Public Hearing

before

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

"Testimony on the subprime lending crisis"

LOCATION: Committee Room 12
State House Annex
Trenton, New Jersey

DATE: April 19, 2007
1:30 p.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Neil M. Cohen, Chair
Assemblyman Jack Conners
Assemblyman Mims Hackett Jr.
Assemblyman Christopher "Kip" Bateman
Assemblywoman Charlotte Vandervalk

ALSO PRESENT:

Richard T. Corbett
Office of Legislative Services
Committee Aide

Karina Fuentes
Assembly Majority
Committee Aide

Christopher Hughes
Assembly Republican
Committee Aide

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
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ASSEMBLYMAN NEIL M. COHEN (Chair): Good afternoon. First, I want to thank everyone; thank you for coming out this afternoon relatively on short notice. This meeting was not part of our regular schedule of matters to be taken up by this Committee. And I want to thank the members of the Committee who did show up today, on relatively short notice.

The essence, I believe, as everyone has been reading in the newspapers and in publications -- we probably went through about 1,000 news articles nationally about the subprime market and what problems exist. This ranges from crisis to meltdown, not only in New Jersey but on a national level. The impact of what's going on in the subprime market has enormous rippling effects.

The intent of this hearing-- Let me just go back. In 1932, Roosevelt walked into a banking crisis, and what they tried to do at that point was to, one, find out what the problem was; take some immediate steps to stabilize; and then come up with a long-term, legislative solution to those things that existed during the early '30s and the banking crisis.

The impact of what's going on in the subprime market -- perhaps not as dramatic as what happened in 1932, and what was ongoing -- but the rippling effect of what's happening in the subprime market nearly affects almost every segment of the economy. It affects sales of homes. People who are buying and people who are selling are impacted on it. It goes to the seller who is generally buying somewhere else. It affects realtors in New Jersey. Subprime lenders are now shut off from large lines of credit from Wall Street, so it affects their ability to stay in business, even though they may have been following the law. It affects suburban, rural, and urban homeowners -- those who already are and those who wish to purchase the American dream, which is to have a house.

It affects the mortgage lending industry. For those banks who also have subsidiaries who are mortgage subprime lenders, it affects them. It affects the economy; it affects builders about whether they're going to build, because they may have problems either giving the mortgage to a potential buyer or to someone else who may not be able to qualify.

This is not going to be a day of blaming anybody. I've already asked the Attorney General, by letter, to seek a 180-day moratorium on foreclosures that deal with suspect lenders and suspect problems -- not the entire lending industry, not the entire subprime market.

The Ohio Attorney General did that and secured relief pursuant to certain state laws. New Jersey has some of the best consumer laws in the country. And I've asked him to go seek that relief. I've not had a return phone call yet. I've also asked that there be a review with the Governor's office on whether or not Governor Corzine -- now Governor Codey -- is in a position legally to issue an executive order that would put a freeze on, moratorium on foreclosures -- either those that are being filed or that are in the foreclosure process, or those that are in the process already of a sheriff's sale -- that deals only with those companies where there is suspect problems; whether it's the Option One situation, New Century, or other subprime lenders who are experiencing problems and difficulties.

So I'm awaiting that response. But something has to be done immediately, in order to get ahead of the curve. That's why I called the meeting and that's why legislators agreed to sit on this Committee today. Because there are many-- This involves all aspects of New Jersey; all economic aspects, whether you live in Montclair, whether you live in the city of Passaic, whether you live in Vineland, New Jersey, or in Cape May. The subprime market was wonderful when it was good, and now there are problems with it. And there's an enormous rippling effect that could cause a meltdown, both in this state and nationally -- in California, Ohio, and other states.

So what I wanted to do today is try to investigate, get as many facts as we can as to what can be done now, what's the status of the market, what are the implications, what is going on long term. Are there lenders out there that are going to be willing to pick up the books of business on these failing companies, and be able to get homeowners who have their four- or five-year interest-only payments that are going to be reset this year and next year; and where principal and interest then go up about 30 percent?

So in light of that, I want to thank all the members of the Committee for coming in. And we have a list of witnesses. If any member of the Committee wants to speak now, it's fine, but I would like to bring in the people who are the experts on the issue; and jump in any time for purposes of questions.

Yes, we'll take a roll call.

MR. CORBETT (Committee Aide): Assemblywoman Vandervalk.

ASSEMBLYWOMAN VANDERVALK: Here.

MR. CORBETT: Assemblyman Bateman.

ASSEMBLYMAN BATEMAN: Here.

MR. CORBETT: Assemblyman McKeon. (no response)

Assemblyman Wisniewski. (no response)

Assemblyman Hackett.

ASSEMBLYMAN HACKETT: Here.

MR. CORBETT: Assemblyman Conners.

ASSEBMLYMAN CONNERS: Here.

MR. CORBETT: Assemblyman Cohen.

ASSEMBLYMAN COHEN: Here.

Thank you.

I see Senator Rice is here, and I know you have another scheduled matter to go to, so if you could come forward.

SENATOR RONALD L. RICE: Thank you, Mr. Chairman.

ASSEMBLYMAN COHEN: Good afternoon.

SENATOR RICE: Good afternoon. Good afternoon. You okay with the mike? (referring to PA microphone)

ASSEMBLYMAN COHEN: Sure.

SENATOR RICE: I'm going to try to be brief, but this is a very important subject to me, as the Senator representing the 28th Legislative District -- which includes the Township of Irvington, the City of Newark, the townships of Belleville and Bloomfield -- where there are working-class people, a lot of blue collars, low income, and senior head of household -- women in particular.

When this really came to light, I wasn't really surprised as to what is taking place in the country; but I was kind of shocked with the impact and the heavy hits in New Jersey. And I just want to thank the Committee and your leadership for calling this hearing. There's certainly going to be a lot of discussion on this. As Chairman of the Community and

Urban Affairs Committee, I intend to take this up through legislation and through hearings as well.

I don't have all the answers. And I think you indicated, as you articulated and you prefaced your remarks, that there are things we need to look at moving to the future. But let me just say that my concern is that there's some immediate things that we need to do, as also indicated by you.

I just want to read some written testimony I put together with staff, because I want to make sure the record is very clear. As I understand this issue as depicted in the media, in the large part, the American dream is home ownership, and we in government for a long time would argue that the rising -- the number of people who own their homes is good for the economy. We know that. And that's why we passed first-time home buyers and different types of pieces of legislation. But we also believe that owning your home provides societal benefits by reducing crime. And I can tell you about the City of Newark, the number of gang violence we have, and innocent people getting killed. It also can combat, within our urban cities in particular, this whole issue of blighted neighborhoods. And you know we're going through eminent domain talks now.

And so home ownership is a good thing. The increase in home ownership, as we know, was in part fueled by the rise of non-traditional mortgage products, and these products are offered in both the prime and subprime mortgage market. Now nationwide, the rates of homeowners have increased from 64 percent to about 70 percent in 2004 -- these are the numbers that are being given to us through our research. And some of these new mortgage products offer greater low-interest rates called *teasers*; and then after two or three years, suddenly spike to much higher, often unaffordable rates of interests. Some of these mortgages would start on a very low fixed rate of interest, as you know. And then, as you indicated before, they reset to adjustable rates that would change along with the prime lending rate or some other index that may be used to make those changes.

I was somewhat startled when I read the *New York Times* story on March 28, 2007, that chronicled the number of subprime loans written within the City of Newark. Now, it's interesting, because the City of Newark (indiscernible) it this way, and as a piece comes out like this -- which is really the West Ward of Newark where I live, Wellsburg -- and I saw all these little black dots all over the place-- And I thought that was a good thing, until I looked at the legend to find out those are foreclosures. And it kind of scared of me to death, because it reflects the Township of Irvington; it reflects Belleville and Bloomfield, no doubt in my mind. It reflects the City of Orange and Orange. It's just that these numbers are coming from going to the county, going through the record to pull them out; and I don't have the exact data for those particular areas. But I can tell you, no one in my county or in my city-- There's a serious reflection there, as well as Elizabeth and others in Union County.

And so this news story reported that in some neighborhoods in Newark as many as one-half of all loans written fall within the subprime category; one-half of all loans written (indiscernible) in the subprime category. Now, perhaps the scariest part of the story has not yet been written, because we don't have all the facts yet. Over the next year, a number of these loans that have low teaser rates, or even those subprime loans that move from a fixed rate to an adjustable rate, will reset. When these interest rates reset, the financial pain inflicted on those working families could be substantial. And according to a report by the First American CoreLogic, a national mortgage industry research firm, some 32 percent of these teaser rate loans will wind up in foreclosure by the year 2010. According to this same report, some 12 percent of all subprime loans will also wind up in foreclosure nationwide by 2010.

Now, in New Jersey, 13 percent of subprime loans were delinquent in February of 2006 -- an increase of 6 percent in two years. Many of these delinquencies were located in Newark, which means that many of them are probably located in the Township of Irvington, too, and other Essex County, and Union County, and, you know, the areas of Camden and Passaic counties throughout the state. But to put the--

In fact, the national Center for Responsible Lending has predicted that some 18 percent of the nontraditional loans provided in Newark will go into foreclosure in the next three or four years. That is not far away. To put this figure in perspective, currently the national foreclosure rate for all mortgages is about 1.1 percent. The current estimate for the City of Newark is a foreclosure rate of about 1.3 percent -- and that could be higher. If this 18 percent foreclosure rate prediction is correct, even if this prediction is only half right, then this would result in a staggering number of foreclosures in the City of Newark alone. And imagine what the rest of the state is going to look like -- areas of similar kind and similar economics.

If the 13 percent of all subprime loans that are currently delinquent move into the foreclosure category, that will be a staggering number as well. The only option for many of these families -- who are working families -- will be to try and refinance these loans immediately. And the collapse of the subprime market as an investment tool has the result of even the subprime lenders tightening their lending criteria. So we can see a problem right there, when you start to talk about refinancing.

And many of the consumers who are suffering the financial duress now, and those who are about to when their loans reset, might be unable to refinance due to a tighter lending environment. I believe the State needs to step up and provide assistance for these struggling working families.

The state of Ohio -- and some of you may know the study or know what they're doing out there -- but the state of Ohio has directed their mortgage financing agency to issue about $100 million worth of bonds on -- to provide assistance to these families in refinancing the mortgage for the victims of this subprime market collapse.

New Jersey needs to consider the same sort of action. We need to provide the same sort of relief. I understand that this might require a change in the law, regarding New Jersey Housing and Mortgage Finance Agency, to permit the issuance of these types of bonds. I have requested that the Office of Legislative Services, Mr. Chairman and Committee members, prepare a bill to accomplish this goal. While it is important to recognize that the magnitude of New Jersey's problem does not yet equal the problem in Ohio -- which has the highest foreclosure rate in the nation -- for those people facing this problem here in New Jersey, it is a world of pain.

Now, I understand that just the other day the Federal lending institutions, Freddie Mac and Fannie Mae, are now responding about providing refinancing the system, and that's a good thing. And this is good news for all of us, but it may not be enough for those of us here in New Jersey and elsewhere. New Jersey should consider how best to work with these Federal agencies, and to supplement the refinancing of loans they're providing with additional State assistance.

And maybe one of the things we want to do, Mr. Chairman, is maybe your Committee, my Committee, could hold some joint hearings when necessary. Maybe you and I, as Chairs, can maybe go down to Washington, or where we have to go, and talk to Fannie Mae and Freddie Mac to see exactly what they are doing; so when we start to incorporate initiatives from New Jersey, that we can synchronize them in a way that maybe we have a lot of options for people who have this kind of a pain. We as a State cannot turn our backs on the many working families -- a large number of whom happen to be my constituents and your constituents -- who find themselves in this situation.

Mr. Chairman, I hope that you and the members of this Committee study this issue -- in studying this issue that you will consider, among all the different government responses to this crisis, the one that I have suggested, which is to provide some State assistance for refinancing. I understand you may consider additional regulatory changes that could help prevent similar problems for consumers in the future, and certainly that might be appropriate. I will submit, however, that the only thing that we can do to help the people who are trapped in these loans now is provide some form of refinancing assistance.

I want to thank you, Mr. Chairman, for allowing me to come before you to testify on this issue, and to provide you with my concerns and my thoughts, and allowing me to be the first speaker.

Thank you very much.

ASSEMBLYMAN COHEN: Any questions for Senator Rice? (no response)

Senator, thank you. Your comments are well-taken, and you have a good grasp of the issue.

SENATOR RICE: Mr. Chairman-- And I want to work alongside, with you. I know you're concerned.

Thank you.

ASSEMBLYMAN COHEN: Thank you.

I mean, I guess some of this could be a problem for those communities that have blighted areas as part of their redevelopment packages. And a lot of communities do, particularly Jersey City, Newark, and other small communities, where you've designated certain areas to be blighted. And potential developers who you may have had in mind -- nonretail related -- but townhouses, single-family houses, condos -- is there going to be a market in that blighted area, and is there going to be money available to provide loans for those who want to buy? You may wind up with areas that have been blighted and no one is willing to build because of a tightening mortgage market, particularly in the subprime area.

First to come forward to testify is Robert Levy, New Jersey Mortgage Bankers Association. He told me he has all the answers to resolve everything. (laughter)

E. R O B E R T L E V Y, ESQ.: Yes, I've got them all right here.

ASSEMBLYMAN COHEN: And that's very nice of you. And if you could finish it by dinner, you would be a great service to this state.

MR. LEVY: Let's see, I have a tab that says *answers*, so I'll check it out.

ASSEMBLYMAN COHEN: If anyone else from the organization, who wants to come up with Mr. Levy--

MR. LEVY: Yes, thank you.

Mr. Chairman, I have the President of the Mortgage Bankers Association of New Jersey, Bill Raftery; and Joe Heisler, who is the President of the Association of Mortgage Brokers. And I want to thank you and the Committee for giving us the opportunity to be here today. I've provided a written statement, and I'm not going to read through it, because that would deprive you of the opportunity of reading this at bedtime and helping you--

Just shut if off, it's all right. (referring to PA microphone) This has to be red? Red is on, okay. I'll have to remember that we're reverse of the rest of the world.

