



**Testimony of Phyllis Salowe- Kaye, Executive Director
Before the Subcommittee on Housing, Transportation, and Community Development of the
Senate Committee on Banking, Housing, and Urban Affairs**

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September 21, 2009

Helping Homeowners Avoid Foreclosure

New Jersey Citizen Action (NJCA), a 28 year old nonprofit organization, is the state's largest independent citizen watchdog coalition. We are the largest HUD-certified Counseling Agency in the State, providing one-on-one counseling in nine offices throughout the state. Through our Homeownership Counseling Program, Citizen Action provides general credit counseling, pre-purchase counseling for first-time homebuyers, home improvement and refinance counseling for homeowners, reverse mortgage counseling for seniors, Section 8-to-Homeownership counseling for Section 8 Voucher recipients, and crisis counseling for individuals facing foreclosure and/or victims of predatory lending. More than 13,000 low- and moderate-income homebuyers have purchased homes through our 9 offices since 1995. Unfortunately, since the first quarter of 2007, our business has changed and our loan counselors have been dealing almost exclusively with homeowners facing foreclosure due to loss of job, divorce, illness and/or as victims of predatory lending, toxic mortgages and fraud schemes.

Each week we receive calls from between 89 and 120 new clients who are facing the loss of their homes for the following typical reasons:

1. Clients who have fallen behind on mortgage payments and other bills due to circumstances beyond their control (health, divorce, job loss, death) and needs assistance to "catch up" and continue paying their current mortgage or is eligible for a refinance.
2. Clients who received a loan that they had no possibility of ever repaying.
3. Clients who are currently in foreclosure or are in default who do not have income to support a work out, restructure or repayment plan.

4. Clients who are not late, have good credit and realize that they have mortgages with adjustable rates that they will not be able to pay in the future.
5. Clients who are being “rescued” by unscrupulous individuals or companies who are trying to steal their homes.

For the last three years thousands of New Jerseyans have come through our doors for individual counseling and over ten thousand have attended community education presentations. Originally we saw folks with subprime, adjustable mortgages, and then came those with exploding toxic boutique mortgages, and now we see those with prime loans that are facing economic hardships. Some folks we can keep as clients and assist them in refinancing, modifications, short sales, deed-in-lieu of foreclosures and sales. Sadly, we can't help approximately 53% of those who ask for our help and will eventually lose their homes to foreclosure.

We also see the victims of the scam artists and their rescue scams. This new wave of fraud and fast dealing is ripping the homes right out from under homeowners who are in trouble. This represents the tail end of the efforts of a sub prime cycle gone wide when the consumers have thrown in the towel trying to pay off high cost loans. Here are a few of the scams we have seen:

1. **Phantom Help-** “Rescuer” charges outrageous fees for a few phone calls and a bit of paperwork that the homeowner could have done alone. They make big promises, deliver little and leave the homeowner without help to actually save the home, with little or no time left to seek real help.
2. **Bailout scheme-** Homeowners surrender title to the house in the belief that they are entering into a deal where they may stay in the house as a renter and buy the home back over the next few months or years.
3. **Bait and Switch-** The homeowner does not even realize that they have surrendered ownership in exchange for “rescue” and think that they have refinanced their home to a better rate to prevent foreclosure.

In January of 2009, Governor Corrine signed the most comprehensive foreclosure legislation in the country putting New Jersey in front on this issue. Now we need your help.

The battle for financial reform has just begun and NJCA has joined Americans for Financial Reform (AFR), a national coalition of more than 200 national, state and local consumer, employee, investor, community, civil rights organizations spearheading a campaign for real reform in our

banking and financial system. Senator Menendez, we need you to support the President's proposal for the creation of CFPB and become a leader in the Senate by getting your colleagues to strengthen and expand the President's proposal to put jurisdiction of the Community Reinvestment Act (CRA) under this new agency. We need to tackle with these financial institutions that are "too big to fail," and force them to keep struggling families in their homes. We must ensure that the Federal Reserve, with its proposed new powers, is truly independent and accountable to the public.

Up until now, efforts to gain a measure of democratic control over the financial sector have been scattered and localized, responding to different aspects of the bank-induced crisis. AFR was organized to provide a loud, unified voice needed to call for transparency and accountability in the financial bailout. To counter the immense power of the finance industry, AFR has been mobilizing on multiple levels, from Capitol Hill to neighborhoods decimated by factory shutdowns and home foreclosures. Right here in New Jersey we are mobilizing on behalf of AFR and our Board and Affiliates, as well as the thousands of low- and moderate-income individuals we serve through our empowerment programs. NJCA Action calls upon New Jersey lawmakers to take immediate action to pass H.R. 3126, the *Consumer Financial Protection Agency Act*. The establishment of a strong CFPB is so important because it would be a central body monitoring all financial products with the sole mission of protecting consumers. The creation of that agency should be the top priority for Congress. It's the key reform to protect consumers from financial abuse.

