CHAPA Briefing Paper

Addressing the Foreclosure Crisis:

State and Federal Initiatives in Massachusetts

Prepared by Citizens' Housing and Planning Association
Janna Tetreault and Ann Verrilli

March 2008

ADDRESSING THE FORECLOSURE CRISIS:
STATE AND FEDERAL INITIATIVES IN MASSACHUSETTS

Section 1: Background and Overview

Massachusetts is experiencing record levels of foreclosures – over 7,500 properties were foreclosed in 2007 and a November 2007 study estimated that another 37,000 loans will begin the foreclosure process in 2008 (including over 10,000 prime loans), absent new interventions.[1] Cities are also struggling to deal with the growing number of vacant, lender-owned properties, many concentrated in a few neighborhoods.

Governments and industry groups began responding to the problem in mid-2006 and new proposals have been emerging almost daily in 2008, as delinquencies and defaults continue to climb. This briefing is an attempt to provide a listing of all current and proposed initiatives and to identify gaps, which we hope will assist policymakers and practitioners alike.

CHAPA will be establishing a web-based information clearinghouse on foreclosures in the very near future. This document will be updated on an ongoing basis as part of this clearinghouse and we welcome suggestions for additional resources and initiatives that should be included.

1. Causes of the Foreclosure Problem

There are two major reasons for the recent growth in foreclosures: a decline in housing prices and the growth in subprime and non-traditional loans.

- *Declining home prices* Studies show home equity is the biggest predictor of the likelihood of foreclosure. Owners with little or no equity have less incentive to try to hold onto their property, especially when economic shocks, such as a job loss or divorce, make it difficult or impossible to stay current on their payments. The growth in low downpayment mortgages and high loan to value refinances has meant that more owners are vulnerable to declines in home prices.
- *Rise in use of subprime and non-traditional loans* Homeowners with subprime loans are the most vulnerable to foreclosure and make up the majority of borrowers in which foreclosure proceedings have begun. According to Mortgage Banker Association data for the third quarter of 2007, subprime loans made up 13% of all loans but 55% of foreclosure proceedings started, while prime loans made up 78% of outstanding loans and 36% of foreclosure starts.

  Subprime borrowers are vulnerable because of the way their loans were structured and underwritten. Many times, these loans started out with higher interest rates and fees than prime loans, were often underwritten without full income or other documentation, and served borrowers who tended to have weaker credit scores. In addition, two-thirds are adjustable rate mortgages (ARMS) with interest-rate re-sets that will increase monthly payments by 25-30% or more, depending on changes in key interest indices.[2] However, as a recent report by a multi-state Foreclosure Working Group noted, resetting rates have "not been the largest cause of foreclosures... a large percentage…have become delinquent prior to any rate increase…these loans were simply unaffordable from the outset."[3]

2. Foreclosure Process

Foreclosure laws vary by state, but the basic sequence of events is fairly consistent nationwide. Under most mortgages, borrowers are required to make regular (usually monthly) payments to a loan servicer (either the lender or another institution). If the payment is 15 days late or more, the owner may be charged a late fee.

- *Default* If the payment is 30 days or more late, the mortgage is considered to be in default. The servicer then files a Notice of Default and sends a letter to the borrower stating that the loan is in default and what the borrower must do to make the loan current.

- *Foreclosure Petition* If no arrangements are made with the lender, when mortgage payments are 90 days late, the lender generally begins the legal process to force the sale of the property. Foreclosures are costly, both in terms of losses on the loan taken by the lender and processing costs. Loan servicers also lose fees when mortgages are foreclosed. Studies estimate losses average $26,000 or more when all parties involved, including the owner and the local government, are considered.

3. Loss Mitigation Options/Definitions

Lenders have a variety of tools they use to resolve delinquencies (though not all lenders/investors can offer all tools due to legal restrictions or industry standards). [4] They include:

- *Refinancing* involves obtaining a loan that allows one to pay off the old loan and replace it with a more affordable loan. Many borrowers are unable to refinance due to no or severely negative equity in property, low credit scores, and high arrearages due to their failure to begin the workout process early.
- *Loan Assumption refers to* arranging to have another party take responsibility for the loan.
- *Loan Forbearance and Loan Repayment Plans* defer or reschedule payments but do not change the amount of the loan actually paid or the final maturity date (when loan will be paid off in full). Plans that involve deferring some payments until the end of the loan fall into this category. Forbearance is a temporary reduction or deferral of monthly payments. A repayment plan involves adding past-due amounts to future monthly payments.
- *Loan Modifications* permanently change the terms of the loan and may involve interest rate reductions, forgiveness of some of the principal and/or extension of the maturity date. Servicers prefer not to modify loans if possible. However, given the decline in house values recently, they may choose to go this route rather than risk a failed repayment plan and ultimately foreclosure in a weaker market later. Essentially this involves a refinancing without closing costs; some arrears may be included in the modified loan balance.
- *Deed-in-lieu of foreclosure* Borrower assigns title to the lender without going through foreclosure (debtor avoids record of foreclosure on his/her credit). May receive a cash inducement.
- *Pre-foreclosure short sales* This involves selling a property for less than is owed on the mortgage (the borrower and lender share the losses). This is less costly than a foreclosure sale for lender and can bring higher price for property. Borrowers may be allowed to pay their share of the loss back to lender over time.
- *Partial claim (FHA)* The FHA puts up funds to make the loan current with the servicer and receives a promissory note payable when property is sold if there is equity in property.

4. Evolution of Subprime Lending

Subprime lending began growing in the mid-1990s and grew more rapidly through 2005, as purchasers of securitized prime and government guaranteed mortgage securities began to seek higher returns. This enabled subprime originators to grow since they didn't have to hold the loans. As studies have noted, "fair and responsible" subprime lending has helped low and moderate income households become homeowners and build assets and helped to strengthen previously underserved neighborhoods, but in the past five years, subprime lending increasingly involved risky and sometimes predatory nontraditional loan products (e.g. interest-only, "stated income" and hybrid adjustable rate products).[5] Subprime lending peaked in 2004-2006 when it accounted for 10-15% of all purchase mortgages.

However, most subprime loans involve were cash-out refinances rather than initial purchase (80% in 2002).

- Massachusetts accounts for 2-3% of all subprime mortgages nationwide, putting it in the top 15 states in terms of its share of total subprime mortgages nationwide (California's share is 25%).

- The Government Sponsored Enterprises (GSEs) held $168 billion or less than 10% of the estimated $2 trillion in subprime mortgages outstanding as of mid-2007 through Fannie Mae ($47.2 billion) and Freddie Mac ($120.8).

<u>Definition of Subprime loans</u> There is no consistent definition of subprime loans. Many studies define them in terms of the loan originator, using a list of subprime lenders maintained by the U.S. Department of Housing and Urban Development (HUD).

Others focus on borrower and loan characteristics. For example, a recent study by the Federal Reserve Bank of Boston[6]noted that subprime "typically refers to borrowers who have a credit score (FICO) below 620 or has been delinquent on some form of debt in past 12-24 months (pre-mortgage) or filed for bankruptcy in last few years." In addition, many loans were written without income documentation or verification (more than half of 2006 subprime loans were "stated income" loans).[7] Many involved no downpayment or didn't meet GSE underwriting standards

The Massachusetts Division of Banks (DOB) has a definition (issued on January 20, 2008 for the purpose of implementing the State's foreclosure prevention bill) based on loan terms. It defines subprime as an adjustable or variable rate loan that:

- Is a first lien mortgage that is within GSE (Fannie Mae and Freddie Mac) loan limits but doesn't conform to GSE underwriting requirements or is over GSE loan limits and has an APR more that 2.5 points above the yield on a US Treasury security of comparable maturity; or

- Is secured by a second lien on the property and has an APR more than 5 percentage points above the yield on a US Treasury security of comparable maturity.

The secondary mortgage market, which focuses on securitized loans, often defines subprime as a mortgage held in a non-prime pool, either

- Alt-a (not prime but better than subprime) – in 2002, borrowers with Alt-a mortgages tended to have prime FICO scores but not all income, etc info documented
- Subprime (borrower characteristics are a mixed bag – a recent Federal Reserve Bank of Boston study found an average FICO 643, 25%>680, 25% below 600).[8]

5. Evolution of Delinquency/Foreclosure Problems

- Delinquencies and foreclosures began to rise as housing prices stagnated and fell, with much of the rise involving subprime mortgages, especially those underwritten in 2005-2007.

- About two thirds of subprime mortgages were adjustable rate mortgages (ARMs) and subprime ARM delinquency rates have been much higher than other subprime products (12.4% vs. 5.8% per FRB as of December 2007). The problem is expected to grow as 2/28 and 3/27 ARMs (i.e. mortgages that re-set after 2 or 3 years) reset with interest rate increases of 6% or more (above average initial rate of 8.5%). In Massachusetts, only 41% of subprime ARMs had re-set as of December 2007.

- Delinquencies and foreclosures also have hurt renters since multi-family properties have been defaulting at twice the rate of single family properties.

- Delinquency and foreclosure rates for conventional, prime mortgages have also been rising.

6. National Delinquency and Foreclosure Statistics

Estimating the number of housing units at risk of foreclosure is challenging because the mortgages are held or serviced by a number of different entities. Many reports provide information on only a slice of the market (most frequently, subprime owner-occupied single family homes) with data covering only certain types of servicers or lenders.

- HOPE Now (a national industry/counseling alliance) reports that there were approximately 7.1 million subprime loans being serviced as of September 2007, including 4.1 million handled by their nine largest servicer members.

- About 1.8 million subprime ARMs will re-set in 2008 and 2009, but many subprime borrowers are delinquent even before their mortgages have re-set. Absent new responses, Moody's.Com estimates that 2.0 million homeowners will lose their homes in 2008 and 2009 and further depress housing prices as they tend to be sold at discounts of 20-30%.[9]

- A recent U.S. Conference of Mayors study estimated that 1.42 million loans will go into foreclosure nationwide in 2008, up from 1.1 million in 2007. HOPE Now reported that in the second half of 2007, an average of 1,446,000 loans were 60 days or more past due each month and estimates that <u>one-third of foreclosures started in 2007 ended in foreclosure sales</u> (33% of subprime loans and 30% of prime loans).[10]

- Early efforts to help troubled borrowers have not done enough. A study of foreclosure starts in the third quarter of 2007 found that 40% involved borrowers who had made some type of arrangement with their lender, typically a repayment plan that allowed them to modify the timing of payments but doesn't change the overall loan amount, interest rate or term. However, there is a growing acknowledgement many at-risk borrowers will not be able to save their homes unless they receive a loan modification. HOPE NOW reports that lenders are slowly increasing the percentage of troubled loans that they are modifying and federal bank regulators are urging more.

HOPE NOW Data (Covers about 62% of Subprime Loans)

	July 1, 2007- January 31, 2008						January 2008					
	National			Massachusetts			National			Massachusetts		
	Total	Sub-prime	Prime	Total	Sub-prime	Prime	Total	Sub-prime	Prime	Total	Sub-prime	Prime
Repayment plans	757,675	443,319	314,357	12,324	8,574	3,750	106,136	48,155	57,982	951	473	479
Modifications	277,797	195,145	82,652	3,393	2,423	971	60,714	45,320	15,394	664	495	169
Foreclosure sales	350,256	214,003	136,253	2,399	1,601	798	67,195	39,530	27,665	690	376	314
Total	1,385,728	852,467	533,262	18,116	12,598	5,519	234,045	133,005	101,041	2,305	1,344	962
Repayment Plans	55%	52%	59%	68%	68%	68%	45%	36%	57%	41%	35%	50%
Modified	**20%**	**23%**	15%	**19%**	**19%**	18%	**26%**	**34%**	15%	**29%**	**37%**	18%
Foreclosed	25%	25%	26%	13%	13%	14%	29%	30%	27%	30%	28%	33%
Share of Total Foreclosures		61%	39%		67%	33%		59%	41%		54%	46%

7. Massachusetts Foreclosure Statistics for 2007

- Petitions to foreclose totaled 29,607 petitions, up 55% from 2006[11], though monthly totals for November and December (just over 2,700 a month) were down slightly from August and September peaks of over 3,000 a month.
- Foreclosures totaled 7,653 in 2007, up 148% from 2006 (3,086) and the highest number since the mid-1990s, and are continuing to rise. There were 799 foreclosures and 1,792 auction announcements in January 2008 alone.
- Just under half of foreclosures in 2006 and 2007 (through August) involved owners with a subprime loan (including those who refinanced into a subprime).