In any event, I don't want to go through the full statement, but the points in there I'm certainly going to touch on. But I perceive that-- I mean, we all recognize that no matter what the statistics show in terms of percentages -- and we have tons of those, in terms of percentage of foreclosures, percentage of defaults, percentage of delinquencies -- there's always confusion whenever I talk to anybody about percentages. Because you've got percentages of -- regulated to the inventory. The inventory gives you all of the loans that are in foreclosure, currently, which are loans that have been there for possibly a year or so, as well. So that distorts the picture.

But regardless of how you look at the numbers-- I mean, I can sit here and say with great confidence that on a positive side of things the subprime mortgage market has done a great job in providing mortgage financing to many, many people who would not have been able to get that financing, who would not have been able to own homes, and who now do own homes. It's somewhere in the neighborhood of 80 percent of the folks who have borrowed in the subprime market are paying those loans according to their terms; and they're very pleased with those loans because, obviously, they're able to live in the houses they would like to own. And that's, as Senator Rice pointed out, that's what helped bring the homeownership rate up to almost 70 percent in the United States, which is the highest level we've ever had.

So we know that that's the case. And that being so, a great concern that we have, before we talk about how to deal with the problems, is not to disrupt that marketplace or its ability to function when it's doing the positive things that it can do. That's obviously throwing the baby out with the bathwater, and we have to be very concerned about that. By the same token, I think we have to recognize that there are problems. And while they may not be at as high a crisis level as some would say interpreting the data, it's certainly there and it's certainly something that we want to help with and work with your Committee in order to try to resolve.

One of the things that's fairly apparent to us is -- and I think universally recognized -- is that a lot of the folks that got into these nontraditional mortgage products -- which are generally considered those that have deferred interest or deferred principle payments that give you negative amortization, and then of course have that resetting, such as an interest-only that resets, and you suddenly now have to start paying principle; or where it resets and the interest rate now goes to the new level, and so on. That those loans can be very problematic for people who don't fully comprehend them. And I have to tell you that this industry is complex enough. I mean, we make loans using warehouse lines of credit, so we have to respond to the warehouse lenders and agreements we have with them. The loans are sold in a secondary market; they're not kept in a portfolio with mortgage bankers, and the brokers working with the mortgage bankers and the investors. A lot of the loans go into securitization, and so you have to deal with all the market demands. You have repurchase agreements where, if loans are delinquent or if they're delinquent too early, or if there's anything detected in the loan that is contrary to what your agreement says, you now have to repurchase that loan. Repurchases cause diminution in your net worth. Diminution in net worth can cost you your license, which we require here in New Jersey through the Department of Banking and Insurance. It puts companies out of business. Warehouse lines can be pulled. So that we all have the same motivation -- namely to make good loans.

The big issue, as we see it, is comprehension of these complex products and the complexities of the business. And therefore, we think that one of the solutions, going forward, looking long-term -- not necessarily to deal with the foreclosures imminently, but to deal on a long-term basis -- is, we believe -- and we have discussed it with you, Chairman Cohen -- that licensing lone solicitors -- those who go out, meet with consumers, discuss loan products with consumers, and who ultimately take loan applications -- those folks need to be licensed. They need to be educated. They should pass an exam. They should have continuing education. We should make sure that, at the very least, the people who are discussing loan products with consumers have enough of a comprehension of those complex products to be able to explain them fully, so that the consumer understands both the positive and negative ramifications of those products. And then the consumer can make a choice.

ASSEMBLYMAN COHEN: And we have the beginning of a draft of a bill to do that.

MR. LEVY: Yes. And we're working on that, and we appreciate your cooperation in that regard. We think it's very important.

I should also add that we shouldn't sit here in an atmosphere of nothing being done. Because, in fact-- My compliments to Director McEwen and the Department (*sic*) of Banking, in that the Department has already issued a nontraditional mortgage product guidance. That guidance stems from the Federal guidance which was issued to financial institutions. And then the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators then issued their suggested guidance. And that was adopted already by the Department of Banking, and issued -- it's out there. So our mortgage bankers and brokers are now -- they now have what the Department views as guidance, in terms of how do you deal with nontraditional mortgage and loan products. While it's guidance and it's not law, per se -- and maybe at some point the Department will consider doing something by regulation -- it certainly has a great impact on the industry. Because the examiners, when they come to your mortgage company, brokerage, or otherwise, are certainly going to look at whether you are in compliance with the guidance.

The guidance tells you how to make these loans. It tells you when you advertise and promote these loans that you must give both the positives and negatives to the loan. If it's a negative AM loan, you've got to explain that it is, and how it functions. If it's an option ARM where each month you can change your method of payment, you've got to disclose in the monthly statement how that loan product works and how to choose another vehicle. It's got requirements as to training loan personnel. It's got requirements as to how to underwrite loans. And with a nontraditional mortgage product, under the guidance you would have to do it not on a teaser rate -- you couldn't qualify somebody on a teaser rate. You'd have to qualify them on the full-indexed rate for the full term of the loan, so that you wouldn't have the problem with the nontraditional products that some people are facing now, where they didn't realize that when there was a resetting, they would not be able to make those payments.

Now, having said that -- so we understand that we've got that in place already-- We've got, by the way, the regulatory authority of the Department of Banking, which is very strong. There is a tremendous array of enforcement tools that the Department of Banking has in the Licensed Lenders Act and in their own regulations. And they do, today, watch very carefully to see whether the licensees are complying with all of the laws and regs, and so on. So we've got a lot of that in place. Our concern is, going forward, that we now not extend some of these theories into other types of loan products that will effectively diminish their usefulness.

So, for example, I've heard suggestions of a couple of types: "Well, we should require fully index calculations based on a full-term loan for other types of loans." Well, that's not good. That's throwing the baby out with the bathwater, because then you take people who are people on commissions, you take people who are self-employed, and others who may come in and do very well in terms of qualifying for a loan on the basis of the initial rate, but might not necessarily qualify if you go out a number of years -- which is speculative anyway -- on the potential for the rate to go up. And some people-- I've heard stories of people who could take a fixed rate loan, but would prefer hybrid ARM with, say, 2/28, or whatever it is, and they would not be able to qualify. They could qualify for a fixed rate, but couldn't qualify for the adjustable.

So we have to look at these issues very, very carefully, not in the way of a knee-jerk reaction to some of the concerns about foreclosures and whatever those rates are; and I know there's a difference. You hear one story from one part of the media and another from another. Suffice it to say, foreclosures are up -- no question about it. Suffice it to say, there are issues out there that we need to resolve, but let's resolve them in a sensible way. Let's let the nontraditional mortgage product guidance work. The marketplace has already adjusted. We're hearing that in the negative way, in the sense that with the tightening of underwriting standards and with investors not purchasing certain types of loans, certain types of loan products will be diminished. You can certainly bet on the fact that there are going to be far less nontraditional mortgage loan products, today, originated; and possibly some other hybrid ARMs, and the like.

So the marketplace corrects itself. And the loans that are causing problems are not going to be made. Nobody is going to buy them. They don't want loans that are going to go into default. Those who are originating don't want to have to repurchase. They're going to go out of business, and some have.

So you have all of these factors in place, and I think we have to look at all of them to get a true picture of what we might want to do at this point. I think, certainly, one big issue-- I'm not so concerned about going forward, I guess, is the bottom line. I think going forward, to avoid adopting draconian measures that are going to hurt a lot of people and a lot of consumers. And by the way, once you stop that consumer with impaired credit from owning that home, because they can't qualify on the hybrid ARM or some other method, you also prevent that person from possibly buying another house. That prevents their house from being sold and doesn't make it available for purchase by somebody else, and you get a domino effect. And the entire economy is affected.

And I have to tell you, the mortgage market has really bolstered our economy for many years. And if you don't believe that, talk to Alan Greenspan, if you can find him; he will tell you that. He has told our industry that in the past, when he was Chairman.

So we have a lot to do with how well the economy functions, and we don't want to see that disrupted. By doing what we're suggesting -- let the nontraditional mortgage product guidance work, let the marketplace work. Let's do something about loan solicitors. Let's make sure that people get the right information. Don't deprive people of their choice. There are some that would suggest to you that we should do something like a loan suitability -- make us fiduciaries so that we tell the consumer what loan they should have; don't listen to the consumers' needs or the consumers' desires, we tell them what loan they have to take, because that's the loan that's suitable for them. It doesn't work. It undermines the entire system that's been so good for everyone over the years. I mean, interest rates now are -- what? -- 6.25 or 6.5 percent. That's a very, very good mortgage rate for people. And that comes not as a result of regulation and legislation, that comes as a result of the marketplace working. Nobody has said, "You must charge 6.75." We got rid of usury-rate ceilings in 1980 on the Federal level. So we don't regulate that; that's the competitive marketplace. If you disrupt it, in one part, it affects the whole chain.

Loan suitability is an ambiguous, subjective term that would render the market very, very difficult for anybody to originate loans in, because you would never know what your liability is going to be, and that would shut it down. And I would only remind this Committee -- and I don't know where the votes were at that time, I know where some people were at -- but we had a very bad law in the New Jersey Home Ownership Security Act, because it had this insane type of phraseology -- *tangible net benefit* -- similar to *loan suitability*. The market shut down. The Legislature was forced to rethink it. And within a year, they amended the law and took the language out. Let's not do that again. Let's not do that with loan suitability. I promise you, you'd have the same effect and the same problem. And that's been experienced, by the way, not only in New Jersey, but in Maryland. They had to change the law. In Illinois, they had to make a change in the law, and elsewhere. So we've had a lot of experience with that kind of thing.

Finally, let's talk about foreclosures. That's a problem. How do we deal with it? The idea of helping consumers by shutting down the foreclosures for a period of time, with all due respect, could be problematic. But maybe there are other ways to look at this. One way -- I happened to do some work for the Pennsylvania mortgage bankers and brokers, and I'm familiar to some extent with the HEMAP program under the Pennsylvania Housing Finance Agency Program. It's good, and it works. Under that program, they provide mortgage finance assistance to borrowers who are in foreclosure, or I guess about to be foreclosed on, and they actually take them out of foreclosure. They delay the foreclosure process.

So, Assemblyman Cohen, going along with some sort of a delay in foreclosure, or temporary injunction, so to speak. But in that context, it works.

ASSEMBLYMAN COHEN: Do they have-- Is that a separate agency? What agency is it under?

MR. LEVY: Pennsylvania Housing Finance Agency. And that agency-- So what they're doing is, they don't just stop the foreclosure; they stop it when somebody qualifies -- who's in trouble -- for their assistance. And so the benefit there is, you're not just shutting it down, the foreclosure -- which could cause a problem for the investor, who then doesn't get their money back and can't make other loans with the same funds, and so on -- but you're giving the assistance at the same time as you're delaying the foreclosure. And that covers both bases, so that at least the investor is going to get paid as a result of going through the HEMAP program.

ASSEMBLYMAN COHEN: Yes. But I'm not-- I mean, what I had suggested earlier was that I'm not looking to shut down every loan.

What I had specifically targeted -- in the terms of dealing with those that have been suspect. And there is a wealth of information nationally in terms of those companies that fall into that. Either they're going out of business, they may be going out of business, their lines of credit have been shut down. I'm not looking to put a moratorium on all foreclosures in New Jersey. I want to look at those that perhaps are from problematic companies. But I want to take a look at the Pennsylvania situation.

MR. LEVY: Yes.

No, I think I understand your motivation, which is laudable, and I think the goal is a good one. And if you could identify, as you want to, the problematic loans, which may have been made improperly or whatever, I think there would be a justification for doing what you're doing, and it's a good thought. I think how that process would work is something that I would leave to somebody else to figure out. But I think the idea of helping these folks is a good one.

But I would take a good look at that HEMAP program, because the model is there. I could certainly be helpful with Brian -- and I can't think of his last name -- at the Pennsylvania Housing Finance Agency. I've met with him a number of times, and he'll be more than happy to cooperate, I'm sure, to sit down and show you how that all functions.

ASSEMBLYMAN COHEN: Well, let--

ASSEMBLYMAN BATEMAN: I'm sorry.

Just a question, through you.

ASSEMBLYMAN COHEN: Yes.

ASSEMBLYMAN BATEMAN: Where does the money come from, Bob, to help them out in their time of--

MR. LEVY: I think it's state funding somehow, but it's-- I'm not familiar enough with the program to go into the detail of it, except to say that I know that it provides actual assistance in the payment on the mortgages through the Housing Finance Agency. It's probably bonding money or something like that, but I hesitate to say because I'm not-- There may be somebody else here who might be--

ASSEMBLYMAN COHEN: I'm going to-- OLS is going to take a look at the issues. Susan Bass Levin mentioned something today in her budget statement. So we're going to take a look at how you go about issuing bonds to do this, what the process would be, how much money could be put in a revolving fund, and a number of other areas -- just to see what possible resources could be out there while this crisis occurs.

But I've got-- See, everything is such a two-edged sword. You have someone who desperately wants to buy a home. They're tired of paying rent, tired of the landlord knocking on their door, getting their 30-day notice, and all the problems that are associated with traditional renting. So you have people who desperately want to buy a house; and they have all these new products, many of which work. Because if you have a success rate of 75 percent out of 100 percent, at least for the moment, 75 percent of someone going in to get these *teaser loans*, or whatever you want to call it -- if that's been successful and that helps somebody get a home that otherwise they would not be able to buy. It also helps somebody to sell a home that they may have been unable to sell, so that they can then move up to a different kind of level. And the seller may be going to get one of the subprime loans after they sell their house.

MR. LEVY: Right.

ASSEMBLYMAN COHEN: We've had some people who, on the day of closing, went in and the company went out of business -- the lender went out of business, and they're at closing. They can't close. They've already given notice to their landlord that they're moving. The seller of the property now can't sell; they're stuck, and they're looking to buy. And they have a contract to buy somewhere else, dependent upon a closing that's not taking place. It's real estate stuff and closings, it's Murphy's Law -- whatever can, obviously will go wrong. It's an extraordinary, complex process. Eighty-five percent of the attorneys don't know anything about real estate closings or what kind of mortgage it is.

