Maryland Foreclosure Task Force Report

January 11, 2012

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Lt. Governor

January 11, 2012

Governor Martin O'Malley
Lt. Governor Anthony Brown
The Citizens and Families of Maryland

Dear Governor O'Malley:

Four years ago, you convened the Maryland Homeownership Preservation Task Force to develop an action plan to help Maryland homeowners address rising mortgage defaults and foreclosures following severe distress in the subprime mortgage market. A broader financial crisis was beginning to affect every corner of our State. We are pleased to report that under your leadership Maryland has made impressive progress. We have enacted some of the most sweeping reforms in the country and, today, financially beleaguered homeowners have access to far more options – and more time to explore those options – than they did in 2007.

Now, the economy is recovering albeit much more slowly than everyone hoped. The housing market remains fragile and far too many families are financially strapped and fighting to save their most important asset – their home. On September 22, 2011, you established a new task force, the "Maryland Foreclosure Task Force," to seek new ideas to improve prospects for families affected by foreclosure .

This is our report. We believe our recommendations reflect testimony from a wide range of informed and expert stakeholders. . The task force members and participants also reviewed best practices from around the country. As a result of our efforts, the task force recommends several new initiatives, such as early mediation, that can prevent homeowners from losing their home; however, Maryland is also facing the harsh reality that notwithstanding effective intervention programs, an unusually high level of foreclosures will continue for some time. Consequently, it is imperative that state and local governments are prepared with the necessary resources to mitigate the blighting effect of vacant or abandoned property on neighborhoods as well as manage successfully an oversupply of foreclosed homes which could some communities from a full economic recovery.

Maryland families pay a high financial and emotional cost as a result of foreclosure. Their ability to obtain credit suffers and investments in their home are lost. Others suffer too. Lenders lose money, employees in related industries lose jobs, and communities struggle to remain intact.

This report is intended to inform and your guide your next steps in responding to the evolving nature of the foreclosure crisis, and supporting sustainable homeownership and stable neighborhoods in Maryland.

Sincerely,

Raymond A. Skinner, Secretary
Maryland Department of
Housing and Community Development

Alexander M. Sanchez, Secretary
Maryland Department of
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EXECUTIVE SUMMARY

The O'Malley-Brown Administration's commitment to homeownership and economic recovery has been unwavering since the very start of the foreclosure crisis. Governor O'Malley established the "Homeownership Preservation Task Force" on June 13, 2007 in response to rising mortgage loan defaults and foreclosures throughout Maryland. The members of that original task force developed an action plan that resulted in the creation of the MDHOPE hotline for people facing foreclosure, dedication of new resources for nonprofit housing and legal counseling, and the implementation of important legal reforms to prevent mortgage fraud, increase legal oversight, and improve Maryland's foreclosure process. These key efforts to curtail the crisis in Maryland, including a homeowner's right to mediation that became law in July of 2010, are rightly seen as among the most progressive and aggressive approaches to mitigating foreclosures in the nation.

The Administration remains committed to working through the crisis towards recovery alongside all Maryland families and broader communities. Recognizing the changing nature of both the housing and economic landscape in Maryland, Governor O'Malley convened a new task force in the fall of 2011. The charge to the "Maryland Foreclosure Task Force" was to: ***1) assess foreclosure trends and the impact of foreclosures on communities across Maryland; 2) identify further innovative and effective strategies to enhance loss mitigation outcomes for homeowners; and 3) identify innovative and effective strategies to strengthen Maryland neighborhoods impacted by foreclosure***.

The members and participants in the new Maryland Foreclosure Task Force found that the housing crisis has indeed evolved – transitioning from its beginning as a crash of the "subprime" or exotic market to a much broader economic crisis with many people affected by under- and unemployment, diminishing access to credit, and increasing foreclosures and neighborhood degradation. And while recovery appears to be underway, Maryland is still facing the harsh reality of more foreclosures to come. By observation and by analyzing data trends, it is clear that a foreclosure affects not only the people who are losing a home, but also the neighborhood and community left to deal with a range of negative consequences from vacant properties, decreasing property values, and uprooted families and social networks. Now, with fewer resources expected from outside the State and pressures both domestic and global continuing, Maryland is finding that while recovery is real, it is also uneven. Some households are stabilizing and others are still struggling, the future is hard to predict for everyone, and many families hesitate in their plans to move forward.

Continuing to actively address foreclosures and support our neighborhoods and communities is work that remains critically important. The following chapters, each reporting the findings of one of three work groups, clearly demonstrate that Maryland can rise to the challenge.

CHARGE TO THE TASK FORCE

1. **Identify key foreclosure trends and impact of foreclosures on communities across Maryland**

   Gain an understanding of the current face of foreclosure in Maryland (i.e., loans in default, reasons for default, shadow inventory, etc.)

2. **Identify further innovative and effective strategies to enhance loss mitigation outcomes for homeowners**

   A. Enhance home preservation strategies in order to help more homeowners stay in their homes

   - Work with all stakeholders to identify areas that must be streamlined to make the mediation process more predictable;
   - Identify strategic steps to improve mediation participation and outcomes;
   - Identify tools to assist homeowners avoid foreclosure through loss mitigation;
   - Understand the barriers to successful loss mitigation or foreclosure avoidance (this could include anything from servicer practices and policies to increased outreach to borrowers and support for counseling networks); and,
   - Identify and implement prevention strategies (from financial fitness for homeowners/prospective homeowners to scam avoidance and fraud prosecution).

   B. Enhance post-foreclosure liquidation strategy (short sales, land banks) by reviewing legal processing rules

   - Make recommendations to streamline and clarify foreclosure auction rules;
   - Reexamine the requirement that foreclosures be advertised in print media; and
   - Improve rental options.

3. **Identify innovative and effective strategies to strengthen Maryland neighborhoods impacted by foreclosure**

   - Document the community cost of foreclosures including declining local housing values, decreased local taxes, and increased costs of local services;
   - Identify strategies to mitigate these costs; and,
   - Identify incentives that will direct new private sector investment in the reclamation of vacant homes in neighborhoods impacted by foreclosure.

RECOMMENDATIONS OF THE TASK FORCE

Enhance Loss Mitigation:

1. **Enhance loss mitigation outcomes through pre-filing mediation**

   Legislation: To address the late stage barriers to achieving sustainable loss mitigation, revise MD Code Ann Real Prop § 7-105.1 to introduce mediation as an option, upon consent by both parties, prior to filing a foreclosure action in Circuit Court for owner-occupied residential properties in default at the Notice of Intent to Foreclose stage. Ensure that borrowers participating in pre-filing mediation engage the services of a non-profit housing counselor as a prerequisite to doing so.

   Regulation: Promulgate regulations to provide for retention/liquidation options and alternatives to be discussed during mediation to be provided to both parties.

2. **Address the impact of unemployment and underemployment on loss mitigation outcomes, including a dignified exit from the property for homeowners unable to retain homeownership**

   Best Practices – extended forbearance: Periods of extended unemployment or underemployment can often result in significant payment deficiencies, making it difficult for a borrower to qualify for a loan modification upon regaining employment. More is needed to curb such escalating balances. The use of "extended forbearance" should be considered by servicers operating in Maryland. Servicers should offer a program which allows homeowners to make payments based on 31% of their available monthly income, which is held in an expense account and during which time late payments are not reported to the credit bureaus, and the loan does not proceed to foreclosure. A time limit could be set at 6 months (with an option to extend if employment has not been obtained) at which time the loan would be reviewed for a loan modification.

   Regulation – short sales: Eliminate current regulatory barriers to real estate agents negotiating short sales. The Office of the Commissioner of Financial Regulation, the Real Estate Commission and the Maryland Association of Realtors will collaborate to develop standard language in real estate documents so as to provide a safe harbor from implicating a licensing requirement under the Maryland Credit Services Business Act for realtors providing short sale assistance to borrowers, provided the short sale does not result in an unsecured promissory note or other extension of credit as a condition of the sale.

   Best Practices – structured liquidation: For homeowners that are unable to afford even a modified payment or who wish to relinquish their homes, liquidation options must be thoroughly discussed. Options for liquidation, as included on the pre-filing mediation "checklist," should include renting the property back to the borrower, short sales, deeds in lieu of foreclosure, and arrangements by which servicers compensate borrowers through money for moving expenses, or "cash for keys."