8. Massachusetts Projections for 2008

- Estimates of likely 2008 foreclosures vary. One analysis estimates that 37,000 loans will start foreclosure in Massachusetts in 2008 (including about 10,500 prime loans).[12] Others believe efforts to reach borrowers earlier are reducing the pace of foreclosures. As of January 31, 2007, the Mortgage Bankers Association's delinquency survey found that almost 18,500 loans were more than 60 days past due.[13]

- Over 15,000 subprime adjustable rate mortgages on owner-occupied properties are expected to reset between December 2007 and November 2008 according to Federal Reserve data, covering 70% of subprime securitized mortgages and 95% of Alt-a mortgages in MA.

Table 1: Number of Foreclosures and Sales by Year (Residential Properties only)[14]

Year	Foreclosures	Sales
1990	1,641	53,686
1991	5,432	54,170
1992	9,101	62,409
1993	8,044	69,231
1994	6,990	76,675
1995	4,617	72,518
1996	4,156	82,274
1997	3,780	88,107
1998	2,712	98,239
1999	2,003	100,380
2000	1,431	94,666
2001	1,060	92,240
2002	940	96,046
2003	572	99,468
2004	615	109,816
2005	873	106,504
2006	2,731	91,075
2007 (thru August)	4,798	80,436

Note: Data compiled by The Warren Group

Profile of At Risk Borrowers in Massachusetts The most detailed profile of at-risk mortgage loans in Massachusetts comes from Federal Reserve Board estimates based on data from First American LoanPerformance (LP). The estimates cover 70% of the first lien subprime mortgages and 95% of the alt-A mortgages that were securitized by issuers other than Fannie Mae and Freddie Mac, so the Board recommends "*appropriate adjustment*" when assessing the actual volume of subprime loans. The Board estimates primarily focus on the characteristics of first lien subprime mortgages for owner occupied properties.

The Board's December 2007 report profiles 61,572 subprime first mortgages, of which all but 4,200 (7%) were for owner-occupied properties statewide (among regions, the share ranged from 6-12%).

- Of the 57,378 subprime first mortgages for owner-occupants statewide, 70% were adjustable rate mortgages and 30% were fixed rate. The average loan was 27 months old and the average current balance was about $253,500 statewide ($279,000 in Greater Boston), with a current interest rate of 8.24%. The average credit score of borrowers at origination was 625 and the average loan to value at origination was 82%, with one-third over 90%. Forty percent (40%) were written without full documentation.
- Almost half (44%) of the 57,815 borrowers had not missed a payment in the prior 12 months and as of December 2007:
  - 57% were current
  - 12% were 30-59 days past due (6,762)
  - 6% were 60-89 days past due (3,419),
  - 9% were more than 90 days past due (5,265)
  - 10% were in foreclosure proceedings (5,769)
  - 6% (3,702) had been foreclosed upon.
- Seventy percent (40,025) of the subprime owner-occupancy loans are adjustable rate. Of these ARMs, 41% had reset by December (about 16,300) and another 38% will reset in the next 11 months (about 15,000). About 4,500 of these 40,025 subprime ARMs (11%) involve borrowers with both low credit scores (under 620 at origination) and high loan to value ratios (over 90% at origination).

9. Foreclosure Prevention Strategies – Assessments and Recommendations

A number of reports in recent years have highlighted effective foreclosure prevention practices and/or needs that have yet to be addressed. They include:

- *Analysis of Subprime Mortgage Servicing Performance*, by the State Foreclosure Prevention Working Group, shows that many more homeowners need loss mitigation than receive assistance.
- *State Strategies to Address Foreclosures*, from the National Governors Association examines current and proposed state actions to address subprime and prevent predatory lending, and help families avoid foreclosure. Contact Stephanie Casey Pierce, NGA, (202) 624-5332.
- *Financial Institutions and Foreclosure Intervention: Innovative Partnerships and Strategies to Better Serve Borrowers in Default*, from NeighborWorks® America, describes loan servicer strategies that could spark reform in the mortgage industry.
- *Foreclosure Prevention: Improving Contact with Borrowers*, from the Office of the Comptroller of the Currency, provides insights for lenders.
- *Foreclosure Avoidance Research* and *Foreclosure Avoidance Research II*, by Freddie Mac, examines extent to which delinquent homeowners do not contact their lenders and why. www.freddiemac.com/service/msp/pdf/foreclosure_avoidance_dec2005.pdf and www.freddiemac.com/service/msp/pdf/foreclosure_avoidance_dec2007.pdf

Overall they have found that:

1. Outreach is critical and needs to be conducted earlier before arrearages become unmanageable. Studies have shown that over half of borrowers in foreclosure proceedings have not had any contact with their lender,[15] that contact rates improve when servicers use third party counselors to contact borrowers who have not responded to lender/servicer efforts,[16] and that early counseling (when borrowers fall 30 days behind) for low and moderate income homeowners increases the probability of curing delinquencies.[17]
2. There is a need for more and different financing programs to help current owners keep homes.

3. There is a need for programs to help owners and renters displaced by foreclosure.
4. There is a need for programs and funding to ensure that vacant and abandoned properties are secured and re-occupied.

The 37-state State Foreclosure Working Group report[18] highlights current program trends and found:

- 70% of seriously delinquent borrowers were not on track for any loss mitigation options.
- Among the minority of borrowers working on loss mitigation, servicers have increased their use of loan modifications relative to short-term repayment or forbearance agreements, with 45% now discussing modifications.
- Refinancing is almost never an option anymore.
- Most delinquencies that have been resolved have been resolved by homeowners who were able to catch up on arrears without servicer assistance.

The NeighborWorks report, *Financial Institutions and Foreclosure Intervention: Innovative Partnerships and Strategies to Better Serve Borrowers in Default*, recommends the following framework for responding to mortgage delinquencies and foreclosures: [19]

Delinquency Stage	**Lender Actions**	**Recommended Strategies**
Pre-delinquency but at risk		Community-based workshops, targeted mailings
Early delinquency (1-60 days)	some lenders use collection agencies	• Loan servicer outreach by phone, mail – sometimes starting within 15 days of 1st delinquency – with info on local counseling agencies, including phone # • Arrangement to have counselors make the calls • Joint trainings with counselors and lenders, servicers, collection agencies
Pre-filing stage (61-120 days)	lender begins assessing property condition	• Designating contacts and "escalation systems" between servicers and counseling agencies – names, phone, fax #s, email • Create internal system to consider alternative loss mitigation approaches when basic approaches can't be used. Redefine servicer staff job performance measures to reflect mitigation tasks
Foreclosure petition	Required legal notice of intent to foreclose given under State law	In MA, petitions are filed when delinquent 3 months. Studies indicate that the typical time between the filing and a foreclosure deed *if it occurs* is two months[20]
Foreclosure	Owner evicted – bank takes and holds or sells	• Partner w/local government to secure abandoned property • Donate REO properties to appropriate nonprofits for redevelopment

Section 2: Massachusetts Initiatives

1. Governor Patrick's Five Point Plan

(Announced on October 18, 2007)

Governor Patrick's five point foreclosure prevention plan is designed to keep people in their homes and stabilize neighborhoods across the Commonwealth. DHCD, the Office of Consumer Affairs, and the Division of Banks have been actively involved in implementing various aspects of this initiative.

1. Neighborhood Stabilization Pilot Programs will be launched in Lawrence, Boston, Brockton, New Bedford, Springfield and Worcester. The Department of Housing and Community Development (DHCD), working with lenders and non-profits, will seek to reclaim foreclosed properties and make them available to qualified first-time homebuyers with the goal of restoring neighborhoods to fully occupied status as quickly as possible. DHCD has been working with some lenders on ways to acquire or modify mortgages in these cities.

2. Outreach and Education: NeighborWorks' Center for Foreclosure Solutions has a free hotline at 1-888-995-HOPE that is available 7 days a week, 24 hours a day to provide foreclosure prevention information to Massachusetts homeowners and referrals to non-profit agencies for additional housing counseling. In December 2007, Governor Patrick sent letters out to 12,500 residents who have adjustable rate mortgages and urged them to call the HOPE hotline.

3. MassHousing Loan Refinancing Program (described below)

4. Transition Resources: The plan calls for participating lenders to provide moving expenses and first and last month's rent to eligible homeowners who have lost their homes to foreclosure. Eligible homeowners are those with a sub-prime (where the borrower's credit score was 630 or less at the time of closing) adjustable rate first mortgage on an owner-occupied 1-4 family home that was originated between January 1, 2004 and December 31, 2006 who have been foreclosed on within 4 years after the loan closed. Homeowners must also work with an approved housing counselor, fully vacate the property within 30 days of foreclosure and leave it in habitable condition. Homeowners should contact NeighborWorks at 1-888-995-HOPE to locate a participating housing counseling agency.

5. Best Practices: The foreclosure prevention plan also outlines the following best practices for lenders which will become increasingly important as more adjustable rate mortgages reset to higher interest rates:

    1) contact borrowers at least three months prior to a mortgage reset;
    2) consider long-term loan modifications;
    3) review whether a sub-prime borrower qualifies to refinance into a more affordable product after one year of satisfactory payments;
    4) require escrow of taxes and insurance for all new sub-prime borrowers;
    5) allow a pre-foreclosure sale or a deed in lieu of foreclosure

2. Massachusetts Foreclosure Legislation

On November 29, 2007, Governor Patrick signed Ch. 206 of the Acts of 2007, *An Act Protecting and Preserving Homeownership*

The Act includes following provisions:

- The Legislation provides the Division of Banks with $3,000,000 to regulate the mortgage lending industry and maintain a foreclosure database. The Division of Banks shall provide an additional $2,000,000 in grants to 1) create a pilot program for best lending practices, 2) fund first-time homebuyer counseling for sub-prime loans and 3) help fund 10 foreclosure prevention centers. The funds will be raised from newly established mortgage lender licensing fees.

- Monitoring and oversight of mortgage lenders by the Division of Banks (DOB). Lenders are rated on their practices in assisting low and moderate income residents, ensuring that rates and terms for applicants are consistent with similarly situated borrowers, employing safe and sound business practices, ensuring that there is not an undue concentration a systematic pattern of lending resulting in foreclosures, and working with delinquent residential customers to resolve delinquency. Inability to receive positive ratings under this monitoring system may result in denial of a license by the DOB.

- Mortgage loan originators, including non-profit lenders, are required to be licensed. In order to be licensed by the DOB, the originator must pass a background check, take a residential mortgage lending course, and meet 8 hours of continuing education requirements every 3 years.

- Failure to comply with the DOB's monitoring and oversight regulation is a felony under the legislation, punishable by up to 5 years in prison and $2,000.

- Mandatory, third party in-person counseling for first-time home loan borrowers assuming subprime loans at adjustable/variable rates. DOB must promulgate regulations or guidelines to effectuate this provision.

- Establishes a 90 day right to cure a default, during which the loan may not accelerate and fees (with the exception of late fees not exceed 3 per cent of the amount of principal and interest overdue) cannot be added to the balance. The bill limits the right to cure to once during any 5 year period.

- Lenders must give notice of a default before being able to accelerate the loan and foreclose on the property. The notice must include information on the right to cure, the address and toll free number to whom payment should be made, and contact information for a representative of the current mortgage holder to work with to resolve the dispute.

- Includes modest tenant protections providing that foreclosures do not affect the tenancy agreement of a tenant who rental payment is subsidized by the state or federal government, and providing that other tenants in 1-4 family properties that are foreclosed on become a tenant-at-will.

- Increases the amount a holder of a mortgage may charge for a fee to revise a loan to one percent of the outstanding balance of the existing note and mortgage.

3. MassHousing Home Saver Foreclosure Prevention Program

(Announced on July 11, 2007)

MassHousing's $250 million foreclosure prevention program provides fixed-interest rate refinancing loans and counseling services to struggling sub-prime borrowers. The program is privately financed through a $190 million commitment from Fannie Mae and a $60 million contribution from MassHousing.

Eligible borrowers must meet the following criteria and eligibility is determined as part of mandatory counseling:

- Be employed with verifiable income and be able to afford the new monthly mortgage payment
- Have a minimum credit score of 560 for a single-family home or condominium, 580 for a 2-family home, or 620 for a 3- or 4-family home
- Meet income and loan limit restrictions

Interested borrowers are directed to call the HOPE hotline at 888-995-HOPE where counselors will evaluate the borrower's situation over the phone and if appropriate, the HOPE hotline will refer the borrower to an approved local counseling agency. Counseling is a mandatory part of the Home Saver program, and includes a review of mortgage documents and a suitability assessment.