I'm not looking to say that a mortgage company has to give advice and guarantee it. That would be extremely problematic. Who is going to want to do that and then face a malpractice suit, because you said, "*X*, *Y*, and *Z*." But the subprime market has benefited those with low credit scores. It has benefited those who have no other opportunity to borrow. And a lot of borrowers who are looking to buy are going to say, in their private discussions in the family, "Let's take a shot. We've waited 30 years. We've lived in an apartment. We've made landlords money based upon our rents. We need to have something for our family that's stable. We desperately want to buy a house." So some people take the risk. They're dependent upon a salary raise going up. They're dependent upon maybe a second member of the household getting a job. They're dependent upon possibly getting a tenant to live in the house, whether it's a legal or illegal multifamily, hoping to pick up $400 or $1,000 which will help them meet the mortgage payment. And sometimes those things don't happen. In a bad economy, that job doesn't come in; there may be a glut in the apartment complexes. So instead of getting 1,200 you may be getting 600.

So the problems go on both sides. Sometimes you can't talk somebody out of: "This is not the best thing for you." But there should be an obligation that -- even if it's a sign-off sheet -- protect the broker themselves, or the subprime market person. That you've given them a sheet that says this five-year interest only, which is now based upon a 30-year, comes to -- at the end of this five years of interest-only, your monthly payment after that is going to be not 1,100 a month, it's going to be 2,000 a month; which should all be in big bold. Nothing guarantees protection for everybody. But it would seem to me that if everybody wants to say, "Wait a minute. I told you, you can't afford," or "I told you, this is a risk;" if the buyer wants to go ahead and say, "I'm going to take a shot. I want a house. I promised my wife, I promised my kids, we're going to have a house and a backyard," at least your side of the fence is covered.

And it may well be that 70 percent of the subprimes that are working -- they may have to be paying more money -- seemed to be based on the fact that there's enough income being shown on the borrower's side that they can handle that increase. It's where the income level remains the same and then there's the reset, that they then have a problem. Nobody wants to kill this market, because the market worked for 10, 15, 20 years. People had low FICO scores. I mean, people had a chance to buy. They're still there. But these new products that came out, there's a benefit and there's a downside. From the lender's standpoint, I'd think you'd want all the protections you would want in the world, so that nobody can come back to you and say, "Wait a minute, you told me *X*." And somebody can produce something that says, "We do not guarantee that you can afford this. You qualify for *X*, *Y*, and *Z*, and this is what happens when things go up."

So no one's looking to kill the market, because the market, for the most part, worked. The problem is, is that you don't have a New Jersey problem, you have a national problem. Everything you've said, we've discussed about rippling effects, is here. The idea of blighting property for redevelopment is a great idea. But if you've got no one to lend money to those who want to buy in a developed area, then you have a dramatic problem.

Mayor Hackett, I'm sure, knows -- and that's, also, why I asked Mayor Hackett to come down to sit on the Committee -- and that is, the rippling effect of the foreclosures is that the City of Orange and nearly every other community then has to pick up a huge tab. They have to have their public works cut the grass. They have to have their staff board up the house. When people who have drug problems or are homeless then go into -- break open the door and go in-- They're there, the city knows that they're there. They're not doing anything. If something happens, the city can be liable. There will be tax liens, legal expenses for doing tax liens, tax lien foreclosures, bankruptcy court that local communities are going to have to hire to go do bankruptcy work.

The impact is enormous, and the impact is rippling from top to bottom. We do not want to do anything. We want to see what the problem is, how we can address it. And I am concerned about current -- what can be done currently to stop the foreclosure and loss of house -- bleeding that's going on. Something needs to be addressed, whether it's dollars-- I know your organization and also the Department of Banking and Insurance have gone to national lenders to see if they can pick up books of business and help people refinance. I mean, that's laudable. DOBI the same thing. Anything that can be done so that lenders that are walking out the door or being forced out the door -- that there's someplace to go, and business being picked up, and things being worked out.

MR. LEVY: Well, thank you, Mr. Chairman.

I certainly agree with, on behalf of the industry, everything you just said. As far as helping those where a company would go out of business and isn't able to fund a loan, I can tell you that, with the cooperation of Director McEwen, that we recently dealt with that problem with a major player, who all of you have heard about at the table, where -- and I don't think that it's a secret, New Century -- we actually sent 30 to 40 mortgage bankers and brokers to New Century, through their contact, to close the loans that they couldn't fund. And I don't have statistics back as to how many of those were funded, or whatever, but-- Our industry, through the trade associations, has always stepped up to the plate. We have always, where there's a need, provided mortgage bankers and brokers that would then meet with the consumers involved and make sure that those loans get funded and that it can get closed. I mean, if there were an exception -- such as someone who gave misinformation, or was fraudulent, or whatever -- from the borrower side, obviously we're not going to do that. But we, for the most part, will close those loans.

Sometimes when you think about mortgage banking, you've got to distinguish from -- when a depository had a problem years ago, you know that something -- somebody's got to come in and fund all that, and it's not just making a loan. But with us, it's making a loan, and those loans can be made and can be funded. So for the most part, when a company goes under, we can cover most, if not all, of the loans that haven't been funded. I mean, there may be a little delay, and that's problematic, but at least those loans get done.

As far as-- I should have mentioned, too, we were talking this morning -- as far as foreclosures are concerned, another thing that you should keep in mind is that some of the foreclosures -- and I don't have any percentages -- are investor properties. We had a huge push by investors for quite a period of time when it looked like these property values were going to continue to soar, and investors were jumping in and buying condos, and single-families, and properties all over the place, trying to flip them, you know, over on a short-term basis. And now some of them found themselves in a position where the mortgage values may even exceed the property values. And so some of those foreclosures, and maybe quite a few of them, happen to be investor properties. So not all of them are consumers who have borrowed money and are living in the homes or want to live in the homes.

ASSEMBLYMAN COHEN: Well, we can exclude, in the lawsuit, the investor pieces.

MR. LEVY: We have to. Yes. It's just another factor.

ASSEMBLYMAN COHEN: The Governor's executive order can exclude investor pieces. That's not so hard to do.

MR. LEVY: Right. Yes. But we have to just be cognizant of those kinds of things.

ASSEMBLYMAN COHEN: I have--

Assemblyman Hackett has a question -- statement.

ASSEMBLYMAN HACKETT: Right.

Thank you, Mr. Chairman.

I'd like to thank you for the opportunity to come down today, as an Assemblyman; and also to articulate some concerns -- urban settings as well as other settings throughout this great State. And also, I'd like to thank you, Mr. Levy, for coming this afternoon.

In addition, everything that you're saying and everything that will be said here today will be incorporated in some type of legislation that will be ideal for a course for you and your lending institution, and also our great citizens of, of course, our State.

Just going back to some of the things that you said: We know that sometimes we have subprime borrowers. Let's take, for instance, a case in point: They may get a home for maybe 6 percent, 7 percent, and then the teaser rate may set again, reset again in a couple of years, 10 percent. And then a short-term loan, six months to a year, that may end up being even higher. We know that certain situations, like Chairman Cohen had mentioned, if we have indications whereas it would be implicit as to what they have to pay -- some people may not be a CPA or anything of that nature -- but to see that the way it is in a fair form. I would consider that fair. They may have an indication as to what they'll be able to pay and what they'll be able to do.

Now, I'm going to ask you a question. I just want you to try to answer the best that you can. If you-- Naturally, there are nontraditional loans that a lot of lending institutions do give out. Now, do you think it's incumbent upon you, when you see someone of your industry -- a lending institution -- if they're doing something that would not be conducive to doing the right thing, do you think it's incumbent upon you to make mention of that to that institution, or have a large part of your organization let them know there's something going wrong? And would you come back to us and let us legislate it, in that accord?

MR. LEVY: No. It's a good question. I think it is incumbent upon us, as a trade association, for these lenders and brokers to make sure they comply with our code of ethics. We -- both the associations have codes of ethics, and we expect that you'll comply with them. And it's rare, quite frankly, but if there were clear facts of someone in violation of the code who refused to comply and just outrightly refused, we would have to take them to task, and probably drop them as a member at some point if they didn't comply.

I will tell you this, just as an example of that kind of thing. When it comes to advertising, we have an advertising committee. It doesn't meet as frequently as it did. We're going to probably be doing it again, fairly shortly, where we look over all the ads that we can get our hands on in the various media -- from the media sources, and we write letters to those who are out of compliance. And we suggest to them that they might want to look at this or that advertising regulation, which is in effect, and that we believe they may find that they're in violation. And I will tell you, 95 or more percent of the responses we get are, "Thank you very much, we didn't realize we were out of compliance; we're not going to use that ad any further." So we do take direct steps with our members to try to keep them in compliance.

We need the facts just like anyone else. If someone is out doing something that's improper and inappropriate and not in accord with our code of ethics and we know about it, we would deal with it.

ASSEMBLYMAN HACKETT: Okay.

And finally, I believe that Chairman Cohen also was very succinct in what he's saying. You look at the urban setting -- and naturally there are others -- but urban settings, that's where there's a lot of the lifeblood, a lot of the educational institutions, your medical institutions, and things of that nature. I think that what has happened -- we know that these particular urban areas need special assistance in some cases. Case in point: You have your airports, your have your train stations, you have your hospitals, you have your higher educational institutions. But of course, people who really love to have homes in these areas -- because transportation is much easier -- indicated -- so far as employment would be concerned. So whenever you have situations such as this, you really need to have an understanding of the nature of the clientele that you have. And I'm sure that you have; and you have people in your institutions who would do this. So I would hope that it would be incumbent upon you, as we go about this type of legislation, to make sure that you're fair in doing what you're doing. I know that you want to be fair, and I know that you want to make money. That's what business is all about.

But of course, in terms of you being here, we're here to assist you, and we will; but we're going to give you a lot of facts that, hopefully, you'll be able to incorporate after we go through the legislation that we possibly will be proposing. And hopefully you'll be able to add to it.

Thank you very much.

MR. LEVY: Yes.

Well, just, kind of -- we certainly agree with you. I mean, making a profit in this business is consistent with helping consumers. I sometimes surprise people when I say, "I'm a consumer advocate." And they look at me, "But you represent the industry." Yes, but those are our clients; those are our customers. These are the people we help. These are the people that we put into housing.

And I have to tell you, our members, such as sitting next to me, believe in that process and believe and really enjoy helping people in any way we can. And it's very consistent to say I can earn a living doing a good thing, because I'm putting somebody into a home, or I'm enabling somebody to move up to a home that they desire; or through an equity loan, enabling them to redo their kitchen and enjoy the house more. So we're perfectly on the same wave length, and we think-- That's why I said we think that legislation which does, we think, take care of the major issue -- which is the understanding. Because we believe -- and I have to tell you, quite frankly -- I think one of the things we need to do in the State of New Jersey -- and I don't think there's any question about it and I don't think anybody would question it, other than perhaps those who have a problem with figuring out how to do it -- is we have to get financial literacy education into our school system. We've got to do that. Kids who are in school should be learning about mortgage products. They should be learning about finance. They should be learning about credit card use. They should be learning about credit and how you build your credit, and so on. It's critical, because you can't-- Nobody who has that understanding and education and knowledge is going to have anywhere near the problems that we've seen today. And when you combine that with educated people who are dealing with them, I think you've got the problem licked.

ASSEMBLYMAN COHEN: Unless, of course, you have situations that arise where a mortgage broker is directing someone into a product that is just destined for failure. But that raises two questions: And that is, one, the borrower may want to do that and take the risk that in five years the situation will be fine. If they keep their payments up, they can improve their credit score and get out from under a five-year reset loan. Or you have folks that -- they have a potential borrower who really has no clue, and most borrowers -- and I don't care whether they've been in college or have not been in college -- mortgage borrowing is confusing, you know, for everybody, unless it's a traditional 30-year fixed; or even a no-doc that involves a 30-year fixed, as opposed to a no-doc that involves a five-year interest-only, being reset and being based on not 30 years, but 25 years. So there's benefits to having a no-doc loan. And a lot of people get through it fine, and they improve their credit and they can probably -- and refinance. So no-doc, in and of itself, is not bad.

A five-year tease, it may not be that bad in and of itself. It's how maybe some stuff is applied. And I've said from the beginning, it's a lender responsibility and it's a borrower responsibility. If somebody is desperate to buy a house and take a shot and take the risk, that's their issue.

MR. LEVY: I agree. Yes.

ASSEMBLYMAN COHEN: I just want to be able to, at least right now-- Because, like I said in the beginning, you have -- what's the problem? Short-term problem, stabilization, and then try to resolve it long-term through legislation, through the regulatory process, through a self-analysis within the industries. You've got a lot of people who have successfully done the five-year tease. And then a lot more that are coming up now because the real estate market has dropped. So now the gross value of their mortgage is more than what the value is. It's just very complex. There is no simple solution. I'm not saying anybody is the evil-doer in this. It's a combination of a lot of things; some of which we can or cannot control. But I want to know what we can do now to save people--

MR. LEVY: Let me just-- Let me just show you--

ASSEMBLYMAN COHEN: --and particularly with lenders that are problematic. I'm not looking to stop foreclosures for the next five years on every lender in New Jersey. I'm looking for some things right now so somebody is not going to get thrown out of their house. The person may have made a bad choice, or the person may have been mislead into a problem. I don't think government has the ability to analyze every single mortgage and circumstances.

And, I mean, as legislators, we're looking for help.

MR. LEVY: Well, a couple of things I'll address that I just want to mention. You raised a very, very interesting and important issue -- and it's something we all kind of have to struggle with thinking about -- is, you get that teaser rate and you say -- you look down the road, and of course, when it adjusts, it adjusts based on an index and so on. You say, "Can the person afford that rate down the road?" Well, number one, the rate down the road, we don't know what it's going to be.

ASSEMBLYMAN COHEN: Right.

MR. LEVY: We can only guess at it, number one.

ASSEMBLYMAN COHEN: You don't know.

MR. LEVY: It could actually go down.

Number two is, the thing that you really don't know is, what's that individual willing to do to make those payments? Now, maybe they're willing, because the house is so important, they're going to put a greater percentage of their income toward that house than they would something else. They're not going to buy the car, they're going to put it into the house. They're going to have the wife, or the spouse -- male or female -- work where they weren't working. They're going to take a second job. We don't know that. And so that's where borrower choice is so critical, because we can't get into the mind of that borrower and base the decision on, you know, what they may or may not do going down the road. If they want that house badly enough, they're going to do what they have to do. Sometimes the most likely way to know whether somebody is going to pay a loan -- and a lot of people will tell you this -- is what have they done in the past. Somebody who has consistently made their payments in the past is probably very likely to make them in the future, one way or another they're going to find a way. They're going to get that job--

ASSEMBLYMAN COHEN: Yes, but then they wouldn't be in the subprime market. They'd be in the prime market.