Most reasonable people would have a hard time arguing against a consumer protection law that prevents kids' pajamas from being made with fabric that might spontaneously combust. So why are the toxic financial products and practices that caused our credit market to combust any different? The difference is big money Wall Street lobbyists that are spending millions of dollars to kill this legislation. The fact that the big banks and chamber of commerce oppose this proposal tells me that it will make a huge difference and will put a stop to business as usual.

The premise is simple. Make banks and credit card companies develop simple products that ordinary people can understand so they can make comparisons and informed decisions. No more tricks and traps with teaser rates in big print and then the real terms hidden in pages of fine print.

Clearly, consumer protection laws prevent consumers from having access to unsafe products and the extension of those protections into the financial product market will necessarily limit consumer access to unsafe financial products. Offering financial products that are in the best interest of the consumer will promote safety and soundness in consumer investing and is an important first step in creating regulatory reform that will restore integrity and accountability to credit markets and ensure recovery of the economy.

The administration's proposal called for shifting the Community Reinvestment Act (CRA), along with other consumer protection laws, to the CFPB and NJCA supports that. CRA is one of the most important laws for building wealth and revitalizing neighborhoods and it helps keep banks honest by making them report specific loan data for low and moderate income neighborhoods ensuring that consumers in traditionally underserved communities have access to safe and sound financial products. The CFPB proposed by the President would have broad institutional oversight of enforcement responsibilities for the wide range of financial consumer protection laws already in place, including CRA, and this proposal bolsters the chances of passage of the *Community Reinvestment Modernization Act of 2009* which now has 51 co-sponsors in the House including New Jersey Congressman Donald M. Payne. This law would strengthen CRA as it is applied to banks, and expand CRA's reach to non-bank financial institutions. There is a critical need to have independent mortgage companies and other non-bank lenders subject to the same rules as banks. Quite simply, if you are doing the same business, you should be subject to the same rules.

Public polling has shown enormous disenchantment with policies of financial deregulation, banks in general and Wall Street in particular, so we must continue to fight for financial reform. Now we have a national organization to support our local efforts and we believe that AFR's four priorities are correct.

- Renegotiate mortgages to prevent foreclosures and keep people in their homes.
- Support a strong Consumer Financial Protection Agency that will scrutinize the entire banking industry.
- Regulate "shadow markets," where financial transactions occur without any oversight.
- Democratize the Federal Reserve, which now essentially functions as a quasi-private bank despite the vast public power it commands.

Having a strengthened CRA and a CFPB as a central body monitoring all financial products will put our economy back on a path toward stability. The banks are out in force telling our elected representatives that they oppose this bill, but their arguments are both inaccurate and disingenuous.

The banks are saying that the proposed relationship between state and federal regulation will make compliance costly and complex. Under the proposed bill, federal rules will be the floor of consumer protection. States will be allowed to enact additional protections as conditions warrant. What the banks don't seem to want to understand is that state laws and enforcement can actually reduce overall costs to industry and the economy. It was the banks that succeeded in their lobbying effort to get the federal regulators to stop enforcement of stricter state predatory lending laws. The residents in those states would be much better off today had the banks failed in their lobbying effort.

Truth is, most states that enact laws in areas where Congress has not acted tend to pass provisions that are often very similar, so when banks argue the CFPB will create a 'patchwork' of state laws, it's a red herring. And it's even more of a red herring when you consider that the federal rules should be at a level where the vast majority of states won't need to pass additional legislation. In addition, problems reach the radar screen of the states much sooner than they reach the federal level. Structuring this bill with state flexibility allows states to put an end to unsavory practices before they can even reach the national level, thus protecting all of us.

While New Jersey Citizen Action attempts to educate and counsel individuals on how to avoid predatory lending and risky financial activities through our education, outreach, and pre-purchase counseling programs, regulation that acts to protect the consumers and prevent foreclosure would aid our effort and it makes good economic sense not only for the homeowners that are facing foreclosure, but for their respective communities, as whole. As a result, on behalf of the low- and moderate-income individuals we empower through our various programs and services, we urge you to support financial reform and specifically the Consumer Financial Protection Act.

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