Several changes to Home Saver were implemented in early 2008:

- Consumers no longer have to be victims of predatory lending but must demonstrate their inability to afford mortgage payment at the existing or reset interest rate.

- Homeowners are allowed to have refinanced previously for cash-out but there are restrictions on how the cash was used. Eligible uses include home improvements, medical payments, school payments or some household debt.

- Lenders can now initiate an application to Home Saver. Consumers can go directly to a lender or the lender they are currently working with can initiate the application without the homeowner having to call the 888-995-HOPE line first. Homeowners still must receive counseling.

4. Division of Banks

<u>Nationwide Mortgage Licensing System</u>

On January 2, 2008, Massachusetts along with New York, Rhode Island, Idaho, Iowa, Nebraska, and Kentucky became the first state mortgage regulators in the country to participate in the Nationwide Mortgage Licensing System (NMLS). NMLA will allow mortgage companies to apply for and manage their licenses electronically. Mortgage companies and professionals will maintain a single record, electronically stored in a secure database accessible by licensees over the Internet, which will provide consistent and comprehensive information to state regulators so they can better supervise the industry.

Mortgage lenders, brokers and loan officers will be able to maintain a single record for which they can apply, amend, update, renew or surrender licenses online in one or more states. Consumers are scheduled to have access to the system's public licensing and enforcement information beginning next year to help them make informed decisions when selecting mortgage loan officers and lenders. With NMLS, the Division of Banks will now be able to track lender activity both inside and outside of Massachusetts.

Foreclosure Delays

For consumers facing imminent foreclosure, the Division of Banks and its mortgage hotline (1-800-495-BANK) can intervene and work with lenders to secure a 30 to 60 day delay in the foreclosure process. Consumers must call within 7 business days of the foreclosure auction. As of February 7, 2008, the Division of Banks has issued 600 voluntary foreclosure stays to allow the homeowner additional time to work out a possible alternative to foreclosure.

Certified Housing Counseling Agencies

As of January 31, 2008, the Division of Banks is responsible for maintaining a list of certified housing counseling agencies that are able to offer counseling sessions to those first-time homebuyers applying for adjustable-rate subprime mortgage loans. As noted above, Ch. 206 of the Acts of 2007, *An Act Protecting and Preserving Homeownership,* requires homebuyers applying for adjustable-rate subprime loans to enroll in homeownership counseling prior to completing the purchasing transaction. The agencies must be certified by the U.S. Department of Housing and Urban Development (HUD), MassHousing, NeighborWorks, Inc. or the Massachusetts Homeownership Collaborative.

The list of approved counseling agencies is posted on the Division's website at www.mass.gov/dob.

5. Office of the Attorney General

Foreclosure Rescue Schemes

On June 1, 2007, the Attorney General issued emergency regulations under the Consumer Protection Act (M.G.L. c. 93A) banning foreclosure rescue schemes. The emergency regulations are now final and were filed with the Secretary of the Commonwealth on August 31, 2007.

The regulations prohibit predatory, for-profit foreclosure rescue transactions, where the homeowner transfers title to the rescuer while maintaining future interests, including a lease interest or right to reacquire the home. Foreclosure rescue transactions between family members or arranged by a nonprofit community or housing organization are not banned under these regulations.

New Regulations to Stop Deceptive Mortgage Practices

The regulations are effective as of effective January 2, 2008. The regulations used to apply only to home improvement loans and now apply to all mortgage loans. In addition, the new regulations specifically:

- Prohibit mortgage brokers or lenders from making a loan if they do not have a reasonable belief that the borrower is able to repay the loan.
- Restrict the use of no-documentation or "stated income" loans by requiring that the mortgage broker or lender disclose how the interest rates or other charges will increase under a "no-doc" loan, and obtain the borrower's signed statement of income in order to process those types of loans.
- Prohibit mortgage brokers from arranging or processing loans that are not in the borrower's interest, and prohibit brokers from brokering loans if the broker's financial interest conflicts with the borrower's interest.
- Prohibit mortgage lenders from steering borrowers to loan products that are more costly than those that the borrower qualifies for, and prohibits lenders from discriminating between similarly qualified borrowers.

Actions Against Unscrupulous Professionals, Subprime Lenders, and Brokers
The Attorney General's Office is investigating and taking enforcement actions against those who used foreclosure rescue schemes and unfair or deceptive practices in Massachusetts. These actions may seek civil penalties, restitution and injunctions.

The Attorney General's Office filed suit on October 5, 2007, in Suffolk Superior Court against Fremont and its parent company, Fremont General Corporation based on the defendant's unfair and deceptive loan origination and sales conduct. The complaint specifically alleges that the company was selling risky loan products that it knew was designed to fail, such as 100% financing loans and "no documentation" loans. The AG's Office obtained a preliminary injunction in Suffolk Superior Court in a case against Fremont General and Fremont Investment and Loan in February 2008. The order prohibits Fremont from initiating or advancing foreclosures on loans that are "presumptively unfair."

Under the terms of the injunction, Fremont must provide the AG's Office with at least a 30-day notice of all foreclosures it intends to initiate for the approximately 2,200 loans that Fremont still owns and services, and allow the Attorney General an opportunity to object to the foreclosure going forward. If Fremont has issued a loan that is considered "presumptively unfair," and the borrower occupies the property as his or her principal dwelling, the Attorney General has 45-days to object to the foreclosure.

The AG's Office has encouraged homeowners with mortgages from Fremont to contact their office. More information about the Fremont case and information about all of enforcement actions taken by the AG's Office are available on the AG's website at www.mass.gov/ag under "Press Releases".

Participation in the State Foreclosure Prevention Working Group
The Working Group is a joint initiative of 37 states Attorneys General and the Conference of State Bank Supervisors (CSBS). Massachusetts is a member of the Executive Committee which has met with the top twenty subprime loan servicers and collected data on loan modification efforts. The group's main objective is to work with subprime mortgage loan servicers to reduce the number of foreclosures by encouraging loan modifications and other sustainable, long-term solutions. The Working Group's first report was released on February 7, 2008 and includes data on loss mitigation efforts by 13 major residential mortgage servicers. The report can be found at: www.csbs.org.

6. Massachusetts Housing Partnership

The Massachusetts Housing Partnership has compiled maps illustrating what communities are experiencing higher rates of foreclosures, as well as maps of Worcester and Lawrence that show households who will have their loans reset to higher interest rates in the next three years.
The reset maps are the latest maps created by MHP to help the Patrick Administration develop foreclosure strategies. The maps can be located on MHP's website at www.mhp.net

7. Massachusetts Commission Against Discrimination (MCAD)

MCAD is working with HUD and five other states to improve its capacity to address mortgage lending discrimination. The project aims to: 1) Train MCAD investigators and attorneys on mortgage and other lending to better understand the nature and mechanics of this type of discrimination, and to conduct effective investigations, create outreach materials, and train key constituencies in this vital area; 2) Develop investigative tools and procedures to investigate lending cases; a training curriculum to inform the public about possible discrimination in lending, including information in multiple languages; and educational materials to include on the MCAD website to increase public awareness; and, 3) Conduct outreach in collaboration with state and local agencies and organizations, particularly those that provide educational programs for prospective homebuyers and/or serve members of communities that are disproportionately targeted by predatory lending.

Trainings for MCAD staff and area non-profits are being held in February and March 2008.

8. Funding for Foreclosure Counseling

Counseling Funds for Foreclosure Prevention and Adjustable-Rate Subprime Counseling
(Announced January 29, 2008)

The Division of Banks and the Department of Housing and Community Development issued a Notice of Funding Availability on February 6, 2008 for organizations and entities providing first-time homebuyer counseling services for consumers considering subprime, adjustable-rate rate mortgages as well as organizations providing foreclosure prevention counseling and workshops (as included in Ch. 206 of the Acts of 2007). Instructions and submission guidelines are posted on the Division of Banks website at www.mass.gov/dob.

The RFP includes \$100,000 for counseling for subprime mortgage loan applicants; \$400,000 for counseling programs for first-time homebuyers and foreclosure prevention and \$1.5 million to fund 10 or more regional foreclosure education centers. The application deadline for the two counseling program awards is February 27, 2008 and the deadline for the foreclosure education centers is March 12, 2008. Grants are expected to be distributed in March and April 2008. For national funding of foreclosure counseling see Section 3.

9. Legal Resources

Pro Bono Foreclosure Assistance Hotline
Individuals facing foreclosure may benefit from qualified legal counsel to represent them in foreclosure proceedings. The Attorney General's Office, in partnership with several bar associations, legal services organizations and advocacy groups, announced the establishment of a Pro Bono Foreclosure Assistance Hotline. Low-income Massachusetts residents who are facing foreclosure may call (800) 342-5297 or (617) 603-1700 and leave a message in the foreclosure assistance mail box. Income limits apply.

Real Estate Bar Association for Massachusetts (REBA) Pro-Bono Assistance
REBA will launch a pilot program with the City of Boston Department of Neighborhood Development (DND) providing pro bono legal counsel to qualifying homeowners facing foreclosure. The program will be offered to homeowners whose income does not exceed 120% of the area mean income for the Boston area. DND will prescreen applicants and refer qualifying homeowners to REBA. REBA, in conjunction with the Lawyers' Clearinghouse for Affordable Housing and Homelessness, will offer a legal training clinic to participating attorneys prior to referring any cases.

10. Non-Profit Initiatives and Working Groups

Action for Boston Community Development
Convened a foreclosure committee and organized a Foreclosure Trap seminar as part of *Securing the Safety Net* series on July 18, 2007. The group has been working on developing an online resource for consumers.

Focus: Resources for consumers

MACDC/Urban Land Institute/CHAPA Foreclosed Properties Task Force
On January 31, 2008 the Urban Land Institute and the Massachusetts Association of CDCs hosted a forum to explore ways to redevelop foreclosed properties in Massachusetts. This Task Force, with participation from State Agencies, Quasi-Public leaders, foundations, for-profit and non-profit developers, consultants, and municipal officials, emerged from the discussion as a way to join efforts to quickly create viable tools, resources and responses. The Task Force formed five subcommittees to work on issues.

Focus: Non-profit acquisition of foreclosed properties for neighborhood stabilization

Greater Boston Legal Services
Roundtable discussion on state initiatives held on February 7, 2008.

Focus: Governmental efforts to assist homeowners and tenants

Massachusetts Alliance Against Predatory Lending
Collaboration between Greater Boston Legal Services, City Life/Vida Urbana, the Green Rainbow Party and others.

Focus: Legislation for judicial review for foreclosures and just-cause evictions for tenants and homeowners of foreclosed properties.

Northeastern University's Foreclosure Group
Formed by Barry Bluestone, Cathy Minehan and Bonnie Heudorfer.

Focus: Attention on a range of possible actions that could be taken by private sector financial institutions, state or local government, CDCs, for-profit developers, or others to limit the damage to neighborhood integrity when multiple foreclosures occur or are threatened.

Lawrence CommunityWorks
Consumer education video by LCW and MIT on Predatory Lending (*Predatory Tales*). It features two real life stories of victims of predatory lending.
www.motionbox.com/video/player/ec95dabe1e12eb61#1

Focus: Outreach and education to homebuyers and homeowners

Don't Borrow Trouble
Don't Borrow Trouble" is an ongoing public awareness campaign that was developed by the Massachusetts Community and Banking Council (MCBC) to caution homeowners about the risks of certain refinance and equity loans. It was first launched in Boston in 1999 and expanded to additional cities statewide in 2001. All campaign materials include a toll-free number (800-495-2265) to offer information and assistance to homeowners with questions about refinancing or foreclosure prevention.

Calls to the toll-free number are answered by staff at the Massachusetts Division of Banks who can provide information, assistance and/or referrals to local community-based counseling agencies.

Focus: Consumer awareness

11. Lender Initiatives

Mortgage Relief Fund
(Announced on December 12, 2007)

Citizens Bank, Sovereign Bank, TD Banknorth, Webster Bank and Bank of America have committed $125 million in funds to create the Mortgage Relief Fund. This Fund is aimed at helping New England homeowners who are in good standing with their current mortgage loan(s), but who may be experiencing difficulty making payments now and who expect to have greater difficulty making payments when their rates reset. Through the program, borrowers will have access to a range of mortgage products that may include FHA and FHA Secure as well as state programs and other programs offered by the five participating banks.