MR. LEVY: Well, no. They might be. They still might be.

ASSEMBLYMAN COHEN: Okay.

MR. LEVY: But in any event, to get to your concern-- Yes.

ASSEMBLYMAN COHEN: Here's the other point. And that is, because -- like I said, that there's no real source of blame. And if you're a borrower who wants to get a house and you do go to mortgage companies--

And this is not reflected anywhere in anybody's record; you don't know if that borrower has gone to three mortgage companies who have said to them, "This is not for you, and we can't take a risk. And we don't believe, based on this, anybody is going to buy in a second market, if this is the mortgage you want me to make." So you never know whether a borrower has gone to three mortgage companies. And they finally get to a fourth, and that fourth mortgage company doesn't know that they've been told, "No."

MR. LEVY: That might show up in their credit.

ASSEMBLYMAN COHEN: If the borrower is smart, like any consumer is, if somebody has told you there's a problem, but there's something available for you, when you go to the fourth mortgage broker never say *X*, *Y* and *Z*, because you're not going to get it. I mean, that's also a legitimate problem in terms of folks.

MR. LEVY: I think that would-- With all due respect, I think you'll see that in the credit -- when you get the credit history, it would appear. So you would know they were elsewhere. I don't know that anybody is going to rely on what somebody else's judgment was anyway, because they may not have had the same loan products available, they may not have had the same *whatever* it is. So you may not be too impressed with the fact that somebody else turned somebody down in any event.

But I think one of the things we could offer as trade associations to help out -- because I know you're desperately seeking assistance for these consumers -- is if there are any loan products that we might be able to help refinance with perhaps some products we have. It may or may not be possible, depending upon the circumstances of the borrower. But we'd certainly have people available to look at those loans, if you knew somebody that wanted to bring one to us and say, "Can you possibly do something for this borrower?" We'd certainly put some time and effort into trying to take a look at some of the loans that are in desperate situations, and maybe there's a way to help. Maybe one of our members would have a product or have an analysis that might make something work. So let's not give up the ship completely. That's always something that we can--

ASSEMBLYMAN COHEN: I have no intention of giving up the ship.

MR. LEVY: That's something that we can help out with.

But part and parcel of this problem is the economic circumstances we face. Who could ever know that we would reach a point where, with all the bidding and houses staying on the market for about 10 minutes, and you had five bids, and so on, we would now be facing a situation where prices, actually, are coming down? And that all has its impact on where we are, because it makes it harder for people to refinance out. Their equity is thinner. Some people-- We know that when people are in a position where their mortgage amount equates to the value of the property, or is greater, they have very little incentive to make payments on that loan. So part of this whole situation, while we agree that there are problems with the way mortgages were made, as we discussed, part of it is just economics and economic circumstances.

ASSEMBLYMAN COHEN: Thank you.

MR. LEVY: Thank you very much for your time.

ASSEMBLYMAN COHEN: A question from Assemblyman Bateman.

ASSEMBLYMAN BATEMAN: Just one comment. Isn't it somewhat cyclical, depending on the economy? Don't we go through this every 10 or 20 years, depending on where the economy is?

MR. LEVY: Oh, yes. It certainly is a cyclical situation. But nobody knows when that cycle is going to hit. If we did, I don't think I'd be here; I'd be in Florida, retired. (laughter)

ASSEMBLYWOMAN VANDERVALK: Mr. Chairman?

ASSEMBLYMAN COHEN: Assemblywoman Vandervalk.

ASSEMBLYWOMAN VANDERVALK: I think we're so tired of hearing New Jersey at the top of the list of these horror stories. And I was pleasantly surprised in what I was reading that we're doing very well compared to other states on this issue. Would you concur with that?

MR. LEVY: Yes. I think, again, I think there's a lot of statistics out there, but my belief is, from what I know, that New Jersey is -- relative to what some of the other states are facing -- is doing well, relatively.

ASSEMBLYMAN COHEN: That's the reason-- I mean, that's part of the reason, when we looked at numbers, or at least numbers reported in a lot of states, and there was -- Ohio is problematic, and California is problematic, Illinois is problematic, Michigan. But it still dawned on me that before we become problematic, in terms of comparative-- And when I spoke to some people about '07 into '08 were going to be possibly a problem, because of the five-year interest, only-- Which is why I have this meeting convened. Because I have no intention of leading the National League in the United States in problematic subprime loans. That's why I wanted to convene this, even though we were not within the top eight or 10, or maybe 15 or 20 in the country. It is still something that-- We have so many people borrowing in a thriving subprime market that there's always a potential for us to be in a bad situation -- before the creek rises over everybody's head. And that's why I wanted to have this session.

MR. LEVY: And I just want to compliment you, Chairman Cohen, for having this meeting, because I'm very proud of our State -- as compared to some of the things you can face with knee-jerk reactions and people jumping in with inappropriate types of approaches -- to have a deliberative session to say, "Look, what's going on? What's the problem? How can we fix it? Can we fix it?" And so on. So my compliments to--

ASSEMBLYMAN COHEN: Assemblyman Conners has a question for you.

MR. LEVY: Yes.

ASSEBMLYMAN CONNERS: Thank you, Chairman.

Yes, Mr. Levy, the Chairman-- I have, like, an entire book that was sent to me. And between what I read in the papers and so forth -- and you had mentioned knee-jerk reactions. And Mr. Levy, you have testified here previously, and I appreciate your testimony.

MR. LEVY: You didn't take notes, did you? (laughter)

ASSEBMLYMAN CONNERS: I don't have them, no. (laughter) Now, I think they're on the Internet. And I was thinking, you've said a lot of interesting things today. And I think in your opening remarks you talked about comprehension. And I think you were really speaking to the borrower, and did they really comprehend what's in front of them and where they're going to go. And I was thinking about-- You had said that it's been working -- that subprime lending up to now has been working. We've been putting a lot of people in homes who may not have had an opportunity to be in a home previously, and it's been working. But now, clearly, something has gone wrong. And the only thing I can fall back on-- When I was in banking, I was not a mortgage lender. But I was thinking in terms of installment loans, what you said about looking at the willingness to pay, the credit check -- looking -- and also the ability to pay. And when I did installment lending, that's -- you know, either you can pay it or you can't pay it. I always had a problem with the gross income, as opposed to net income. We do it, but I'll be darned if I know why we do it; we should use net income.

But anyway, in your opinion, like, what went wrong? And I can remember -- I guess, it was back in the '80s -- that our installment loan department basically reduced the requirements. We basically, I guess, started creating some subprime loans, if you will, and suddenly delinquencies went up. Well, they went up because we were reducing the requirements for lending. But with this buoyant housing market, or this rising housing market and the values going up, I did read one thing about lenders -- whether this is real or imagined -- the lenders were saying, "Well, you know what, we'll do 100 percent financing, and the worst thing that happens is they sell the house, they pay us off. There may even be something left over from the profit that they can walk away from this." But the reality is, I guess, so many homes have gone up for sale that now your house is like the other 50 that are in your neighborhood, and prices are coming down.

And it also seems to be -- with the sophistication of your association, and with bankers, and now computers and so forth -- that you know a -- when you see a bad loan, you wouldn't make it. You can tell when you're looking at it, "This isn't going to work." And it almost seems like it should be the responsibility to tell the borrower -- and the Chairman had mentioned about families, and going home and discuss it: "Can we do it; should I get a second job?" so on and so forth. But as a lender, or at least in my experience, not with mortgages but with installment lending, I knew when someone was going to be able to make it or not. And in those days, a long time ago, I would just tell them, "Look, this isn't good that you can't do this, and something should be done."

So it seems to me that something has gone wrong. And what is it? I know that it was working. You said it was working, but it's not working now. What went wrong?

MR. LEVY: Well, it was a combination of factors that went wrong. First of all, you have to understand, the pressures on our industry to put people in the homes really were part of what created the subprime environment; and the effort to make more loans. And so the message out there was, "Let's get as many people in the home ownership as possible." That was coming from a variety of sources, and legitimately so. I mean, I think the goal is laudable. And so that was out there. The subprime market responded to that, created products to achieve that. And you have, out there also, purchases of these loans; including securities markets that became very involved, and said, "Yes, this is good stuff, and let's take it all in," and so on. And underwriting criteria began to loosen up, maybe too much, but it did enable people to get loans that otherwise couldn't have. So now you have the loose underwriting criteria, you have rising prices, soaring prices, 100 percent-type situations -- because people weren't worried about them because of rising prices, thinking it was going to go on forever, as Assemblyman Bateman says.

Well, what about the cycle? Well, you don't know when it's going to happen. And everybody says, "Ah, it's going to keep going." And you had all of that in play, you had all this money available through securitization and elsewhere. The securities markets were wonderful; they thought it was just a great deal. And then when it didn't go well, they shut the door and caused a lot of problems for companies. Some of them went out of business as a result of the securities markets, because they just shut down. So you had all that in play. And then when prices started to fall, and now you had people whose mortgage amounts were getting closer and closer to the actual value of the property, they couldn't refinance out because you don't have equity there left, and so on and so forth. So you have to take this myriad of factors and pull them all together, and you have a problem.

ASSEBMLYMAN CONNERS: Do you think there were lenders out there with that attitude -- that the market's rising, and let's do 100 percent financing, and let's take more chances?

MR. LEVY: Well, sure. Oh, I think absolutely you had that out there. And it was I suppose, at one point in time, depending upon when you said that, you were very smart. Because, in fact, prices did continue to go up, and so you looked real good. I mean, you were covered.

So I don't know that you could blame anybody. It's a matter of whether you want to cover yourself when you make a loan, and get a forward commitment and make sure you're going to be able to sell that at a certain price; or whether you're going to play the market, and whether you are pretty sure that you know what the market's doing. You listen to all the prognosticators, and the Greenspans, and Bernankes, and others, and you think you know what you're doing. So a lot of factors came into play.

SENATOR CONNORS: Thank you.

ASSEMBLYMAN COHEN: Thanks very much, Mr. Levy.

MR. LEVY: Okay, thank you.

ASSEMBLYMAN COHEN: Bob DiUbaldo, AIG.

ROBERT W. DiUBALDO, ESQ.: Thank you, Mr. Chairman.

For the record, Bob DiUbaldo, Assistant General Counsel, State Relations, for AIG -- American International Group.

It's sort of strange being up here for this hearing, since I appeared before this Committee a number of times on insurance issues; and most people, when they think of AIG, think of insurance. But we do consumer financing through American General Finance. We do it in New Jersey. It's one of our key businesses, and we've been pretty good at it.

And I want to commend you, Mr. Chairman and the Committee, for the tone you've brought to these hearings. And at the end of the day, we certainly are out there to make money as a business, but we also are in a business that helps consumers. And it's not in the consumer's interest, or our interest, to be making loans to people that are going to fail at the end of the day, because foreclosure is not a profitable business.

Our market is primarily a subprime market. In New Jersey, we had 18 branch offices. As of 12/31/06, we had about 1,850 loans outstanding in the state, totaling almost $100 million. And in '05 and '06, we had a total of three foreclosures, and that's it. We'd like to think that the reason we've done that is prudent underwriting. We look very closely at whether or not a person has the ability to repay their mortgage. We take great pains in that. Some of the practices that Mr. Levy alluded to under the guidance -- for example, the approach on ARMs, using the fully-indexed rate -- that's a practice that we've been using. So we underwrite some of the more sophisticated ARMs. We will look not at what the actual rate is that the person is going to pay, but we're going to look long-term. There's a cap in the loan. And we're going to determine, at the date that we issue the loan, whether they can repay that loan, based on the fully-indexed rate.

ASSEMBLYMAN COHEN: Three years from now.

MR. DiUBALDO: Right.

Or if it gets the max, right.

ASSEMBLYMAN COHEN: Right.

MR. DiUBALDO: So there are practices that we engage in that we think have helped in the state.

Mr. Levy seemed to have covered pretty much all the areas that I would have. We're in the business of providing answers--

ASSEMBLYMAN COHEN: He's trying to make it easier for you, Bob. (laughter)

MR. DiUBALDO: And I appreciate that, Mr. Chairman, but you don't always do that. (laughter)

ASSEMBLYMAN COHEN: But I try to be a gentleman, even if you may leave the room unhappy. (laughter)

MR. DiUBALDO: The only thing that I would take somewhat of an issue with Mr. Levy on -- and I'm not going to raise it in detail here, I'm just going to include this in the dialogue -- was the issue of licensing. I think the goal was to keep the bad actors out of the marketplace. We agree with that. We don't want the people who are going to come in here, into New Jersey, and engage in the kind of practices that are going to lead to failed loans. That doesn't interest anyone. But in an operation like ours, each of our branch offices is licensed, and everyone that comes to work for us in any of those branch offices is our responsibility. If somebody messes up, we're on the hook. And if we -- the system of registration that we have in place now, for example, can give us a heads up as to who the bad actors are and we can keep them out. But if you design your licensing system the wrong way, what you would wind up doing in an operation like ours is imposing significant costs on an operation that already is policing itself pretty well, and I don't know that the consumer would get much benefit from it. So rather than go through the particulars--

ASSEMBLYMAN COHEN: Well, Assemblyman Bateman and I have sponsored, in the past, the License Lender Act. And I think the licensing laws that we did, when Assemblyman Bateman was Chair of the Committee and I was just a member, I think the stuff that's been done in the licensing area by Assemblyman Bateman, myself, and others have been prudent.

MR. DiUBALDO: Okay.

ASSEMBLYMAN COHEN: And we've worked with the industry; and we've also worked with consumer groups, in our own sense of consumer protection. So we're going to go ahead with a mortgage soliciting bill. It's going to be along the same guidelines as we've set a precedent, on several occasions, in terms of licensed lendings; so that there is criteria, and there's a way to revoke, and there's a hearing when you revoke, and there's due process involved. And we, through it all, try to keep out-- So you're not going to see anything worse, Bob, than--

MR. DiUBALDO: Well, we'd like to just take a look at the bill and discuss it with you--

ASSEMBLYMAN COHEN: Sure.

MR. DiUBALDO: --and give our input, as it goes along.