3. **Address negative equity and declining property values**

   Best Practices – refinancing and principal reduction: Encourage access to interest rate and payment reductions through refinancing. Currently, loss mitigation options, including refinancing to lower interest rates, have been inhibited by substantial declines in property values which have resulted in negative equity. Servicers should provide access to refinancing and loan modifications that reduce principal balances to reflect current market value under a shared appreciation model, through over-equity refinancing, principal reduction and short-sales or structured liquidation agreements.

4. **Enhance loss mitigation success rates**

Best Practices – single points of contact: Mortgage loan servicers should provide Maryland borrowers with a "single point of contact" to assist in the loss mitigation application process. Housing counselors expressed the frustration of homeowners and homeowners' advocates in being routed through general toll free lines each time that they call. By implementing a system in which a single person or a small team is assigned to work with specific borrowers, much of the confusion and contradiction that has ensued will subside.

Best Practices – enhanced support for housing counseling: Funding shortages and long term viability of the non-profit housing counseling industry are a very real concern given the current make-up of Congress and loss of support for private and public funds through budget cuts and a struggling economy to housing counseling agencies across the State. Members of Congress must recognize and support funding for housing counseling through HUD and its intermediaries. Existing resources should be leveraged to provide support to counselors through a liaison position, within an existing nonprofit agency or as an employee of the State, to support the housing counseling infrastructure. Specifically, the liaison would be responsible for: (1) negotiating fee for service arrangements with servicers; (2) negotiating and securing funding sources for counseling agencies; (3) providing on-going training for counselors and mediators; (4) providing updates on changes to laws, regulations and programs available for borrowers; and (5) developing escalation contacts at servicer partners. The fee for service arrangements should provide the needed funds to support this role.

Best Practices – web based portal and social media: Borrowers must be reached through social media, such as Facebook®, in an effort to provide tools and tutorials for Maryland borrowers that are more likely to use the Internet, rather than face to face counseling workshops, for material. Additionally, more is needed to streamline and automate the loss mitigation process through the use of a web-based portal to expedite processing of loss mitigation requests including mediation.

5. **Stabilize property values and focus resources on occupied properties**

Legislation: Create a new section in MD Code Ann Real Prop § 7-105 to provide for an expedited process that would continue to safeguard and preserve notices requirements and mediation options for occupied structures, but would waive these provisions for properties that are certified as vacant. In doing so, vacant properties that blight communities and exert negative pressure on area home values would be addressed in a more timely fashion.

6. **Ensure compliance with notices protecting tenants in foreclosure**

Regulation: Explore problematic notices addressed to tenants that are the unintended victims of foreclosure proceedings. Specifically, concerns have been raised relating to inconsistent language and, at times, misleading notices provided to tenants residing in properties subject to foreclosure. The Commissioner of Financial Regulation will consider issuing an Advisory directing compliance and uniformity with existing notice requirements for occupants of properties in foreclosure.

Strengthen Maryland Neighborhoods:

1. **Create a centralized Foreclosed Property Registry.**

Legislation: To allow government officials to better locate parties about the condition of foreclosed properties during the "limbo period" between a foreclosure auction and the ultimate recordation of the property deed. Create a simple central resource by which State and local governments have timely access to contact information for reaching the purchasers of foreclosed properties after a property auction.

2. Enact a Neighborhood Conservation Tax Credit for people who purchase foreclosed properties as their principal residence.

Legislation: Neighborhoods that have been destabilized by foreclosures are at a disadvantage in the market for attracting private investment. New homebuyers may prefer the ease of a "move in ready" home. Therefore it is critical that public entities consider incentives that will particularly increase new investment in neighborhoods that have been affected by the foreclosure crisis. Legislation would enable local governments to tailor a package of local property taxes to benefit purchasers of foreclosed properties in target communities.

3. Expand financing tools and incentives for reclamation of foreclosed properties.

Best Practices: There are challenges with accessing financing for the acquisition, rehab and resale or conversion to rental of vacant foreclosed homes, whether by a homeowner or an investor/ developer. One recommendation for addressing this challenge is to develop a pool of funds that can provide below market interest rate and flexible term loans to nonprofit CDCs/CDFIs that acquire and rehab vacant/foreclosed properties in impacted areas. Relatedly, it is important to consider ways to increase operating support for non-profits CDCs and CDFIs for this work, possibly through expansion of the State's Community Investment Tax Credit program (CITC) (which would require legislation).

A related recommendation of the Work Group took into consideration the benefits of retaining former homeowners in their homes after foreclosure, either as renters or through financial mechanisms that allow the homeowner to "rebuy" their homes at the current market value.

4. Encourage expanded partnerships between nonprofits, local governments and REO holders and other Foreclosure Purchasers.

Best Practices: Expanded partnerships between stakeholders are needed in order to accelerate the reclamation or disposition of vacant foreclosed properties. One recommendation is for REO holders to provide a "right of first refusal" to nonprofits and local government for purchase of REO properties, especially in Maryland's targeted Neighborhood Conservation Areas, areas already designated by local governments statewide as part of the HUD funded Neighborhood Stabilization Program (NSP). Relatedly, such partnerships could include more donations or discounting of foreclosed/REO properties to non-profits or government entities.

5. Encourage transition of distressed properties, including multi-family properties, to high quality affordable rental opportunities, particularly near transit and good schools.

Best Practices: As recently noted in Federal Reserve White Paper entitled, "The U.S. Housing Market: Current Conditions and Policy Considerations", issued on January 4th, the weakness of the home buying market coupled with persistence of new foreclosures in foreclosure will result in large inventories of unsold homes. Strategies to convert single-family and other denser properties to rental opportunities need to be considered. As noted in recommendation #3, new and flexible financing tools may be needed to encourage experienced developers to buy, renovate and manage a new portfolio of single-family rental properties.

In addition, multi-family properties may be threatened with foreclosure. This is a topic where additional data is required. It is recommended that research be conducted or compiled to identify multi-family properties that may be at risk; such a risk can result in the displacement of many households. One best practice cited, was Montgomery County's "first look" program for multi-family properties wherein the County has an option to consider purchasing distressed properties prior to foreclosure.

6. **Encourage the timely resale of distressed and REO properties to new 3rd party owners, with an emphasis on selling homes to new homeowners, where high homeownership rates have traditionally predominated.**

   Best Practices: There is a need for better communication between lenders and realtors in order to increase the success of short sale offers and reduce the timeline that these offers now entail. It is also noted that a reassessment of the true current market value of foreclosed properties prior to resale could strengthen the home buying market, allowing homeowners to qualify for affordable homeownership (such that property taxes/monthly escrows are based on current market value of the foreclosed property rather than older out of date assessments).

ORGANIZATION OF THE TASK FORCE

The task force included the Department of Labor, Licensing and Regulation (DLLR), Department of Housing and Community Development (DHCD), Members of the General Assembly, the Judiciary, and representatives from the private sector including the banking industry and nonprofit consumer advocates. Members worked together to understand the barriers to successful foreclosure avoidance, the impact of foreclosures on Maryland neighborhoods, and provided recommendations to help borrowers and communities prevent foreclosures and stabilize neighborhoods that have faced high levels of foreclosure.

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CHAPTER ONE: KEY DATA TRENDS

Introduction

The problems in the nation's mortgage market, commonly referred to as a "foreclosure crisis", were due to the historic rise in delinquencies and foreclosures that exceeded previous peak levels in the post-war era. Similar to the national trend, the Maryland mortgage market entered a period of significant turmoil in early 2007. According to the Mortgage Bankers Association's *National Delinquency Survey*, the share of Maryland mortgage loans that were more than 90 days past due or were in the foreclosure process (also known as seriously delinquent loans) grew sharply from a low of 0.96 percent in the second quarter of 2006 to a historic high of 9.22 percent in the fourth quarter of 2009. The bulk of the initial surge in foreclosures that occurred in 2007 was due to the rapid growth of subprime loans and the rise of foreclosures among these loans. Between the first quarter of 2003 and the second quarter of 2007, the share of Maryland subprime loans in all mortgage loans in service grew from a low of 2.6 percent to a historic high of 12.8 percent. During the same period, the share of subprime loans in all seriously delinquent loans grew from 11.7 percent to a record high 53.4 percent. Much of the increase in subprime delinquencies and foreclosures were caused by the inherently risky adjustable rate mortgages (ARM). About two-thirds of all subprime mortgage debts that originated between 2002 and 2004 were reset into significantly higher rates in 2007 causing the historic rise in delinquencies and foreclosures. Subprime ARM loans represented 33.3 percent of all serious delinquencies among subprime loans in the first quarter of 2003, rising to 65.4 percent in the second quarter of 2007 and to 74.1 percent in the first quarter of 2008.