Homeowners are eligible if:

- the house is worth more than the total of the mortgage loan balance(s)
- the homeowner has generally made mortgage payments on time
- the property is owner-occupied; and
- borrowers can document their current income

More information can be found at www.mortgagerelieffund.com.

12. Municipal Initiatives

City of Boston, Department of Neighborhood Development

In October 2006, Mayor Menino announced a major expansion of the city's foreclosure prevention initiative that includes a refinancing consortium and an expansion of foreclosure counseling services offered through the city's Boston Home Center. The lender consortium, called the First Choice Lenders, included 6 banks that adhere to model loan origination and foreclosure prevention business practices; help refinance people out of bad loans; and, provide financial backing to the Foreclosure Prevention Fund that supports foreclosure prevention counseling and financial assistance. In 2007, homeowners have refinanced out of $3 million in bad loans through the First Choice Lenders.

In 2006, The Boston Home Center increased its counseling services by making available up to $350,000 to expand the capacity of existing partner agencies ESAC (Ensuring Stability through Action in our Community) and HOME (Homeowner Options For Massachusetts Elders) and establishing new foreclosure counseling capacity at Nuestra Comunidad Development Corporation, Urban Edge, and Mattapan Family Service Center. In 2007, the City expanded its efforts to include a fifth agency, ACORN, to provide foreclosure counseling services. Homeowners are directed to first call the City's HOME Center at 617-635-4663 and are then directed to a counseling agency.

In addition, the City of Boston has placed ads in bus shelters and billboards encouraging homeowners in trouble to call the HOME Center to seek help. The City has expanded its educational services to include "Meet the Lenders" workshops to help homeowners and homebuyer connect with First Choice Lenders and two new seminars "Can You Really Afford *That* Mortgage" and "What Homeowners

Need to Know About Foreclosures, Before It's Too Late". The seminars are being direct marketed to homeowners that have taken out loans from subprime lenders.

Mayor Menino announced on February 14, 2008 that he has formed a Foreclosure Intervention Team (FIT). FIT members include the many City agencies who deal with all issues that surround foreclosure and abandonment, including Boston Police, Inspectional Services, Department of Neighborhood Development, Public Health Commission, Corporation Counsel, Public Works and Public Property. The Team will work in targeted neighborhoods plagued by foreclosure to identify the owners of these properties in order to hold them accountable and to get moving on future renovations and sales. The Hendry, Coleman and Clarkson streets area is the focus of the first FIT project.

In addition to efforts by the HOME Center, other City of Boston departments have begun education and outreach efforts to tenants in the City to inform them of their rights if their landlords are foreclosed on.

More information about the City of Boston's program can be found at www.cityofboston.gov/dnd/hbs/C_Foreclosure_Prevention.asp.

City of Lawrence

The City of Lawrence's Community Development Department coordinates the Lawrence Housing Partnership which includes housing counselors and advocates, legal services attorneys, and area lenders interested in working on the foreclosure crisis in Lawrence. The Partnership acts as a clearinghouse for outreach efforts in the City and a way for different departments and agencies to touch base and share ideas. Initially, the Housing Partnership held quarterly "mortgage check-up clinics" where local lenders and counselors meet with homeowners to help them understand their current mortgage terms, understand their options and how to keep their mortgages healthy. The Partnership's non-profit partners are now developing orientation in take sessions for homeowners seeking counseling services on foreclosure. The City recently funded local non-profits to provide foreclosure counseling with CDBG funds.

The City of Lawrence has also formed a Task Force surrounding fire safety and securing abandoned properties. Coordinated by the Mayor's Office and the Planning Department, the Task Force is working with the fire department, police department and inspectional services to require lenders to register foreclosed properties with the City in order for the City to ensure the properties are appropriately maintained. The City is planning to explore ways to acquire some of these properties.

City of Lowell

In 2006, lenders, housing advocates, the City of Lowell and others formed the Lowell Foreclosure Prevention Task Force. The Task Force was formed to aid homeowners at risk of foreclosure. The Task Force provides free counseling through its non-profit partners and helps eligible homeowners with risky loans to refinance through reputable lenders. The Task Force has recently partnered with the national 888-995-HOPE hotline and refers homeowners to counselors at either Coalition for a Better Acre or Community Teamwork Inc, both non-profit counseling agencies in Lowell. The counselor will work with homeowners to find programs that meet their needs.

The Task Force has formed a triage committee to assist homeowners that may not qualify for existing refinance programs. The triage committee will try to refer homeowners with a mortgage program at a Lowell bank or, if necessary, the committee will also refer the homeowner to the Lowell Development Financing Corporation, which is offering loans of up to $10,000 to help income-eligible borrowers refinance out of bad loans and into good ones. The funds may be used to cover closing costs, pay prepayment penalties, or build equity, and can be paid back over 10 years. Applicants must agree to participate in a financial counseling program to receive a financing corporation loan, which carries a 5 percent interest rate.

Members of the Task Force include AmeriHome Mortgage, City of Lowell City Council, City of Lowell, DPD, City of Lowell City Manager's Office, Cambodian Mutual Assistance Corporation, Coalition for a Better Acre, Community Housing, Inc., Community Teamwork, Inc., Congresswoman Tsongas's Office, Enterprise Bank, Jeanne D'Arc Credit Union, Lowell Development Financial Corporation, MassBank, MassHousing, Merrimack Valley Housing Partnership, Merrimack Valley Project, Northern Middlesex Registry of Deeds – Registrar's Office, One Lowell, TD Banknorth, and the UMass Lowell Center for Family, Work and Community.

<u>City of Brockton</u>
The City of Brockton formed a Task Force on Housing and Foreclosure Prevention that is comprised of city officials, local banks and non-profit organizations. The Task Force held a mortgage clinic for homeowners on February 12, 2008 to help homeowners understand their mortgage terms and get support if they are experiencing difficulty paying their mortgage.

Brockton Housing Partnership, a consortium of 13 local banks, credit union, and non-profit agencies developed a foreclosure hotline (508-586-6080) for homeowners to call and leave a message. The message is returned by a staff member who speaks the homeowners language (English, Spanish, Portuguese and French) and the homeowner is referred the counseling or financial education programs.

Southeastern Massachusetts Affordable Housing Corporation, an affiliate of the Brockton Housing Authority (BHA), is partnering with the Paul and Phyllis Fireman Charitable Foundation (PPFCF) and the Department of Housing and Community Development (DHCD) to revitalize distressed properties and provide housing and services for 18 low income families

SEMAHC, with the BHA, will acquire six distressed, triple decker, bank-owned buildings in need of rehabilitation and turn them into 18 units of family housing. The families will participate in the Brockton Housing Authority's Housing Choice Section 8 voucher program and will be enrolled in the BHA's Family Self-Sufficiency program.

<u>City of Worcester</u>
City of Worcester City Manager Michael V. O'Brien has unveiled a comprehensive action plan aimed at dealing with vulnerable properties and protecting the local housing stock.

The plan, called "SAVE (Stabilize – Assist – Value – Enforce) Our Neighborhoods," focuses on three areas:

- Foreclosure Education, Prevention and Management: The NeighborWorks Homeownership Center of Worcester was designated as a foreclosure counseling center as part of the National Hope Hotline (888-995-HOPE) and the Worcester City Council has re-allocated CDBG block grant funds to support staffing at the Homeownership Center. SAVE Our Neighborhoods will also focus on the need for "receivers" to hold properties where the owners have walked away but the mortgage holder has yet to acquire the property by foreclosure deed. The receivership arrangement is intended to ensure responsible management of the properties, allowing tenants to remain, until the property is transferred to a new owner. SAVE Our Neighborhoods will recommend that CDBG funds be used to support this effort.

- Reorganizing City Government for Improved Regulation of Property: The plan creates a new singular inspectional services agency to monitor private property. The new entity, the Department of Inspectional Services, would enforce state Building Codes, Housing and Sanitary Codes and public health laws as well as City ordinances that preserve the condition of private property and the safety of Worcester residents. The Department would include the following existing City Divisions: Division of Buildings and Zonings, Division of Housing, and Division of Health Inspections and would be headed by a Commissioner of Inspectional Services, a Cabinet-level position reporting directly to the City Manager. This new Department request has been submitted to the City Council for review.

- Enhanced Enforcement and Monitoring of Current and Potential Problem Properties: Under the direction of the Commissioner of Inspectional Services, this multi-department initiative, the Property Review Team (PRT), will track properties flagged by inspectional services due to public safety concerns, deteriorating condition and/or negative neighborhood impacts. PRT will work with the new Department of Inspectional Services, the Worcester Police Department, Worcester Fire Department, the License Commission, the Divisions of Economic and Neighborhood Development, the Law Department, the Treasurer's Office and the Department of Public Works and Parks.

  The Worcester Division of Technical Assistance has developed a Property Analysis Database that will be a single repository for permitting, inspection, public safety, legal, and financial information from City Departments. PRT can use this database to review at-risk properties, including information about properties that have been foreclosed or about to be foreclosed.

More information about SAVE Our Neighborhoods, including the action plan, can be found on the City of Worcester's website: www.ci.worcester.ma.us/.

City of Chelsea/Chelsea Restoration Corporation Foreclosure Prevention Taskforce

The City of Chelsea and Chelsea Restoration Corporation have joined forces to provide Chelsea Homeowners financial counseling programs. CRC will assist homeowners to better navigate and understand their financial realities and ultimately bettering their financial picture. The program offers a comprehensive range of counseling services. CRC offered a free "Mortgage Check-Up & Counseling Event" on September 29, 2007.

Section 3: Federal and Industry Initiatives

As described in more detail on the following pages, current Federal activities include:

1. Wider data collection – Industry groups and the Office of the Comptroller (new) have begun collecting loan-level data using a uniform format from banks and servicers to gauge trends and measure effectiveness of recent programs and other federal regulators are urging the institutions they oversee to begin reporting as well.
2. Formation of an industry alliance called HOPE NOW in October 2007 to conduct outreach to borrowers and develop financing options. This voluntary alliance of mortgage industry representatives and counseling groups *primarily works with borrowers with subprime adjustable rate mortgages held in securitized pools* (members service about 90% of all subprime home loans). HOPE NOW works with the Homeownership Preservation Foundation which operates the national hotline to link borrowers to counselors (888-995-HOPE) and has begun monthly mass mailings to delinquent borrowers. Mailings to borrowers who were 60+ days in arrears began in November and mailings to all seriously delinquent borrowers (90+ days) began in March 2008. Members also agreed to contact all borrowers facing resets at least 120 days in advance. HOPE is tracking responses to these outreach efforts and has begun collecting loan-level data from their members to track delinquencies and foreclosures.
3. New Funding for Foreclosure Mitigation Counseling – Congress provided $180 million in HUD's FY2008 budget for NeighborWorks to distribute to housing counseling agencies. The first $130 million was awarded in late February 2008. HUD also funds counseling agencies through an annual competitive grant process.
4. HUD/FHA – FHA created a loan program (FHA Secure) in September 2007 to help borrowers with subprime ARMs refinance. However, it is limited to those who are current on payments or delinquent due to reset only, so it has helped less than 1,500 borrowers nationwide as of February 2008. Congress also increased FHA loan limits on a temporary basis through 2008 as part of the economic stimulus bill. HUD/FHA has also begun mailings to advise borrowers to contact HOPE NOW or FHA to learn about refinancing options.
5. IRS tax relief – a federal law enacted in late December now eliminates tax liability for most forgiven debt on primary residences, including debt discharged by foreclosure. It will accept filings to claim this exclusion for 2007 beginning March 3, 2008.
6. Interest Rate Freeze and Repayment and Loan Modification Plans – HOPE NOW members issued guidelines in December 2007 on the types of loan modifications and repayment plans they will offer <u>subprime borrowers who are not delinquent</u>. They have agreed to freeze interest rates on re-setting adjustable rate mortgages for borrowers who meet certain criteria (best estimate is that 90,000 households will qualify nationwide). Unclear that all investors will agree to these restructurings.
7. 30 day foreclosure pause ("Project Lifeline") – HOPE Now members announced in February 2008 that they will offer to pause foreclosure proceedings for up 30 days for <u>seriously delinquent borrowers</u> who respond to a special mailing within 10 days. The pause period is used to determine if a workout plan is possible for the borrower. Program expected to be operational by 3/31/2008.
8. Fannie Mae announced in late February that it will begin offering unsecured 15-year loans of up to $15,000 for borrowers to pay off arrearages (only for loans purchased or securitized by Fannie Mae). This is expected to be available from all FHA lenders by April 15, 2008.
9. Many bills have been filed in Congress to expand foreclosure help but none have passed yet and prospects are unclear. They include bills to (1) help borrowers by expanding refinancing

programs and allowing bankruptcy judges to modify mortgages, (2) help local governments to buy /rehabilitate abandoned and foreclosed properties and (3) help displaced owners and renters.

