that imposes the same liability on homeowners who engage in such unlawful conduct.

The League recommends one additional provision: forfeiture. Final provisions should mandate that any persons who engage in the crime of mortgage fraud should be

required to forfeit any and all real or personal property used to commit the fraudulent mortgage transaction. This remedy is a common law enforcement tool for crimes involving drugs and nonpayment of taxes and should be included in any new crime of mortgage fraud which may involve the use of such valuable items such as other real estate owned, motor vehicles, electronic equipment and cash in the commission of the crime.

As of last June, the following states criminalize mortgage fraud: Arizona, Colorado, Florida, Georgia, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nevada, North Carolina, Utah and Washington. The Commonwealth of Massachusetts should be a leader in New England and elsewhere and adopt these provisions.

C) Abandoned/Foreclosed Property Registration Program

The League notes that an abandoned and/or foreclosed property registration program is proposed and understands the needs of local communities to monitor this activity.

The League reminds this Committee that a foreclosure database currently exists in the Commonwealth which captures some of the required information and suggests that enhancements to that database may be used to address the concerns of the pending bills rather than to reinvent a new database. A new database will impose additional responsibilities on lenders which may be streamlined utilizing existing resources.

D) Pending Federal Legislation

The League notes that Congress is currently considering S. 896, the *Helping Families Save Their Homes Act*, which has amendments addressing foreclosed tenant issues and is expected to be finalized shortly. The League recommends to the Committee to monitor those developments closely prior to final action on the pending bills.

The League appreciates the opportunity to offer comments to the Committee on these important issues and remains available to assist whenever possible in the final deliberations on House 3571, House 3692 and Senate 1379.

Small Property Owners Association

PROVIDERS OF 75% OF ALL RENTAL HOUSING
P.O. BOX 398115, CAMBRIDGE, MA 02139 617-354-2358
www.spoa.com

H3571
S1379
19 May 2009

TESTIMONY

In Opposition To

Just-Cause Eviction for Tenants in Foreclosed Properties

(H.3571, S.1379 and others)

Sympathetic though we all are to tenants who must move because their owners could not pay their mortgages, we must balance this concern against the considerable hidden costs and unintended consequences if banks or any foreclosing owners are forced to keep tenants under a regime of eviction only for proven-in-court "just causes." Here are our objections specifically.

1. Each one of these bills entails rent control in the worst form: a rent freeze for the duration of the legislation, usually four and a half years, until December 31, 2013. Tenants can be evicted only if they fail to pay the rent "in effect prior to foreclosure." No allowance is given for major repairs and capital improvements, so none will be done. Many foreclosed properties are in pretty rough shape when the banks get them. Some properties will not be fully tenanted. The banks will be put in the untenable position of being required to provide code-perfect apartments without the financial means to do so. As we know from hard experience, the notorious effect of rent control – that the properties steadily deteriorate – will happen once again. In this situation, tenants will be entitled to withhold rent and live rent-free, a financial disaster for banks.
2. Enacting any one of these bills will seriously harm the lending and housing markets in Massachusetts, and further hurt our state's economy. To service tenants, banks will need to hire management companies. Buildings occupied by renters will be harder to sell and will sell for less, because new owners prefer to buy vacant properties. These costs imposed by just-cause eviction will make banks hesitant to lend in Massachusetts or require them to recoup their costs through higher interest rates. None of this is good for our economy.
3. To require just-cause eviction for all foreclosed-upon properties is a very broad application. Many tenants, in fact, most tenants are able-bodied and capable of moving, if necessary, without any serious consequences to their households. They do not need the "assistance" of not having to move (for the time being). Those few who do need assistance can get it through tax-funded Transitional Assistance, an already existing program to help tenants at risk during eviction.

For these reasons, we strongly oppose just-cause eviction for these properties.

Respectfully submitted,

Lenore Monello Schloming
President

Massachusetts Bankers Association

51379
H3571
H3692

**Statement of Jon K. Skarin on Behalf of the Massachusetts Bankers Association
Regarding S 1379, H 3571, and H 3692, an Act to Stabilize Neighborhoods
Joint Committee on Housing
Tuesday, May 19, 2009**

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Chairman Tucker, Chairman Honan, members of the Committee, my name is Jon Skarin and I serve as Director of Federal Regulatory & Legislative Policy for the Massachusetts Bankers Association (MBA). MBA represents nearly 200 commercial, savings and cooperative banks and federal savings and loan associations located throughout the Commonwealth. I appreciate the opportunity to provide you with our views on the foreclosure prevention and neighborhood stabilization bills before you this afternoon. I am joined by Kevin Kiley, the Association's Executive Vice President & Chief Operating Officer in presenting the views of our members to the Committee on these important issues.

As demonstrated by our numerous actions over the last several years, MBA and its member banks share your concern with the rising number of residential mortgage foreclosures in the Commonwealth. We understand the emotional toll that foreclosures have on individual consumers and their families and we recognize the potential destabilizing impact on neighborhoods as well as the overall economy. MBA and our member institutions continue to work with legislators, city and town officials, state government, and advocacy groups to identify and implement solutions to these issues.

Additionally, many of our member banks are involved in foreclosure prevention and neighborhood revitalization efforts in individual cities and towns throughout the Commonwealth. In addition to working with individual borrowers, our members have donated monies to support homebuyer counseling and foreclosure prevention programs in Massachusetts. Over the past few weeks, many of our member banks participated in the "Opportunity Knocks" housing fairs held in ten communities and cosponsored by MassHousing, the Massachusetts Association of REALTORS®, the Massachusetts Housing Partnership, the Patrick Administration, and many others. In addition, local banks have been the primary lender participants in local initiatives such as Buy Brockton, Buy Worcester, Boston's "First-Choice Lender" program, and many others. As a general rule, most community banks aggressively seek to work with borrowers to avoid defaults and preserve and sustain homeownership.