The eventual collapse of the subprime market that began in 2007 caused the most severe financial crisis in the U.S. since the Great Depression. The three month LIBOR-Treasury spread was only 29 basis points in January of 2007. The spread increased in the summer of 2007 with the collapse of Bear Stearns. With Lehman Brothers in bankruptcy, the spread grew to a high of 457 basis points in October of 2008. The resulting liquidity crisis caused the Great Recession that peaked in December of 2007 and reached a trough in August 2009. From the peak to the trough of that recession, real GDP declined by 3.9 percent, industrial production fell by 19.2 percent and nonfarm payroll employment declined by 6.2 percent. Annual job losses during the height of the Great Recession reached 3.4 percent in Maryland and 4.8 percent in the U.S.

The Great Recession pushed the foreclosure crisis from the subprime to prime market. In the first quarter of 2007, Maryland subprime loans represented 51.3 percent of all serious delinquencies, compared with 26.8 percent for prime loans. But, as the economy deteriorated in 2008 and into 2009, the level of foreclosures among prime loans also rose, further exacerbating the crisis. By the first quarter of 2010, the share of subprime loans in all seriously delinquent loans declined to 33.6 percent, while the similar share for prime loans grew to 53.6 percent.

The most recent National Delinquency Survey for the third quarter of 2011 shows that the nation's serious delinquency rate declined to 8.20 percent from its historic pick of 10.44 percent reached in the fourth quarter of 2009. Maryland's serious delinquency rate declined from its recorded peak of 10.90 percent in the fourth quarter of 2009 to 9.72 percent in the third quarter of 2011. The State's national ranking in delinquency rate edged up from the 9th highest in the second quarter to the 7th highest in the third quarter of 2011. Maryland delinquency rate on mortgage loans that are more than 90 days past due increased to 4.82 percent in the third quarter, ranking the State 2nd highest nationally. The percentage of Maryland loans in the foreclosure process increased by five basis points to 3.71 percent, in the third quarter of 2011 and was up 49 basis points above last year. The State's ranking in foreclosure rate edged up to the 17th highest nationally in the third quarter from the 18th highest in the previous quarter.

The National Delinquency Survey does not contain data at the sub-state level. To assess the impact of foreclosures on Maryland communities and to identify the foreclosure "hot spots", the Office of Policy, Planning and Research of the Maryland Department of Housing and Community Development (OPPR) uses RealtyTrac's property foreclosure data at the zip code level. RealtyTrac, a leading online provider of property foreclosure data, maintains a comprehensive database that incorporates documents filed in all three phases of foreclosure:

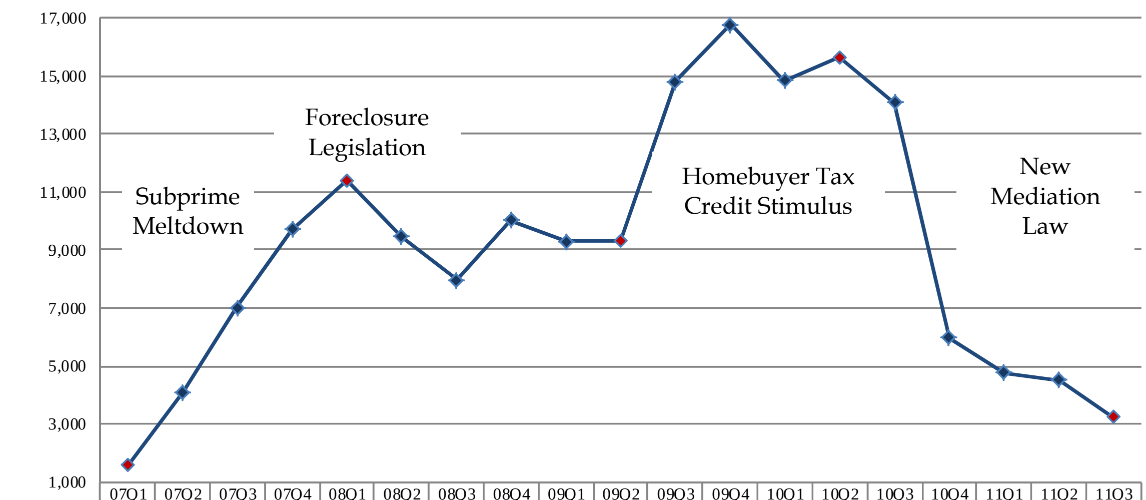
Default (Notice of Default and *Lis Pendens*); Auction (Notice of Trustee Sale and Notice of Foreclosure Sale); and Real Estate Owned, or REO properties that have been foreclosed on and repurchased by a bank.

To evaluate the potential impact of future foreclosure activity in Maryland, DHCD's OPPR, through a cooperative agreement with the Department of Labor, Licensing and Regulation (DLLR), routinely analyzes data from the Notices of Intent to foreclose (NOI) database.[1]

Recent Property Foreclosure Trend

Exhibit 1 below shows the property foreclosure trend in Maryland between the first quarter of 2007 and the third quarter of 2011.

EXHIBIT 1. PROPERTY FORECLOSURE TREND IN MARYLAND: 2007Q1-2011Q3



	07Q1	07Q2	07Q3	07Q4	08Q1	08Q2	08Q3	08Q4	09Q1	09Q2	09Q3	09Q4	10Q1	10Q2	10Q3	10Q4	11Q1	11Q2	11Q3
Foreclosures	1,589	4,094	7,003	9,724	11,393	9,452	7,974	10,030	9,289	9,320	14,803	16,788	14,855	15,637	14,087	5,984	4,777	4,507	3,251

Source: RealtyTrac and DHCD, Office of Policy, Planning and Research

These recent fluctuations in Maryland foreclosure activity can be analyzed by dividing this period into four distinct phases.

Phase 1 (2007:Q1 to 2008:Q1): The subprime meltdown that began in early 2007 caused foreclosures to skyrocket from a quarterly low of 1,589 filings in the first quarter of 2007 to a high of 11,393 in the first quarter of 2008, representing a growth of 617.0 percent for the period. Maryland property foreclosures reached an average high of 6,761 events per quarter during this phase. The State's national ranking in foreclosure rate deteriorated from the 37th highest at the beginning of the period to the 12th highest by the first quarter of 2008. Following the national trend, the bust of the housing bubble in Maryland caused a stunning 39.0 percent decline in home sales and a corresponding 6.5 percent decline in median home sales price. The components of the foreclosure activity also increased significantly as notices of default rose by 1,209.8 percent, notices of foreclosure sales grew by 431.0 percent, and lender purchases increased by 1,203.2 percent.

[1] The Emergency Legislation to Protect Homeownership requires a lender to wait 90 days after the initial default before filing the foreclosure action by sending a uniform NOI to the homeowner 45 days prior to filing an Order to Docket to initiate a foreclosure sale. A copy of the NOI letter also is sent to DLLR. The NOI database includes the following data at the address level: date of NOI notice; date of last payment; amount owed; secured party name; and servicer name.

Phase 2 (2008:Q1 to 2009:Q2): The Emergency Legislation to Protect Homeownership law that went into effect in April 2008 extended the foreclosure period from an average of two weeks to a high of 135 days. As a result, foreclosure activity in Maryland declined by 18.2 percent during this period. Property foreclosures stabilized at an average quarterly rate of 9,576 throughout the period. The State's national ranking in foreclosure rate edged up from the 16th highest at the beginning of the period to the 17th highest by the second quarter of 2009. The implementation of the first two phases of the Federal Homebuyer Tax Credit -- a repayable 10 percent or $7,500 tax credit (i.e. no-interest loan) for the first-time homebuyers between April 8, 2008 and December 31, 2008 and a non-repayable 10 percent or $8,000 tax credit for first-time homebuyers for the period January 1, 2009 through November 6, 2009 -- helped reverse the slide in home sales. As a result, Maryland home sales grew by 37.6 percent during this period, while home prices continued to decline at a rate of 7.6 percent. During this phase, notices of default increased by 57.6 percent, notices of foreclosure sales declined by 82.9 percent, while lender purchases increased by 104.1 percent.

Phase 3 (2009:Q2 to 2010:Q2): Maryland foreclosure activity soared by 67.8 percent, causing the average quarterly foreclosure rate to reach a record high of 14,281 events during this period. Maryland's foreclosure rate deteriorated considerably, ranking the State 10th highest in the nation by the second quarter of 2010. The significant rise in foreclosures during this phase was due to the substantial increase in the number of foreclosure sales and lender purchases as they grew by 560.9 percent and 63.5 percent, respectively. The higher foreclosure sales in this period was due to an upsurge in home sales caused by the continuing decline in home prices and a very low mortgage rate environment. This trend encouraged many lenders to release to the market some of the pent-up foreclosure inventory caused by the build-up of new foreclosures in prior periods.

