



**COMMUNITY LEGAL SERVICES
OF PHILADELPHIA**

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November 3, 2008

INDEPENDENT REGULATORY
REVIEW COMMISSION

Pennsylvania Independent Regulatory Review Commission
333 Market Street, 14th Floor,
Harrisburg, PA 17101

Via: Facsimile (717) 783-2664 and E-Mail irrc@irrc.state.pa.us

Re: Department of Banking Mortgage Regulation 3-43
No. 2620, Public Hearing November 6, 2008

Dear Commissioners:

I write on behalf of Community Legal Services, Inc. ("CLS") to express our strong support for the Banking Department's regulation regarding the proper conduct of lending and brokering in the mortgage lending business.

CLS provides free civil legal services to low-income residents of Philadelphia. Throughout its history, CLS has committed substantial resources to protecting consumers from exploitation in the credit marketplace and, more specifically, assisting low-income homeowners who are in danger of losing their homes due to foreclosure. In addition to representing thousands of families in individual foreclosure cases with consistent, successful results, CLS also has been involved in numerous strategies to confront this serious problem.

In the 1970's and early 80's, we were instrumental through litigation in ensuring that the HUD Assignment Program properly functioned and were able to save thousands of FHA homeowners from foreclosure. In 1983, working with the Philadelphia Unemployment Project (PUP) and the local sheriff, we were able to obtain through the Common Pleas Court a postponement of sheriff sales on owner occupied properties for almost a year until our state legislature passed the Homeowner's Emergency Mortgage Assistance Program (HEMAP), a program which provided substantial foreclosure relief to homeowners facing financial problems because of the country's economic recession.

Over the past decade, our work on foreclosures has focused primarily on addressing predatory mortgage schemes. The subprime mortgage crisis is not news to our clients. It was back in 1996 when CLS lawyers litigated the first case under the federal anti-predatory lending statute, the Homeownership and Equity Protection Act of 1994, against a subprime lender that eventually filed for Chapter 11 protection in 2000. We have been trying to stem the tide of subprime foreclosures in Philadelphia ever since.

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As revealed by the Banking Department's 2005 study, *Losing the American Dream: A Report on the Residential Mortgage Foreclosures and Abusive Lending Practices*, unlike foreclosure crises of the past, the current crisis has been fueled in large part by the subprime mortgage market which provides loans to borrowers with impaired or limited credit histories.

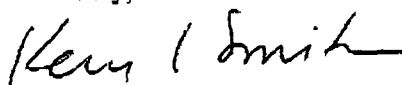
Subprime mortgage lending has increased dramatically, growing from a \$20 billion industry in 1993 to \$665 billion in 2005. While subprime lending is often described as making credit available to the previously underserved, that has not been the experience of CLS clients. For the most part, subprime mortgages are offered to homeowners who already have existing mortgages, and often other forms of credit as well. In most cases, these homeowners are putting their homes at risk in order to borrow cash for repairs, to pay back taxes, or to consolidate credit card debt. Nationally, only about 10% of subprime mortgages go to first-time home buyers. On the other hand, 20% of subprime mortgages have or will end in foreclosure.

Subprime lending— which is often pushed by home improvement contractors and mortgage brokers and targeted at senior citizens and other vulnerable populations — has channeled countless homeowners into high-cost mortgage transactions they did not seek and cannot afford. The Banking Department's regulation addresses that very problem. CLS supports the Department's action to establish the proper conduct of lending and brokering in the mortgage business to ensure that (1) borrowers understand the loan products offered to them, and (2) mortgage lenders and brokers document and verify a borrower's ability to repay the loan, considering the loan features such as possible rate increases and balloon payments.

Homeownership is the most accessible tool available to help families achieve a secure economic future, but today's market failures and abusive lending practices are stripping the benefits of homeownership from hardworking families throughout Pennsylvania. The epidemic of home losses on subprime mortgages—as many as one in five—is a wake-up call, providing strong evidence that the current system of mortgage regulation must be updated to take into account the drastically changed mortgage marketplace.

The Department's proposed regulations are an important move in the right direction. CLS applauds the Banking Department for proposing regulations that will help lead to a cessation of abusive lending practices that have decimated so many communities. We urge the IRRC to swiftly approve these regulatory reforms.

Sincerely,



Kerry E. Smith
Staff Attorney