Testimony of

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Before the

U.S. House of Representatives
Financial Services Committee
Subcommittee on Housing and Community Opportunity

Regarding

Foreclosure Problems and Solutions: Federal, State, and Local Efforts to Address the Foreclosure Crisis in Ohio

June 16, 2008

Chairwoman Waters, Members of the Subcommittee, and other Members of Congress thank you for the opportunity to appear before you today.

The Ohio Bankers League is a non-profit association representing Ohio's commercial banks, savings banks, and savings and loan associations. My name is Michael Van Buskirk. I am the association's president.

Chairwoman Waters, we very much appreciate your bringing the subcommittee to Ohio. As you know from your colleagues from Ohio; our state, particular its northern part, has been hit hard economically. Mortgage loan delinquencies and foreclosures have been one painful result. Your concern about home ownership is one that I have shared all of my professional life.[1]

You are here today because, although foreclosures are a national problem, foreclosures in Ohio have remained stubbornly higher than the national averages for at least the last three years.[2] The specifics of that problem differ greatly by region, and it is commendable that you have come out of Washington to understand the differences as the subcommittee works to find ways to help the national recovery.

Ohio's economy has struggled for at least 12 years. In northern Ohio, like Michigan, a decline in manufacturing employment continues to be a contributing factor. In eastern Ohio a similar story is told through the decline of the mining industry. While Ohio's problems are not new, they have grown more severe. In 1995 we suffered 15,000 foreclosures. Last year we had 83,000.

Unemployment and underemployment are directly linked to mortgage delinquencies, and leading causes of foreclosures.[3] In fact there is a direct correlation: foreclosures in Ohio are the highest in the northeastern quadrant of our state, which is also where job losses in auto, steel, glass and rubber industries have been the highest.

Before I offer the industry's perspective on to what is being done and can be done to mitigate foreclosures short term, the OBL would like to offer a few observations on the causes of our current problem as you chart this country's course to avoid a recurrence.

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[1] Thirty years ago, as an aide supporting a senior Member of Congress from Ohio, I worked on bills being considered by the Housing Subcommittee. In later years, as an Ohio banker, I designed many of my organization's community development efforts and served on the Federal Reserve Board's Consumer Advisory Council and worked with the Congress' Office of Technology Assessment in its work on the implications of technology for the delivery of retail financial services. I was involved in the Consumer Federation of America's landmark efforts to measure consumer literacy. After coming to head Ohio's banking association, I have been active in foundation activities to promote financial literacy. Last year, Governor Strickland appointed me as a member of his Foreclosure Prevention Task Force.

[2] This is according to statistics published by the Mortgage Bankers Association. For example mortgage loan delinquencies in Ohio for both prime and non-prime loans are currently 5.97%, but nationally it is only 4.03%. Foreclosures filed in Ohio this past quarter are 1.14% of all loans, where the statistic is only 1.01% nationally.

[3] *Foreclosures in Ohio: What is happening and what can be done about it.* Mark Duda, January 2005. Unemployment was a factor in 19% of foreclosures. Other leading causes were a health crisis (14%), divorce (13%) and death (10%).

Historically most consumer mortgages in this country were funded from insured deposits. Lenders were banks or thrifts that kept the mortgages in their portfolios. For that reasons the lender had a shared interest in the ability of the borrower to repay the loan because it would suffer the loss if it did not. These institutions were regularly visited by trained governmental examiners who analyzed both the safety of the lending practices as well as their fairness. That fairness measurement was given increasing definition by Congress over years through laws like Truth in Lending, the Home Mortgage Disclosure Act, the Equal Credit Opportunity Act, the Real Estate Settlement Procedures Act, the Fair Housing Act and The Home Ownership Equity Protection Act among others.

By the 21st century lending in Ohio had become globally funded. Investors from foreign governments to Ohio public pensions funds bought securitized mortgages, rated as very safe by national rating agents, originated through a new retail outlet called a mortgage broker. The ultimate "owner" of the mortgage did not know the borrower. In fact they often knew very little about them.

This new system did bring benefits to the consumer. The huge inflow of mortgage funds lowered interest rates; sometimes, in fact, in the face of Federal Reserve efforts to raise them. New market entrants did give consumers more choice. Technology allowed mortgage and rate shopping through the Internet. However, it also brought significant problems. Non-bank brokers no longer had a real interest in the borrower's ability to repay. Both the Ohio broker and the Wall Street securitizer were compensated by sale.

Mortgage brokers in Ohio were not then licensed. While the federal lending laws theoretically applied to them, there was no enforcement. Most Ohio mortgage brokers were ethical and complied with lending laws. However as history indicates, scoundrels will flow into any enforcement vacuum. When our General Assembly enacted the law requiring brokers to be licensed with background checks, our Department of Commerce discovered many applicants to be convicted criminals.

