



Ohio Department of Commerce

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Ted Strickland
Governor

Kimberly A. Zurz
Director

MEMORANDUM

To: Ohio Foreclosure Prevention Task Force members
From: Kimberly A. Zurz, Chair, Ohio Foreclosure Prevention Task Force
Re: Update on Implementation of Foreclosure Prevention Task Force Recommendations
Date: May 23, 2008

The purpose of this memo is to provide a status update on the recommendations of the Foreclosure Prevention Task Force as they apply to each responsible party.

Governor

- **Compact to Help Ohioans Preserve Homeownership** (Recommendations #8-11)- Before the Foreclosure Prevention Task Force had its first meeting, Governor Ted Strickland had a meeting with subprime servicers and began the process toward an agreement between the state of Ohio and the servicers. After Governor Strickland found the first response from the servicers unacceptable, Department of Commerce Director Kimberly Zurz met with servicers and their trade associations in December 2007 to discuss the proposed compact. On April 7, 2008, after a year of discussions and negotiations, nine mortgage loan servicers signed the Ohio Compact to Preserve Homeownership. The six principles agreed to by the loan servicers included their willingness to:
 - Engage in a substantial and large-scale loan modification effort for adjustable rate mortgage resets and subprime mortgages.
 - Identify, evaluate and make good faith attempts to contact at-risk or defaulting borrowers as soon as possible.
 - Modify loans to the extent permissible within existing fiduciary, contractual or other legal obligations and in accordance with prudent mortgage lending and servicing practices.
 - Create incentives for staff and foreclosure counsel to modify loans rather than foreclose.
 - Report progress to the Ohio Department of Commerce.
 - Enter into a non-binding agreement with the State for some defined period of time. (The agreements extend to June 30, 2009.)

The nine servicers who agreed to sign the Ohio Compact are: Carrington Mortgage Services, CITI, GMAC RESCAP/Homecomings Financial, HSBC Finance Corp., Litton Loan Servicing, Ocwen Financial Corp., Option One Mortgage, Saxon Mortgage Services and Select Portfolio Servicing. Director Zurz encourages more servicers to join their colleagues and the State of Ohio in this good faith effort to help Ohioans stay in their homes.

Ohio Department of Commerce

- **Conduct a public awareness campaign and borrower outreach events to encourage borrowers to contact their lender if they are facing an ARM reset or if they are having trouble making their mortgage payment (Recommendation #1)**- The Ohio Department of Commerce launched “Save the Dream,” a multi-media public awareness campaign in March 2008 that includes television and radio advertising, an information-rich Web site (www.savethedream.ohio.gov) and a telephone hotline (888-404-4674). The campaign is designed to help Ohioans prevent foreclosure. In a multi-agency effort, the second component of Ohio’s “Save the Dream” foreclosure assistance program was announced: a new initiative that connects qualified homeowners with legal aid lawyers and nearly 1,100 attorneys statewide who have volunteered to provide legal services free of charge. Governor Ted Strickland, Ohio Supreme Court Chief Justice Thomas J. Moyer, the Office of the Ohio Attorney General, Ohio Treasurer Richard Cordray, Director of Commerce Kimberly Zurz, Ohio State Bar Association President Rob Ware and legal aid leaders announced the program on April 1, 2008.

In March 2008, the Department of Commerce hosted Borrower Outreach Day events in Akron and Youngstown. These were the fifth and sixth Borrower Outreach Days, with previous events held in Nelsonville, Columbus, the Toledo-area, and Cincinnati. The U.S. Department of Housing and Urban Development (HUD) sponsored a Homeownership Preservation Clinic in Cleveland on August 30, 2007, which was supported by the State of Ohio. To date, more than 1,700 Ohioans have participated in these events.