General Comments

Over the years MBA has worked closely with the Division of Banks, the Office of Consumer Affairs, the Office of the Attorney General and many non-profit and community-based organizations in a number of outreach efforts to minimize foreclosures and preserve homeownership for at-risk borrowers in Massachusetts. Representatives from the Association and several of our member banks participated in the Division of Banks' Mortgage Summit and Mortgage Working Groups, developing policy recommendations for regulators and legislators, a number of which are contained in Chapter 206 of the Acts of 2007, an Act Protecting and Preserving Homeownership, which was signed into law by Governor Patrick in November, 2007.

This landmark legislation provided a number of new protections for at-risk homeowners and tenants in foreclosed properties and put in place the framework for dealing with this growing problem. Specifically, the law instituted the statutory 90-day right-to-cure, created a licensing system with strong

educational and ethics standards for non-bank loan originators, created a statewide foreclosure database and imposed the nation's first community reinvestment requirements on non-bank mortgage companies. In addition, Chapter 206 made all tenants in foreclosed properties subject to the "tenant-at-will" statutes and provided additional protections for tenants whose rent is subsidized by state or federal programs.

Several of the bills before you today include important provisions that MBA supported throughout the Mortgage Working Group process such as a new mortgage fraud statute and criminal penalties for those who engage in mortgage fraud. We strongly believe that these provisions will provide law enforcement with the additional authority to shut down lenders and brokers that have engaged in widespread fraud over the last several years. As you know, the vast majority of the foreclosures in the Commonwealth have occurred in only a handful of communities. Those that were responsible for putting borrowers in loans that they oftentimes could not afford and for destabilizing neighborhoods should face severe consequences for their actions. MBA applauds the authors of these bills for including these important provisions.

However, we do have significant concerns with several other provisions of these bills which penalize lenders that were not involved in these activities. Traditional lenders, who, for the most part have not experienced significant increases in defaults and foreclosures and who conduct their mortgage business in a responsible manner, have already spent considerable time and effort developing new policies and procedures to comply with Chapter 206. We believe the bills before you today will create significant new regulatory burdens and additional compliance costs on these institutions and will have long-term consequences on responsible lenders here in the Commonwealth.

Our comments will focus on three key provisions in these bills, including the tenants' rights provisions; extension of the 90-day right-to-cure; and the creation of abandoned property databases in cities and towns throughout the Commonwealth.

Just-Cause Eviction Provisions

Massachusetts banks recognize that foreclosures are disruptive and painful to homeowners and tenants and are actively working to assist in providing transitional assistance. Local banks work with borrowers who are delinquent before filing a foreclosure petition and in many cases will attempt to assist tenants who may be at risk of displacement.

Three of the bills before the Committee today: S 1379, H 3571, H 3692, contain nearly identical provisions that would preclude banks and other lenders that foreclose on a property and retain ownership from evicting existing tenants without "just cause". A third bill, H 1232, extends a similar protection to both tenants and the former "owner" of the property that was foreclosed. All of the bills grant broad new protections to tenants and owners of foreclosed properties, creating new tenant rights without a specific lease and giving borrowers who default the ability to stay in the property almost indefinitely. MBA is opposed to these broad tenants' rights provisions and believes that they will have an adverse impact on the housing market.

Under these bills, lenders would be required to notify in writing, tenants or other occupants of the amount of the rent and to whom it should be paid prior to the foreclosure. However lenders have no business relationship with the tenants, have no knowledge of payment history, and do not have access to

their names, mailing addresses, or information regarding their tenancy. There is also no specific statutory requirement that a tenant produce any proof of rent payments such as cancelled checks, a valid lease agreement, or information related to any security deposit that may or may not exist. All of that information resides with the owner of the property who has defaulted on the property and is likely unwilling to provide that information to the lender.

Unfortunately, some properties that go into foreclosure also have numerous health and safety code violations since owners who cannot afford to pay the mortgage often neglect maintenance and upkeep. While we encourage our member banks to be particularly sensitive to tenants when foreclosing on multi-family properties, allowing tenants or other occupants to stay in the property indefinitely greatly limits the lender's options for disposing of the property, increase public health and safety risks, and may create safety and soundness concerns for banks and state and federal regulatory agencies.

In addition, lenders could be forced to assume the strict liability for the property under the state's lead paint laws as well as for other health and safety code violations that were the responsibility of the property owner. In the event any of these proposed bills were to move forward, banks minimally would need to temporarily vacate the property and seek a safe harbor provision to protect lenders from strict liability in these scenarios.

It should be noted that as currently drafted, S 1379, H 3571, H 3692, and H 1232 do not currently contain specific authority for a lender to provide relocation assistance to tenants that wish to vacate the property and waive their rights under the provisions of these bills. These relocation programs are commonly utilized to provide assistance to the tenant and allowing a foreclosing institution to move forward in selling the property. In some cases, this is the best outcome for both the tenant and the lender and the practice should not be limited or prohibited by any proposed legislation.

As a final point, we would note that there are a number of protections for tenants in foreclosed properties that may be enacted soon in federal law. Provisions that require foreclosing lenders to honor existing leases and provide tenants with at least 90 days notice to vacate the property if the new owner intends to use it as a primary residence were recently added to a housing bill (S. 896) in the US Senate. Given that these federal provisions will provide significant new protections, we believe it is premature to act on the tenants' rights sections of the bills before Congressional action.

We believe the tenant protections in S 1379, H 3571, H 3692, and H 1232 are overly broad and will have a significant negative impact on the banking industry here in Massachusetts. Lenders would be left with little or no recourse against tenants or owners who refuse to vacate foreclosed properties. While it may make sense in some cases to voluntarily retain existing tenants, blanket requirements like the one contained in these bills, are unwarranted given all of the potential problems it creates for lenders.

