Statement of Senator Sherrod Brown
Hearing to Investigate Mortgage Servicing and Foreclosure Practices
Senate Committee on Banking, Housing and Urban Affairs
November 16, 2010

Thank you, Mr. Chairman.

The predatory practices of the mortgage servicing industry are remarkably similar to the predatory practices that led to the subprime crisis.

The biggest mortgage servicers have poorly maintained, lost, or forged documentation. They ignored the interests of homeowners in exchange for outsized profits.

Each day Ohioans are failed by the modification process. Last month, my state had the **eighth most foreclosures in the nation –** and the most of any state represented on this Committee.

Ohioans interested in ***merely attempting to*** modify mortgages often end up owing more principal on their loans or having their credit scores lowered.

Instead of trying to stay in their homes, they are saddled with back payments, penalties, and late fees.

And it’s happening across Ohio – in large cities and small towns, and urban and rural counties that are hit hard by the housing crisis.

In **Perry County**, a homeowner was outraged to learn that her temporary modification was accompanied by late fees and negative marks on her credit report.

It’s the tragic truth that she was luckier than other Ohioans because her servicer stopped collection efforts.

In **Cuyahoga County –** which had the most foreclosures of any county in the state last month – a senior living on Social Security disability received collection notices while she was in her trial period.

When my office contacted the bank about these notices, we were told that the mortgage department could not make the collection department stop until she got a permanent modification.

We were told that she should just ignore their collection notices.

But this same constituent also had her first trial payment double-billed, causing the bank to tack on $136 in overdraft fees.

In **Geauga County** one family asked about her servicer, “***How is it possible for a bank, its computers, departments and representatives to be so out of touch with one another?***”

Another constituent from Geauga County told my office, “***In 1999, I was diagnosed with cancer … I endured two surgeries and a brutal year of chemotherapy … My experiences with [my servicer] have been worse than having cancer.***”

Indifference, foreclosed homes, and broken neighborhoods shouldn’t be a formula for record profits.

By far the most complaints that I receive from frustrated Ohioans relate to the four largest servicers, who account for **more than 55 percent** of all servicing contracts.

After acquiring big subprime player like Countrywide, Wachovia, and Washington Mutual, the four biggest banks are now so large that their executives apparently don't know what's happening deep in their own securitization and servicing departments.

In July, I sent these four largest servicers a letter describing Ohioans' frustrations with their failed attempts at mortgage modifications.

I received a response letter from one of the banks on September 29, affirming its commitment to keeping homeowners in their homes and out of foreclosure.

But that very same day, that bank announced a moratorium on **56,000 foreclosures in 23 states** – including Ohio – because of deficiencies with their foreclosure affidavits.

These big banks tell us that mistakes are isolated and harmless. But these problems are not new. They are well documented and are part of a longstanding, ugly pattern of homeowner abuse.

It's a cycle of mistrust and misinformation that deprives families of their homes and neighborhoods of their vitality.

According to a **survey of foreclosure counselors** released last month by the **Cleveland Federal Reserve**, most **modifications take between 120-240 days to work out**.

In that period paperwork errors like multiple requests, incorrect evaluations, and poor internal communications are common.

It's common enough that last year, a bankruptcy judge in Ohio wrote in a decision that mortgage servicers are "**unconcerned with the accuracy of records and information.**"

The Department of Treasury's report on the **Home Assistance Modification Program (HAMP)** found compliance problems at three of the four biggest servicers.

Yesterday, the **GAO** released a report that I had requested on **bank walkaways**.

The report found that as a result of poor communication from servicers, **between 14,000 and 34,000 families** in cities like Cleveland, Akron, and Columbus have been unnecessarily forced out of their homes.

Vacant and abandoned homes not only diminish surrounding properties values, they drain city resources and present a series of public safety concerns and risks.

Why are so many homeowners being kicked out of their houses – even when it is not economically beneficial to anyone?

That's why today's hearing is so important – and why reform to the mortgaging servicing industry is long overdue.

We've seen how "robo-signings" are a serious abuse of court processes – the Cuyahoga County courts are now asking lawyers to confirm that the information in their filings is true.

Courts are considering whether banks have standing to foreclose or whether promissory notes were properly transferred and conveyed.

There are strong possibilities that banks have wrongfully taken homes to which they had no secured claim.

These are all symptoms of a mortgage servicing industry that is broken.

Servicers claim that homeowners didn't meet their legal obligations, so they don't deserve to stay in their homes – that homeowners lack "personal responsibility."

But what about institutional responsibility? Should we not hold the banks to the same standards they impose on homeowners?

A federal judge in Cleveland pointed out 3 years ago, "**Neither the fluidity of the secondary mortgage market, nor monetary or economic considerations of the parties, nor the convenience of the [banks,]**" overrides the banks' duty to follow the law.

Money and profits should not trump the law.

And while the courts are playing a role in checking abuse, it is Congress's responsibility to empower regulators to oversee the mortgage servicing industry.

As the newly confirmed Fed Governor Sarah Bloom Raskin said last week, "***Until a better business model is developed that eliminates the business incentives that can potentially harm consumers, there will be a need for close regulatory scrutiny of these issues and for appropriate enforcement action that addresses them.***"

The new **Bureau of Consumer Financial Protection (CFPB)** is a perfect illustration of how to empower regulatory scrutiny and appropriate enforcement.

Instead of helping homeowners, regulators' responses appear crafted to protect the balance sheets of the "too big to fail" servicers.

The CFPB is designed to ensure someone serves American families and confronts abusive mortgage servicing practices.

And stronger oversight means streamlined modification procedures and meaningful penalties when servicers fail to comply.

We should be trying to find ways to keep people in their homes, not forcing more houses onto an already depressed housing market.

This foreclosure crisis affects all of us – homeowners, families, neighbors, and state and local governments.

It is clear that the current system isn't working.

And it's clear that we won't have economic recovery if our neighborhoods are full of foreclosed or vacant homes.

Thank you, Mr. Chairman.