- **Pursue rulemaking or statutory changes as needed (Recommendation #17b)**- Administrative rules for the Ohio Mortgage Loan Act (OMLA), which covers second mortgage lenders, were revised in April 2008 to incorporate some of the provisions that were included in Governor Strickland’s Compact to Help Ohioans Preserve Homeownership. Under the rules, a second mortgage registrant is required to attempt to contact borrowers who have an adjustable rate mortgage (ARM) that had an initial fixed-rate period. The communication is to happen six to seven months prior to the first reset. The registrant must attempt to telephone the borrower and give the following:
 - The current interest rate and monthly payment;
 - A good faith estimate of the borrower’s anticipated future interest rate and monthly payment following the reset; and
 - A toll-free number for the borrower to call to discuss possible payment problems and workout options if there is a problem of repayment at the higher interest rate and monthly payment.

Additionally, six to seven months prior to the first reset of an ARM that had an initial fixed-rate period, the registrant is required to provide the above information in writing to the borrower, in addition to providing contact information for HUD-approved housing counselors and other information. The registrant is required to provide the borrower with contact information for the loss mitigation, foreclosure prevention, or loan workout staff who can discuss foreclosure avoidance options. This information is to be provided at least 10 days prior to a referral to foreclosure counsel. In the case of a default of a mortgage loan, the registrant must provide the borrower with a toll-free number to contact loss mitigation staff to discuss payment problems and workout options. To reduce the risk of consumer fraud and identity theft, the registrant

must comply with federal laws concerning the maintenance, security, and disposal of consumer information and records while in business and after ceasing business operations.

Ohio Housing Finance Agency

- **Conduct a public awareness campaign and borrower outreach events to encourage borrowers to contact their lender if they are facing an ARM reset or if they are having trouble making their mortgage payment** (Recommendation #1)- In an effort to help borrowers understand their mortgage, the Ohio Housing Finance Agency (OHFA) partnered with the Ohio Association of Broadcasters (OAB) to produce radio spots urging homeowners to “Take A Second Look at Your Mortgage.” From December 2007 to February 2008, OHFA received 3,648 web hits and 122 calls specifically about the campaign. If borrowers found themselves in mortgages that no longer fit their financial situation, they were given information on OHFA’s Opportunity Loan Refinance Program or directed to other counseling resources.
- **Increase the capacity of housing counseling organizations to assist borrowers in default and foreclosure** (Recommendation #5)- OHFA announced in March 2008 that it will be distributing nearly \$3.1 million in housing counseling funds to 18 organizations around the state to increase the availability of foreclosure counseling and to boost these organizations’ services. These organizations are a part of the 32 state-sponsored housing counseling agencies offering counseling services to the Save the Dream hotline.
- **Expand the Ohio Home Rescue Program** (Recommendation #6)- The Ohio Home Rescue program operates through a network of 12 organizations and is administered by the Neighborhood Housing Services of Greater Cleveland (NHS). The Ohio Department of Development (ODOD) established the program with a grant of \$1 million through the Ohio Housing Trust Fund to help lower income borrowers. The program is supported by \$1 million from the Ohio Housing Trust Fund for grants to homeowners with incomes at or below 65 percent of the area median income, and \$3.1 million from OHFA to deferred loans for homeowners with incomes between 65 and 125 percent of the area median income. NHS has committed to establish parameters for a partnership among NHS, Save the Dream-approved-counseling organizations, and other organizations participating in the Ohio Home Rescue Fund, thus increasing access to this important resource.
- **Include a major initiative in the Governor’s Urban Agenda to address vacant housing and to revitalize neighborhoods** (Recommendation #21)- Currently, OHFA is working with national, state and local partners to develop strategies and resources to address vacant properties and foreclosed homes. As a first step, OHFA amended the Qualified Allocation Plan (QAP) to provide additional incentives for the development of vacant properties using the Low Income Housing Tax Credit. In April 2008, the OHFA Board approved investment in a major initiative to purchase and rehabilitate 150 vacant homes over three years in six Cleveland neighborhoods.
- **Reallocate existing state resources to put a greater emphasis on foreclosure prevention and recovery—expand employer-assisted housing programs** (Recommendation #23d.- The Ohio Housing Finance Agency (OHFA) launched a new program in March 2008 to address the need for affordable workforce housing for Ohio's heroes. The program, called Ohio Heroes, offers a 30-year, fixed-rate mortgage to full-time employees in the following

professions: Active Military, Emergency Medical Technicians, Firefighters, Healthcare Workers, Military Veterans, Paramedics, Police Officers, and Teachers. Loans through the Ohio Heroes Program will be at a quarter percent below OHFA's First-Time Homebuyer Program rates. The borrowers must meet OHFA's standard mortgage guidelines, which provide low, competitive mortgage rates through conventional loans or FHA, VA, and USDA-RD government loans.