Extension of the 90-day Right-to-Cure

H 3571, S 1379, and H 3692 also contain an extension of the current 90-day right-to-cure to 150 days. While MBA generally supported the creation of the statutory right-to-cure, we oppose extending it beyond the current 90 days. According to a recent study by the Warren Group, the average time it took for a lender to foreclose in Massachusetts was 342 days -- up from 253 days in 2006.

Foreclosure levels have remained relatively consistent during this same period however, so while this delay could be attributable to the 90-day right-to-cure, we believe that there is little evidence that an additional 60 days will help any borrowers cure their defaults and avoid foreclosure. Simply put, the extension of the right-to-cure from 90 to 150 days is unnecessary and will only add to the delay in lenders obtaining possession of a foreclosed property.

Foreclosed Property Database

Both H 3571 and H 3692 include provisions that allow individual cities and towns to require lenders to register foreclosed and abandoned properties. It is our understanding that these provisions are modeled after similar local ordinances enacted in the cities of Boston, Worcester, and other local communities.

While MBA generally supports the notion of a statewide foreclosure database that will assist local communities in protecting properties from vandalism, fire, and other hazards, we are concerned that this provision is duplicative of the features of the foreclosure database already maintained by the Division of Banks that was mandated under Chapter 206. Specifically, under the Division's system, foreclosing lenders must enter property information along with contact information for local property management firms into the database. This information is already being collected by the Division and is accessible to municipal officials, the state fire marshal, and other public safety officials.

Allowing individual cities and towns to create their own databases and charge registration fees may result in confusion among lenders regarding which local ordinances are in effect. Since the Division of Banks has already built a database capable of capturing this information, we encourage the Committee and the sponsors of this legislation to work with the Division of Banks to enhance the current system so that a true, statewide database can be implemented.

Conclusion

MBA and our member banks will continue to work with borrowers, local communities, and elected officials on ways to sustain homeownership in this challenging housing markets. In addition to our concerns with a number of the provisions in the bills before you, we also believe that there are a number of technical, legal, and drafting issues that must be addressed before the Committee moves these bills forward.

Thank you again for the opportunity to testify before the Committee this afternoon. I would be happy to answer any questions.



8 Beacon Street
Second Floor
Boston, MA 02108
Ph: 617.723.2639
www.massclu.org

H1232
fav

**Community Labor United's Testimony in support of
*An Act to protect tenants in foreclosed properties from evictions (H1232)***

**By Darlene Lombos, Co-Director and Soledad Boyd, Senior Organizer
May 18, 2009**

Good afternoon. We are Darlene Lombos, Co-Director and Soledad Boyd, Senior Organizer at Community Labor United. I want to first thank Rep. Malia and all the other legislators who have worked so hard to make this hearing happen. I also want to recognize all the incredible work and grassroots organizing that the Massachusetts Alliance Against Predatory Lending has done to bring all of us here today.

I am testifying on behalf of the unions and community organizations that make up Community Labor United. We are a coalition that includes the Painters Union, the Carpenters Union, the Boston Teachers Union, the hospital and PCA workers of SEIU 1199, the janitors and security officers of SEIU 615, the hotel and restaurant workers of UNITE-HERE, the retail workers of UFCW 1445, as well as the tenants, homeowners, immigrants, youth, women and men of ACORN, ACE, Brazilian Immigrant Center, Chinese Progressive Association, City Life/Vida Urbana, Chelsea Collaborative, Project RIGHT, and MAHA. Together, we represent close to 80,000 workers and community leaders in Greater Boston. And together we are building power for the working class in this region through strategic research and organizing campaigns that benefit both labor unions and community groups.

I also bring greetings from Rich Rogers, the Chair of Community Labor United's Board of Directors and the Principal Officer at the Greater Boston Labor Council, which represents over 140 unions here in the Greater Boston area.

I am not here today to add to the volumes of facts and stats that are screaming at us very loudly and clearly that we must act now to pass the very important legislation. I am not here to tell you about all the tremendous damage that these massive foreclosures have already caused in our neighborhoods, our city and our state. You have already heard testimony and will continue to hear more eloquent and compelling testimony from the experts, the service workers in the trenches and the people most affected by this disaster about the severity of this foreclosure crisis. And the evidence is clear at this point that we must act—together, proactively and immediately.

Why I am here today is to communicate to the chair people and members of this committee that the unions and community organizations that make up our coalition speak with one voice today in support of this important bill, H 1232. When it comes down to this crisis, we can no longer be seen as separate groups organizing around our own issues, whether they are in the workplace or in our neighborhoods. Today, Community Labor United stands together, using our collective voice to urge you to pass The Act to protect tenants in foreclosed properties from evictions.

I am sure that everyone in this room knows someone or is someone who is directly affected by foreclosure. This is an opportunity to do more than just feel sorry for our neighbors, friends and family members. This is an opportunity to do more than just collectively wring our hands and say that the issue is too big. Here is a chance for our Commonwealth to directly intervene to save people's homes and to set a precedent and an example for legislative bodies across the country that says that people homes and people's livelihood are more important than profit.

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Organizer

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Executive Director

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Darlene Lombos
Organizing Director

Medical Legal Partnership | Boston

Boston Medical Center
88 East Newton Street, Vose 5
Boston, MA 02118
T 617 414 6393
F 617 414 3629
www.mlps(0510).org

~~Handwritten scribble~~

H1234
fav

May 22, 2009

Honorable Representatives
State House
Boston, MA 02133

RE: House Bill 4734, Main Sponsor: Representative Liz Malia

Honorable Representatives:

Enclosed please find a copy of the testimony Dr. Genevieve Preer delivered to you in person on Tuesday of this week, taking time from her busy pediatric practice to emphasize the importance of housing stability to her patients' health.