Phase 4 (2010:Q2 to 2011:Q3): The foreclosure mediation law that became effective as of July 2010 along with the robo-signing controversy and the resulting delays in processing caused the property foreclosure filings to decline to an average quarterly rate of 8,040 during this period. As a result, foreclosures plummeted to a four year low of 3,251 in the third quarter of 2011. During phase 4, property foreclosures declined by 79.2 percent, home sales declined by 21.1 percent, and median home sales price continued to decline at a rate of 5.5 percent. All three components of foreclosures declined significantly during this period. Notices of default plunged by 76.9 percent, notices of foreclosure sales declined by 85.3 percent, and lender purchases decreased by 67.7 percent. The State's national ranking in foreclosure rate reached a record low of 41st in the nation as of the third quarter of 2011.

Foreclosure Sales

RealtyTrac produces a quarterly foreclosure sales report by matching address-level sales deed data against the company's foreclosure database of pre-foreclosure, auction and bank-owned properties. A property is considered a foreclosure sale if a sales deed is recorded for the property while it was actively in some stage of foreclosure or bank-owned. This includes only sales to third-party buyers or investors not involved in the foreclosure process. It does not include property transfers from the owner in default to the foreclosing bank or lender. RealtyTrac calculates the foreclosure discount by comparing the percentage difference between the average sales price of properties not in foreclosure to the average sales price of properties in some stage of foreclosure or bank-owned.

During the second quarter of 2011, sales of homes that were in some stage of foreclosure or bank owned represented 31.3 percent and 23.4 percent of all residential sales in the U.S. and Maryland, respectively (Exhibit 2). Foreclosure sales in Maryland totaled 3,866 units, representing a growth of 1.8 percent above the first quarter of 2011, but a decline of 25.6 percent below last year. The average sales price of Maryland homes in foreclosure or bank owned was $178,615 representing an average discount of about 42.3 percent, the 6th highest discount rate in the nation. The discount was 48.5 percent for REO properties (7th highest) and 36.1 percent for pre-foreclosure sales (5th highest).

RealtyTrac's national foreclosure sales report shows a stunningly simple fact regarding sales of distressed properties. The farther along a property moves in the foreclosure process, the less proceeds that the lender will receive. Delinquent homeowners who do not qualify for loan modification or refinancing have a better chance of returning a higher percentage of the mortgage loan to a lender through a short sale to avoid foreclosure. Pre-foreclosure sales or short sales were up 19 percent nationally in the second quarter of 2011. The growth in pre-foreclosure sales volume together with higher pre-foreclosure discounts and relatively lower days-on-the-market for short signal that the housing market has begun to more efficiently clear the delinquent property inventory across the nation. This also affords the lenders an opportunity to avoid the long and costly process of foreclosure which is increasingly taxing the ability of lenders to process foreclosures. In addition, the data show that the REO properties net substantially less than the pre-foreclosure sales, thereby providing the lenders additional incentives to pursue more aggressively a short sales option.

EXHIBIT 2. FORECLOSURE SALES IN MARYLAND AND THE U.S.: 2011 Q2

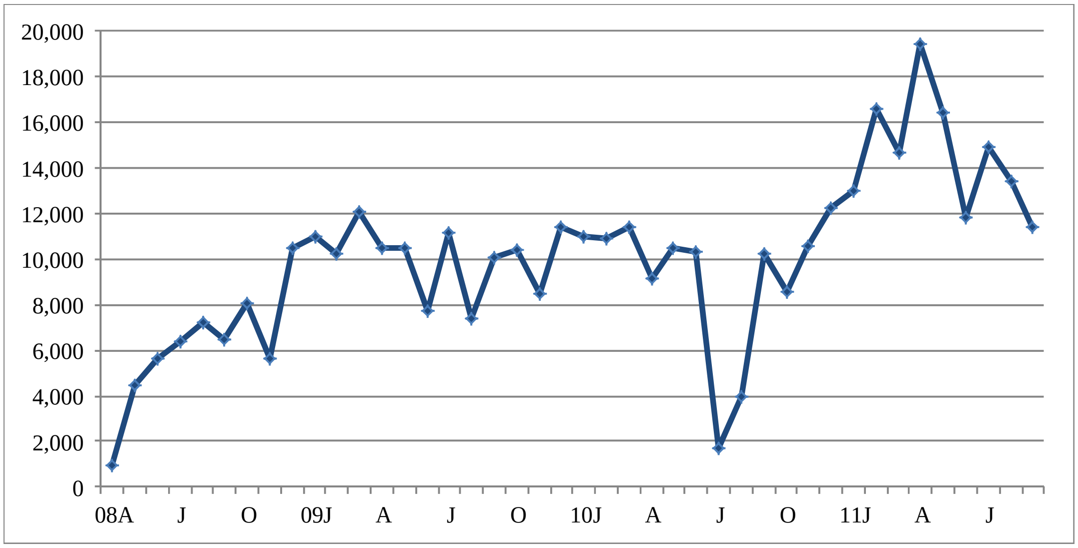
	U.S.	Maryland
Number of Foreclosure Sales	265,087	3,866
Change from Q1 11	6.50%	1.80%
Change from Q2 10	-11.10%	-25.60%
% of All Sales	31.30%	23.40%
Average Foreclosure Sales Price	$164,217	$178,615
Average Pre-Foreclosure Discount	20.50%	36.10%
Average Foreclosure Sales Discount	32.10%	42.30%
Average REO Discount	39.90%	48.50%

Source: RealtyTrac

NOTICES OF INTENT TO FORECLOSE

Since the emergency legislation took effect in April 2008, a total of 418,514 NOIs have been issued to homeowners in Maryland through September 2011. The number of NOIs surged from a low of 989 notices issued in April 2008 to a high of 10,319 in June 2010, representing a growth of 943.4 percent (Exhibit 3). However, NOIs plummeted to a low of 1,692 notices in July 2010. The record drop reflects a decrease of 83.6 percent from the prior month and 84.8 percent from July 2009 levels. This precipitous decline is due primarily to information and outreach that must be provided to homeowners by lenders with the passage of the new foreclosure mediation law that went into effect on July 1, 2010. The law increased the foreclosure timeline for homeowners who qualified for foreclosure mediation and it required additional forms. As a result, most loan servicers were unable to issue NOI's until they modified their internal foreclosure process for Maryland properties. In addition to the foreclosure mediation law, the national investigation into robo-signing which started in the fall of 2010 also delayed financial institutions/lenders from initiating the foreclosure process. The number of NOI's sent to Maryland homeowners slowly increased after July 2010 until it reach a high of 19,488 in April 2011 which is the highest number of NOI's sent to homeowners since the 2008 foreclosure law was enacted.

EXHIBIT 3. NOTICES OF INTENT TO FORECLOSE IN MARYLAND
APRIL 2008 – SEPTEMBER 2011



Source – DLLR and DHCD, Office of Policy, Planning and Research

Data included in Notices of Intent to foreclose do not distinguish between owner-occupied and investor-owned properties. This distinction has important policy implications as foreclosures involving investors may require a different policy response. Foreclosure prevention efforts throughout the U.S. have traditionally been directed at owner-occupied properties. However, foreclosures involving investor-owned (mainly rental) properties may result in the eviction or sudden displacement of renter households. In addition, similar to owner-occupied properties, foreclosures involving investor properties also have substantial spillover impacts on communities. Therefore, to distinguish between owner-occupied and investor-owned properties, OPPR identified and geo coded 89,775 properties in Maryland that received NOIs between January and September 2011. The geo-coded data were then applied to PropertyView in order to obtain detailed information on housing characteristics of those properties.

As shown in Exhibit 4, of all properties that received NOIs between January and September 2011, 15.2 percent or 13,683 properties were investor-owned, while 84.8 percent or 76,092 properties were owner-occupied. Single-family homes represented the largest share of investor-owned properties (7,426 units or 54.3 percent of the total), followed by townhouses (4,662 units or 34.1 percent), and apartments - including condominiums and mobile homes - (1,595 units or 11.7 percent). Similarly, single-family homes accounted for the largest segment of owner-occupied properties (49,719 units or 65.3 percent of the total), followed by townhouses (22,093 units or 29.0 percent), and apartments (4,280 units or 5.6 percent).