Ohio Department of Development

- **Provide a total of \$10 million for housing and financial counseling from local, state, federal and private sources, including at least \$2 million in state funds** (Recommendations #4-5)- In January 2008, ODOD announced that 24 organizations will receive \$2 million in awards for foreclosure counseling through the Foreclosure Prevention Housing Counseling Program. The grants will assist 9,000 low and moderate income households in 64 Ohio counties. These 24 organizations are a part of the 32 state-sponsored housing counseling agencies offering counseling services to the Save the Dream hotline. The Foreclosure Prevention Housing Counseling Program is designed to provide an effective means of reducing the number of mortgage foreclosures and delinquencies for low to moderate households in Ohio. Funding is provided to eligible nonprofit organizations for the purpose of providing counseling to homeowners in danger or at risk of losing their homes due to foreclosure.
- **Increase the capacity of housing counseling organizations to assist borrowers in default and foreclosure** (Recommendation #5)- ODOD has been working closely with OHFA and Save the Dream to build housing counseling capacity.

Ohio Legislature

- **Immediately record deeds at sheriff sale; Expedite the post-judgment process of property transfer** (Recommendations #16b., 25)- HB 138, sponsored by Representatives Foley and Blessing, will take the mystery out of who owns vacant foreclosed properties by requiring the sheriff to file a deed within fourteen business days after the sheriff sale. Often, lenders do not file the deed in their name for months or even years after obtaining the property from foreclosure. The bill also requires that foreclosing agents provide contact information for responsible parties who can respond to complaints about the state of the property as it sits vacant. Additionally, the bill cleans up tax foreclosures where the land is vacant or abandoned and is subject to foreclosure from the County Treasurer. The bill passed the Ohio House of Representatives on December 12, 2008 and passed the Ohio Senate on May 21, 2008. The bill includes language which allows courts to perform mediation in an action for the foreclosure of a mortgage. The courts can also require the appropriate parties to participate in the mediation. Additionally, the bill allows property that did not sell at a judicial sale to be offered to a political subdivision before forfeiture to the state.
- **Address vacant housing and revitalizing neighborhoods** (Recommendation #21)- SB 277, introduced by Senator Stivers in January 2008, will assist nuisance property abatement by creating a new cause of action in foreclosure in the environmental or housing division of a municipal court (applies only to Franklin, Cuyahoga, and Lucas counties), giving the court greater jurisdiction and the ability to proceed to foreclosure in a timelier fashion. This bill has

had four hearings in the Senate Judiciary-Civil Justice Committee, and Chairman Goodman mentioned a possible vote during the week of May 26, 2008.

SB 329, introduced by Senator Roberts in May 2008, will require a third party trustee's name and address to be included on a real property transfer application submitted to the county auditor for endorsement, when the trustee holds title to real property and is neither the grantor nor the grantee. The bill has been referred to the Senate Judiciary-Civil Justice Committee.