10. A national group of nonprofits formed the National Foreclosure and Neighborhood Stabilization Task Force in December 2007 to work on policy issues of concern.

1. Data Collection/Dissemination

Both industry groups and the federal government have begun collecting loan-level mortgage data to identify foreclosure risks and trends.

- The HOPE NOW Alliance (described below) has begun collecting loan-level data on most subprime loans held in securitized pools as well as national data on the numbers of foreclosures, repayment plans, loan modifications involving these loans, and response rates to its mailings. http://www.fsround.org/hope_now/hope_now.htm
- The federal Office of the Comptroller of the Currency (OCC) announced February 29, 2008 that large national banks must also begin providing loan level data on the performance of all home mortgages, including loans held in their portfolio and prime loans. The national banks must submit October 2007-February 2008 data to OCC by March 31, 2008, then report monthly going forward. www.occ.treas.gov/ftp/release/2008-24.htm
- The Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision issued letters on March 3, 2008 urging the institutions they supervise to report their results to HOPE NOW as well and the National Credit Union Administration is expected to follow suit shortly.
- The Federal Reserve Bank is making data on the numbers, types and status of *securitized non-prime homeowner loans* by state and zip code available to community groups on request. The data (First American LoanPerformance) covers about 70% of subprime and 95% of alt-A securities. The most recent New England data is as of December 2007. See www.bos.frb.org/commdev/foreclosures/LP%20Overview.pdf

2. Outreach

HOPE NOW (Industry Group) HOPE NOW (www.hopenow.com) is a national voluntary alliance of members of the mortgage industry and counseling agencies. It was formed in October 2007 at the urging of the federal government (Treasury and HUD). Members include mortgage servicers, investors, Fannie Mae, Freddie Mac and industry groups such as the Mortgage Bankers Association, and counseling agencies including NeighborWorks. Currently, their servicer members cover 94% of the subprime market (see www.fsround.org/hope_now/hope_now.htm for member list). Their members are also beginning a new loan modification program.

- **Mailings to at-risk delinquent borrowers (60+ days)** Since November 2007, Alliance members have been making monthly mailings on HOPE NOW stationery to homeowners who are 60 days delinquent and have not contacted their servicer, supplementing efforts made directly by individual servicers to their customers. The first three mailings (Nov-Jan) went to a total of 775,000 prime and subprime borrowers. In late February, it reported 93,000 (19%) of the 492,000 borrowers who received letters in November (16%) or December (21%) had responded. It also reported no change in the situation of 60% of the borrowers who received letters in November and December letters. (See Attachment 1)
- **Mailings to borrowers who are 90+ days delinquent or in foreclosure** In mid-February 2008, it announced that by March 31, 2008, its members will begin targeted outreach to homeowners who are at least 90 days delinquent and invite them to begin a workout process. Letters sent under

this program, called "**Project Lifeline**", will ask borrowers to contact their servicer, agree to seek counseling and provide updated financial information. "In appropriate situations", the servicer may stop the foreclosure for 30 days (see page 23).

- **Outreach to borrowers facing resets** In mid-November 2007, members agreed to attempt to reach "at-risk" borrowers at least 120 days prior to the initial ARM reset on all 2/28 and 3/27 ARM products and inform borrowers of the potential increase in payment and terms of loans in order to determine whether borrowers may find it difficult to stay current.
- **Efforts to make servicer/counseling communications more efficient** In November 2007, it announced efforts to improve communication between counselors and servicers, by advising counselors on the information servicers need to decide on possible resolutions (such as workouts) and enabling counselors to easily locate the appropriate servicing and loss mitigation staff. Members agreed to establish a single port of entry for all counselors and make dedicated email and fax connections to support counselor and consumer contacts by January 2008.
- **Servicer Contact Info for Homeowners** In late January 2008, it also published "hotline" phone numbers for most servicers of subprime loans for use by borrowers. See www.fsround.org/media/pdfs/Servicerhotlines2.pdf
- **Grants for Counseling - Homeownership Preservation Foundation -** Funded by HOPE NOW members, this program has provided counseling grants to NeighborWorks (NW) and to the National Urban League ($1.2 million) to provide free foreclosure prevention assistance and education in 3 cities (Houston, St. Louis, Phoenix).

Homeownership Preservation Foundation The Homeownership Preservation Foundation (HPF) is a nonprofit organization working with local governments, nonprofit organizations, borrowers and lenders to help families overcome obstacles that could result in the loss of their homes.
HPF operates the national 888-995-HOPE - the Homeowner's HOPE Hotline - to help individuals and families who are struggling financially. The hotline is available 24 hours/7 days a week and connects callers with English and Spanish speaking counselors from five nonprofit agencies (Auriton Solutions; Consumer Credit Counseling Services (CCCS) of Atlanta, CCS of San Francisco, Novadebt, Springboard Nonprofit Consumer Credit Management; and Money Management International.

Many federal and state foreclosure initiatives are tied to the HOPE Hotline as a first point of contact for homeowners.

HUD/FHA Mailings In February 2008, the Federal Housing Administration (FHA) began monthly mailings to homeowners "who have experienced or will soon face a reset" of their mortgage interest rate. The letters encourage borrowers to call the HOPE hotline to learn about financing alternatives, including FHA programs. It mailed 280,000 letters in February to owners in regions with housing costs below the then-current FHA loan limits of $200,000-362,790 and with recent increase in those limits, plan to mail letters to another 250,000 owners shortly and 320,000 more by September 2008 (850,000 total).

3. Foreclosure Counseling

NeighborWorks NeighborWorks received an appropriation of $180 million in the federal FY2008 budget (enacted December 16, 2007) for distribution to HUD- or NRC-approved counseling intermediaries (and State Housing Finance Agencies that meet foreclosure assistance counseling criteria as set by NRC)[21] to assist states and areas with high rates of default and foreclosure, particularly in the subprime housing market. The funds cannot be used for payments to lenders or owners to discharge mortgage or pay down debt. Legislation has been proposed (S.2636) to provide another $200 million for this in FY2008, but prospects are uncertain.

Funds can only be used to assist owner-occupants in default or *in danger* of default. Eligible activities include activities likely to prevent foreclosure and result in long-term mortgage affordability "*or another positive outcome*", such as, analysis of borrower's financial situation, counseling regarding assumption of mortgage by a non-federal third party, advice regarding all possible restructuring and refinancing strategies, approval of a workout by all interested parties and outreach and advertising.

Some of the funding is for capacity building and administration, but at least $168 million will be distributed.[22] Up to 15% of the funding ($27 million) may be provided to NRC charter members. The first $130 million was awarded in late February 2008. Massachusetts grantees include three national and regional intermediaries and eight local groups.[23] These grants are expected to assist over 6,000 households in Massachusetts.

HUD Housing Counseling Program This competitive HUD program provides grants to local nonprofits to provide counseling to renters and owners seeking to lease an apartment or purchase or maintain their home. Grantees vary in terms of their programs but many offer foreclosure counseling. Approved Massachusetts agencies are listed on HUD's website (but consumers should call first to confirm their current services).
www.hud.gov/offices/hsg/sfh/hcc/hcs_print.cfm?webListAction=search&searchstate=ma

4. Tax Relief, Loan Modification and Financing Initiatives

IRS – Tax Forgiveness on Debt Relief for Homeowners Under a new federal law enacted on December 12, 2007, homeowners whose mortgage debt is partly or entirely forgiven through a modification or foreclosure in 2007, 2008 or 2009, can exclude the forgiven amount (up to $1 or $2 million) from their taxable income (previously, it was treated as taxable income). The exclusion only applies to debt secured by the owner's residence; <u>debt on rental properties does not qualify</u>. In the case of refinancing loans, the exclusion is limited to the amount of the old mortgage principle just before the refinancing. The IRS has created a new form (Form 982) that taxpayers must file to claim this relief. Because the law was only enacted recently, it is not included in current tax preparation software. The IRS will be able to accept electronic filings of returns that include Form 982 starting March 3. Details and the form are available online at www.irs.gov/irs/article/0,,id=179073,00.html.

Fannie Mae Loans to Cure Arrearages ("Home Saver Advance") – This program is just starting (it was announced February 27, 2008). <u>It is limited to arrearages on loans that Fannie Mae has purchased or securitized</u> and is expected to be available via all Fannie Mae servicers by 4/15/2008. It can be used on *all types of mortgage loans (prime, subprime) and all types of 1-4 unit properties (principal residence, second home, investment property*). It offers one time unsecured loans of up of to the lesser of $15,000 or 15% of their original unpaid principal balance to borrowers who are 2-6 months behind on their mortgage payments (PITI). Borrowers must demonstrate that the problems that led to the delinquency have been resolved and that they can repay the loan. The loans are fixed-rate (5%), 15 year loans with no payments due for the first six months.

Funds can be used for a variety of arrearages, including homeowner association fees, and go directly to reduce this debts (no funds go directly to the borrower). Servicers will receive a $600 workout fee. Because it is a personal loan, it is not subject to LTV or property value restrictions. Servicers can combine this program with other foreclosure prevention options, including repayment plans, loan modifications, short sales, and deeds-in-lieu. Information is available from Fannie Mae at 1-888-326-6438, option #2.

30 Day Suspension of Foreclosure Proceedings (Voluntary Industry Program) In mid-February 2008, HOPE NOW lenders and servicers announced that by March 31, 2008 they will begin mailing letters to homeowners with subprime ARMS who are at least 90 days delinquent and invite them to begin workout proceedings. Under this program, called "**Project Lifeline**", the letters will ask borrowers to contact their servicer, agree to seek counseling if needed and provide updated financial information. "In appropriate situations", the servicer may stop the foreclosure for 30 days to evaluate whether a loan modification is feasible and if yes, will establish a workout plan. Loans will be formally *modified* for borrowers who comply with the workout plan for 3 months in a row. The program is not available to borrowers who are in bankruptcy, have a foreclosure sale scheduled within 30 days, or are not interested in keeping their home, nor to loans on investment or vacant properties.

ASF Refinancing/Modification/Interest Freeze Guidelines – Voluntary Industry Program
The American Securitization Forum (ASF) is an industry group representing "all aspects of the securitization industry", including securitized mortgage investors. On December 6, 2007, it announced guidelines for its members with the goal of helping subprime ARM borrowers earlier, especially before loans reset, but in a way that does not violate agreements with investors. Critics estimate that this framework will result in loan modifications for only about 3% of borrowers with adjustable rate subprime loans.[24] The framework primarily applies to borrowers who are not delinquent. It offers three options, based on borrower characteristics:

- Refinancing (for strongest borrowers) – For borrowers who are "current" (< 30 days delinquent *and* not more than 1x60 days delinquent in prior 12 months) and likely to remain current after reset or who can refinance into FHA products, including FHA Secure, or other existing programs. Qualifications will be based on LTV ≤97% (i.e. FHA Secure eligible), loan amount, payment history, FICO, etc. Servicers will facilitate refinancing and try to avoid prepayment penalties.
- Loan Modification and/or 5 year interest rate freeze Owner-occupant borrowers who are current (as above) and have good payment records but do not qualify for refinancing can be offered a "fast track loan modification" – either in the form of a five year freeze on their interest rate (i.e. no reset) or other, longer term modification options a lender chooses to explore. These options would be offered to borrowers who:
  - have a subprime ARM originated between January 1, 2005 and July 31, 2007 with a reset between January 1, 2008 and July 31, 2010 that will raise their monthly payment by at least 10%.
  - are owner-occupants who are current on payments and have only been 60 days or more late once in the prior 12 months
  - LTV>97% (1st lien) and/or can't meet other FHA Secure criteria (e.g. debt to income ratios) as described below
  - have credit scores below 660 *and* less than 110% of FICO at origination (if meets these tests, servicers don't have to review income qualifications)

  An estimated 7% of subprime borrowers (145,000) may be eligible for the 5 year interest rate freeze but most observers expect at most 90,000 will qualify and there is great uncertainty even then as to whether securitized investors will agree the freeze. Many also believe this only pushes the problem off and it will recur at end of the five year freeze. Some argue it unfairly penalizes owners facing resets who have higher credit scores.
- Loss Mitigation For borrowers who are delinquent and unable to refinance into available products must be evaluated case by case. Members should try to reach these borrowers through HOPE NOW's mailings and hotline or via referrals from counseling agencies. Loss mitigation options may include loan modifications (including rate cuts and/or partial debt forgiveness, forbearance), short sale (sale for less than value of outstanding mortgage), short payoff or foreclosure.