ASSEMBLYMAN COHEN: After this passage, I'll-- You know, Bob, you'll-- (laughter)

MR. DiUBALDO: See, I told you. It's just too good to be--

ASSEMBLYMAN COHEN: We share-- We share-- No, no, no. Let me tell you one thing, and maybe this is most of what I do, or it's become that way. We sit down. I mean, someone may disagree with me on something or-- What I do do is, that everybody who has a stake in the issue gets access, gets to review drafts, because I want a full consensus. And then after everybody has had their input, then I obviously have to make a decision that it's my call and subject to a Committee vote.

MR. DiUBALDO: We appreciate it.

ASSEMBLYMAN COHEN: Nobody, I don't think in any area, has been blocked from any legislation stuff I've ever been involved with.

MR. DiUBALDO: And that's been my experience with you on the bills we brought on the insurance side, so we would just ask you to--

ASSEMBLYMAN COHEN: Sure. Absolutely.

MR. DiUBALDO: And other than that, I'd be happy to take questions.

ASSEMBLYMAN COHEN: Any questions from the Committee? (no response)

Thanks. Thanks, Bob.

MR. DiUBALDO: Thank you.

ASSEMBLYMAN COHEN: Citizen Action.

PHYLLIS SALOWE-KAYE: I'm Phyllis Salowe-Kaye, and I'm the Executive Director of New Jersey Citizen Action. And I have with me, today, Leila Amirhamzeh, who has been the Director of our Financial Education Centers for many years. And I'm fortunate to have Uriah King, from the Center for Responsible Lending, who came up from North Carolina. And his organization is one of the organizations that have provided us with many of the statistics that you're going to hear today and that some people have already quoted in their testimony today.

We believe that for most subprime borrowers the nightmare is just beginning. There are countless statistics that clearly demonstrate that -- what we can refer to as being only the tip of the iceberg of what we consider to be a subprime lending disaster. And I know that I'm probably being much more one-sided than some of the previous speakers who didn't really think that this is such a problem.

Our Loan Counseling centers are already seeing a 33 percent increase in clients facing foreclosure in the first quarter of 2007, as compared to 2006. As subprime lenders continue to use these so-called *boutique* and *exotic* mortgages -- and *hybrids*, another new word that we're using to describe them -- and they make them available to the most vulnerable buyers, specifically low- and moderate-income minorities, we need to be prepared for this spike in the number of homeowners who are facing, and who will be facing, foreclosures in our urban centers over the next one or two years.

Citizen Action is the state's largest consumer independent watchdog. And we have the biggest HUD-certified home ownership counseling service in the state, where we do one-on-one, first-time home buyer counseling. Through our home ownership program, Citizen Action provides general credit counseling, prepurchase counseling for first-time home buyers, home improvement and re-fi counseling for homeowners, reverse mortgage counseling for seniors, Section 8-to-Homeownership, counseling for low-income individuals -- through our nine offices in New Jersey. And over the last -- since 1995, over 10,000 first-time home buyers have purchased homes through us and our participating financial institutions.

Every single one of those home buyers received a below-market rate, 30-year fixed mortgage that required them to have one good year of credit with no unexplainable lates. They all had to go to prepurchase home buyer counseling and see an individual counselor to develop a budget to make sure that they could afford these homes. Not one of these mortgages was a subprime mortgage. And if you came into our office today, and you qualified, you could get a 4.75 percent mortgage with a $2,000 down payment and closing assistance -- that's the best product we have today. We have 12 products; they all vary.

We believe, which is different from what we have heard today, that nobody needs a home immediately. People may need an apartment. People may want something, but not-- It is not necessarily true that because somebody wants a home right now that they are in a position to get it. We have folks who come into us who don't fit the ratios, that don't qualify, that don't want to spend the time it needs to get their credit up to the rate that they need to have it be; and they've seen a $400,000, $500,000 house that the ratios wouldn't fit in our product, and they go-- And they know that there is somebody out there who will make that mortgage to them. And what we know is that, sometimes, before even they've made one mortgage payment, they're back in, because they're facing an action for lack of payment. So those people come back to us. We see them all the time.

In addition to our homeowner counseling program, we're also a HUD-designated Fair Housing agency that provides education and outreach to low-income and moderate individuals throughout the state on fair housing and predatory lending. And we also report cases of housing discrimination to HUD. And so we've seen a variety of types of buyers over the last year, and what we've seen is the change. We've seen that folks are coming into us. That they heard about these great products that are out there, they think we can offer them. And what they're hearing from us is that they may not be ready to buy a home, regardless if they all sat down and thought about that they wanted to have this for a lot of years and they want to take the risk. We won't put somebody into a risky problem. They may go out and find that risky problem, but a lot of them end up back at our office, where they are facing foreclosure.

As one of the state's largest providers of home ownership counseling, financial literacy, and asset building initiatives, we believe that home ownership does represent the greatest opportunity for families to build wealth and economic security, as Assemblyman Cohen stated at the beginning of the hearing. Moreover, expanding fair and equal access to credit, basic financial services, and home ownership opportunities has been central to our mission to empower New Jersey's low- and moderate-income consumers. And it would be absolutely counter to our mission to recommend any policy that would diminish beneficial credit and wealth-building opportunities to these families and the communities that they live in. However, we believe that if these subprime home loans that are being made to individuals that are actually setting them back, rather than moving them forward and allowing them to build wealth, that these mortgages are going to have a negative impact on families. And we believe that there are ramifications, not just for the individual, but for the neighborhoods that these homes that they're buying are located in, in the communities that these neighborhoods are in.

We agree with Assemblyman Cohen that this issue needs to be looked into and investigated very carefully. We've called upon the lawmakers in New Jersey, and hopefully Assemblyman Cohen, to take immediate action to shut down these foreclosure mills, that are operating by law firms, that are trying to kick and are actively kicking financially troubled subprime borrowers out of their homes. These law firms represent lenders, mortgage servicers, and Wall Street investment firms that have profited, and continue to profit, at the expense of New Jersey's low- and moderate-income home buyers. And not all subprime lenders are the ones that I am describing. But unfortunately, we have been inundated with these cases, so we're seeing a lot of it.

ASSEMBLYMAN COHEN: Do you want me to shut down the law firms?

MS. SALOWE-KAYE: Well, I think you have to not shut down the law firms. You have to stop the process. You have to do what you are saying. I mean, it's all part of a cycle. No, I'm not saying you have to shut down-- I'm sorry.

ASSEMBLYMAN COHEN: I thought-- Maybe I--

MS. SALOWE-KAYE: You have to shut down what they're doing, which is: They are putting people out of their homes. And we think that your proposal of calling for a moratorium--

ASSEMBLYMAN COHEN: We're talking about suspect ones, not the entire--

MS. SALOWE-KAYE: Well, I don't know how you come up with your suspect list. And as I mentioned to you earlier--

ASSEMBLYMAN COHEN: Everybody's got a suspect list.

MS. SALOWE-KAYE: Everybody's got a suspect list, and the Department of Banking--

ASSEMBLYMAN COHEN: I'm on a few people's suspect lists. (laughter) And I'm sure everybody here is on somebody's suspect list--

MS. SALOWE-KAYE: I'm sure we all are.

ASSEMBLYMAN COHEN: --including my mother's.

MS. SALOWE-KAYE: The Department of Banking is actively making phone calls to lawyers that represent clients that have been recently in the newspaper, saying, "Who is the bad company, who is a bad company?" There needs to be some systematic way to identify those companies. Half of our clients who are facing foreclosure have mortgages with Wells Fargo and -- who's the other one?

LEILA AMIRHAMZEH: Countrywide.

MS. SALOWE-KAYE: Countrywide. But on the other hand, there are lots of small, fly-by-night mortgage companies that open up and close up, as you were talking about earlier, and they relocate someplace under another name. I don't know how you're going to come up with your suspect list. But while you're coming up with the list--

ASSEMBLYMAN COHEN: We'll be fair, arbitrary, capricious, you know. (laughter)

MS. SALOWE-KAYE: So we support what you're doing, but we actually think you need to take a step further, because we're really unclear as to how you're going to create this watch list. We don't think that there's any objective way to do it.

ASSEMBLYMAN COHEN: Well, we know option one is problematic. You got Countrywide -- not Countrywide, but you--

MS. SALOWE-KAYE: Yes, but what would you do with Countrywide and Wells Fargo? What would you do?

ASSEMBLYMAN COHEN: Well, as to those two groups, you know, that's what has to be reviewed. Because in and of itself, we don't-- And that's what we're going to be asking DOBI and other organizations, in terms of what's going on with Wells Fargo, Countrywide. Countrywide was a very popular, beneficial mortgage company for many, many years. Put a lot of people -- when I used to do real estate closings, we did work that went to Countrywide. Attorneys should never recommend a mortgage company, because all that does is get you a lawsuit. Which is why a lot of lenders want to say, "I can't tell you yes or no, all I can tell you is that this is what you're going to be paying." Bob DiUbaldo mentioned a great thing. When AIG does its loans in the subprime market -- fortunately have few foreclosures -- they're not looking to see whether they can manage in the first four years. They're looking to see, when that trigger occurs, can they manage when the number goes up higher? And I don't think AIG is probably the only one that does that. But that's a smart way to underwrite it and to measure a potential loan.

If some company has someone who is bringing in a hundred loans in one month, and 90 of them may be bad, then obviously it's up to the company, that's going to be ruined by that one individual who has pulled in and approved so many subprime loans, that that person is going to be going out the door; because the person's company will be going out the door.

So how you look at it -- I can't give you a black-and-white answer to it. The subprime market, in and of itself, is not evil. For a long time, 70, 85, 90 percent fine. But in down times, as it is in any business, in down times there's a struggle and there's a problem that results of it. So how do I stop the bleeding, and for how long do you stop the bleeding? And how do you plan the future so that nobody bleeds? That's how we're looking at this as we're going along.

MS. SALOWE-KAYE: As you should.

MS. AMIRHAMZEH: Again, as Phyllis mentioned, my name is Leila Amirhamzeh. I've been the Financial Education Director for New Jersey Citizen Action for many years.

Through both our home ownership counseling and our fair housing program, Citizen Action has seen a pattern of financial distress among New Jersey's low- and moderate-income homeowners in recent months; in particular, mortgage delinquencies and foreclosures that have resulted from the exotic mortgage products that we are here to talk about today. Whether the individuals reach out to us as a result of our financial education and fair housing education and outreach programs, or whether they have contacted us -- our loan counseling service -- to receive crisis counseling in an effort to prevent foreclosure, it has become increasingly clear that irresponsible subprime lending practices have contributed to this wave of delinquencies and foreclosures.

All default and delinquency clients that enter New Jersey Citizen Action's program, including those who are victims of predatory lending, receive individual counseling to determine the cause of their delinquency, which in turn assists our counselors in developing a plan of action for each client on a case-by-case basis. Typically, the default in crisis cases that our counselors see -- at least those we have seen prior to this recent trend -- are the result of job loss, divorce, illness, or death. However, the recent trend, as noted by our counselors, is beyond this norm. And that's what we're here to--

ASSEMBLYMAN COHEN: Isn't that exacerbated? That's one problem where you exist in, like, a 30-year mortgage; if it does (indiscernible), exacerbating factors that even become more pronounced where you have a five-year that kicks up?

MS. AMIRHAMZEH: Right, right. And we've seen these problems, as you said, exacerbated as a result of these different mortgage products. And there's been a trend above this norm that we're used to seeing, after having done loan counseling for more than 10 years.

Our counselors have seen a dramatic increase in the number of defaults and foreclosures that have been triggered by these exotic, adjustable rate mortgages; in particular, those that offer those initial teaser rates, which then reset after the initial fixed rate period. Unfortunately for those borrowers, these rates typically reset to a much higher one than they're able to repay, and the payment shock is even greater for those individuals who qualified for their loans with an initial low rate based on stated income or no-doc loans.

Just to give you an example of some of the types of cases that we see: In one instance, a young, single African American woman with an annual income of approximately $15,000 purchased a two-family home in Jersey City for $597,000, and did so using a hybrid, adjustable-rate mortgage. The first loan she received was in the amount of $477,000, and that was a 40-year adjustable-rate mortgage, initially set at 8.75 percent. The second loan in the amount of $119,000 was a 30-year adjustable-rate mortgage, initially set at 12.5 percent.

ASSEMBLYMAN COHEN: Who was the loan with?

MS. AMIRHAMZEH: I'm sorry?

ASSEMBLYMAN COHEN: Who was the loan with?

MS. AMIRHAMZEH: I don't have that particular information.

ASSEMBLYMAN COHEN: Well, could you get that for me? I want to know.

MS. SALOWE-KAYE: Sure.

MS. AMIRHAMZEH: Yes.

Clearly, with an income of only $15,000, there was no way this borrower could support these loans. She closed on this property at the end of March in 2006. And less than one year later, she contacted Citizen Action for crisis counseling. According to the home buyer, she is only one of at least a dozen other families who purchased homes from the same seller. And the seller was a small developer who also referred borrowers to a lender working with this company. According to this homeowner, many of these homeowners have already lost their homes to foreclosure. She's seen some of the homes boarded up around her.

ASSEMBLYMAN COHEN: A developer who has their own lending process or their--

MS. AMIRHAMZEH: Or who is working with a particular lender, in this case.

ASSEMBLYMAN COHEN: Then that lender would also have a particular appraiser.

MS. SALOWE-KAYE: Correct.

MS. AMIRHAMZEH: This--

ASSEMBLYMAN COHEN: Well, what I'm trying to find out is whether -- you know, a $15,000 income to borrow $600,000 is not your typical fact pattern that comes up every day. And it just creates an issue in my mind that, rather than a subprime market lender doing this, that this seems to be part of some other scheme.

MS. AMIRHAMZEH: Well--

ASSEMBLYMAN COHEN: That means, for a $15,000 income to be given a loan of almost $500,000 is not the kind of loan, I think, that any traditional lender is going to give. But that is also typical where some developer is playing a game.

MS. AMIRHAMZEH: All right. I think that there are a lot of different factors.

ASSEMBLYMAN COHEN: Which also entails appraisers, real estate appraisers being told, "You give me this number in terms of the value." So I don't know if that's-- It just sounds like there's more to it in the nature of a flipping issue.

MS. AMIRHAMZEH: I think what this case represents is an extreme version of where a lot of borrowers -- who are currently contacting us right now. And this is an extreme case, where obviously you see--

ASSEMBLYMAN COHEN: You think? (laughter)

MS. AMIRHAMZEH: --where you see such a low income, where she shouldn't have received that loan in the first place.