- **Utilize surplus county Delinquent Tax Administration and Collection (DTAC) funds to support local efforts for mortgage rescue, foreclosure prevention, and demolition of vacant houses (Recommendation # 22)**- Both HB 359, sponsored by Representative Huffman and HB 388, sponsored by Representatives Driehaus and Foley, will allow communities to access surplus funds from their county's Delinquent Tax and Assessment Collection Fund (DTAC) for maintenance of vacant and abandoned properties. HB 388 would also allow these funds to be used for foreclosure prevention counseling and rescue loans to help people avoid foreclosure. HB 359, which gives permissive authority to the county treasurer or prosecutor to use the funds, passed the House on May 13, 2008. The bill limits the counties which can participate to those with populations above 100,000 (28 counties) and continues to limit the eligible use of the funds to only vacant property abatement. Also, the bill allows county prosecutors to use the funds for prosecuting mortgage fraud. HB 359 has had one hearing in the Senate Ways and Means and Economic Development committee, while HB 388 is pending in the House Financial Institutions, Real Estate and Securities Committee.
- **Modify Ohio receivership law (Recommendation #26)**- In April 2008, Representative Jay Goyal introduced HB 531, which modifies Ohio's receivership law by extending many of the provisions governing the abatement of public nuisances. The purpose is to help communities gain control over abandoned properties and return these properties to the tax rolls. The bill has been referred to the House Civil and Commercial Law Committee.
- **Target lease-option scams by restricting initiation fees and requiring clear disclosures (Recommendation #27)**- HB 440, introduced in January 2008 by Representatives Yuko and Lundy and SB 295, introduced in February 2008 by Senator Dale Miller, would provide that a lease does not terminate upon the foreclosure of the landlord's mortgage. Under current law, a tenant can be evicted from their rental property following a foreclosure with only a three-day notice, even if the tenant has a long term lease and has been paying the rent every month. In these situations, tenants do not get their security deposits back and face significant hardship in finding new housing immediately. HB 440 is pending in the House Civil and Commercial Law Committee, and SB 295 has had one hearing in the Senate Judiciary-Civil Justice Committee.

United States Congressional Action

- **Provide income tax forgiveness on loan readjustments (Recommendation #12)**- H.R. 3648, the Mortgage Forgiveness Debt Relief Act of 2007, was signed into law on December 20, 2007. It created a three-year window for homeowners to refinance their mortgage and pay no taxes on any debt forgiveness that they receive. Under previous law, if the value of a house declined, and the borrowers' bank or lender forgave a portion of the mortgage, the tax code would treat the amount forgiven as income that could be taxed.

- **Provide affordable fixed-rate financing options for borrowers seeking to refinance their mortgage** (Recommendation #13)- HR 3221, passed out of the U.S. House of Representatives on May 8, 2008, included Federal Housing Administration (FHA) modernization, Fannie Mae and Freddie Mac reforms, and a new FHA program to allow those having trouble with their loans to refinance with FHA.

HR 5818, also passed out of the U.S. House of Representatives on May 8, 2008, and creates a \$15 billion grant-loan program for states, counties, and cities.

If these two bills are signed into law and the funds are appropriated, Ohio will receive \$416 million in grants and a similar amount in loans. However, Ohio cannot yet depend on this money. It is unclear how the U.S. Senate will respond to these House bills or what President Bush's actions will be.

- **Require all mortgage lenders to offer the option to escrow tax and insurance** (Recommendation #20)- Proposed revisions to the 34-year old Real Estate Settlement Procedures Act (RESPA) were published in the March 13, 2008 edition of the Federal Register. However, this specific recommendation by the Task Force was not addressed. The proposed changes center on a standardized Good Faith Estimate (GFE), which HUD says would simplify the GFE. They would allow home buyers to shop around by comparing the fees charged by loan originators, whether they are yield spread premiums paid to mortgage brokers or other fees charged by banks. The RESPA comment period for the rule changes was extended until June 12, 2008. Congressional members had asked for a 60-day extension but were only granted 30 days initially. HUD, however, has not ruled out adding the additional 30 days.
- **Develop comprehensive plans to address vacant housing** (Recommendation #21)- HR 3498, which is cited as the Neighborhood Reclamation and Revitalization Program Act of 2007, will authorize the Secretary of Housing and Urban Development to make grants to assist municipalities with vacant housing problems. Ohio State Senator Dale Miller introduced SCR 23 in February 2008, which encouraged the United States House of Representatives to pass the bill. Additionally, SCR 23 urges that the appropriations be increased to \$500,000,000. The legislation has had one committee hearing in Ohio Senate Finance and Financial Institutions Committee.