FHA Secure – This is a temporary program launched September 2007 to help non-FHA subprime ARM borrowers refinance into fixed rate loans. In addition, if they can afford it, borrowers may be able to roll post re-set arrearages into the new mortgage. Loan applications must be submitted by 12/31/2008. Currently eligibility is limited to borrowers who are current on their ARMs *or* didn't become delinquent until after the reset of their mortgage. The loan limits enacted in mid-February 2008 will apply to mortgages approved by December 31, 2008. (The new limits are at https://entp.hud.gov/idapp/html/hicostlook.cfm).

Critics believe the current eligibility requirements mean FHA Secure will only be able to help about 5% of all delinquent borrowers (as of mid-February, HUD reported that it had helped 1,467 nationwide). A major subprime industry group (ASF) has urged HUD to expand eligibility to *all delinquent* borrowers, including those with fixed rate mortgages and those who fell behind *before* their rate reset and HUD is reportedly considering this. ASF says this change could assist about 607,000 subprime borrowers who are two or more months behind (about two-thirds of all such borrowers).

Currently, FHA Secure is limited to borrowers who:

- have a history of 100% same-month mortgage and other regular debt payments 6 months *prior* to re-set (and has been on-time under any forbearance agreements)
- have a loan that has or will re-set between June 2005 and December 2008
- have 3% cash or equity in home (maximum loan to value is 97.65% or 97.15%)
- have a sustained history of employment and sufficient income to make mortgage payments (lenders are encouraged to use automated 31% and 43% ratios but can consider compensating factors if ratios exceeded).

If the new FHA Secure loan is not enough to pay off the current mortgage, the lender may execute a second lien at closing to pay off the difference. The combined total of the FHA Secure loan and the second lien can exceed FHA loan limits but the FHA lender must consider any payments required on the second lien when calculating 31% payment-to income ratio and 43% debt-to-income ratios. Second liens that require no payments for first 3 years are not considered in calculating these ratios.

For information, applicants can either call **1-800-CALL-FHA (1-800-225-5342)** or contact an FHA-approved lender – information is available online at http://locator.fha.gov/cgi-bin/answers_hud_loc.cfg/php/loc/enduser/loc.php.

FHA/GSE Loan Limits for Greater Boston

	Old FHA	Old GSE	**New FHA/GSE**
1-family	362,790	417,000	$523,750
2-family	461,113	533,850	$670,500
3-family	560,230	645,300	$810,450
4-family	646,421	801,950	$1,007,200

5. Higher Fannie Mae and Freddie Mac Purchase Limits

Two recent changes *may* pave the way for these enterprises to provide capital for refinancing by increasing mortgages purchase.

- In mid-February, the "economic stimulus" bill temporarily raised the loan limits for purchased mortgages. The increase will apply to mortgages originated between July 1, 2007 and December 31, 2008. The new limits are 125% of the area median house price and raised the previous Greater

Boston limits by about 25% for 1-4 unit properties (see above chart). Information on the limits for individual counties can be found using a Fannie Mae online lookup table at www.fanniemae.com/aboutfm/loanlimits.jhtml.

- On March 1, 2008, current caps on Fannie Mae and Freddie Mac total mortgage holdings were also lifted because both agencies met federal reporting requirements. This change is expected to have little effect in the short run, because the Office of Federal Housing Enterprise Oversight (OFHEO) has required both to maintain loan loss reserve requirements that are 30% above the legal minimum since 2004, and both reported large losses in the last quarter of 2007 ($3.56 billion for Fannie Mae and $1.5 billion for Freddie Mac). On February 28, however, OFHEO indicated that is considering gradually reducing the 30% cushion.

6. Proposed Federal Legislation

Many bills have been introduced in Congress, to address various aspects of the foreclosure crisis, though none have yet been enacted. They include bills to:

- allow bankruptcy judges to modify mortgages
- allow tax-exempt bonds to be used for refinancing subprime loans
- create programs by which FHA and/or GSEs purchase mortgages at discount, then refinance as affordable, and
- provide federal funding (CDBG) to public agencies or nonprofits to acquire and manage or resell vacant/abandoned properties
- bills to reform mortgage lending practices, and
- bills to reform the Federal Housing Administration and the GSEs so they can better serve low and moderate income borrowers.

Most of the bills filed to date include just one or two of these remedies, but one (**S.2636** - *The Foreclosure Prevention Act of 2008*), filed by Senator Reid of Nevada on February 13, 2008, includes the first four listed above. Its prospects are uncertain due to Republican opposition, especially with regard to modifying mortgages in bankruptcy, and a threatened veto by the White House. Major provisions include all of the above except FHA/GSE discounted loan purchase. S.2636 would also provide $200 million in new FY2008 appropriation for NeighborWorks.

Mortgage Modifications in Bankruptcy

Four bills (one House, three Senate) have been introduced that would allow judges to modify subprime home mortgages that are subject to foreclosure notices when owners have filed for Chapter 13 bankruptcy. Under the bill, judges could give debtors up to 30 years to repay their mortgage, as opposed to the 3-5 year term allowed under current law. Proponents estimate that the House bill could save 570,000 households from foreclosure, based on the number of non-delinquent owners facing re-sets through 2010. The mortgage banking industry strongly opposes the concept, as does the White House and congressional Republicans. The four bills are summarized below.

H.R. 3609 **–** *The Emergency Home Ownership and Mortgage Equity Protection Act of 2007-–* approved by House Judiciary Committee Subcommittee on Commercial and Administrative Law on December 12, 2007 and awaiting action by the full Judiciary Committee. For seven years following the date of bill enactment[25]:

- The bill would Allow judges in cases where foreclosure notice has been filed, to modify "subprime" and "non-traditional" mortgages on a homeowner's primary residence originated between January 1, 2000 and the date of bill enactment during Chapter 13 bankruptcy proceedings (adjustment of debts of a person with regular income) without the lender's consent.

- The judge could reduce the mortgage principal to the fair market value and allow the mortgage repayment term to extend up to 30 years from the date the mortgage originally began (well beyond the current 3-5 year maximum term of Chapter 13 plans). The interest rate during the repayment term would be set at a fixed rate equal to current yield rates for conventional mortgages "plus a reasonable premium for risk". The reduction would be treated as unsecured debt.
- The bill would also ban the imposition of new fees and penalties to existing debt during proceedings without timely notice to the debtor and trustee.
- To save time, it would eliminate the requirement that the debtor go through credit counseling before filing the bankruptcy petition if foreclosure proceedings have been initiated.
- The bill defines subprime as a first mortgage with an APR at least 3 points higher than US Treasury security of comparable maturity at the time of the loan application or a second mortgage with an APR at least 5 points higher. It defines "non-traditional" loans as those that at some point provide for deferral of payments of interest or principal (i.e. interest only and negative amortization loans), but excludes home equity lines of credit and reverse mortgages.

At a subcommittee hearing on the bill on January 29, 2008, the Mortgage Bankers Association testified against it, arguing banks, investors (including GSEs) and servicers will immediately lose money and would have to write down their portfolios, that servicers will have to pay Ginnie Mae security holders for losses (which they would not have to in case of foreclosure due to FHA/VA loan insurance), and that bill will encourage bankruptcy filings by owners with negative equity. Proponents note home mortgages are the only mortgages bankruptcy judges can't modify now.

S.2136 – *The Helping Families Save Their Homes in Bankruptcy Act of 2007* – is similar to H.3609 except that it does not specifically limit the remedy to subprime and non-traditional mortgages. It also includes language giving homeowners over 55 a $75,000 homestead exemption. The Judiciary Committee held a hearing on the bill in December 2007 and has scheduled the bill for consideration on February 14, 2008.

S. 2636, introduced by Senator Reid **-** Similar to S.2136.

S.2133 - *The Home Owners' Mortgage and Equity Savings (HOME) Act* –differs from others in that it allows mortgage modification *only if the lender approves,* does not specify terms of the repayment plan, and imposes a current income limit of 100% of the state median for households of two or more persons and 150% of the state median for one person households. It also has a slightly earlier cut-off date for eligibility, limiting mortgage modifications to those issues prior to September 26, 2007. Like S.2136, it applies to all type of home mortgages, not just subprime. It has been in committee since it was introduced in October 2007.

Raise Mortgage Revenue Bond Cap and Make Refinancing of Subprime Loan Eligible Use

The Bush administration has expressed support for this concept and it was included in an early Senate version of the recently passed Economic Stimulus bill but dropped from the final bill. Several other bills have also been filed with this provision, including one with White House support.

Administration Proposals On January 31, 2008, the Secretary of the Treasury recommended increasing the cap on mortgage revenue bonds by $15 billion over 3 years, with the increase to be used to refinance subprime mortgages. Language supporting this concept (details not known) is expected to be included in legislation soon to be introduced allowing extension of the New Market Tax Credit program.

S.2574 – the *Mortgage Refinancing Initiative Act of 2008*" – was filed by Senator Clinton of New York in late January 2008 and referred to the Senate Finance Committee. It would temporarily make the refinancing of subprime mortgage an allowable use of mortgage revenue bonds (and only apply to bonds issued in 2008 and 2009). It would also raise the national limit on tax-exempt bonds by $10 billion ($5 billion each in 2008 and 2009) and require proceeds be disbursed within a year of bond issuance. The additional authorization would be allocated to states based on the severity of their foreclosure rates, using a formula to be determined by the Treasury Secretary. States would have to use at least this increased allocation amount for subprime refinancing and could use more.

S.2636 (introduced by Senator Reid)– Would allow any mortgage revenue bonds issued by December 31, 2010 to be used to refinance "qualified subprime loans" and would provide a $10 billion increase in authorization in 2008 only. The increase would be distributed to States based on their share of the national population as of the 2000 Census. The bill defines qualified subprime loans as adjustable rate mortgages for single family homes originated in 2002 through 2007 that the bond issuers determines cannot be repaid without causing financial hardship to the borrower.

Purchase of Troubled Mortgages by Federal Government

Several proposals have been discussed but no legislation has been filed yet, though one bill that has been filed could potentially create a funding source.

"Federal Homeownership Preservation Corporation**" -** Senator Dodd of Connecticut, of the Senate Banking Committee, announced on January 23, 2008, that he is working on a proposal[26] to create a federal entity that would purchase troubled mortgages at a deep discount, based on their current market value, "ensuring that lenders and investors take a 'haircut'. The discount would be passed on to the owners who refinance into a new, lower mortgages at a fixed rate with a 30 year term and insured by FHA or backed by the GSEs. He proposed that the new entity be initially capitalized at $10-20 billion.

NCRC Proposal – GSE/FHA Purchase Loan in Securitized Pool at Discount ("Homeowner Emergency Loan Program" or HELP NOW) The National Community Reinvestment Coalition (NCRC) has proposed that FHA and the GSEs develop a program to purchase current loans in securitized pools at a discount. Homeowners could refinance with private lenders based on current appraised value using GSE underwriting; with the discounted portion of loan recaptured to extent available by appreciation realized on resale or future refinancing. Other all losses absorbed by government. The program could use nonprofit intermediaries to arrange refinancing.

Bill to Establish Family Foreclosure Rescue Corporation (H.4135) – This bill, filed in November 2007 by Representative Baca of California, would create a federal entity under the supervision of the Treasury Department to purchase mortgages on 1-4 unit properties and condos that are in default or at-risk. The bill would provide start-up funding of $200 million through appropriations and authorize the Corporation to sell up to $150 billion in bonds. The Corporation could refinance these mortgages. There is no direct discussion of discounts.

GSE Reform Bill (S. 2391) **–** *the Government Sponsored Enterprise Mission Improvement Act* - Sets up an affordable housing program that will deal with the subprime lending crisis in year one then use to build affordable housing in future years through a Trust Fund. There is no such language in the House-passed bill.