EXHIBIT 4. NOTICES OF INTENT TO FORECLOSE BY OCCUPANCY TYPE IN MARYLAND: JANUARY-SEPTEMBER 2011

Occupancy Type	Number of NOIs	Total Amount Owed	Average Amount Owed	Average Default Days
Owner Occupied	**76,092**	**$1,625,248,172**	**$21,359**	**221**
% of All NOIs	84.8%	78.5%	92.6%	99.9%
Apartments	4,280	$87,867,289	$20,530	230
% of Owner Occupied	5.6%	5.4%	96.1%	104.1%
Single Family Homes	49,719	$1,139,337,016	$22,916	221
% of Owner Occupied	65.3%	70.1%	107.3%	100.1%
Townhouses	22,093	$398,043,867	$18,017	219
% of Owner Occupied	29.0%	24.5%	84.4%	98.9%
Investor Owned	**13,683**	**$444,651,446**	**$32,497**	**222**
% of All NOIs	15.2%	21.5%	140.9%	100.5%
Apartments	1,595	$27,983,339	$17,544	228
% of Investor Owned	11.7%	6.3%	54.0%	102.5%
Single Family Homes	7,426	$317,992,320	$42,821	222
% of Investor Owned	54.3%	71.5%	131.8%	99.7%
Townhouses	4,662	$98,675,788	$21,166	221
% of Investor Owned	34.1%	22.2%	65.1%	99.6%
All Units	**89,775**	**$2,069,899,618**	**$23,057**	**221**
Apartments	5,875	$115,850,627	$19,719	184
% of All Units	6.5%	5.6%	85.5%	83.2%
Single Family Homes	57,145	$1,457,329,336	$25,502	180
% of Owner Occupied	63.7%	70.4%	110.6%	81.4%
Townhouses	26,755	$496,719,655	$18,565	171
% of Owner Occupied	29.8%	24.0%	80.5%	77.3%

Source – DLLR and DHCD, Office of Policy, Planning and Research

The total amount owed by these homeowners on back pay and penalties was about $2.1 billion, representing an average amount of $23,057 per delinquent borrower. The average number of default days across all delinquent homeowners was 221 for the period. Owner-occupied properties represented 78.5 percent of the total amount owed, while investors accounted for the remaining 21.5 percent. The average amount owed was $21,359 for owner-occupied properties, accounting for 92.6 percent of the average for all properties. The average amount owed by investors was $32,497 which was 40.9 percent higher than the average owed for all units. The average number of days past due was 221 days for owner-occupied properties and 222 days for investor-owned units.

Exhibit 5 shows the distribution of NOIs in Maryland for all notices that were issued between January and September 2011. Prince George's County led all jurisdictions with a 25.0 percent share of NOIs or 22,401 notices. An estimated 7.6 percent of the county households received NOIs during the period and owed a total of $568.3 million in back pay and penalties. The average number of default days was 243 in Prince George's County, the highest in Maryland. The county's owner-occupied properties accounted for 85.4 percent of all NOIs, while the investor-owned properties represented the remaining 14.6 percent. Within counties, the share of investor-owned in all foreclosed properties ranged from a low of 8.2 percent in Baltimore County to 29.7 percent in Baltimore City, 39.4 percent in Garrett County, and 44.6 percent in Worcester County, the largest share.

EXHIBIT 5. NOTICES OF INTENT TO FORECLOSE IN MARYLAND JURISDICTIONS
JANUARY-SEPTEMBER 2011

Jurisdiction	Number of NOIs	NOI Share	NOI Rate	Amount Owed ($MM)	Average Owed	Average Default Days	Owner Occupied		Renter Occupied	
							Number	%	Number	%
Allegany	524	0.6%	1.9%	$3.0	$5,445	179	431	82.3%	93	17.7%
Anne Arundel	6,931	7.7%	3.7%	$145.6	$24,832	217	6,197	89.4%	734	10.6%
Baltimore	11,787	13.1%	3.9%	$208.3	$17,624	202	10,816	91.8%	971	8.2%
Baltimore City	11,851	13.2%	4.9%	$194.6	$16,318	223	8,327	70.3%	3,524	29.7%
Calvert	1,624	1.8%	4.5%	$31.2	$18,065	222	1,375	84.7%	249	15.3%
Caroline	652	0.7%	5.1%	$9.8	$15,069	210	540	82.8%	112	17.2%
Carroll	2,026	2.3%	3.2%	$39.6	$24,116	200	1,753	86.5%	273	13.5%
Cecil	1,461	1.6%	3.8%	$20.4	$15,149	185	1,227	84.0%	234	16.0%
Charles	3,520	3.9%	6.6%	$84.4	$26,558	211	3,043	86.4%	477	13.6%
Dorchester	557	0.6%	3.9%	$6.8	$11,207	205	468	84.0%	89	16.0%
Frederick	3,375	3.8%	3.6%	$75.2	$18,232	225	3,002	88.9%	373	11.1%
Garrett	241	0.3%	1.9%	$8.1	$23,288	168	146	60.6%	95	39.4%
Harford	3,538	3.9%	3.8%	$110.6	$37,297	200	3,167	89.5%	371	10.5%
Howard	2,857	3.2%	2.6%	$95.8	$36,356	218	2,523	88.3%	334	11.7%
Kent	230	0.3%	2.8%	$2.7	$11,958	206	196	85.2%	34	14.8%
Montgomery	9,517	10.6%	2.7%	$329.7	$36,971	237	8,335	87.6%	1,182	12.4%
Prince George's	22,401	25.0%	7.6%	$568.3	$23,523	243	19,134	85.4%	3,267	14.6%
Queen Anne's	821	0.9%	4.4%	$13.2	$14,146	196	727	88.6%	94	11.4%
Somerset	260	0.3%	3.0%	$2.7	$11,041	213	209	80.4%	51	19.6%
St. Mary's	1,241	1.4%	3.1%	$14.1	$11,118	188	1,084	87.3%	157	12.7%
Talbot	455	0.5%	2.7%	$8.3	$18,084	222	367	80.7%	88	19.3%
Washington	1,952	2.2%	3.4%	$48.2	$20,145	201	1,634	83.7%	318	16.3%
Wicomico	1,154	1.3%	3.0%	$23.7	$22,262	219	948	82.1%	206	17.9%
Worcester	800	0.9%	3.4%	$25.8	$29,911	228	443	55.4%	357	44.6%
Maryland	***89,775***	***100.0%***	***4.2%***	***$2,069.9***	***$23,057***	***221***	***76,092***	***84.8%***	***13,683***	***15.2%***

Source – DLLR and DHCD, Office of Policy, Planning and Research

The "Shadow Inventory" in Maryland

CoreLogic estimated the current national residential shadow inventory as of October 2011 to be a supply of 5 months, down from 7 months of supply in 2010. "The flow of new seriously delinquent loans into the shadow industry has been offset by the roughly equal flow of distressed (short and real estate owned) sales." Shadow inventory or pending supply is calculated using the number of distressed properties not currently listed on multiple listing services that are seriously delinquent (90 days or more), in foreclosure and real estate owned (REO) by lenders. A healthy housing market should have less than one month of supply of shadow inventory. CoreLogic estimates that the shadow inventory is approximately half of all visible inventory listings (both distressed and non-distressed).

CHAPTER TWO: LOSS MITIGATION

I. Introduction

Under Maryland law, section 7-105.1(a)(6) of the Real Property Article of the Annotated Code of Maryland defines a loss mitigation program as "an option in connection with a loan secured by owner-occupied residential property that: (i.) [a]voids foreclosure through a loan modification or other changes to existing loan terms that are intended to allow the mortgagor or grantor to stay in the property; (ii.) [a]voids foreclosure through a short-sale, deed in lieu of foreclosure, or other alternative that is intended to simplify the mortgagor's or grantor's relinquishment of ownership of the property; or (iii.) [l]lessens the harmful impact of foreclosure on the mortgagor or grantor."