ASSEMBLYMAN COHEN: I'd liked to know, let me tell you.

MS. AMIRHAMZEH: Yes.

ASSEMBLYMAN COHEN: I would like to know who the lender is, and the developer.

MS. AMIRHAMZEH: And we have referred this case to HUD to investigate, as a fair housing agency.

ASSEMBLYMAN COHEN: I'd like to have the name of-- Well, I don't think you have to go to HUD.

MS. SALOWE-KAYE: Well, we're required--

ASSEMBLYMAN COHEN: I think there's the Attorney General's office-- The Attorney General's office is here today. And based on that scenario -- is the AG's officer in the back somewhere? Raise your right hand, swear to uphold-- In the back. They're here. I would give them the information.

MS. SALOWE-KAYE: If the client wants to. I mean, part of our problem-- The stories that you have read, I will tell you, the *New York Times*, and MSNBC, the Associated Press -- those are our clients. Those are people who are willing to come forward and tell their stories. And there's more stories to come in the next few weeks. It is very difficult to get people to, number one, publicly talk about the fact that they have done something like this, because they feel embarrassed. And the second part is, whether they go to the Attorney General, or they go to HUD, we're required to send them to HUD, because we're a fair housing agency.

ASSEMBLYMAN COHEN: Is your information confidential?

MS. SALOWE-KAYE: We consider it to be, and require subpoenas.

ASSEMBLYMAN COHEN: Well, you considering it to be-- You considering it to be confidential and the law considering it to be confidential are two different things.

MS. SALOWE-KAYE: We've been subpoenaed by the -- for the property flipping--

ASSEMBLYMAN COHEN: See, no one has to, no one has to-- Let me explain. No one has to say, "Jane Jones of whatever street in Jersey City was ripped off." Okay? Nobody has to. But somebody can say to someone, "Look at this company--

MS. AMIRHAMZEH: Right. Which--

MS. SALOWE-KAYE: That we've done.

ASSEMBLYMAN COHEN: --and look at this developer." And that information is not confidential at all.

MS. AMIRHAMZEH: Right.

MS. SALOWE-KAYE: And we've done that.

MS. AMIRHAMZEH: And that information we have done.

ASSEMBLYMAN COHEN: Well, if you've done that--

MS. SALOWE-KAYE: Not on this case. We've done this to HUD. On this particular case, that's the way the client wanted to go.

We have had -- in the past, the Attorney General has subpoenaed our files. We collaborated on certain cases.

ASSEMBLYMAN COHEN: Well, this sounds like a great collaboration issue.

MS. SALOWE-KAYE: Well, we have. No, no. We have also given them-- We count our clients' information as confidential. That's how we--

ASSEMBLYMAN COHEN: You know, some people had to complain about something everybody knew, in that Affordable Homes in New Jersey was ripping everybody off. They're now in bankruptcy; they're now into criminal investigation. So if you have the information--

MS. SALOWE-KAYE: Assemblyman Cohen, when the Fauntleroy scandal took place in Essex County, in 2001, we went to every single agency; every prosecutor in both Monmouth, Essex, and Ocean County.

ASSEMBLYMAN COHEN: And that was the correct thing to do, because that was an enormous rip-off.

MS. SALOWE-KAYE: Nobody dealt with it until 2003, until the *Star-Ledger* broke the story. No one--

ASSEMBLYMAN COHEN: I brought the AG in here for you just in case there was going to be any problem.

MS. SALOWE-KAYE: Okay, good. All right. I'll let Leila finish.

ASSEMBLYMAN COHEN: I'm being-- I'm trying to keep it light for the moment.

MS. SALOWE-KAYE: Okay, okay.

ASSEMBLYMAN COHEN: But a $15,000 income on a $600,000 loan just seems -- ahhh -- a little patently absurd to me. (laughter) Just over the edge.

MS. AMIRHAMZEH: Right. And unfortunately, we're seeing a lot of instances where the borrowers, obviously when they walked in -- not necessarily to that extreme -- could not afford to repay the loan that they were receiving.

There are other instances. There's another type of case that also comes into our office trying to deal with preventing a foreclosure. In those instances, there are low- and moderate-income individuals that have good credit and had good credit at the time that they originated their initial mortgage. And they were unnecessarily placed into those boutique, subprime mortgages, even though they could have qualified for a conventional, fixed, below-market rate mortgage, such as the ones that Phyllis was describing before.

MS. SALOWE-KAYE: There are people with 720, 760 credit ratings that have been put into subprime products.

MS. AMIRHAMZEH: Right. And in one--

ASSEMBLYMAN COHEN: And that's an issue.

MS. SALOWE-KAYE: Good credit.

ASSEMBLYMAN COHEN: What I want to try to deal with it is what we have going on now. Everyone is going to have good stories, and everybody is going to have anecdotal -- not anecdotal, because they're real stories. The question becomes is, you have a problem that is percolating in New Jersey, has the potential -- because as you look at other states that have a more dramatic *now* problem, I want to try to get ahead of the curve so that one thing in New Jersey doesn't rise to the top nationally. That means there's a lot of folks have got to participate in helping out. What role is the government going to have? What role is the regulatory process going to have? Is the FHMA going to have to sell bonds to help people out? What is the mortgage industry going to have to do? You've got a lot of companies that provided a valuable service for a lot of years to people who couldn't qualify for a prime market rate. You know, that doesn't make them bad people. And the folks who lent the money, it doesn't make them bad people. Everybody goes through these kind of problems, in business and in private life, over the course of a life.

I'm trying to find out -- what is it you suggest? As I stated in the beginning, what is the situation on subprimes here and now? Because California doesn't help me, except with what they may do or what their particular problem is, and try to parallel it to what may happen in New Jersey. So I need to know, this Committee needs to--

Assemblywoman Vandervalk had to leave because she -- there's flooding problems up in her district in Bergen County.

How do we go about handling this without being draconian, killing a market? And that whole market can change in six months if the economy changes; and real estate values will go up. And people's houses aren't up for sale -- they hold back on to them because now they're going to have more equity. There's a million different variables. And we have to go through this thoughtfully. And I've been through these kinds of bills before, including predatory lending, that had to be amended also, as other states have.

We don't want to do a rush. I need to know what is helpful in trying to stop some things now.

MS. AMIRHAMZEH: And we definitely agree with you in that the subprime lenders that are of concern to us -- it's definitely not the entire industry, because it does serve a need for individuals who don't necessarily want to take the time to repair their credit, even though they have been advised to do so by a counseling agency. It's those lenders who are knowingly lending to borrowers who cannot afford to repay the loan, or who are, conversely, giving subprime loans and unnecessary expensive products to individuals who have good credit.

And there's another example of an individual who had excellent credit at the time that his loan was originated. He happened to go to a subprime lender who then gave him an exotic mortgage, where now after the reset of his interest rate, he was unable to make those payments. He came to Citizen Action to try and prevent going into default, and he was able to refinance into one of the CRA loans that we're able to provide, through our partnering lenders, and he was able to save $700 a month as a result of refinancing into a better product. So those two issues are really the things that we're looking to address.

And I know that Phyllis has--

ASSEMBLYMAN COHEN: And there's also got to be an effect -- unless we can protect and stabilize stuff -- there's even going to be an effect on CRA -- a dramatic effect on CRA.

Yes.

We need to move, so-- No, I'm not saying-- I don't want you to leave. I know there's somebody else who has a good background.

MS. SALOWE-KAYE: Okay. We must develop and we have to find--

ASSEMBLYMAN COHEN: Is he going to speak?

MS. SALOWE-KAYE: Yes, he is.

ASSEMBLYMAN COHEN: Oh, good. Okay.

MS. SALOWE-KAYE: But we listened for a long time from the people before us.

ASSEMBLYMAN COHEN: No, I know. I know.

MS. SALOWE-KAYE: So just give us equal, at least--

ASSEMBLYMAN COHEN: Sure.

MS. SALOWE-KAYE: We need to develop products and programs that can help these folks. Citizen Action, in several weeks -- probably three to four weeks -- will be announcing a rescue program that will be available to clients who come to us, where they--

ASSEMBLYMAN COHEN: Going to keep it a secret from us, and you've got a rescue program?

MS. SALOWE-KAYE: Excuse me?

ASSEMBLYMAN COHEN: You are going to keep it a secret from this Committee, and you have a rescue program?

MS. SALOWE-KAYE: I didn't say I'm keeping it secret.

ASSEMBLYMAN COHEN: I'm joking. I'm joking.

MS. SALOWE-KAYE: I'm not prepared to announce, because my counselors aren't trained yet. And I don't want all these people coming in and we can't help them.

But it's a small rescue program -- right now, there's only one lender, we're hoping to have three lenders -- but where we will be able to refinance people without looking at their credit or their credit scores.

ASSEMBLYMAN COHEN: That's great.

MS. SALOWE-KAYE: The problem is, if we open up our doors in nine offices to do this, we will be inundated with clients. And nobody is paying us to do this. It's just a product that's out there.

ASSEMBLYMAN COHEN: Right.

MS. SALOWE-KAYE: So we have to figure out how to handle the problem.

Red lights have to go off in somebody's-- The bells have to ring when we see the *no money downs*; the closing happening in two weeks signs; when we see income ratios that are way, way out of whack. These are some of the kinds of things that we're seeing where people are paying -- their income-to-debt ratios are crazy.

The 80/20 mortgages need to be looked at and investigated. Half of the people who are getting them don't even understand that they have them when they close on the loan, and only when they can't -- the escalating one goes off track, they can't pay it.

ASSEMBLYMAN COHEN: Right.

MS. SALOWE-KAYE: The fact that people with 720 FICO scores are going into subprime loans has to be dealt with. You can't blame the current borrower on the foreclosure -- that's causing the foreclosure. You can't say it's the borrower's problem. They need the education. You have to figure out how to provide that education to the borrower. And saying that this is a market correction and that's all this is, and it happens every five or 10 years, that's an unconscionable thing. People at a rate-- You never drove to our cities and saw the amount of boarded-up buildings that you are seeing. And we have never had the number of people at our doorsteps when we opened the office.

So you need to figure out how you're going to provide that education to folks. There's two things: There's the prevention and the remediation. The prevention -- we do believe that loans need to be made with the ability-to-pay standard. We think that somebody has to really set some guidelines to say, "Can this person afford to pay this loan?" and we can't just rely on a person wanting it. We need to ensure that the borrower has the ability to pay after the teaser rate goes off, which is what you talked about before. We need to require that subprime lenders include escrow for property taxes, hazard insurance, and the calculation of the borrower's ability to repay the loan.

Ten years ago, I went to refinance my mortgage, my personal mortgage -- didn't want to go to a bank, because I didn't want them to know my personal stuff. I went to the gentleman who was here before. I got to closing, absolute closing, and never knew that my taxes were not included in the payment that was stated to me. And that was 10 years ago, and it was American General, and it was on Route 22 in Union. But I didn't know until I just happened to ask. Here I am, the educated buyer that I think I am. So if I'm doing it, lot's of other people are doing it. We need to provide the borrower with a clear vision of how the loans are going to go up.

And in terms of remediations, somebody has to deal with this rescue fund. Our little rescue fund is not going to do it, whether it's HMFA, whether it's the State of New Jersey. I've talked to several large municipalities now who are very distressed about the foreclosures that are going on in their town, and maybe they have to come up with some kind of a rescue program that will aid refinances.

ASSEMBLYMAN COHEN: Municipalities don't have the money.

MS. SALOWE-KAYE: Well, we've got to figure out how to do it.

ASSEMBLYMAN COHEN: I know. I mean, I know. But municipalities--

MS. SALOWE-KAYE: I know. I know. You need to look at North Carolina. You need to look at Pennsylvania. You need to look at all that stuff. But mostly, you need to find out a way to get educated borrowers in New Jersey, and have enough money to fund it, so that whether it's signing off saying, "I know this," whatever you need to do, there isn't-- You don't need more counseling agencies. You need to properly fund the ones that exist.

Go, because they want to hear you much more than they want to hear me.

ASSEMBLYMAN COHEN: Hi.

URIAH KING: Hi. How are you, sir, or Mr. Chairman?

My name is Uriah King. I'm with the Center for Responsible Lending and, unfortunately, I had not intended, at all, to testify. I was here to listen. So I don't have prepared remarks.

ASSEMBLYMAN COHEN: If you have something you want to -- because we'll be talking in the future.

MR. KING: Okay. And I have--

ASSEMBLYMAN COHEN: If there's anything in particular. I mean, I'm glad you came up. If you have something in addition, fine. If not, don't worry about it, because I know we'll be communicating -- with material that you have.

MR. KING: Sure.

ASSEMBLYMAN COHEN: And you come from a respected organization.

MR. KING: Sure. And I appreciate that.

I did, while we have some members here -- I did want to share a few facts. The one thing to understand, when you're thinking about this issue, is to understand that the subprime mortgage market -- which does account for roughly half of the foreclosures right now in New Jersey, though about 10 percent of originations each year, at least historically -- is that it's not purchase money. People -- the typical person doesn't go and take a subprime mortgage loan and buy a house. The vast majority of loan originations in the subprime market are refinances. That's just one thing to bear in mind.

And national data is where they're looking at securitization polls and are looking at industry trade magazines. It ranges somewhere roughly between 70 to 80 percent, depending on what data source you use. So in other words, 7 to 8 out of 10 subprime loans originated are actually refinances. They're not being used to make that first purchase, to make somebody a homeowner. That's number one.

The second thing I wanted to point out is that the nontraditional mortgage guidance that the State Department of Banking recently implemented is important, but it doesn't apply to the most common mortgages in the subprime mortgage market where, there again, you're seeing the bulk of your foreclosures coming from. The nontraditional mortgage guidance does not apply to the hybrid ARMs with the two-year teaser rates that adjust thereafter. That's just something to point out. And you may--

ASSEMBLYMAN COHEN: There's a lot in New Jersey where it's the purchase.

MR. KING: Excuse me?

ASSEMBLYMAN COHEN: Because if you're saying that it's only refinancings that you're doing subprime, and that it's only the refinancing loans that are a problem, that's different than what we've heard from a lot of people.

