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INDEPENDENT REGULATORY REVIEW COMMISSION

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FIRST THINGS FIRST JOBS Philadelphia Unemployment Project P.U.P.

Office of Chief Counsel
Department of Banking
Attention: Public Comment on Regulation 3-43
17 N. Second Street, Suite 1300
Harrisburg, PA 17101-2290
VIA FAX: (717) 787-1471

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DEPARTMENT OF BANKING
LEGAL SECTION

August 20, 2007

To the Chief Counsel:

The Philadelphia Unemployment Project [PUP] participated in the September 20th hearing on the Proposed Rulemaking that eventually gave rise to Banking's July 21st publication in the *Pennsylvania Bulletin*. At that time, PUP expressed its support of the Department's efforts to curtail inappropriate loan products. We express our support again, for these rules.

Notably, we see progress with any requirement of lenders to assess consumers' ability to repay a loan. Without them, **the mortgage industry's subprime market is a house built on sand.** As we've sat in hearings and public meetings with component groups of the Mortgage Industry, whether it was represented by brokers or originators, they have testified that any rulemaking would hinder its ability to do business.

Events of the past several months have demonstrated what we knew all along: business would be working much better now if rules like these had been in place before the lending frenzy began. The Mortgage Industry's ill-advised lending has endangered our whole economy.

That said, **we are disappointed that in several places the regulations have weakened against what we were shown in September**. The most detailed analysis of these changes will come from Community Legal Services [CLS], and PUP echoes each of the concerns that CLS enumerates. *We're particularly concerned that lenders may not have to help consumers understand how the cost of an adjustable rate loan will or may increase over time under the provisions in this draft.*

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Provisions we missed from the previous draft, include:

1) The requirement of oral disclosure made good sense. Brokers and originators need to be made to discuss the features of loans (especially negative features) with borrowers. It's another opportunity for a potential borrower to detect an effort by the originator or broker to mislead him or her, and it will make it more comfortable for the potential borrower to ask questions. This is especially important for low-literacy communities.
2) Flipping should have a suitability standard. Under the terms of the version of July 21st, a lender could potentially encourage a borrower to flip and re-flip up to the total value of their home. This is not hypothetical. All of us on the advocacy side have seen real world examples of this and worse.
3) Ability to repay assessment requires more factors than those listed. The September draft included: the ability to repay as it related to *a variable interest rate*, issues around taxes and insurance and prepayment or balloon payments. We see no good reason to remove these or other factors as they have often been used to deceive borrowers into taking out unaffordable loans.

In summary, we support these new rules and hope they move forward. That said, the present mortgage industry turmoil only argues for stronger rules than these, not weaker rules. The turmoil is entirely due to irresponsible lending. While we support these rules looking forward, PUP will also work with its allies to press the Commonwealth and the Industry on strategies to save homeowners already caught up in the current chaos.

If the right rules had been in place before the recent housing boom, we would not be facing the current crisis. That's why we believe the Department of Banking should return to the stronger rules it published for consideration last Fall.

Yours truly,

Brady Russell
Organizer

Cc: Donna Cooper, Secretary of Policy and Planning, Office of the Governor
Sen. Donald White, Chair, Senate Banking and Insurance
Sen. Michael Stack, Chair, Senate Banking and Insurance
Rep. Peter Daley, Chair, House Committee on Commerce
Rep. Dick Hess, Chair, House Committee on Commerce
Rep. Michael McGeehan, Subcommittee Chairman on Financial Services and Banking
Rep. Chris Ross, Subcommittee Chairman on Financial Services and Banking