Judicial Branch Guidance

- **Encourage mediation and alternative dispute resolution to maximize the early resolution of foreclosure actions** (Recommendations # 14-15)- Supreme Court Chief Justice Thomas J. Moyer proposed that the courts manage the foreclosure problem by developing foreclosure mediation programs that could be used to resolve some of the many foreclosure cases. This initiative is the first of its kind in the nation. It will give foreclosure cases the same access to mediation that is regularly available in other types of civil cases for more than a decade. Mediation presents a safe and structured opportunity for a homeowner to negotiate with the loan holder to reach an agreed resolution that would either avert foreclosure and keep the homeowner in the home or provide alternate outcomes that benefit the homeowner and the community. The model was released to local courts in early 2008.

The Supreme Court's Advisory Committee on Dispute Resolution appointed a Foreclosure Working Group to develop a foreclosure mediation program model that courts can adapt to meet their local needs and resources. The working group included judges, magistrates, mediators, attorneys, legal aid representatives, educators, mortgage bankers, and representatives of homeowners.

The model includes best practices, related documents, forms, and other resources. Not every foreclosure case is appropriate for mediation. Therefore, the model is designed to assist courts in determining those cases that are eligible for mediation through the assessment of information provided by both the homeowner and the lender.

Ohio Treasurer of State

- **Increase the capacity of housing counseling organizations to assist borrowers in default and foreclosure** (Recommendations #3c., 5f.)- Ohio Treasurer Richard Cordray has established Save Our Homes Task Forces in nearly 50 counties. The focus of many of these groups is educating delinquent borrowers on strategies to remain in their homes. The groups discuss a variety of methods to reach borrowers including television call-in programs, borrower workshops, professional trainings and dissemination of educational materials.

Treasurer Cordray also offers personal finance education to a number of constituencies including senior citizens, women, victims of domestic violence, employees in the workplace and teachers. One series is the Rebuild Your Credit workshops which are offered in collaboration with Consumer Credit Counseling Services, TransUnion and local elected officials. The Treasurer's Office has also developed www.yourmoneynowonline.org, which provides unbiased financial education to Ohioans 24 hours a day.

In addition, Treasurer Cordray and State Representative Joyce Beatty chair the Ohio Commission on Personal Finance Education where the mission is to provide personal finance education to all Ohioans.

- **Establish policy through the Department of Commerce encouraging responsible loan modifications, and an investment policy through the Treasurer for those financial entities and their subsidiaries that invest state funds—establish investment criteria** (Recommendation #11b.)- For the first time, the Ohio Treasury issued a Request for Proposal (RFP) for banking services that seeks information from financial institutions about their community involvement and their posture with respect to the foreclosure crisis. The Treasurer has requested information about how financial institutions assess and address the credit needs of local communities. The RFP also asks how financial institutions are assisting customers who are facing bankruptcy and/or foreclosure. Although a new venture for the Ohio Treasury, such information gathering and monitoring will continue in the future.

Local Official Involvement

- **Use information from county databases to identify borrowers who are at risk—utilize information from public databases to identify borrowers who are at risk and contact them** (Recommendation #2a.)- Willis Blackshear, Montgomery County recorder, works with

an academic and a former mortgage company employee to identify the most active subprime lenders in his county. With the help of Treasurer Cordray's office, he has distributed thousands of letters to the borrowers of these lenders in hopes of alerting them to potential problems before their interest rates are reset and they find themselves unable to make monthly payments.

- **Facilitate land banking of properties and loosen restrictions on local jurisdictions trying to gain control over tax delinquent properties** (Recommendation #24)- Legislation which will address land banking has been drafted. The bill, organized by the Cuyahoga County Vacant Land Coalition and led by Cuyahoga County Treasurer Jim Rokakis, is permissive and not mandatory. It allows large counties to have the authority to address property taxes and foreclosed home issues as they are related to land banks.