Four years after the current foreclosure crisis began, significant obstacles to reaching sustainable loss mitigation relief remain in place although the face of the crisis itself has changed. The current barriers to attaining successful loss mitigation are rooted in the transformation of the mortgage loan servicing industry. The shift from an originate-to-hold to originate-to-distribute model resulted in the unbundling of services related to each mortgage loan on the market. The benefits of this shift resulted in specialization, scale and automation leading to increased flow of capital and reduced interest rates. As we now see, however, this model did not provide for the processing of tens of thousands of residential mortgage loans in default and foreclosure each month. The challenges faced by the industry in seeking to address the rising portfolio of defaulting loans has only been complicated by high rates of unemployment, complex and frequently changing investor guidelines dictating loss mitigation activities as well as changes in state foreclosure laws and the introduction of foreclosure mediation. On the other hand, homeowners and their advocates remain frustrated as they seek to navigate the complex process and reach a sustainable result that avoids foreclosure. The shadow inventory of properties in the foreclosure pipeline or already foreclosed and standing vacant is contributing to the continuing downward pressure on home values, credit availability and tax revenues.

The Loss Mitigation Work Group met continuously beginning in September and collectively reviewed the challenges that serve as barriers to sustainable loss mitigation, including loss of income and employment, negative equity and delays in reaching resolutions.

The working group identified the following as obstacles to loss mitigation:

1. Timing – early intervention is needed as delays in seeking and obtaining assistance handicap available retention options;

2. Income – high rates of unemployment and underemployment often result in significant deficiencies making it difficult for a borrower to qualify for a loan modification upon regaining employment. More is needed to curb such escalating balances;

3. Vacancy – the current foreclosure process provides for an elongated timeline even though a property may be vacant or abandoned contributing to community blight;

4. Assistance – borrowers that seek the assistance of 3rd party HUD-certified housing counselors, pro bono attorneys, or directly through their servicers are more likely to reach a resolution that avoids foreclosure than those who do not, but too many homeowners are not seeking assistance from nonprofit housing counselors and are unaware of their rights under Maryland law;

5. Value – loss mitigation options, include refinancing to lower payments have been inhibited by substantial declines in property values which have resulted in negative equity;

6. Post-foreclosure deficiencies – concerns were raised relating to the possibility of post-foreclosure or post-short sale deficiencies leading to collections and ultimately judgments against the defaulting borrowers. Currently, District Court Rules have been revised to provide adequate protection of consumers facing judgments based on debt collection activities, but the Rules do not apply in Circuit Court.

II. Legislative & Regulatory Reforms

During the period in which the Work Group met to discuss barriers to achieving sustainable alternatives to foreclosure, foreclosure regulations promulgated by the Office of the Commissioner of Financial Regulation went into effect on an emergency basis on October 25, 2011. These regulations made significant changes to the format and substance of documents in foreclosure proceedings in Maryland. Included in the regulations were revisions to the notices provided to homeowners into plain language and easily comprehensible formats so that more Marylanders facing foreclosure would be aware of their rights under the law, and accordingly, more would opt-in to mediation. The outcome of such changes is still largely unknown as of the date of the instant report. The Work Group acknowledged that the revisions to the process through regulation were significant and should be given a chance to work prior to making additional modifications to issues already addressed by the O'Malley-Brown Administration, the Judiciary and the General Assembly. Nonetheless, the group discussed several strategic enhancements to the current process, so as not to complicate foreclosure proceedings, but to augment what is in place through provisions that serve as additional tools aimed at confronting escalating foreclosures and the resulting blight on communities across the State.

(1) **Pre-filing mediation**:[2] Legislation is needed to address the late-stage barriers to achieving sustainable loss mitigation through a pre-filing mediation option available for borrowers. Currently, at the time of opting in to post-filing mediation, many borrowers are so far in default and have accumulated arrears in an amount that precludes an affordable retention option. Fannie Mae is currently piloting a program in Florida which has seen better outcomes. Ideally, expansion beyond Fannie Mae to other investors would serve Maryland best, but if it is impractical to obtain a broad-based servicer commitment as Maryland policy, the State should offer a pre-file mediation program. In doing so, legislation is needed to introduce this program. The program would function in much the same way as the current post-file mediation program that is available and administered by the Office of Administrative Hearings, with few revisions.

Legislation: Revise MD Code Ann Real Prop § 7-105.1 to introduce mediation as an option, upon consent by both parties, prior to filing a foreclosure action in Circuit Court for owner-occupied residential properties in default. The Notice of Intent to Foreclose would trigger this option. Every borrower in foreclosure of their owner-occupied property shall have the right to participate in mediation, whether pre-file mediation or post-filing mediation, currently in place. If participating in pre-file mediation, the borrower would relinquish the right to participate in post-filing mediation, unless otherwise agreed. Accordingly, the borrower must participate in housing counseling as a prerequisite to a pre-file mediation session, so that they fully understand the process. There will be a fee associated with pre-file mediation to cover the costs of mediation and counseling. The fee shall be set by regulation. The goal of pre-file mediation is for the parties to reach an agreement that provides for retention of the property or liquidation, if no retention options are available. In the event the financial circumstances of the borrower change, the mediation agreement will provide for a single point of contact established for the borrower. The pre-file mediation option is not intended to replace any other available loss mitigation options that are offered to homeowners facing foreclosure.

[2] Pre-file Mediation Procedure & Parameters--for Checklist, see addendum below

Regulation: The Office of the Commissioner of Financial Regulation shall promulgate regulations to provide for a checklist of retention/liquidation options and alternatives to be discussed and provided to both parties during mediation so that all available options for loss mitigation are explored.

(2) **Require notice for tenant occupied properties**: Concerns were raised relating to inconsistent and, at times, misleading notices provided to tenants residing in properties subject to foreclosure. While tenants do not have mediation rights, there are certain notice requirements already set-forth in Maryland law that apply. Rather than introduce new legislation to enforce the existing provisions, the group discussed exploring this concern further, at the direction of the Department of Housing and Community Development and through the Office of the Commissioner of Financial Regulation to determine whether an Advisory issued by the Commissioner of Financial Regulation, outlining the need for compliance with the prescribed notice requirements, should be issued.

Regulation: Explore problematic notices addressed to tenants that are the unintended victims of foreclosure proceedings and identify whether the Commissioner of Financial Regulation should issue an Advisory directing compliance with existing notice requirements for occupants of properties in foreclosure.

(3) **Provide a tool which allows for "fast track" liquidation of vacant properties**: Vacant properties that are in stages of disrepair serve as blight to the community and exert negative pressure on area home values. The Work Group recommends "Fast Track" liquidation for vacant properties so as to eliminate the elongated timeline that leaves vacant properties in disrepair for extended periods of time. To coincide with the expedited timeframe, the Work Group recommends certain protections to be put into place to ensure that occupied properties do not proceed to sale on the "fast track".

Legislation: Create a new section in MD Code Ann Real Prop § 7-105 to provide for an expedited process, that introduces the pre-2008 timeline for properties that are vacant. In order to ensure that occupied properties are not erroneously categorized as vacant, the Work Group recommends the issuance of a certificate of vacancy provided by local code enforcement of departments of housing in given municipalities across the State. The Work Group references, § 14-833(e) of the Tax-Property Article of the Annotated Code to broadly apply to jurisdictions outside of Baltimore City giving the municipality the authority to issue certificates of vacancy that serve as independent verifications of vacant properties at the time of filing. The department issuing the certificate will send a courtesy copy to the occupant and the record owner, if applicable. In order to further protect occupied properties from following the "fast track" timeline, the Work Group recommends service of the Order to Docket by certified and regular mail to the occupant and record owner. Adherence to these provisions permits the foreclosure to proceed without the extended timeframe that provides for loss mitigation affidavits and mediation.

(4) **Eliminate regulatory barriers to short sales:** The Office of the Commissioner of Financial Regulation has received feedback relating to barriers to a real estate broker's ability to negotiate a short sale. Pursuant to the Maryland Credit Services Business Act (MCSBA), MD Code Ann. Comm L § 14-1901 et seq., real estate brokers are exempt from licensing while "acting within the course and scope of the license." The negotiation of the short sale itself is not considered an activity that requires a license, however, the negotiation of an unsecured promissory note that represents the deficiency or similar amount that will outlive settlement of the short sale becomes an activity that falls under the MCSBA. A real estate broker (or any other person) who negotiates a promissory note as part of the final agreement is acting as a credit services business, since they are assisting a consumer in obtaining a new debt, which is now an unsecured loan. However, if real estate brokers ensure that sellers never incur a deficiency obligation under the terms of the short sale, they can engage in short sales without obtaining a credit services business license. The problem, as we see it, is that the real estate broker does not know that there will be

a promissory note until very late stage in the process – perhaps at closing. So the broker may have worked for months on negotiating a deal only to find out that if paid at closing, he/she will have violated the MCSBA and should have had a license. Even with the best of intentions, there could still be a breach for unlicensed activity. Additionally, while no consensus was reached relating to treatment of potential deficiency balances following a short sale of a property, concerns were raised about the harmful impact of a deficiency judgments affecting borrower's ability to recover from financial harm. The proposed regulatory change will eliminate the burden for a realtor negotiating a short sale as long as there is no deficiency balance attached to the transaction.