As members of the Massachusetts Association Against Predatory Lending (MAAPL) has persuasively detailed, the above-referenced bill would deter unnecessary evictions and stabilize communities during the current foreclosure crisis. Modeled on similar laws from New Jersey, New Hampshire and the District of Columbia, it proposes a reasonable and time-limited approach (expiring on December 31, 2013) to address *post-foreclosure displacement and neighborhood degradation*.


It is crucial to emphasize that post-foreclosure displacement and neighborhood degradation are public health issues. All the poor health outcomes associated with homelessness – including increased hospitalizations, academic underachievement, return to abusive relationships, and non-adherence to medical treatment regimens – stand to be increased by continuing to allow unnecessary evictions without cause. Similarly, neighborhood degradation is a predictable consequence, and it follows that costly health impacts will result from it, including diminished community safety/increased crime, and reduced access to employment and other health-promoting opportunities when businesses now serving blighted communities pull up roots. Such divestment reduces access to basic needs--as basic as adequate food--both by virtue of reduced income, and reduced local services.

Failure to take affirmative prevention measures such as this common sense bill provides for, would cause avoidable and expensive health consequences across the state, particularly for health disparities populations--which many of you have wisely committed to protecting from avoidable health inequality--among them: children; elders, newcomers to the U.S., People of Color, People with Disabilities, veterans, and women. These populations have been disparately targeted and impacted by the sub-prime mortgage crisis and deserve targeted and positively impactful responses like this bill.

As Dr. Preer states this is a win-win idea: housing that would otherwise go unused continues to be occupied by those who desperately need it; and neighborhoods that suffer when properties go unoccupied benefit from continued stability. Thank you for considering this bill in its public health and health disparities context and for supporting its passage so that Massachusetts can weather this economic crisis without suffering more harm due to clearly avoidable homelessness and neighborhood degradation. Please feel free to contact us with any questions you may have about this important and timely topic.

Respectfully submitted,

JoHanna Flacks, Senior Staff Attorney

Medical  Legal Partnership | Boston
RAISING THE BAR FOR HEALTH

Boston Medical Center
88 East Newton Street, Vose 5
Boston, MA 02118
T 617 414 6393
F 617 414 3629
WWW.MLP.BOSTON.ORG

Testimony of Genevieve Preer, MD

Medical-Legal Partnership | Boston

Public Hearing May 19, 2009

Testimony Re: House Bill 1232, "An Act to Protect Tenants in Foreclosed Properties from Evictions"

My name is Genevieve Preer, and I am a resident pediatrician at Boston Medical Center and Children's Hospital Boston. Today I join with my colleagues and neighbors who in unison call for an investment in child and family health, and passage of House Bill 1232, "An Act to Protect Tenants in Foreclosed Properties from Evictions."

By allowing families to stay in foreclosed properties, House Bill 1232 takes a crucial step towards protecting tenants and former homeowners alike. Similar to legislation enacted in other states, it prudently allows tenants who would otherwise face eviction to continue to live in foreclosed properties until these properties are sold. It also permits former homeowners, many of whom have been the victims of predatory lending practices, to continue to stay in their foreclosed property until it is sold. This bill creates a win-win scenario: housing that would otherwise go unused continues to be occupied by those who desperately need it; and neighborhoods that suffer when properties go unoccupied benefit from continued stability.

In my medical opinion, this bill represents timely and necessary legislation that will protect children's health. We know that stable housing is like a medication for our children. As others have testified, homelessness disrupts families. It threatens normal healthy child development. It interrupts routine pediatric care, including the vaccines our babies and children desperately need to stay healthy. It increases the risk of domestic and family violence by forcing mothers to return to abusive

relationships. It presents parents with impossible choices between food, clothing, medicine, and transportation to school and doctors' visits.

Any step that we can take to provide some measure of housing stability to at-risk children will have a direct, tangible effect on their health. They will be able to continue to go to the same school. They will remain close to their doctors for continuity of medical care. They will enjoy the relative safety of housing away from an abusive parent. Their family will not face the threat of being split up in the shelter system. They will not be forced to live in a car or a van. They will not have to double up in the home of a relative who is risking his or her lease to take them in. And as an additional benefit, their neighborhoods will be safer because their housing will be lived in, not vacant, and will not become a target for theft, vandalism, or illegal activity.

In our current state of economic crisis, families and children living at or below the poverty line are incredibly vulnerable to disruptions in housing. This is true whether their parents are tenants or former homeowners. When I see patients in clinic, I cannot tell the difference between a child or teenager who is living in foreclosed housing and one who is not. But I can easily see when patients have suffered the injuries that homelessness can inflict. Too often, they are at-risk infants who have missed vaccinations and well child visits because they are living inconveniently far from their medical home. They are children who are seen multiple times in the Emergency Department for respiratory ailments because their family does not have the reliable source of electricity they need to provide nebulizer treatments for their asthma. They are teen parents who are living with an abusive partner because they lack any better option.

Children cannot thrive when they are uprooted multiple times from their familiar surroundings and when they face chronic homelessness. House Bill 1232 prioritizes their health by stabilizing their housing. As a physician, I encourage the panel to support the passage of this critically important legislation. And because homelessness has the same devastating impact on all children, whether their parents are tenants or former homeowners, I urge the panel to include protections for former homeowners in this legislation as well. Thank you very much.

H1232
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Testimony in SUPPORT of

**H1232 "An Act to Protect Tenants in Foreclosed Properties from Evictions"
(Rep. Elizabeth A. Malia)**

May 19, 2009

Thank you, Chairwoman Tucker, Chairman Honan, and members of the committee for the opportunity to testify in support of H1232 "An Act to Protect Tenants in Foreclosed Properties from Eviction." My name is Anna Stifano, and I am the Director of Advocacy for Oiste.

