



Anti-poverty Advocates

February 26, 2009

Representative Andy Coulouris
Chair, House Banking and Financial Services Committee
Room 327
House Office Building
Lansing, Michigan

re: House Banking and Financial Services Committee
hearing scheduled for 10:30 AM and testimony
concerning HB 4453, 4454 and 4455

Dear Committee Chair Coulouris:

I am writing to express my support for the package of mortgage foreclosure relief bills (HB 4453, 4454 and 4455) scheduled for hearing before the House Banking and Financial Services Committee.

The bills provide an opportunity for lenders to mitigate foreclosure losses and borrowers to remain in their homes with renegotiated loan terms under the federally recommended FDIC model. The FDIC loan modification program is premised on the theory that lenders should use the model if it is more beneficial to the lender than foreclosing. The FDIC formula assists lenders with calculating foreclosure costs and comparing those costs to the expense of recasting the loan based on the borrower's income, enabling the borrower to remain in the home and continue making mortgage payments which are more affordable. If modified, the loan will generally provide for a lower fixed rate of interest, translating to lower monthly payments for a 5 year period, with an increased fixed interest rate thereafter. Because the FDIC program is designed to help lenders achieve savings (by avoiding enormous foreclosure costs) while keeping families in their homes, it strikes a fair balance between the interests of these parties, in a neutral formula which has been federally endorsed. It is the model that the federal government is currently utilizing to restructure the IndyMac Bank loans.

In order to facilitate these loan modifications, the legislation directs lenders to notify MSHDA of an intent to foreclose and provides an opportunity for MSHDA to refer delinquent borrowers to approved loan counsellors. Our experience has been, and I believe that most lenders and housing advocates would agree, that the involvement of professional housing counsellors in the effort to develop workable loan modifications, generally produces

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Hon. Andy Coulouris
Chair, House Banking and Financial Services Committee
Page two

sustainable agreements. This should not be surprising since disinterested third party counsellors are able to translate lender proposals to borrowers so that borrowers clearly understand their new obligations and can assist borrowers with efforts to present their financials and submit workable proposals to the lenders. It makes sense to involve MSHDA in this process since it is a governmental entity with a significant interest in resolving the current foreclosure crisis which is depressing housing markets, threatening the mortgage industry and home purchase credit, destroying whole neighborhoods and increasing the number of households facing homelessness. The involvement of MSHDA at this stage will also permit it to collect reliable information concerning the scope of the crisis and measure the success of these efforts to ameliorate it.

Our significant experience with outreach efforts to 6500 occupied homes in Detroit annually in the Wayne County Tax foreclosure process, indicates that contact by governmental entities (other than the foreclosing entity) with referrals to helpful agencies, works. This is especially important in the foreclosure context where so many delinquent borrowers have been victimized by foreclosure rescue scams. As these scams are publicized, the average delinquent borrower is understandably confused and reluctant to contact anyone for assistance when s/he receives on average, a dozen pieces of mail offering to "help" following the publication of the foreclosure notice. A referral with a governmental "seal of approval" is more effective. The bills provide for this type of referral. However, in order to encourage homeowners to take advantage of this opportunity, the referral message from MSHDA to the delinquent homeowner will have to be clear, spelling out in plain English, how an FDIC modification would work.

While the legislation does not mandate loan modifications, it does provide a significant encouragement to lenders to negotiate loan terms in light of the FDIC model, requiring them to pursue judicial foreclosure, if they choose the more expensive route of foreclosing when the FDIC formula would direct a loan modification as the less costly approach.

I am concerned about the provision in the legislation which would deny relief to borrowers who had defaulted on a loan modification within the past year. Since it is clear that so many borrowers negotiated unworkable loan modifications (either without the assistance of qualified housing counsellors, or under duress, or as victims of rescue scams), we believe that these homeowners should not be barred from an opportunity to participate in the program. If the language is amended to deny relief to borrowers who defaulted within the past year on a previous loan modification that was equivalent to or better than what the FDIC formula would offer, it would avoid the problem of penalizing borrowers with forbearance agreements or loan modifications that were not sustainable. Also, an exception for borrowers who defaulted on a previous loan modification for reasons beyond their control, would make sense where a new FDIC modification would work, permitting the lender to achieve savings (over foreclosure) while the borrower continues to make mortgage payments and can remain in the home.

Hon. Andy Coulouris
Chair, House Banking and Financial Services Committee
Page three

The legislation is intended to provide relief to families in foreclosure (enabling them to remain in their homes) and lenders (assisting them with achieving savings while avoiding costly foreclosures) in a pragmatic design which encourages the parties to reach an agreement and rewrite loans along the lines of an objective standard that has been federally endorsed. With the above-recommended clarification concerning borrowers who defaulted on a previous modification within a year, it could provide significant relief for many struggling homeowners in Michigan for the next two years. The sunset provision enables the legislature to evaluate the program and relief it is designed to provide in the near future. The involvement of MSHDA should enable the legislature to capture the information it will need to determine whether to continue or amend the program.

Sincerely,



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