Regulation: The Office of the Commissioner of Financial Regulation, the Real Estate Commission and the Maryland Association of Realtors will develop standard language in real estate listing agreements and contract to provide a safe harbor from implicating a licensing requirement under the Maryland Credit Services Business Act for realtors providing short sale assistance to borrowers, provided the short sale does not result in an unsecured promissory note or other extension of credit as a condition of the sale.

(5) **Explore revising print media advertising requirements:** Currently, foreclosure auctions are advertised for 3 weeks leading up to the auction. The Work Group would like to continue exploring options for advertising requirements that precede auction to serve as more explanatory and as a marketing tool for the sale of properties.

III. Best Practices

The Work Group acknowledges that not every homeowner facing foreclosure can remain in the home. Private investors and Government Sponsored Entities, all affirm that, when, under a standard economic analysis a homeowner qualifies for a loan modification or other foreclosure alternative, and the mortgage servicers have the authority to, they should modify the loan. If modification is not possible, a dignified exit from the property should be available. And yet, the consumer representatives in the Work Group revealed that frustrated homeowners continue to face problems of lost documentation, expired authorizations and confusing responses to their requests for loss mitigation from multiple representatives within a given servicer. Alternatively, too many Maryland homeowners in foreclosure either do not know that they have options available or do not know where to turn for assistance. Compounding the problem are the current rates of unemployment or under employment facing families in Maryland and across the nation.

While there was no consensus on who is to blame, there was broad consensus on the need to continue to expect a high level of service in responding to homeowners in need of assistance and for the exploration of creative solutions, where possible, to an unprecedented crisis. Many state and national servicers have begun to introduce new and innovative strategies to confront surging volumes. These servicers range from local institutions to large national banks that are outside of the jurisdiction of the State and outside of the jurisdiction of the Office of the Commissioner of Financial Regulation. Accordingly, rather than mandate, through legislation or regulation, adherence to standards and a code of conduct that would disproportionately apply to a very small percentage of the market in Maryland, the Work Group recommends a series of "best practices" that provide for a fulsome approach to confronting growing numbers of foreclosure across the State. The following sets forth the best practice recommendations of the Work Group:

a. *Require a single point of contact* ("SPOC") – Servicers should provide Maryland borrowers with a single point of contact to assist in the loss mitigation application process. Housing counselors expressed the frustration of homeowners and homeowners' advocates in being routed through general toll free lines each time that they call. The representative answering the phone may be unfamiliar with that particular borrower's file and be inexperienced or unable to make a decision. By implementing a system in which a single person or a small team is assigned to work with specific borrowers, much of the confusion and contradiction that has ensued will subside.

Several servicers have already started implemented this process and the Work Group recommends that others provide the same to their borrowers.

b. *Extended forbearance - establish an unemployment program based on 31% of homeowners' income* - High rates of unemployment and underemployment often result in significant deficiencies making it difficult for a borrower to qualify for a loan modification upon regaining employment. More is needed to curb such escalating balances and ensure a commitment to staying current. The use of "extended forbearance" should be considered by servicers operating in Maryland. Servicers should offer a program which allows homeowners to make payments based on 31% of their available monthly income, which is held in an expense account and during which time late payments are not reported to the credit bureaus and the loan does not proceed to foreclosure. A time limit could be set at 6 months (with an option to extend if employment has not been obtained) at which time the loan would be reviewed for a loan modification.

c. *Structured liquidation* – For homeowners that are unable to afford even a modified payment or who wish to relinquish their homes, liquidation options must be discussed. Options for liquidation, as included on the pre-filing mediation "checklist," should include renting the property back to the borrower, short sales, deeds in lieu of foreclosure, and arrangements by which servicers compensate borrowers through money for moving expenses, or "cash for keys."

The Work Group recommends providing a dignified exit from the property for borrowers wishing to vacate or who have no means of staying in the home. During pre-file mediation, a liquidation option presented to borrowers should provide for the structure liquidation of the property by which there is a limited property listing with approved expiration date and consent to proceed to foreclosure, presuming waiver of preservation of the deficiency balance for income-eligible borrowers. The Work Group acknowledges that the following details differ from those of a standard short sale and offer greater protections to borrowers agreeing to vacate the property, leaving it in good condition even if there is no offer of sale. The details as set-forth below are intended to serve as a best practice model, addressing areas that dictate broader consumer protection than that contemplated through a traditional short sale.

The details of which are as follows (for pre-file mediation):

i. Parties agree to liquidation of the property through a structured liquidation arrangement
ii. Homeowner signs waiver of right to post-file mediation
iii. Deficiency discussed. Servicer approves "waiver" of right to preserve deficiency[3] - waiver presumed if borrower is unemployed or income-eligible for waiver of Court Costs under § 7-202 of the Courts and Judicial Proceedings Article[4]

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[3] Preservation of the claim for a deficiency makes the borrower an interested party in the sale and ratification process, which is inconsistent with an expedited foreclosure procedure. Additionally, Borrowers will be relying upon Realtors and other non-lawyers to assist them in the process as it is described. Those non-lawyers should not provide the homeowner with legal advice or negotiate on behalf of the homeowner over the deficiency. A requirement that lenders waive any deficiency would permit Realtors to help homeowners through the "fast track" process. The lender can choose not to use the "fast track" if the lender wants to pursue a deficiency judgment.

[4] Revised Schedule of Circuit Court Charges, Costs, and Fees Established Under Courts Article § 7-202, available at http://www.courts.state.md.us/circuit/feeschedule.html III. B. (J)(K).

(J) a case in which the plaintiff or petitioner is represented by counsel retained through a *pro bono* or legal services program that is recognized by Maryland Legal Services Corporation, if the program provides the clerk with a memorandum that names the program, attorney(s), and client(s), that specifies that representation is being

iv. Homeowner signs listing agreement with real estate agent or for on-site auction of the property
v. Homeowner agrees to make property available for showing
vi. Homeowner agrees to vacate property in 90 days (or less if offer)
vii. Homeowner may be asked to pay monthly rent (applied to mortgage through suspense account)
viii. Servicer may provide payment for moving expenses
ix. After 90 days, if no offer, servicer can proceed with foreclosure (to extinguish secondary liens) with leave to proceed or can extend time for borrower to remain in the property (waiver of deficiency remains in place)
x. Servicer liable for property taxes, water bill and property maintenance following borrower vacating property
xi. Checklist to include details of this program (i.e. details about showing property, rental agreement if applicable, details of $ provided for moving expenses, timeline to vacate and details, details about who is responsible for property at each stage in timeline and the checklist should be signed by both parties

In addition to the structured liquidation set-forth above, short sales volume of properties in default remains low. Many reasons have been discussed and debated as the contributing factors of current volume, however, the group did not spend a great deal of time discussing short sale options or barriers to obtaining successful resolutions through short sales. Of those discussed, the Work Group references the following: (1.) removing regulatory barriers that impact real estate agents' ability to negotiate short sales;[5] and (2.) the partnership between the Maryland Bankers Association ("MBA"), the Mid-Atlantic Financial Services Association ("MFSA") and the Maryland Association of Realtors ("MAR") to streamline the process in Maryland.[6] Notably, the MBA ,

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provided for client(s) meeting the financial eligibility criteria of the Corporation, and that states that payment of filing fees is not required under the Prisoner Litigation Act;

(K) a case in which representation is being provided by Maryland Legal Aid Bureau, Inc.[.]

