

**Testimony of Lorry S.C. Brown
On Behalf of the Michigan Advocacy Project (MAP)**

**House Committee on Banking and Financial Services
House Bills 4453, 4454 and 4455**

Chairman Coulouris and members of the House Committee on Banking and Financial Services, thank you for the opportunity to testify regarding House Bills 4453, 4454 and 4455. I am Lorry Brown, the statewide foreclosure prevention specialist at Michigan Poverty Law Program. Michigan Poverty Law Program is the statewide back-up center for legal services programs. I am here today on behalf of the Michigan Advocacy Project. The Michigan Advocacy Project (MAP) is a joint project between the Michigan League for Human Services (MLHS) and the Michigan Poverty Law Program (MPLP). MAP advocates on behalf of the state's low-income population on issues in the areas of low-income housing, family law, consumer protections, and foreclosure prevention.

As we all know, we are facing the greatest foreclosure crisis nationally and locally. According to data compiled by the Center for Responsible Lending, there have been over 14,000 new foreclosure filings in Michigan since January 1, 2009. The number of foreclosures will continue to grow. Too often the foreclosures occur because the homeowners are not aware of the process itself and the options to avoid foreclosure. Also, from a homeowner's perspective, one of the biggest obstacles for a homeowner in trying to avoid foreclosure is the finding a live person on the mortgage holder's side who can provide reliable information about the loan account and who has the authority to make loss mitigation decisions, specifically loan modification decisions.

Housing counselors and homeowners have reported on futile attempts to navigate vast voice mail systems, being bounced from one department to another, talking to someone in another country who knows nothing about the loan account, and receiving contradictory information from different servicer representatives. Further, housing counselors give accounts about representatives of mortgage holders or servicers who do not return telephone calls; who take 30-60 days to respond to their requests; and often do not have the authority to negotiate a meaningful workout agreement with the homeowner to avoid foreclosure.

Over the past year, in response to this crisis, the federal government, and the lending industry have all responded with various initiatives, such as the Federal Hope for Homeowners refinancing program and the industry supported HOPE Now fast track loan modification program, all aimed at avoiding foreclosures. But these programs have been completely voluntary on the part of the lenders and as a result ineffective.

As such, more and more states have been taking initiatives to address this problem to bridge the communication gap between mortgage holders and homeowners by requiring mandated pre-foreclosure contact. Through House Bills 4453, 4454 and 4455, Michigan will be joining a growing list of states that are addressing this problem by requiring mandated pre-foreclosure negotiations between the mortgage holder and the homeowner.

Other states have also found that the effective agreement to keep homeowners in their homes is through loan modifications. Similarly, the most effective way to ensure that mortgage holders and their servicers attempt in good faith to negotiate meaningful loan modifications with

homeowners is to incorporate that requirement into the state's foreclosure laws and make it a condition precedent to foreclosure. House bills 4453, 4454 and 4455 bills do exactly that.

We therefore support House Bills 4453, 4454 and 4455 and agree with the goals of these bills. If enacted, for the next two years, Michigan will have a foreclosure process system where all the right parties are required to meet to negotiate a meaningful loan modification. Not only will this avoid foreclosures, thus keeping homeowners in their homes, but this will also stabilize neighborhoods. I do however would like to address a few concerns.

Previous Loan Modifications

HB 4454, Section 3205A(6) provides that the sections do not apply if the borrower has previously agreed to a loan modification and has not complied with the terms of the loan modification for 1 year after the date of the modification. One major concern is that this provision seems to apply to loan modifications that have been entered into prior to this bill. The concern is that those loan modifications might not have been made under the FDIC program or might not have been a sustainable loan modification. May I suggest that this provision should be limited to loan modifications made under this Act or if it is prior to the Act, the loan modification was calculated under the FDIC program.

FDIC Workout Program:

HB 4453 defines the "FDIC Workout Program" as "the FDIC Mortgage Loan Modification Program for delinquent residential first mortgages developed by the Federal Deposit Insurance Corporation, effective October 6, 2008."

It is not clear whether the October 2008 publication date is just for identification purposes generally or whether the bill is saying that we must use the version of the FDIC program released on October 6, 2008. I bring this to your attention because the FDIC program is constantly being updated. In fact in President Obama's recent Homeowner Affordability and Stability Plan, there is some mention about modifying the FDIC program. Also, the version online now is not exactly the version that was on online in October 2008. I am not even sure that we can have access to a working program for the earlier version. So may I suggest the following language:

"The FDIC Mortgage Loan Modification Program for delinquent residential first mortgages developed by the Federal Deposit Insurance Corporation in the form in use by the FDIC at the time of the pre-foreclosure meeting under sections 3205B to 3205D."

Thank you.

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