Allow Federal Home Loan Bank Grants to Subsidize Loan Modifications

In mid-January 2008, the Federal Housing Finance Board (FHFB) approved a waiver allowing the Federal Home Loan Bank of San Francisco to use Affordable Housing Program funds to help refinance or modify subprime or nontraditional adjustable rate loans held by its member banks or their subsidiaries. Assistance would be limited to borrowers with incomes at or below 80% of area median whose loans have become unaffordable as a result of adjustments to their interest rate or principal balance.

The waiver allows the AHP subsidy to be used to: (1) reduce the principal balance to an LTV of 97% or less (GSE purchase limits apply), (2) buy down interest rates to a point where the new fixed rate mortgage would result in a PITI not exceeding 45% of income, (3) pay homeownership and credit counseling costs, and (4) pay other "reasonable" restructuring costs. The maximum AHP subsidy would be $25,000 per household and members would have to absorb two-thirds of these costs (i.e. $2 for every $1 of subsidy). The Federal Housing Finance Board announced in January that it will seek public comment soon on possible expansion of this waiver to other member banks.[27]

CRA Proposals– Allow foreclosure mitigation to count under CRA

The Comptroller of the Currency, John Dugan, suggested in a February 12, 2008 speech that the Community Reinvestment Act (CRA) be amended to give credit for investments in *middle-income* areas that are distressed due to foreclosures. He also urged revising federal banking laws to allow such investments to qualify as "public welfare" investments and extending CRA to non-banks, including the investment banks that have been major securitizers of mortgages.

Proposals to Address Vacant Foreclosed Properties and Assist Displaced Households

NCRC – Develop HUD program to fund acquisition of vacant/abandon properties
NCRC has urged HUD to develop program to address vacant and abandoned properties working with nonprofit intermediaries to create affordable units. The proposal would give recently foreclosed homeowners right of first refusal for their prior homes where applicable. See National Vacant Properties Campaign: www.vacantproperties.org/

Center for American Progress/Enterprise – Proposal for Revolving Loan Fund
The Center for American Progress and Enterprise Community Partners released a proposal[28] (January 31, 2008) called the Great American Dream Neighborhood Stabilization Plan (GARDNS) to help neighborhoods with high numbers of lender-owned foreclosed homes. It proposes the creation of a $10 billion flexible revolving loan fund to enable local nonprofits or community land trusts (and municipalities where necessary) to purchase these homes and resell them at affordable prices to low and moderate income families. Purchase prices would be restricted to the MSA area median price. To expedite resales, the authors recommend against requiring appraisals. Sale proceeds would be recycled for new purchases. Long-term costs would be reduced by a shared-appreciation deed restriction. The nonprofit purchasers would also be permitted to rent the units, preferably under a rent-to-own arrangement, if no buyer could be found within three months.

They recommended using a special appropriation under HUD's HOME and/or CDBG programs to fund the program, with waivers of some program restrictions as needed (as in Katrina relief). The funding would be targeted to areas with high rates of foreclosures and defaults and allow use of a limited percentage of the money for related local police, fire and code-enforcement costs.

The authors note that the recent wave of foreclosures is putting entire neighborhoods at risk, as comparable sales fall, based on local foreclosure sales and the presence of vacant lender-owned homes, increasing the likelihood that other residents will slide into a negative equity position. A 2006 study[29], for example, has found that single family home prices decline by 0.9% to 1.44% for each conventional foreclosure within a block. The prevalence of vacant lender-owned homes further suppresses local values and resale opportunities for owners who are current on their mortgages.

S.2455 - Provide Community Development Block Grant (CDBG) to Help Displaced Households
Filed by Senator Coleman of Minnesota and co-sponsored by Senator Leahy of Vermont, this bill would provide $1 billion in emergency CDBG funding to cover costs related to the impact of foreclosures on communities. Absent HUD waivers, at least 50% of the funding would have to benefit low and moderate income households (incomes ≤ 80% AMI) and no more than 25% of the money could be used for public services, Localities could not receive the funds until they had a HUD-approved "comprehensive plan" outlining how they would use the money. Eligible activities would include:

- foreclosure prevention counseling to homeowners (funds could be provided directly to certified housing counseling agencies)
- "foreclosure-based rental assistance" as a form of relocation assistance for displaced renters

S.2636 – Provide CDBG to Manage Foreclosed/At Risk Properties (*Reid Bill*) This legislation would provide a one-time $4 billion appropriation of CDBG funds for aid to States and units of local government, using a needs-based funding formula to be determined by HUD that considers the numbers and percentages in each jurisdiction of home foreclosures, subprime home mortgages and homes in default or in delinquency. Funding could be used to assist households with incomes of up to 120% of HUD area median. HUD would have to devise distribution formula within 60 days of bill enactment and make funds available not later than 30 days after establishing the formula. Grantee would have to spend the funds within 18 months of receipt. Funds could be used for grants and loans to CDFIs, national intermediaries, nonprofit agencies and others for:

- buying and rehabilitating houses that have been abandoned or foreclosed upon for sale, rental or redevelopment.
- setting up financing mechanisms, including loan loss reserves, soft seconds and share equity programs
- demolition, and
- landbanking of foreclosed homes.

Mortgage Reform Bills and Regulations (to improve future lending practices)

Legislation to reform mortgage lending practices passed in the House in November 2007; a similar but slightly different bill was introduced in the Senate in December and remains in Committee as of March 4, 2008.

H.R. 3915 **-** *The Mortgage Reform and Anti-Predatory Lending Act of 2007* – sponsored by Representative Frank of Massachusetts, would impose new regulatory standards *going forward* on mortgage lenders and originators. Key provisions include:

- Setting up national registration system for all mortgage originators and requiring them to meet minimum education and certification standards
- Imposing minimum lending standards that require originators to ensure borrowers have a reasonable ability to repay loans and will receive a net benefit from refinancing (critics note broker steering and excessive broker fees will still be allowed via disclosure requirement rather than prohibiting).
- Limits steering of borrowers to high cost loans when they qualify for lower cost loans and imposes penalties on originators who violate this prohibition

- Establishing a minimum national standard for assignee and securitizer liability by penalizing those who don't follow the minimum lending standards above (critics note that unlike S.2452, it doesn't hold lenders and securitizers accountable for selling products based on unfair, deceptive or fraudulent terms).
- Requiring minimum notice period for renters when properties are foreclosed – bona fide tenants would have to receive a 90 day notice to vacate and those with leases could stay until current lease expires (or at least six months if lease term is longer).

S.2452 – *The Home Ownership Preservation and Protection Act of 2007* – filed by Senator Dodd of Connecticut proposes many reforms similar to H.3915. One of the major differences is that the renter protection language allows tenants with leases to remain for the full term of lease, rather than capping it at six months.

Federal Reserve – Anti-Predatory Lending Rules Amendments (Proposed)
In December 2007, the Federal Reserve Board proposed amending its current Truth in Lending regulation to be consistent with the Home Ownership and Equity Protection Act (HOEPA). The proposed rule would impose new restrictions on lenders making "higher priced" mortgages (APR at least 3 percentage points above yield on comparable treasury notes) to homeowners. It would require lenders to consider a borrower's ability to repay when making loans, verify income and asset data, and set up escrow accounts for taxes and insurance. Prepayment penalties would have to be disclosed and could not apply for at least 60 days before any payment increase. The proposed rule would also require fuller disclosure of terms and costs for almost all types of mortgages.

A number of groups have criticized the proposed rules as too weak and 19 members of the House Financial Services Committee sent a letter to Chairman Bernanke in December urging changes.[30]

FHA and GSE Reform Legislation

Temporarily Raise Fannie Mae and Freddie Mac Portfolio Caps (H.R. 3838) – This bill was filed by Representative Frank of Massachusetts in October to lift the then-current OFHEO cap and increase the current portfolio limitations for Fannie Mae and Freddie Mac by at least 10% and require that 85% of such increase be used for refinancing subprime mortgages at risk of foreclosure. The bill proposed making these actions effective for six months.

Modernize FHA (S.2338 and H.R. 1852) – The full House approved FHA modernization legislation intended to make FHA financing more usable by low and moderate income borrowers. It would permanently raise FHA mortgage limits, eliminate the requirement for a 3 percent down payment, allow longer mortgage terms (up to 40 years) and allow the FHA to set mortgage insurance premiums based on borrower risk, so that it can charge lower interest rates on mortgages. The bill as passed would also authorize higher appropriations for the HUD counseling program and allow certain increased FHA revenues to be used for a National Housing Trust Fund.

The Senate approved a somewhat similar bill in December that excluded funding for the Trust Fund and provided a smaller increase to FHA loan limits – setting them at the GSE purchase limits rather than the 125% of area median home price authorized in the House bill. The House has indicated it will changes to the Trust Fund language in conference. Both the Senate and House expect to pass a bill by April 2008.

Attachment 1: Websites

Massachusetts State Websites

- Massachusetts Attorney General's Office
  www.mass.gov/ag

- Massachusetts Office of Consumer Affairs and Business Regulation
  www.mass.gov/ocabr

- Massachusetts Department of Housing and Community Development
  www.mass.gov/dhcd

- Massachusetts Division of Banks
  www.mass.gov/dob

- MassHousing
  www.masshousing.com
  Visit MassHousing for information about the Home Saver Mortgage Program

- Massachusetts Housing Partnership
  www.mhp.net
  MHP has compiled maps illustrating what communities are experiencing higher rates of foreclosures. To find them, click on 'Homeownership' and 'MHP News'.

Consumer Assistance Websites

- Fannie Mae
  www.efanniemae.com/sf/servicing/homesaveradvance.jsp
  Information on Home Saver Advance loan program for borrowers with mortgage arrears

- Federal Housing Administration (FHA)
  http://portal.hud.gov/portal/page?_pageid=33,717446&_dad=portal&_schema=PORTAL
  Information on FHA Secure loan program for borrowers with resetting mortgages

- Federal Reserve Bank of Boston Foreclosure Outreach Campaign
  www.theinformedhomebuyer.org
  In an effort to assist homeowners facing this challenge the Federal Reserve Bank of Boston has also developed a website and a new brochure, *You May Be Paying Too Much For Your Mortgage.* The website is a helpful information center homeowners can use to learn about foreclosure education resources, foreclosure prevention counseling and collaborations such as the Mortgage Relief Fund that could help some homeowners refinance into affordable fixed-rate mortgages.

- NeighborWorks Center for Foreclosure Solutions
  www.nw.org/network/neighborworksprogs/foreclosuresolutions/default.asp
  The NeighborWorks Center for Foreclosure Solutions was created to preserve homeownership and healthy neighborhoods in the face of rising foreclosure rates. NeighborWorks offers training courses and resources for foreclosure mitigation counselors, conducts public outreach campaigns to reach struggling homeowners, and works with local leaders to create sustainable foreclosure intervention programs.

- Homeownership Preservation Foundation
  www.995hope.org
  Through its 888-995-HOPE hotline, the Homeownership Preservation Foundation has a single mission: to help homeowners avoid foreclosure. The Homeownership Preservation Foundation is an independent nonprofit that provides HUD-approved counselors dedicated to helping homeowners.

- MERS for Homeowners
  www.mersinc.org/homeowners/
  MERS has launched MERS FOR HOMEOWNERS, an online resource designed to help homeowners identify the mortgage company handling their mortgage loan.

- Mortgage Bankers Association - Home Loan Learning Center Foreclosure Prevention
  www.homeloanlearningcenter.com/YourFinances/ForeclosurePreventionResourceCenter.htm
  Resource is designed to help borrowers to make informed financial decisions through access to financial education. It also has information about upcoming workshops and events and may offer some new ideas for counselors.

- Mortgage Relief Fund
  www.mortgagerelieffund.com
  Citizens Bank, Sovereign Bank, TD Banknorth, Webster Bank and Bank of America have committed $125 million in funds to create the Mortgage Relief Fund. The goal is to help eligible homeowners in New England refinance into more conventional fixed-rate loans that will better meet their needs.

Data and Research Websites

- HOPE NOW
  www.fsround.org/hope_now/hope_now.htm
  Data and policy announcements

- State Foreclosure Prevention Working Group: *Analysis of Subprime Mortgage Servicing Performance*
  www.csbs.org
  Report on information on foreclosure activity and analysis of effectiveness of loan servicer responses in 11 states

- National Governors Association*: State Strategies to Address Foreclosures*
  www.nga.org
  Study of current and proposed state actions to address subprime and prevent predatory lending, and help families avoid foreclosure. Also provides good overview of history of subprime lending and foreclosure issues.