Founded in 1999, Oiste is the only Latino political organization in Massachusetts. Our mission is to promote the principles and practices of democracy and to advance the political, social, and economic standing of Latinos and Latinas in the state. I am here today to testify on behalf of Oiste, and I ask you to move fast on favorably reporting this legislation, which will positively impact tens of thousands of Massachusetts residents, including thousands of Latinos who are victims of the present economic crisis.

As you know, we are currently in one of the worst recessions since the 1930's. While this crisis has affected every area of our daily lives, it has had a particularly devastating impact on housing. Foreclosure deeds, which indicate the final step in the foreclosure process, totaled 12,430, up 62% from 2007 and up 397% from 2006. The sharp rise of foreclosures in Massachusetts has left a tragic wake that affects the well-being and stability of tens of thousands of families and their communities by uprooting them and giving them few options for housing.

Often, one overlooked set of victims of the foreclosure crisis are tenants who rent from landlords and, who, through no fault of their own, find themselves forced to leave their home despite having paid their rent. These families that are evicted often have an enormously difficult time finding safe and affordable housing for them and their children. Unfortunately, many of these families end up on the streets or in homeless shelters, further thwarting their ability to gain appropriate housing.

In Massachusetts, Latinos encounter the most problems with affordable housing of any of the four largest racial or ethnic groups. As such, the current economic crisis further disenfranchises an already vulnerable population, struggling to procure safe, affordable housing for themselves and their families. According to Michael Stone, one of the foremost experts on Latinos in New England, "Latinos are the largest population of color and one of the fastest growing. They face some of the most severe housing challenges that deserve the attention of all policy makers and citizens."

There are, of course, housing laws on the books that protect tenants from eviction, however, even recent legislation aimed at addressing the current subprime mortgage falls far short in providing adequate protection from eviction to tenants. In 2007, the Massachusetts General Court passed Chapter 206 as a preventative measure to tackle future predatory lending and provide assistance to homeowners who are susceptible to foreclosure. While this bill provides good protections to victims of foreclosure, it does not do enough to protect tenants and former home owners.

Three states and the District of Columbia have already passed similar legislation. While Fannie Mae currently allows paying tenants to stay in their homes after foreclosure, there are a number of other foreclosing owners who fail to do so, making tens of thousands of Massachusetts families defenseless. Massachusetts must adopt H. 1232 in order to provide protection to tenants, some of whom are being evicted at no fault of their own.

Thank you, and I once again urge you to move fast on favorably reporting on H1232.

H1232
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Statement in support of MAAPL's Bills for City Hall Hearing
May 4, 2009

I, Virginia Pratt, am a foreclosure prevention counselor with ESAC (formerly, the Ecumenical Social Action Committee). ESAC is a HUD approved agency for this service. I have worked with over 500 Boston area residents in the last seven years trying to assist them in avoiding foreclosure. I start by asking them to bring in their loan documents. I do this because I have found that the vast majority of my clients have no idea of what is in their documents, what the terms and conditions of their loans were, what their application was based on, and whether or not the loan was appropriate for them. Almost ALL of my client have loans obtained through brokers.

It is my observation and belief that vast majority of the loans were made for the benefit of the broker rather than the benefit of the client. The majority of the loans are based on wildly inflated income, meaning that the client could never afford them. When I show the inflated income from the loan application to clients they have not a clue as to how the number was derived. Clients, stunned often respond; "but I gave them my pay-stubs and W2." I have seen child care workers whose income was listed as over \$7,000 a month and a cab driver whose income was listed as over \$10,000 a month. Many of loans have features that are inappropriate to the homeowner such as negative amortization or interest only for people whose incomes are unlikely to increase. Almost all of the primary loans are adjustable rate, again inappropriate for people whose incomes can not keep up with the adjustments. I have never once seen any client who was approved for a loan which was less than what their income could support. All, as in 98% or more of my clients, were approved for loans with mortgage payments that consume much more than 50% of their net income.

Many of my clients have told me about harassing calls from brokers offering mortgages with low payments and interests. Some of my clients have told me about switch and bait deals that they discover at the closing or post-closing. For instance, the client tells the broker that they want a fixed rate, or are told that the rate will be six percent. At the closing the client finds out the loan is adjustable and/or is told that based on their credit the lower rate could not be provided.

My clients report being rushed at loan closing to quickly sign a huge stack of documents they don't understand. Some clients say they were told by brokers that they would not

need an attorney as an attorney would be present. Thus, the brokers were misrepresenting the role of the attorney representing the lender's interest. Some clients report being told not to read the documents as they are not important. Almost ALL of my clients were told not to worry about any pending rate increases as they would simply refinance in 3 – 6 months. Some of my clients report that they were never given full sets of their loan documents. For clients with English as a Second language, documents in their own language and/or with translation were generally not available. Many of my clients report feeling taken advantage of by brokers of their own race and/or ethnicity.

When I have the opportunity to examine the Good Faith Estimates I often find significant differences by between what was initially offered and what was later signed in the final documents. I also find that clients are not aware of the differences and/or do not understand the function of the Good Faith Estimate. Similarly, when clients provide the inspection report, often showing significant code violations or structural damage, clients do not understand the function of the inspection in terms of their opportunity for a lower price and/or to walk away from the purchase.

When I examine the mortgages I see similarities with credits cards. The loans are generally held by large lenders in California or Texas and registered with the Mortgage Electronic Registration System (MERS) in Flint, Michigan with the National Lender operating under the laws of Delaware. Credit card companies also commonly operate under the laws of Delaware as the consumer protects are few and the benefits to the corporation many. Additionally, the servicing of the loan is frequently sold to further confuse any trail of accountability.