MR. KING: My general-- That empirically, just empirically--

ASSEMBLYMAN COHEN: If somebody already had a mortgage, and they've already had a problem and they're going into the subprime to refinance-- A lot of people that we've talked to, it's the first mortgage that they're getting, because their FICO score is low, or their debt ratio is high, you know.

MR. KING: At least according to the best data that we have, that is not -- and in my personal experience, before I did policy work -- and there again, I was in Ohio. I know Ohio has been pointed up as a horror story. You know, not only empirically, when you look at all these data sets and how these loans are sold at Wall Street, and you look at the-- I'm citing industry sources when I quote the 75 percent of refinances, that particular number. That's inside *B&C Lending* -- that's the industry's trade magazine. So empirically, you know, the vast majority of these loans are, in fact, refinances, not purchase.

ASSEMBLYMAN COHEN: All right.

MR. KING: Just something-- I'm not-- I just want you to think about that when you look at the issue.

ASSEMBLYMAN COHEN: Whether they are or not, it's still a problem, so--

MR. KING: Right. And I just wanted to point that out.

You know, most people-- You know, the nontraditional-- As I pointed out, the nontraditional mortgage guidance does not apply to most subprime loans. It applies to loans in the prime market and it applies to loans in the A-minus market. And depending on who you talk to, they all consider them subprime, some don't. So, like an interest-rate-only mortgage, which is more common in the subprime market, or a negative ARM -- or sometimes it's called option ARM -- those are typically found in the prime markets. As again, I want to point out the most common mortgage product is not affected by the nontraditional mortgage guidance.

It is, I think, you know-- You cannot ignore the personal choice, the personal responsibility issue. I do want to point out, though, and I think you all know -- and that's why you all are here -- is that foreclosures are more-- If a loan has such a high probability of foreclosure, that it is more than just an individual choice, it's more than an individual responsibility; because when a foreclosure happens, it impacts the community as a whole. And I think that's just common sense. There's actually been some really good studies coming out, showing that each time there's a foreclosure in an area the value of properties in a mile radius decrease by 1 percent when you control for other factors. And, of course, as we know, and one of the reasons why we're here today, is that depreciation is one of the reasons that we're all here. It's one of the reasons why people have less equity; they can't refinance if they get into trouble. So foreclosures beget more foreclosures, in a sense.

And the other thing is that there's been estimates that up to -- a foreclosure costs the local community and State up to $80,000 in lost tax revenues, in maintenance, in the judicial process of foreclosing the home, among others.

As far as disclosure education, there's always -- and I think you pointed out earlier, Mr. Chairman -- there's always going to be a gap between education, comprehension, and the complexities of the market. Ironically, the subprime mortgage market, which you know -- and I'm careful with this generalization -- tends to have less sophisticated borrowers, has by far the more complex of the markets. And the reality is, according to the Department of Education, 22 percent of the adult population is functionally illiterate. And at a certain point, you're going to be, like, okay, we have to teach people how to read and write -- and then we're going to teach them option ARMs, and gross income, and escrow, and DTI, and net present value. I think, you know, it can't--

ASSEMBLYMAN COHEN: And my father, when I was 5, sat me down and discussed all about it. (laughter)

MR. KING: I wish I had known sooner.

ASSEMBLYMAN COHEN: No. (indiscernible) everything.

MR. KING: You know, there's always going to be-- There's always going to be some gap. Am I saying the responsibility should be solely on the lender? I mean, no. But should some of it be there, for prudent underwriting, for making sure these loans are not steered to inappropriate products, that these loans are prudently underwritten?

ASSEMBLYMAN COHEN: You have a lot of people who successfully have houses and keep up their payments on a no-doc. You have people who, in a variety of different products, no money down -- people maintain the mortgages and maintain their payments. That level of who maintains it is much higher than the level that fails it. But you can't leave the folks who fail without a vote and without protection. And that's-- I've tried to avoid broad strokes, because there's a success rate.

I remember when we did closings. There was a high success rate on no-doc loans. And people didn't want to do no-doc because they didn't want to get into their personal business, or maybe they had some cash business, and other things. If you're declaring $15,000 on income and you've got a second house that you're paying a mortgage on, that's a little problematic.

So there's large success rates in products that are now a problem. This problem may exist for a year. It could be two years. It could be six months. We don't know. I like the way Bob DiUbaldo set things out, in terms of how they look at something when they write it. If they're writing it to protect-- Because they don't want to own a piece of property -- AIG doesn't want to own property. Banks do not want to own property. Mortgage companies do not want to own property. It's problematic, it's expensive. But if you look at an--

You could have a no-doc loan, no money down, under AIG's theory, as long as the borrower can show AIG, "In the worst year, I can handle it." I wish there was a one-size-fits-all solution and one-size-fits-all mortgage. It doesn't exist.

MR. KING: The one thing to consider, and I want to say to you-- Because the subprime market has a very high foreclosure rate -- I mean, that's just -- particularly disproportionate to the prime market, and because it's predominantly re-fi, the reality is, is that the subprime mortgage market does cause a net loss of home ownership. It does not increase home ownership.

ASSEMBLYMAN COHEN: It may protect home ownership. I do a lot of Family Court stuff--

MR. KING: Right.

ASSEMBLYMAN COHEN: I see people's lives, good and bad, in the file. And I see people during tough times who are willing to pay 11 percent on something to save their home, either so that they can sell it or that they can protect it because they have kids. And people, in acts of desperation to protect something that they've worked a long time to get, are going to try to do what they can do, even if it's a risk to keep it. They may be able to-- In the normal world, if they did a refinance at a higher rate and their equity was high, they could survive enough to sell it, and come away with something and start fresh. However, when there's a glut on the market and people's house is worth 1.2 million, or 500,000, or 300,000, and the market drops it down -- not because of their fault, not because of the condition of the property, not because of any upkeep -- but because of the national issue on real estate loans, and that value drops down, now they have a problem, even though everything was fine; which causes them to go get a five-year reset that goes up higher. So I'm trying not to make this one cookie-cutter problem, one person to blame, one person not to blame, but to see what we can do to guard against our future.

I mean, if I heard suggestions that there shouldn't be any no-doc loans, is that a good idea? Should somebody who is-- Should everything go out the window -- no no-docs, no five-year ARMs, no three-year ARMs, no resets, no nothing? Should products be completely banned, and should they be banned in any and all economic circumstances? The answer is probably no. What can we do to protect, in that context?

MR. KING: Well--

ASSEMBLYMAN COHEN: Hey, a lot of people did no-doc loans. They're fine, they're happy.

MR. KING: Right. I mean, the question is, are you going to prevent-- The reality is that the loans that are causing-- The typical loan that's causing us to be where we're at right now is still being made, and that-- I just don't think we're going to agree about the success rate or the failure rate of those products.

ASSEMBLYMAN COHEN: And I don't want to get bogged down in that.

MR. KING: Now, am I saying they should be banned -- my organization or me, personally, saying they should be banned? No. But many of these products that we're talking about have been around a long time. No one is disputing that. I mean, they are essentially financial planning tools for the very wealthy. And the option ARM has been around for 20, 30 years. It was never an affordability tool for somebody making $40,000, $50,000 a year, or a way to refinance and do debt consolidation; because that's just not what the product is intended for. And guess what? The failure rate is very high. And I think, I would argue, acceptably high.

ASSEMBLYMAN COHEN: This is also a problem in Montclair. This is also a problem in Montclair, where houses that were bought for $1.3 million, they got 900,000 and 950,000 on a loan, not a traditional 30 year, whatever, but no-doc, and ARMs, and everything else. Well, guess what? The 1.2 million now, in this market, is closer to 950. The mortgage that they got of 900, okay, was fine seven years ago. But now, as things go along, their value is getting pretty close to what the mortgage is. Intelligent folks, same thing. So what I'm saying is that this thing applies not only to urban areas, but it applies also to what I see in the suburban community. But they thought value in Montclair would continue to skyrocket. They thought that the bonuses coming in from Wall Street would continue to be omnipresent. And it's not -- except this year, things got another bump.

MS. SALOWE-KAYE: But this speaks to the need. There is no plan in place right now. You don't have the answers.

ASSEMBLYMAN COHEN: Yes. I'm trying to find out everything.

MS. SALOWE-KAYE: Which really speaks to the need to implement some type of foreclosure protection action immediately. Because as we're working together, and we all work together -- I mean, you know, we can joke, but we will work together. People are still being put out of their house. And in fact, the person in Montclair who may be able to sell their home for $300,000 less than they paid for it could find a less expensive home someplace else, and at least have shelter with what they walk away with, maybe. There are other people that are being--

ASSEMBLYMAN COHEN: Much easier to do when everybody is communicating with each other. A lot more difficult to do when there's a divorce going on for two years.

MS. SALOWE-KAYE: That may be. But the point is, what we're seeing in our cities, there are people-- The sheriff is coming; they're boarding up the houses, and end up putting their stuff in garbage bags.

ASSEMBLYMAN COHEN: We're going to be communicating a lot. I mean, I respect the information that your organizations can provide, and that's going to be helpful.

Thanks for coming up.

MS. AMIRHAMZEH: Thank you very much.

ASSEMBLYMAN COHEN: Did you come up from North Carolina?

MR. KING: Yes.

ASSEMBLYMAN COHEN: The Department of Banking and Insurance.

I'm just going to step out for a moment.

SHEILA KENNY: Thanks, Mr. Chairman.

I'm Sheila Kenny, with the Department of Banking and Insurance. This is our Banking Director, Terry McEwen, who has some testimony for you today.

TERRY K. McEWEN: Thank you, Acting Chairman Conners (laughter)--

ASSEBMLYMAN CONNERS: Temporarily.

MR. McEWEN: --and members of the Committee.

We appreciate this opportunity to come before you today to testify on this timely issue. You have already heard an earlier testimony today. This is a very complex issue, which the Department sees a number of causes for, and the current problems in the subprime market. Some of those causes are nontraditional and exotic mortgage products, deceptive loan products and brokers, relaxed underwriting guidelines, preemption to our State predatory lending laws and our HOSA laws, and the securitization of mortgage loans.

I would like to begin by clarifying what authority the Department has over this subject. The Banking Division is divided into four offices, two of which I will focus on today. Depositories is the first one, and that regulates the State chartered banks, savings banks, and savings and loan associations. The second is the Office of Consumer Finance, which regulates the license -- the finance service providers and licensed lenders, such as mortgage bankers, mortgage brokers, mortgage solicitors, and secondary lenders. State chartered banks, savings banks, and savings and loan associations are not involved in the subprime lending to any significant extent, and I will share some numbers with you later in my testimony.

Amidst the current concerns with foreclosure rates, we have seen no significant uptick in past-due or nonperforming loans by depositories, as of December 31, 2006. The figures remain at historic levels. The Department remains cautious in its oversight, however, of banks as they participate in the subprime market and sell off their loans. While this is true for our State chartered, we know that there are some federally chartered depositories that are involved in the subprime market, either as originators or, more commonly, as purchasers of those loans in a secondary market. Due to Federal preemption, they can do so without regard for the consumer protection laws you have passed at the State level. Foreclosure rates relating to loans held by non-depository financial institutions are of a different matter.

Our mortgage banking licensees, on the other hand, are involved in the subprime business to some extent. However, it is important to appreciate that most of those licensees, even in the subprime business, provide appropriately priced products to consumers with blemished credit histories who do not qualify for prime products. These subprime financial products have helped many borrowers achieve home ownership who would not otherwise have been able to do so. In short, it is only a portion of the subprime market that has been the basis of the recent attention given to the subprime lending. The regulatory response should be focused in order to avoid broad, adverse impact on the subprime market generally.

The New Jersey market breaks down as follows: According to the National Delinquency Survey from the Mortgage Bankers Association, dated December 31, 2006, there were 1.2 million loans being serviced in New Jersey, and the total past due was 4.5 percent. Prime loans represented 85 percent of that total, and subprime loans represented approximately 11 percent of that total. The difference is in the FHA and the VA loans. The total delinquency rate in the prime market was 2.71 percent; and in the subprime market, it was 12.67. The percentage of loans in foreclosure in the prime market was 0.45 percent, and in the subprime market it was 4.18 percent. In terms of dollar volume, the total market for New Jersey State chartered depositories in 2006 was approximately $31.2 billion. The prime market at depositories represents $27.1 billion; while the subprime market represents $4.1 billion.

In reviewing the prime market delinquency rates over the past five years, the fluctuations are between 2.3 percent and 2.6 percent. The subprime market rate, over the past five years, has fluctuated between 10.8 percent and 14.3 percent.

The Department has joined with regulators around the country, on a consistent and constant series of conference calls and shared information, on a regulatory response to the troubles of a group of lenders who have failed or encountered serious liquidity problems as a result of their involvement in the subprime market. Perhaps most widely recognized is the New Century Mortgage Corporation case, and New Century is headquartered in California, with five branch offices in New Jersey. Following numerous discussions with regulators from other states and with company officials, the Department issued a cease and desist order to New

Century and its affiliate, Home 123 Corporation. The company worked in tandem with the regulators, and with volunteer mortgage bankers and brokers in New Jersey and around the country, to find viable alternatives to funding borrowers that were caught in the mortgage application pipeline when the company lost their funding sources.

All of the New Jersey pipeline borrowers with New Century and Home 123 were successfully placed with other funders for their loans before the company filed for bankruptcy. This result not only demonstrates what regulators can accomplish to protect consumers in such an emergency, but it also is evidence that the financial world still has an appetite for subprime lending.

New Jersey has also taken steps to gather information on a number of other New Jersey licensed lenders and to guard against further New Century situations. At present, the Department has targeted some 15 to 20 companies for a hard look. Most have already been visited by the Department's examination staff. And the Department plans to examine at least 600 companies during Fiscal 2007-2008. The Department takes concerns about the subprime market exposure very seriously and is attempting to mitigate issues at the earliest possible opportunity. This will be facilitated by having our examination staff focus on the subprime portion of our licensees' loan portfolios.

Additionally, in early January the Department issued a bulletin providing guidance to the regulated industry on best practices applicable to non-traditional mortgage product risks, and addressing items I just mentioned in a manner designed to assist in protecting New Jersey's consumers. The bulletin mirrors guidance issued by the Conference of

State Bank Supervisors, the American Association of Residential Mortgage Regulators, and by Federal regulators.

As stated in the bulletin, the Department is drafting amendments to its mortgage processing consumer disclosure and advertising regulations in order to heighten consumer protections.