- NeighborWorks America
  www.nw.org/network/neighborworksprogs/foreclosuresolutions/reports/reports.asp
  Studies of effective foreclosure strategies and how-to guide for localities. Additional studies and links at www.nw.org/network/pubs/applied/default.asp

- Office of the Comptroller of the Currency: *Foreclosure Prevention: Improving Contact with Borrowers*

www.occ.gov/cdd/Foreclosure_Prevention_Insights.pdf
Recommended strategies for lenders to better reach delinquent borrowers, from the Office of the Comptroller of the Currency, provides insights for lenders.

- Freddie Mac
  www.freddiemac.com/service/msp/pdf/foreclosure_avoidance_dec2005.pdf
  www.freddiemac.com/service/msp/pdf/foreclosure_avoidance_dec2007.pdf
  2005 and 2007 studies of reasons delinquent homeowners do not contact their lenders.

- Federal Reserve Bank of Boston
  www.bos.frb.org/commdev/foreclosures/index.htm
  Webpage with links to recent studies and loan data on foreclosures in New England

- Mortgage Bankers Association (MBA)
  www.mortgagebankers.org/files/News/InternalResource/59454_LoanModificationsSurvey.pdf
  Profile of foreclosures July-September 2007

- U.S. Congress
  www.jec.senate.gov/Documents/Reports/10.25.07OctoberSubprimeReport.pdf
  Majority staff of Joint Economic Committee. Report on factors leading to current subprime crisis and projected subprime foreclosures by state mid-2007 through 2009 "The Subprime Lending Crisis: The Economic Impact on Wealth, Property Values and Tax Revenues, and How We Got Here".

- U.S. Congress
  www.abiworld.org/110congress/HearingsMatrix.html
  Link to recent hearings and testimony on foreclosure crisis via American Bankruptcy Institute website.

Attachment 2: Comparison of Major Programs

Program	HOPE Now Reset Letters (120 day notice)	HOPE Now letters (60+ delinquent)	ASF Refinance guidelines	ASF 5 Year Rate Freeze/ Fast Track Modification	ASF Non-Fast Track Loan Modification guidelines	ASF Loss Mitigation Guidelines	ASF 30 day pause (Project Lifeline)	FHA Secure	Mass Housing Home Saver	Fannie Mae personal loans
Date Announced	12/2007	11/2007	12/6/2007	12/6/2007	12/6/2007	12/6/2007	2/12/2008	8/31/2007	7/11/2007	2/27/2008
Date Avail if later			1/2008	1/2008	1/2008	1/2008	by 3/31/2008	9/5/2007		4/15/2008
Eligible loan type	Subprime ARMs	Subprime	1st lien Subprime ARM resetting in 1st 3 yrs				All	ARMs	All purchase loans, some refinances	All
Minimum reset amount			none	reset will raise payment 10%+		none				
Reset Status			pre- reset							
Origination date limit?			1/1/2005-7/31/2007							
Initial Reset date limit?			1/1/08-7/31/2010					June 2005-Dec 2008		
Mortgage holder		HOPE Now Member	in securitized pool					non-FHA		Fannie-held or -securitized
Payment status	Pre-reset	60 days+ delinquent	Current (<30d) and not>60d mortgage than once in prior 12 months)			Pre-reset and not current	90+d delinquent	Never >30 in 6 months pre-reset	up to 60 days if due to reset	60 days+ delinquent
Eligible if in bankruptcy?							No			No
Eligible if in foreclosure?							No if sale w/i 30 days			
Eligible if vacant property?					No		No			
Eligible properties				Primary residence	Primary residence				1-4u	All
Eligible Owner type		Owner-Occupants		Owner-Occupants	Owner-occupants		Owner-Occupants		Owner-Occupants	All
Income limits?	-	-	-	-	-		-	-	125%/135% AMI	-
Employment requirement			Same as FHA Secure					?	employed w/ verifiable income	
FICO				<660 AND less than 10% above orig FICO score	>660 OR less than 10% above orig FICO score			Not used	560 for 1u, 580 for 2F, 620 for 3-4F	
Current LTV			not>97%	>97%	>97%					
Product			Any conventional	5 year interest rate freeze	Negotiated individually	Negotiated individually	Up to 30 yr fixed mortgage		Up to 30 yr fixed mortgage	Personal loan - 5% interest, 15 yr term
Second Mortgage also given?									soft second	
Max LTV			97%*					97.15% or 97.75%	80%	
Max CLTV									105%	
Max Loan			GSE					GSE	GSE (for combined total)	up to $15K or 15% of UPB if less
Max Payment to Income Ratio			31%					31%		
Max DTI			43%					43%		

ENDNOTES

1 Global Insight, "U.S. Metro Economies – The Mortgage Crisis: Economic and Fiscal Implications for Metro Areas", prepared for the U.S. Conference of Mayors, November 2007, Table A1. http://www.usmayors.org/metroeconomies/1107/report.pdf

2 Randall S. Kroszner, "The Challenges Facing Subprime Mortgage Borrowers", Remarks to the Consumer Bankers Association 2007 Fair Lending Conference, November 5, 2007, page 3. See http://www.federalreserve.gov/newsevents/speech/kroszner20071105a.htm

3 "Madigan and State Foreclosure Prevention Working Group Release Report on Mortgage Activities", Illinois Attorney General's Office, February 29, 2008. http://www.illinoisattorneygeneral.gov/pressroom/2008_02/20080208.html The full report is available at http://www.mass.gov/Cago/docs/press/2008_02_07_foreclosure_report_attachment1.pdf

4 Bill Longbrake and Anthony T. Cluff, "Prime and Subprime Residential Mortgages: 2007 Loss Mitigation Activity by HOPE NOW Alliance Servicers", Financial Services Roundtable, February 2009, page 8. http://www.fsround.org/media/pdfs/NationaldataFeb.pdf

5 National Governors Association, "State Strategies to Address Foreclosures", September 19, 2007, pages 3-6 http://www.nga.org/Files/pdf/0709FORECLOSURES.PDF

6 Kristopher Gerardi, Adam Hale Shapiro and Paul S. Willen, "Subprime Outcomes: Risky Mortgages, Homeownership Experiences, and Foreclosures", Federal Reserve Bank of Boston Working Paper 07-15, December 3, 2007, pages 5- 7. http://www.bos.frb.org/economic/wp/wp2007/wp0715.pdf

7 Mark Zandi, Chief Economist, Moody's Economy.Com, Written Testimony before the House Subcommittee on Commercial and Administrative Law Hearing on "The Growing Mortgage Foreclosure Crisis: Identifying Solutions and Dispelling Myths", January 29, 2008, page 5. http://judiciary.house.gov/media/pdfs/Zandi080129.pdf

8 Kristopher Gerardi, Adam Hale Shapiro and Paul S. Willen, "Subprime Outcomes: Risky Mortgages, Homeownership Experiences, and Foreclosures", Federal Reserve Bank of Boston Working Paper 07-15, December 3, 2007, page 7. http://www.bos.frb.org/economic/wp/wp2007/wp0715.pdf

9 Mark Zandi, Chief Economist, Moody's Economy.Com, Written Testimony before the House Subcommittee on Commercial and Administrative Law Hearing on "The Growing Mortgage Foreclosure Crisis: Identifying Solutions and Dispelling Myths", January 29, 2008, page 2. http://judiciary.house.gov/media/pdfs/Zandi080129.pdf

10 HOPE NOW Alliance – Data for July-December 2007 is reported in http://www.fsround.org/media/pdfs/NationaldataFeb.pdf and Data for July 2007-January 2008 in "Results in Helping Homeowners – July 1, 2007-January 31,2008", http://www.fsround.org/hope_now/pdfs/JanuaryDataTables.pdf

11 Amy Wyeth, "Petitions to Foreclose Increase 55% in 2007", *Banker and Tradesman,* Boston, MA February 11, 2008, page 1

12 A November 2007 study for the U.S. Conference of Mayors by a Massachusetts firm, Global Insight Inc., estimated 21,500 loans would be foreclosed in 2008 (14,418 subprime and 7,105 prime loans).

13 HOPE NOW "State by State January data" – Table 1 – see http://www.fsround.org/hope_now/pdfs/JanuaryDataTables.pdf

14 Gerardi et al., page 43

15 "Foreclosure Avoidance Research", Freddie Mac, 2005, found over half of borrowers in foreclosure had had no contact with their lender, though 75% recalled being contacted by their lender by phone or mail. It also found that almost half (47%) were first time homebuyers and that many borrowers who are at least 1 month delinquent are intimidated about talking with banks and having trouble paying other bills on time. Two thirds of delinquent borrowers reported contacting their lender. Those who didn't felt they could handle situation on their own. Many (36%) were unaware of existence of counseling agencies or ability to request temporary forbearance.

http://www.freddiemac.com/service/msp/pdf/foreclosure_avoidance_dec2005.pdf A 2007 update found little change http://www.freddiemac.com/service/msp/pdf/foreclosure_avoidance_dec2007.pdf

16 Consumer Credit Counseling Service of San Francisco has a special division called the Housing Education Center with website, etc. It begins calling borrowers after 45 days, then provides counseling, action plan. Because calls are made at early stage, most borrowers able to keep home – usually through reinstatements – average contact rate 28%.

17 Lei Ding, Roberto G. Quercia and Janneke Ratcliffe, "Post-Purchase Counseling and Default Resolutions Among Low- and Moderate-Income Borrowers", University of North Carolina, Chapel Hill, Center for Community Capitalism, September 2007. It also found owners are not interested in counseling unless delinquent. The study looked the effect of outreach to 1700 borrowers who were 60+ days past due a total of 3,000 times. Of that group, 31% (924 delinquency spells) were referred for counseling and 10% (350). Among all borrowers at least 60 days delinquent, 72% of those counseled were able to cure their default spell, compared to 65% of those not counseled. It also found sales options affected outcomes- owners with little or negative equity were more likely to end in foreclosure. http://www.nw.org/Network/neighborworksProgs/foreclosuresolutions/documents/Counseling.pdf

18 Office of the Attorney General, "Attorney General Martha Coakley Releases Findings of Multi-State Working Group's Foreclosure Data Report"

19 "Financial Institutions and Foreclosure Intervention: Best Practices", NeighborWorks, November 2007 – online at http://www.nw.org/network/pubs/studies/documents/Foreclosure_Intervention.pdf

20 Gerardi et al., page 17

21 National Industry Foreclosure Counseling training and performance standards were announced on 1/18/2008.

22 The appropriation permits NeighborWorks to use up to $5 million can be used for foreclosure and default mitigation counseling capacity-building among intermediaries and their partners and up to $7.2 million for NRC administrative costs.

23 See NeighborWorks website http://www.nw.org/network/nfmcp/documents/NFMCAwardeesbystate.pdf for information amounts awarded to Massachusetts intermediaries and counseling agencies.

24 Center for Responsible Lending (CRL), "Voluntary Loan Modifications Fall Far Short: Foreclosure Crisis will Continue Unabated without Court-Supervised Modifications", CRL Issue Brief, January 30, 2008, page 1 http://www.responsiblelending.org/issues/mortgage/research/updated-analysis-of-paulson-plan.html

25 Detailed information on the provisions of H.R. 3609, as modified by the "Chabot Compromise" approved by the House Subcommittee on December 12, 2007 is available at http://judiciary.house.gov/Printshop.aspx?Section=758.

26 See http://dodd.senate.gov/multimedia/2008/012308_ReidLetter.pdf

27 See http://www.fhfb.gov/GetFile.aspx?FileID=6658 for details on the Federal Home Loan Bank Affordable Housing Program waiver.

28 David Abromowitz, "Addressing Foreclosures: A Great American Dream Neighborhood Stabilization Plan", Center for American Progress and Enterprise Community Partners, January 31, 2008. http://www.americanprogress.org/issues/2008/01/gardns.html

29 Dan Immergluck, "The External Costs of Foreclosure", 2006 http://www.nw.org/network/neighborworksProgs/foreclosuresolutions/documents/hpd_4closehsgprice.pdf

30 See http://www.house.gov/apps/list/press/financialsvcs_dem/press121307.shtml for text of letter.