Uneven governmental protection had unintended competitive consequences too. Since non-bank brokers do not face the same high level of regulation and oversight as banks, they benefited from significantly lower operating costs. Competitively, FDIC insured lenders in Ohio suffered significant loss of mortgage share.

Today, Ohio is doing better fighting unethical lending practice. Governor Strickland, along with Ohio House Speaker Jon Husted and Ohio Senate President Bill Harris deserve great credit for stepping up enforcement efforts during his relatively short time in office. Under Commerce Director Kim Zurz every Ohio mortgage brokerage now gets some level of review every 18 months and efforts continue to achieve adequate rigor of examination. We can do better however, and while more can be done in Ohio, many states still do nothing to regulate their mortgage brokers.

Many states lag behind Ohio's efforts. We commend the Financial Services Committee's work to require all mortgage brokers to be licensed, to set minimum federal standards, and to establish a federal alternative if a state fails to act. However, we would recommend one improvement in the House bill, suggesting that a federal agency which already has skilled mortgage examiners in all 50 states like the Office of Thrift Supervision, which in fact has an office in Cleveland, is better prepared than HUD to be immediately effective.

We commend your efforts to expand the powers of the Federal Housing Authority including allowing it to guarantee distressed mortgages where the investor or lender agrees to reduce the principal to less than current appraised value, to provide grants to cities to purchase abandoned property in distressed neighborhoods and restore it to productive use, to dramatically increase funds available for foreclosure counseling, and to create a credible regulator for the housing related government sponsored enterprises. All are actions which will bring important short and long term help.

We would also like to thank Representatives Wilson, Pryce and LaTourette for the amendment, included in *The Neighborhood Stabilization Act* (HR 5818) as it passed the House last month, which allocated increased funding for homeowners facing foreclosure in states like Ohio where the rise in foreclosures is more closely tied to our economy as opposed to speculative bubbles.

Turning to current Ohio efforts to combat the foreclosure crisis, the financial institutions that make up the OBL are in most cases organizations of long standing that have survived through the economic cycles of a century or more by responding to the needs of their communities and customers. They have that in common, but Ohio is not a homogeneous state. Its banks and thrifts reflect their markets and are diverse. That is true of their mortgage lending. However, most maintained traditional underwriting discipline in the face of mushrooming competition from mortgage brokers and other non-traditional lenders. Very few engaged in subprime lending. As a consequence these banks and thrifts lost market share as some customers were attracted to loans with teaser rates, or features like interest only or even negative amortization; payments that consumers did not fully understand.

Remediation processes tend to be tailored to individual markets too. Most of our banks have procedures with the common element that they are based on a philosophy of working with borrowers on a case by case basis, foreclosing only when all else fails.[4] As you look at foreclosure filings in counties across Ohio, you see the result. The overwhelming majority of foreclosure filings are not by Ohio based banks or thrifts.

In surveying our members we have found that as long as there is good communication and good faith from the borrower, these banks are routinely waiving late fees, permitting partial payments, extending terms and waiving escrow deposits if that will help borrowers overcome temporary problems. This flexibility has worked out to the customers' benefit, and few borrowers lost a home to foreclosure.

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[4] One $250 million community bank has four foreclosures pending, two of which were the result of a divorce. Another $150 million bank from eastern Ohio has had 12 to 15 foreclosures over the last 25 years. A third bank in eastern Ohio has 1 foreclosure in its Freddie Mac servicing portfolio over the last 10 years.

We do need to focus on a recurrent problem – communication with the borrower. One of the greatest challenges banks still face is getting delinquent borrowers to contact them. Mailings and telephone calls often go un-answered. Ohio's results mirror those nationally. Despite outreach efforts by our members, supported by messages from Governor Strickland, Ohio Members of Congress, the Secretary of the Treasury, and national and neighborhood consumer organizations, historically fewer than 50% of homeowners going through foreclosure have talked with their lender despite multiple outreach efforts.

Unfortunately, this is understandable. Financial literacy is poor. Many borrowers do not understand that an ethical lender is strongly motivated to work with them. Few borrowers understand there are competent, neutral counseling resources.

Increasingly, competent counseling efforts are making a difference. We commend your efforts to expand these programs. Nevertheless, more needs to be done to help a troubled borrower find a competent counselor. That's more than just a problem of supply. Unfortunately, there are those in our communities who would further victimize the victims by providing sham counseling. In years past we saw an explosion of bogus credit repair clinics. Today, we hear anecdotes of bogus mortgage counselors. In just one example from our hearings of Ohio's foreclosure prevention task force, an individual was promising much and delivering little for a significant up-front fee. His qualifications as a counselor were that he had gone through two foreclosures of houses he was trying to flip the previous year. State and federal agencies are now providing significant help referring consumer to credible resources.