Over the years I have filed numerous complaints with the Office of Thrift Supervision and/or the Comptroller of the Currency and occasionally the office of Housing and Urban Development (HUD) regarding both the horrible terms and servicing of my clients loans. Even when I provide ample documentation of complaint I rarely receive anything other than a postcard or form letter in return. On a recent, National Public Radio (NPR) program I recently heard that Comptroller of the Currency had assigned as few a three staff to oversee national lending irregularities.

A few of my clients attended home buying seminars in church basements where the mottos were "if you can rent you can own" and "don't think you can't afford a home". Most of my clients, without saving, training, or experience, were urged to buy multi-family homes. They were told the rental income would pay the mortgage. They were not advised to think of the cost of maintenance or what would happened if a unit was vacant or tenant unable to pay.

My clients also report questioning realtors about their ability to afford homes and being told not to worry as the realtor had friend who could get them a mortgage. I have even had clients who were personally solicited by brokers who came to their home or stopped them in the street. Brokers also solicited my clients through friends of friends, in churches, and on ethnic media. My clients in foreclosure would show me their multiple solicitations for refinances. Clients in foreclosure were targeted for refinances that have

them jumping from bad loans into worse loans. Clients were constantly urged to consolidate debt; to roll their credit card debt and car loans into new mortgages and get cash out.

The loans with the worst features: high cost, high interest (APR), balloon payments, adjustable rates, interest only and negative amortization include yield spread premiums; kick backs to the brokers from the lenders for high risk loans. The industry rewarded brokers for volume and risk. I conclude that the loans were made not benefit the homeowner or promote homeownership, but rather to fuel the industry and the parties involved. One has only to look at the Settlement sheet to see who benefited from the fees.

Respectfully submitted,

Virginia Pratt
Foreclosure Prevention Counselor

Statement in Support of Massachusetts Alliance Against Predatory Lending Bills

S1609
H1232
fav

Que ya es hora de hacer algo por el pueblo. Toda la comunidad pedimos auxilio porque nos estamos ahogando y no hay nadie quien nos salve de toda esta injusticia que han estado haciendo los bancos con la comunidad que con tal de salvar sus intereses de ellos no les importa que nosotros perdamos nuestras casas y todo lo que hemos invertido a nuestras propiedades de nuestros bolsillos. Porque eso los del banco y el estado no lo toman en cuenta.

Si sabían que cartas tenían bajo la manga los brokers para engañar la comunidad. Estaban vendiendo casas a lo loco. ¡Sin down payment! ¡Sin verificación de empleo! ¡Sin documentos en español! ¡Sin en ningún momento una explicación que era un préstamo no fijo y que era a subir los pagos cada mes! Porque en caso de mí me dijeron que era un plazo fijo por 30 años pero si yo quería que podría hacer una modificación en tres meses para bajar el interés, que no era la verdad.

Los bancos casi nada están haciendo. Son como fantasmas, escondiéndose atrás de los brokers y servicers, con todos los dueños de casas y inquilinos en sustos. Se tardan tanto para dar una respuesta a la personas que están pidiendo ayuda para que le hagan una modificación justa y razonable pero ellos lo que hacen es cambiar la carne por frijoles por que a mi me hicieron una modificación donde me bajaron el interés del préstamo grande y la cantidad de vida pero le agregaron al préstamo pequeño. Por ejemplo debo 350,000 del grande y del pequeño 25,000. Pasaron del grande 50,000 para el préstamo pequeño serian total 75,000 al final y del grande 300,000 y la diferencia del cambio fue 1 dólar de lo que debía. Si nosotros no nos hubiéramos dado cuenta a tiempo, firmamos la documentación. Y no nos hubiéramos beneficiado de nada. Y de allí vino a la amenaza de Foreclosure porque yo deje pagar lo del mortgage porque perdió el trabajo mi esposo, se fueron los inquilinos, vinieron gastos inesperados, se quemó nuestra casa, yo perdí mi trabajo que hacia en mi casa cuidar niños hacia alteraciones de ropa por mi cuenta que hacia poco estaba empezando. Y ahora quiere botar dueños como yo!. No es justo.

Por eso pedimos de favor que se pongan la mano en la conciencia para ayudar a la comunidad no importando raza ni color y de donde son porque todos somos humanos y tenemos un corazón y sentimientos y sufrimientos. Cuando compramos nuestra casa, sentimos como al final logramos nuestros sueños. Pero, en vez de esto, estamos perdiendo toda una vida de trabajo en lo que se ha invertido para que cuando sea viejo tener donde pasar los días de su vejez en algo que con amor y esfuerzo logró cuando era joven tango para ustedes como para su familia.

Porque ya es vergüenza lo que están haciendo—pero no se hace nada por la comunidad. Porque nosotros somos victimas de los fantasmas bancos que solo quieren sus casas vacías para rondar.

Alba Ordoñez, Residente de Chelsea

My nombre es Alba ^{buenos, ora a todos Dios los} Ojeda ^{bien y a todos} VIVO ^{en todos} en Chile. Estoy ^{hacia} este día porque
he decidido salir del anonimato en que me
debía formado yo misma desde que vengo afrontando
desde que tengo este problema de perder mi casa
para mí no ha sido fácil porque he entrado
en depresión por todos estos problemas. Pero
me he dado cuenta que no solo yo estoy
perdiendo mi casa hay muchos con estos proble
mas. Y quien mas puede decir lo que se siente
cuando nos quieren desalojar de su hogar que
~~cuando~~ con cuanto esfuerzo las ~~compramos~~

Statement in Support of Massachusetts Alliance Against Predatory Lending Bills

S 1609
H 1232

It is now the time to do something for the people. All of us, the community, asks for your help because we are drowning and there is not anybody that is saving us from all of this injustice that the banks are doing to the communities. The lenders act for their personal interest and it does not matter to them that we are losing our houses and all we have invested in our properties from our own pockets. This is what the lenders and the state have not taken into account.