Additionally, the Department is in favor of enhanced oversight over mortgage solicitors. Currently, we require a registration process. Additional requirements, such as criminal background checks, credit history searches, and educational requirements would enhance the Department's oversight.

The Department is also considering whether the New Jersey Home Ownership Security Act, HOSA -- which was a cutting-edge legislative response to predatory lending concerns in 2002 -- should be amended now, specifically to extend its reach to mortgage products that effectively result in high-cost loans through one of several deferred payment mechanisms, such as interest-only or payment-option adjustable-rate loans.

Going forward, we believe these steps and others, such as educating the consumer, will go a long way to mitigating the subprime issue. The Department has been actively involved in supporting efforts to educate New Jersey consumers about every aspect of borrowing for a home, including the dangers lurking in complicated products. More needs to be done, and the Department will continue to enlist the assistance of community groups to reach out to people in vulnerable communities around our state. More generally, the Department has recently enhanced its financial awareness program and will be joining volunteers from across the financial industry in visiting schools around the state this month with information on age-appropriate discussions on money matters. Financial literacy cannot be learned too early in life.

Finally, I want to turn to the issue of Federal preemption, because the states have limited authority to address these issues as they result -- as a result of the effect of Federal preemption. Since the early 1990's, Federal regulators have been very aggressive in asserting preemptive authority, exempting them from state consumer protection laws. These assertions have been made not only on behalf of Federal depository institutions, but also on behalf of their operating subsidiaries. This aggressive posture has been particularly harmful to the effects of the State to apply reasonable laws to protect consumers.

As a consequence, Federal institutions can engage in aggressive lending activities through their subsidiaries that would otherwise violate State law, and yet remain insulated from liabilities for those activities. This is because there are few applicable Federal regulations in this area. The U.S. Supreme Court decided this issue in the *Watters v. Wachovia* case this past Tuesday. Unfortunately, the decision went against the states and results in some substantial loss of consumer protections as we go forward.

Consequently, without change at the Federal level, the Department and the State face serious restrictions on their ability to take remedial action to reach the whole universe of industry players in the subprime marketplace in New Jersey.

Again, I would like to thank you for the opportunity to participate today. And I will be happy to take any questions.

ASSEMBLYMAN CONNERS: Thank you, Mr. McEwen.

Just out of curiosity, the 15 to 20 companies that are getting a hard look-- And you've indicated they've already been visited, where they--

MR. McEWEN: Some have already been visited.

ASSEMBLYMAN CONNERS: Some have already been.

MR. McEWEN: Yes.

ASSEMBLYMAN CONNERS: Are they targeted for a reason? How are they selected?

MR. McEWEN: Over the past several months, we've had -- as you've seen in the papers -- a lot of bad press in reference to the subprime issue. We've had a number of subprime lenders lose their warehouse lines and thus put consumers at risk. So we want to make sure that we're out there taking a very hard look, through our examination process, at some of the larger subprime lenders in the State of New Jersey. So the Office of Consumer Finance has had its examination staff earmark the top 15, 20 companies, and has the examination staff out there reviewing them from the examination standpoint.

ASSEMBLYMAN CONNERS: Do people from your staff do these audits, or do you contract out for whatever--

MR. McEWEN: Our staff does the examinations.

ASSEMBLYMAN CONNERS: Okay.

Are there any questions? (no response)

Ms. Kenny, do you have anything to say? (no response)

Thank you very much, Mr. McEwen and Ms. Kenny.

MR. McEWEN: Thank you.

ASSEMBLYMAN CONNERS: Rob Tartaglia, from the New Jersey Bankers.

ROBERT J. TARTAGLIA: Good afternoon, Chairman, members of the Committee.

My name is Rob Tartaglia. I'm Vice President and Director of Government Relations for the New Jersey Bankers Association.

Before I read a brief statement, I just wanted to thank and commend the Chairman for his due diligence on this topic. As foreclosure can be a very stressful time in a person's life, it's important that this issue is addressed and that we find solutions for these people.

I'll read my brief statement.

We appreciate the opportunity to testify on this important topic, and urge the Committee to take a measured and thoughtful approach before reacting with onerous legislation and further regulation.

According to the Federal Reserve Board, the subprime market is relatively narrow and has largely been concentrated on loans made in late 2005 and 2006. Subprime lending has been encouraged by the regulators and policymakers as a way to extend credit to those who might not have had such access.

In past credit cycles like this, lenders responded by implementing more appropriate underwriting standards and altering their risk profiles. The Fed recently urged that any action taken, "should not have the unintended consequence of limiting the availability of credit to borrowers who have the capacity to repay."

Subprime lending is not prevalent among New Jersey Bankers' members. In fact, there are only a few members with mortgage subsidiaries that do a small amount of subprime lending.

New Jersey has already enacted one of the strongest predatory lending laws, that ultimately needed to be opened up for amendments due to the problems encountered by the rating agencies in this market. It is wrong to link predatory lending with subprime lending of creative loan products.

I submit, in your packets, a copy of some materials prepared by our national trade group, the American Bankers Association, relative to the distinction between predatory and subprime lending.

DOBI and the Federal regulators have sufficient enforcement authority to handle the issue. DOBI is clearly on top of the situation and has already issued a cease and desist order against a subprime lender, which we've heard a couple of times today.

Just this week, Federal regulators encouraged our members to work with homeowners who are unable to make mortgage payments, including constructive and reasonable workout arrangements under the terms already permitted under loan and servicing contracts, modifying loan terms, and moving borrowers from variable rate to fixed rate loans.

The regulators also reminded banks of their obligation to inform delinquent borrowers about the availability of homeownership counseling under the Federal Homeownership Counseling Act. They urged banks to work with reputable, consumer-based organizations that help borrowers avoid predatory foreclosure rescue scams. A copy of the Federal regulators' statement and press release are also in your packets.

The Committee should not rush to enact onerous legislation, but rather allow regulators to do their jobs and enforce the laws that are on the books. Overreacting by proposing legislation or more regulation will cause these loans to dry up, and cut off credit to people who need it and have been able to take advantage of these products. If there is to be any enactment, it should be done on a Federal level, even with state-based enforcement by state regulators.

As was true when the Legislature examined predatory lending, it is the abusive practices of a small minority of lenders that are the major cause of this issue now.

The State's Fair Foreclosure Act already provides borrowers with the opportunity to raise defenses regarding a lender's liability and potentially abusive practices.

That's all I have for today, and I thank you again for allowing me to testify.

ASSEMBLYMAN CONNERS: Are there any questions? (no response)

Thank you, Rob.

MR. TARTAGLIA: You're welcome.

ASSEMBLYMAN CONNERS: Jim Meredith, the New Jersey League of Community Bankers.

ASSEMBLYMAN COHEN: Thank you, Jack.

Thank you.

J A M E S M E R E D I T H: Thank you.

I am James Meredith. I'm the Executive Vice President of the New Jersey League of Community Bankers. And many of the points that I have in my testimony have been fairly well covered, so I will keep my comments very brief.

The League is a trade association. We represent 70 community banks that have over 500 locations in the state. And home lending is the principal product of these banks. In fact, over 70 percent of the aggregate $75 billion in assets are in home financing investments.

Very few of our member banks are involved in subprime loans. And the banks that do offer subprime loans, it's a very small part of their portfolio.

As others have said, the League believes that responsible subprime lenders provide a valuable service to those borrowers that don't qualify for prime interest rates. As we had mentioned, the Federal Reserve data indicates that from 1995 to 2005, the rate of homeownership has gone from 65 to 69 percent. And although gains have been recorded across all ethnic groups, the biggest gains have been in the Hispanic and African-American households.

In general, we believe that the best response-- We believe that one-to-four family loans that reprice within three years or less -- we think it's reasonable that the fully indexed rate be considered in the underwriting standards. We don't believe that it would be proper beyond three years for the reasons already discussed. We believe that all applicants for high-cost residential mortgage loans should be provided with a clear and concise summary of the borrower's obligations under the mortgage loan that was applied for -- consumer education. By providing borrowers with even the basic knowledge of financial products, they'll be in a better position to shop for loans with terms that they can understand and which best meet their needs.

We're a member of the New Jersey Financial Education Coalition that is promoting financial literacy in schools. We also work with the Department of Banking on their initiative to provide bank employees to go out to the schools to provide some of the basic financial education to the high school students. But obviously, much more needs to be done in that area.

Thank you.

ASSEMBLYMAN COHEN: Any questions from the Committee? (no response)

Thank you for your testimony.

Mr. Grasso.

And as they say biblically, the last shall be first.

J A R R O D C. G R A S S O: Thank you for the opportunity to speak, Mr. Chairman.

My name is Jarrod Grasso. I'm Vice President of Government Affairs for the New Jersey Association of REALTORS®.

Across the country, everyone who is interested in home ownership has seen the recent media coverage publicizing the poor performance of subprime and Alt-A mortgages, including hybrid adjustable-rate mortgages -- ARMs -- 2/28s, 3/27s, payment-option ARMS, interest-only mortgages, State income underwriting, and no downpayment mortgages. Consumer advocates and public policymakers have asserted that the poor performance of these subprime loans could have been avoided if mortgage brokers and lenders had safer underwriting standards.

While some in the media have overdramatized the situation, the basic facts are not in dispute. A number of subprime lenders that made problematic loans have gone out of business. Nationally, the delinquency rate for subprime loans is more than 13 percent, and 4.5 percent are in foreclosure.

It is situations like this that cause concern among real estate professionals. Nationally, 2.2 million American households are projected to lose their homes, and as much as $164 billion in equity that they have built up, due to foreclosures in the subprime mortgage rate. The public policy debate has grown far beyond the New Jersey Association of REALTORS®' knowledge of how this will affect New Jersey's homeowners.

REALTORS support the general principle that all mortgage originators should act in good faith and with fair dealings in a transaction, and treat all parties honestly. The REALTOR Code of Ethics already imposes a similar requirement on realtors, who are required to treat everyone in the transaction honestly.

REALTORS supports strong underwriting standards that require mortgage originators to determine if the borrower has the ability to repay the mortgage. We support policies that are consistent with the goal of assuring borrowers, who have demonstrated their financial ability to meet their mortgage obligations, have access to mortgage loans made by responsible lenders.

REALTORS are encouraged by the recent announcements by Fannie Mae and Freddie Mac, the largest sources for U.S. home loans. They have pledged to help delinquent subprime borrowers refinance into more affordable, fixed-rate mortgages. Also, yesterday, Washington Mutual, the largest U.S. savings and loan, offered a refinance -- offered to refinance $2 billion worth of mortgages at a lower interest rate to assist subprime borrowers meet their rising payments.

NJAR encourages the Legislature to continue to examine this issue, but to be cautious before taking any action that could lead to a restraint of trade. The previous examples demonstrate that the market conditions will determine what the mortgage market will bear. Additional regulation or new lending restrictions may shrink the resources available for many qualified home buyers.

The National Association of REALTORS®has taken measures to protect and educate the consumer. They have created many publications that are available, free of charge, through the New Jersey Association Website -- New Jersey Association of REALTORS®' Website, which is www.njar.com. Some of those publications are *Traditional Mortgages*: *Under Your -- Understanding Your Options*; *Specialty Mortgages: What Are the Risks and Advantages*; and *How to Avoid Predatory Lending*.

We've also formed the New Jersey Association of REALTORS® housing opportunity organization. The NJAR HOF actually has produced a document, which I actually submitted to you with my testimony, that shows -- and helps to guide homeowners, or people who are looking to get into the homeowners' market -- the different opportunities and resources that are available to them in the State of New Jersey.

So with that being said, Mr. Chairman, I will stop my comments, because I've submitted a lengthy testimony with further recommendations to you.

I know that during some of the previous testimony you talked about the Pennsylvania program that's out there. From my research and from my understanding, the Pennsylvania Homeowners' Emergency Assistance Program was established in 1983. It was funded by $4.4 million; and I believe it was through general revenues they inserted the money. And what has happened over the years is that, because of the payments and the interest rates coming back, it's actually self-sustaining now. And 74 percent of the new loans that have originated from the fund come from previous loan repayments. So programs like that -- yes, it might cost the State a little bit in initial investment, but they start to pay for themselves after a few years. So looking at the--

ASSEMBLYMAN COHEN: That becomes a final line of assistance, as opposed to-- The government is not going to get into being the prime lender.

MR. GRASSO: Correct.

ASSEMBLYMAN COHEN: But it's when--

MR. GRASSO: It's a bail-out fund, basically, for people who--

ASSEMBLYMAN COHEN: Could you get me more information? I mean, it was mentioned before. But whatever information NJAR has, I would greatly appreciate it.

MR. GRASSO: Absolutely. Massachusetts also has a housing fund. I believe somebody from Citizen Action mentioned North Carolina's fund. Minneapolis has one. And, actually, I believe Brooklyn, New York, actually has some type of bail-out fund.

But, yes, I will get you all the information.

ASSEMBLYMAN COHEN: Because I've spoken to Mr. Corbett here, and we're going to come up with something that deals with a fund or some kind of help -- where it would come from, how much it would cost. So that may be part of a source of how can we help stop some of the bleeding, shortly.

But, as always, I respect your testimony and the kind of work that you do for NJAR, and--

MR. GRASSO: Thank you.

ASSEMBLYMAN COHEN: --relationships over the years.

MR. GRASSO: Thank you, Mr. Chairman. I appreciate it.

ASSEMBLYMAN COHEN: Any information that you have, Jarrod, that both sides of the aisle need, is going to be helpful. In fact, I think this is one area where the rolling impact of this hits the real estate market, the realtors, obviously lenders, Wall Street, the economy, municipalities, consumers. It's a rippling effect, which is why I wanted to get this hearing--

I really appreciate all the members who were able to come down on a Thursday, unscheduled, while we're in budget break. I just thought that it would be important to get out there quick, try to find out what we can do, as opposed to be too reactive, and sitting back, and seeing how things are going. So to your members-- They're in good stead with me.

MR. GRASSO: We will be there to assist in any way possible.

Thank you, Mr. Chairman.

ASSEMBLYMAN COHEN: Great. Thank you.

Is there anybody else who wishes to testify? (no response)

Any questions from the Committee? (no response)

I want to thank everybody who came out and took their time to be here.

This meeting is adjourned.

(HEARING CONCLUDED)