Our members with multi-state markets have received recognition for their comprehensive outreach and workout programs. For example one of Ohio's largest prime mortgage lenders has started the *You Have Options* program aimed at any loan customers behind on payments or concerned about falling behind. This program is being marketed in bank branches, and if payment history indicates a borrower is headed to toward default, information on the You Have Options Program will be sent to them. Solutions offered include modifying payments, forgiving fees, fixing or changing interest rates or refinancing into a different loan.

Other large mortgage loan servicers in Ohio have also gone to great lengths to work with troubled borrowers. OBL member banks are hiring full-time loan counselors that are dedicated to workouts, not collections. In some institutions the number of counselors now equal or nearly equal collectors. The philosophy among larger servicers is to use technology to make it easy on the customer to reach a loan counselor, so customers can get a counselor at their convenience, via the Internet or a 1-800 number. Loan counselors at larger servicers now all have access to sophisticated software that permits them to start the workout process as soon as the customer contacts them. As a goal, large bank servicers want more than 95% of the calls to work out centers connected to a counselor. Average waiting times are now well under a minute.

You previously heard about the programs Ohio banks support through the Federal Home Loan Bank of Cincinnati. OBL members are also partners with the Ohio Housing Finance Agency and its *Opportunity Loan Refinance Program.* This program is for households with income that does not exceed 125 % of the county's median income. OHFA can provide affordable 30-year fixed rate financing for borrowers that have a mortgage that is no longer suitable for their financial situation. Also, applicants may be reimbursed for out-of-pocket expenses for an appraisal, credit report or any up front hazard insurance payments.

Alternatively, OHFA can provide a 20-year second mortgage up to 5% of the appraised value of the home. These funds may be used to pay fees associated with an existing mortgage, including escrow payments, pre-payment penalties, late fees, attorney fees or other financing charges. The Opportunity Loan Refinance Program also includes four hours of HUD-approved counseling. It is the goal of OHFA to serve as many applicants as possible, so they use expanded underwriting guidelines for their programs.

Finally, major home mortgage lenders from Ohio have joined forces with the *Hope Now Alliance* which now includes Fannie Mae, Freddie Mac and a number of non-profits like Neighbor Works, the Home Ownership Preservation Foundation and HUD counseling intermediaries. Hope Now an important piece of the solution to stem the increasing rates of foreclosure, and the national advertising and out reach campaign is helping. Hope Now counselors now field about 4,500 calls, ten hours each day. So far its efforts have accomplished workouts in nearly 1.6 million cases, including more than 500,000 loan modifications.[5]

Agencies like Freddie Mac and Fannie Mae, and other investors, have become more familiar with the Hope Now program counseling, they are granting servicers more flexibility. As a result the loan modifications as a percentage of total workouts have been steadily growing, and now equal 42% of all resolutions.

The numbers from Ohio alone are equally compelling. Since July 1, 2007 an impressive 38,630 Ohio loans have been worked out through this program. Of that number, 12,820 represent cases where the loan was rewritten to change key terms, for example lowering the interest rate or writing off a portion of principal. Similar to the numbers nationally, loan modifications as a percentage of the total workouts have been growing. It reached a point in April where loan modifications nearly equaled repayment plans. In addition, for all of 2007 the Homeownership Preservation Foundation (HPF) counseled 9,272 Ohio borrowers. Through the end of May, HPF has counseled 5,963 Ohio homeowners.[6]

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[5] All statistics were provided by Hope Now, and are current through April, 2008. On Thursday the OCC produced different numbers using data from only 9 national banks. While we appreciate input that will help develop more accurate data, the numbers in this testimony also include information form state banks as well as state and federal savings and loans and savings banks.

[6] According to the Homeownership Preservation Foundation these counseling sessions are extensive and will usually involve the exchange of detailed information and take place over several calls and or meetings.

In conclusion I would like to return briefly to financial literacy. Ultimately, a well informed consumer is her or his best protector. Some years ago I participated in a standardized national test sponsored by the Consumer Federation of America. It found even the best educated Americans on average only knew about half of the basic financial information they needed to protect themselves in routine financial transactions.

Ohio has finally mandated financial literacy education prior to high school graduation. While it does not go into effect until 2011, many schools have already implemented programs. As a part of this effort, several years ago OBL formed a charitable foundation dedicated to financial literacy. During that timeframe we have worked with the Ohio School Board Association, Ohio Treasurer Richard Cordray, teachers and consumer groups to bring financial knowledge to Ohio adults and students. Financial literacy isn't the only solution, but it must be an important part of it so that future generations can make better decisions related to their financial well-being.

Thank you for the invitation to appear before the subcommittee today. I would be happy to try to answer any questions at the appropriate time today or at any time in the future.