If you knew what tricks the brokers were using to trick the community! They were selling houses like crazy. Without requiring even a down payment! Without employment verification! Without documents in Spanish! At no time explaining that the loan was variable and would raise every month! In my case they told me that it was a 30-year fixed-rate loan and that I could easily do a modification to lower the interest, which was not true.

The lenders, also, are not doing anything for us. The banks are like ghosts, hiding behind the brokers and servicers, with all of the owners and tenants scared. They are taking too long to respond to the people that are asking for their help to modify the loans to a just and reasonable level. They are just toying with us. This is what they did to me: They gave me a modification where they lowered the interest of the first loan but they added more to the second loan. For example, I owed 350,000 from the first loan and 25,000 from the second. They reduced the first loan to 300,000 by passing 50,000 to the second for a total of 75,000 for the second. The grand total of the change in payments was \$1 per month difference. If we had not read closely we would have simply signed the documents thinking they were helping us when in reality we would not have been helped at all. Then came the threat of foreclosure because we had to stop paying the mortgage because my husband lost his job, our tenants left, we had unexpected expenses, our house partially burned down, and so therefore I lost my livelihood caring for children and doing alterations out of our house. And now they want to evict homeowners like me! It is not just.

For this reason we ask that you look into your conscience. We ask that you help the community. It does not matter our race or color or where we are from. We are all human beings and we all have the same heart and feelings. We all suffer from what is happening to us. When we bought our house, we felt as if we finally achieved our dreams. But instead we are losing our entire life's work. We worked hard with love and effort in our young age so that in our old age we could have a place for our family and a place where we could pass our days.

It is shameful what they are doing—not returning anything to the community. We are victims of the ghost banks that want only empty houses to haunt.

Alba Ordoñez, Chelsea Resident



The Commonwealth of Massachusetts

JOINT COMMITTEE ON HOUSING
STATE HOUSE, BOSTON 02133-1053

SUSAN C. TUCKER
SENATOR
SENATE CHAIR
ROOM 424, STATE HOUSE
TEL. (617) 722-1612

KEVIN G. HONAN
REPRESENTATIVE
HOUSE CHAIR
ROOM 38, STATE HOUSE
TEL. (617) 722-2470

Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; S. 1379 H. 3571 _____

Name (Please print legibly): Barbara Anthony, Undersecretary

Organization: Office of Consumer Affairs and Business Regulation

Address: 10 Park Plaza, Boston, MA

Please list if others will testify with you as a panel:



The Commonwealth of Massachusetts

JOINT COMMITTEE ON HOUSING
STATE HOUSE, BOSTON 02133-1053

1

SUSAN C. TUCKER
SENATOR
SENATE CHAIR
ROOM 424, STATE HOUSE
TEL. (617) 722-1612

KEVIN G. HONAN
REPRESENTATIVE
HOUSE CHAIR
ROOM 38, STATE HOUSE
TEL. (617) 722-2470

Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; H3571 H3672 S1379

Name (Please print legibly): Mayor Thomas Ambrosino

Organization: City of Revere

Address: 281 Broadway Revere, MA

Please list if others will testify with you as a panel:

Mayor

Thomas Ambrosino

Kevin Prefabed
tax breaks to Non profits



The Commonwealth of Massachusetts

JOINT COMMITTEE ON HOUSING
STATE HOUSE, BOSTON 02133-1053

SUSAN C. TUCKER
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TEL. (617) 722-1612

KEVIN G. HONAN
REPRESENTATIVE
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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

CHAAPA Panel

an

Testifying on; H 3571 H 3692 S 1379 _____

Name (Please print legibly): Lisa Alberghini

Organization: Planning Office for Urban Affairs, Arcadesoci of Boston

Address: 84 State Street, Boston

Please list if others will testify with you as a panel:

CHAPA, MACDC panel



The Commonwealth of Massachusetts

JOINT COMMITTEE ON HOUSING
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3

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; H. 3571 H. 3692 S. 1379

Name (Please print legibly): Mary Ann Clancy

Organization: Massachusetts Credit Union League, Inc.

Address: 845 Donald Lynch Blvd, Marlboro, MA 01752
mclancy@cucenter.org

Please list if others will testify with you as a panel:

NO

Mary Ann Clancy



The Commonwealth of Massachusetts

JOINT COMMITTEE ON HOUSING
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7

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; S1379 H3571 H3692

Name (Please print legibly): Jon Skarin & Kevin Kiley

Organization: MASS BANKERS ASSOCIATION

Address: 73 TROMONT ST BOSTON

Please list if others will testify with you as a panel:

Kevin Kiley

John Skarin



The Commonwealth of Massachusetts

JOINT COMMITTEE ON HOUSING
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②

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

✓
Testifying on; H1232 _____

Name (Please print legibly): Hilberly Cook

Organization: City Life

Address: 10 Rosewood St Mattapan, MA

Please list if others will testify with you as a panel:

/



The Commonwealth of Massachusetts

10

JOINT COMMITTEE ON HOUSING
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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

✓
Testifying on; 1237 _____

Name (Please print legibly): Elianne Francois

Organization: City life

Address: 135 ~~repon~~ set A.U.E, Dorchester MASS Apt #26

Please list if others will testify with you as a panel:



The Commonwealth of Massachusetts

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on: H123Z

Name (Please print legibly): Richard Phipps

Organization: CFS Realty

Address: 1509 Blue Hill Ave, Boston

Please list if others will testify with you as a panel:



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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on: H 3571, S. 1379 and others - OPPOSED

Name (Please print legibly): Skip Schloming

Organization: Small Property Owners Association

Address: P.O. Box 39815, Cambridge, MA 02139

Please list if others will testify with you as a panel:



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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; H/3571 S/379 roles

Name (Please print legibly): SAUDRA KATZ

Organization: Worcester Property Owners Association

Address: 26 Fen Gray Worcester

Please list if others will testify with you as a panel:



The Commonwealth of Massachusetts

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on: HB 1032 HB 3571 HB 3692 SB 1379 _____

Name (Please print legibly): PHILIP R. FENSTERMACHER

Organization: SELF

Address: 50 QUINCY ST., CAMBRIDGE, MA

Please list if others will testify with you as a panel:



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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; HB1232 SB1379 HB3571 HB3692 _____

Name (Please print legibly): Jon Cariba Phoenix

Organization: Northeastern University/City Life

Address: 133 St Alphonsus St # 2 Boston MA 02110

Please list if others will testify with you as a panel:



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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on: H1232 _____

Name (Please print legibly): Janice Rankin

Organization: City Life

Address: 9 Westville St #2

Please list if others will testify with you as a panel:



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JOINT COMMITTEE ON HOUSING
STATE HOUSE, BOSTON 02133-1053

15

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; 1232 _____

Name (Please print legibly): Anna Stifano

Organization: Oiste

Address: _____

Please list if others will testify with you as a panel:



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JOINT COMMITTEE ON HOUSING
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6

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on: HB 1232 - SB 1609
(AN ACT TO PROTECT TENANTS FROM EVICTION IN FORECLOSED PROPERTIES)

Name (Please print legibly): LEN RAYMOND

Organization: Homeowner Options for Massachusetts Elders (HOME)

Address: 150 GROSSMAN DRIVE, BRAINTREE, MA

Please list if others will testify with you as a panel:

I am part of a panel on the above Bill.



The Commonwealth of Massachusetts

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; 1237 _____

Name (Please print legibly): Stuart Rossman

Organization: National Consumer Law Center

Address: 7 Winthrop Sq. 4th Fl Boston, MA 02110

Please list if others will testify with you as a panel:



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JOINT COMMITTEE ON HOUSING
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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; 1232 _____

Name (Please print legibly): Lee D. Goldstein

Organization: Harvard Legal Aid Bureau

Address: 23 Everett St., Cambridge, MA 02138

Please list if others will testify with you as a panel: (Multiple Panel)

Judith Lieben

Shant Rossman

Gregg Ross



The Commonwealth of Massachusetts

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; 1232 support

Name (Please print legibly): JUDITH LIBEW

Organization: MASS LAW REFORM

Address: 99 Chalmers ST

Please list if others will testify with you as a panel:

- LEE GOLDSTEIN
- STUART ROSSMAN
- GRACE ROSS
- LEN RAYMOND



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H1232

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; H1232 _____

Name (Please print legibly): JAMES BROOKS

Organization: CITY LIFE

Address: 284 AMORLY ST. SO.

Please list if others will testify with you as a panel:

SACKIE FRAEMER

Fred mander



The Commonwealth of Massachusetts

9

JOINT COMMITTEE ON HOUSING
STATE HOUSE, BOSTON 02133-1053

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; H1232 _____

Name (Please print legibly): Virginia Pratt

Organization: ESAC

Address: 3313 Washington St Jamaica Plain MA
02130

Please list if others will testify with you as a panel:



The Commonwealth of Massachusetts

JOINT COMMITTEE ON HOUSING
STATE HOUSE, BOSTON 02133-1053

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; H1232 _____

Name (Please print legibly): IVONNE MENDOS

Organization: City Life

Address: 284 Amory Street Jamaica Plain MA

Please list if others will testify with you as a panel:



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JOINT COMMITTEE ON HOUSING
STATE HOUSE, BOSTON 02133-1053

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

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Testimony will be limited to 3 minutes per person.

Testifying on; 1232 _____

Name (Please print legibly): Sackie freeman

Organization: city life

Address: 13 Gastow St Dorchester MA

Please list if others will testify with you as a panel:



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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; H1232

Name (Please print legibly): Rev. Judy Deutsch

Organization: UU Mass Action Network

Address: 41 Concord Rd

Please list if others will testify with you as a panel:



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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; 1232 _____

Name (Please print legibly): Lisette Candelaria

Organization: Pernet Family Health Center

Address: 237 Millbury St. Worcester MA.

Please list if others will testify with you as a panel:



The Commonwealth of Massachusetts

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17

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; 1232 _____

Name (Please print legibly): Christeen Friend

Organization: W.A.F.T.

Address: 223 Hamilton St. WORC MA.
01604

Please list if others will testify with you as a panel:



The Commonwealth of Massachusetts

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Public Hearing on Foreclosure

May, 19 2009 - 10:30 Room A-1

Testimony Sign-Up Sheet

Testimony will be limited to 3 minutes per person.

Testifying on; 1232 _____

Name (Please print legibly): Alba Ordones

Organization: Chelsea Collaborative

Address: ~~103 Congress~~ 300 Broadway, Chelsea, MA

Please list if others will testify with you as a panel:

Rachel English

Questions For Testimony at Statehouse

How many foreclosures have occurred in MA in the past three years?

How many of the foreclosures have been multi family units?

How has homeless numbers changed over the last three years?

What is the cost of vandalism to unoccupied homes in MA over the last three years?

How much rental revenue has been lost as a result of the vacancies?

How has the city and state tax revenue changed as a result of property tax delinquencies?

How has family displacement affected the school system?

How has abandoned properties affected law enforcements role?

What is the apprx. Cost to the tax payers?

How has foreclosures affected health care and health care costs?

How has the family displacement affected Medicaid cost?

What are the possible outcomes of the family displacement trend due to foreclosure?

What are the possible remedies or cures?

* Over ~~the last~~ ^{prior to} 60 days (ending
May 15 ~~2009~~) there were 5,461
new foreclosures in MA. The
highest concentration of which
occurred in Middlesex County

* Jeremy Shapiro
from foreclosure mass.
Com

multi family
rent avg

\$ 29,640,600 (2007)

loss of rental income
of units

\$ 29,640,600 in 2008