[5] *See infra*, Legislative & Regulatory Reforms discussion regarding short sales and regulation.
[6] The Associations came together to discuss short sales and barriers to short sales at the request of Maryland Attorney General Doug Gansler. After initial meetings, the organizations met to develop plans to increase the viability of short sales as a loss mitigation option for borrowers in foreclosure. Notably, the following have been discussed: Education: The MBA and the MFSA worked with the MAR to offer a session on Short Sales on September 12 at their Annual Conference in Ocean City. Three major lenders/services participated in an interactive panel discussion on the nuts and bolts of short sales; the Equator and other similar internet-based portal resources that many lenders/servicers are offering to realtors to track properties through the short sale process; and the Single Point of Contact (SPOC) requirements (see below). SPOC: An OCC Order, a Supplemental Directive from the U. S. Department of Treasury and a consent order that the major lenders/servicers are operating under require a single point of contact (SPOC) for consumers to work with in the major lenders/servicers. The SPOC requirements were implemented by some lenders/servicers in advance of the required implementation date in the Fall of 2011. This SPOC directive was not widely known by the Realtor community. It was viewed as essential to inform the Realtors of the requirement, which will address a concern of the Realtors as well as the housing advocates of the short sale moving down one track in a lender/servicer and the foreclosure proceeding moving down another simultaneously, with the borrower having to work with multiple areas in the bank to reach a resolution regarding their property. The SPOC directives were addressed during the MAR Conference.
For the longer term, the MBA. the MFSA and the MAR discussed some longer-term strategies for enhancing the education and communication opportunities among our respective memberships, including such things as an article in the MAR magazine derived from the Conference session; sharing the short sale questions/comments from the MAR member hotline with the MBA and MFSA on a regular basis so that the organizations can formally respond if needed/appropriate; adding

MFSA and MAR came together at the invitation of Maryland Attorney General Gansler earlier this year and it became clear at that meeting that enhanced communication would be beneficial to the associations and their members about the issues lenders face when considering a property for a short sale; the significant efforts lenders/services have undertaken internally in the last 12 - 18 months to be prepared to address the increasing volume of short sale requests; the challenges realtors face as well as new and enhanced resources available to them from the lender/servicer community to help them in working with their clients; and new "single point of contact" requirements for the major lenders/servicers in working with their borrowers that should improve the process. The organizations will continue to meet and address certain communication barriers over the coming months.

d. *Negative equity-refinance or modification programs* - Loss mitigation options, including refinancing to lower interest rates, have been inhibited by substantial declines in property values which have resulted in negative equity. Servicers should provide access to refinancing and loan modifications that reduce principal balances to reflect current market value under a shared appreciation model, through over-equity refinancing, principal reduction and short-sales or structured liquidation agreements.

The following details several of these options:

A. *Shared Equity Model*[7]

1. The principal balance is modified to reflect 95% LTV
2. The remaining balance that is above the 95% LTV threshold would be an interest-free second mortgage/lien
3. The new payment is based on the 95% LTV principal balance (and may need a rate reduction to reach an affordable payment)
4. At 3 year intervals of on-time payments, 1/3 of the 2nd lien is forgiven, or at the end of 9 years of on-time payments, the entire amount is forgiven
5. If the property is sold or refinanced during the 9 year window, the investor shares in the equity above the total first and second lien payoff. The percentage of equity-sharing would decrease given the same 3 year intervals set-forth above and would be capped at some percentage of the total amount.

B. *Over Equity Refinancing*[8]

1. Eliminate risk-based fees and pricing when the current note holder already bears the risk;
2. Remove LTV limits or cap them at a rate higher than 105%;

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links on the organizations' websites to short sale resources available from the major lenders/servicers for consumers and realtors, etc.

[7] Investors are currently losing the loan balance that exceeds the property's market rate and in many cases, even more at auction. An additional recommendation in furtherance of this program is to explore the use of tax breaks to participating investors.

[8] It is important to note that the *Mortgage Forgiveness Debt Relief Act of 2007*, which generally allows taxpayers to exclude income from the discharge of debt on their principal residence expires in 2012. Under this Act, debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, should qualify for the exemption. If the homeowner had ever obtained a "cash-out" refinance, however, those funds may not be excluded. Clearly, there is a need to extend this Act beyond 2012 and to account for homeowners that may have previously refinanced and taken money out of their properties.

3. Address the overlays that are put into place by warehouse lines and secondary market investors as a means of hedging against the risk of "buy-backs" or demands from the GSE's;
4. Examine areas by which the design of the program reduces the risk that is passed on to the originating lender since these loans do not have mortgage insurance. Perhaps there could be some type of alternative mortgage insurance to protect investors ?in the event of a buy back (assuming there was no fraud or misrepresentation of the borrower's qualification). More research and dialogue at the federal level is needed to ensure that the loans the GSE's are willing to purchase can be originated at the ground level.

IV. Counseling & Outreach

Borrowers that seek the assistance of third-party HUD-certified housing counselors, *pro bono* attorneys, or directly through their servicers are more likely to reach a sustainable resolution that avoids foreclosure than those who do not. Unfortunately, many borrowers do not seek the services of nonprofit housing counseling agencies and many more are unaware of their rights under Maryland law. The work group recommends a commitment to ensure greater likelihood of loss mitigation success rates and reduction in re-default rates through maximizing the use of the Maryland Hope Hotline and network of housing counselors, pro-bono attorneys and through direct contact with servicer representatives. The State should support an expansion of the HOPE network, work with servicers to encourage the use of counselors to streamline and automate the loss mitigation process, address funding losses, and explore the use of a web-based portal to expedite processing of loss mitigation requests/mediation. The network should also expand to include social media, such as Facebook ®, to provide tools and tutorials for Maryland borrowers. Additionally, the State should look into providing an online tool which provides resources for homeowners beyond mortgage related needs (i.e. utility bills, home repairs, food, and shelter). This online tool should be available to counselors and the MD Hope Hotline. The University of Maryland has created a website to search for local resources: http://www.mdcsl.org/advantagecallback.asp?template=map_search. The State should partner with The University to ensure relevant resources are listed and help counseling agencies and the HOPE Hotline use this site to serve their clients. While increasing access via technology is critical to providing information to many Maryland consumers in foreclosure, the need for advocacy at the grassroots level must not be ignored. The Work Group discussed the need for marketing and outreach media, in the form of pamphlets, door hangers or brochures that can be distributed by volunteers in communities served by network housing counseling agencies. This material should complement that being developed for on-line access with a consistent and uniform message encouraging families to seek housing counseling assistance through the Maryland HOPE Hotline.

1. *Housing counselor support* - Funding shortages and long term viability of the housing counseling industry are a very real concern given the current make-up of Congress and loss of support for private and public funds through budget cuts and a struggling economy. At a time when the demand on such agencies is higher than ever, there are concerns about the resulting consequences of such deep cuts. The foreclosure mediation law passed in 2010 provides a source of funds through a housing counseling fund that is capitalized through $300 foreclosure filing fees assessed when a foreclosure is filed in Circuit Court. Such funding is a step in the right direction but will not completely fill the gap created by these cuts. Consequently, Maryland needs to encourage members of Congress to support funding for housing counseling through HUD and its intermediaries.[9] Failure to support and sustain counseling will result in fewer homeowners achieving successful foreclosure alternatives and more turning to scams whereby vulnerable homeowners facing foreclosure are charged upfront fees for a third party to achieve a loss mitigation resolution on their behalf.

[9] The Work Group recommends DLLR/DHCD jointly drafting a letter expressing the need for support for housing counseling funding and having all members of the Task Force sign the letter.

Housing counselors will assume a considerable role in the pre-file mediation program as proposed herein. Accordingly, a fee for service arrangement, by which counselors are financially supported for their role through the fees paid to access pre-file mediation, is recommended.

Housing counselors additionally benefit from a relationship with key escalation contacts at servicers and with members of the foreclosure bar that can discuss urgent matters. In 2008, Governor O'Malley convened a group of key servicer representatives in Annapolis to discuss servicing concerns. Through this critical meeting, the State established points of contact and guidance for submitting loss mitigation files for review at major servicers in Maryland. Since that time, many of the contacts and processes have become obsolete. The Work Group acknowledges the benefit of such interaction and of such connections and recommends revisiting this initiative and again developing this resource for Maryland housing counselors.

The Work Group further recommends leveraging existing resources and partnerships to provide support to counselors through a position, within an existing nonprofit agency or as an employee of the State, to support housing counseling. A counselor liaison is needed to provide over-arching support for counseling agencies with limited capacity and funding. Specifically, the liaison would be responsible for the following: (1) negotiating fee for service arrangements with servicers to compensate counselors for clean file submissions; (2) negotiating and securing funding sources for counseling agencies; (3) providing on-going training for counselors and mediators; (4) providing updates on changes to laws, regulations and programs available for borrowers; and (5) developing escalation contacts at servicer partners, among other roles. The fee for service arrangements should provide the needed funds to support this role as well as partnerships with servicers and counseling agencies.

Maryland homeowners are advantaged by having access to the network of housing counselors and pro bono attorneys that participate in the MD Hope network. The network provides a brand for outreach and as a driver for allowing homeowners in need to reach qualified and informed advocates. Support for the network must continue through leveraging financial support as well as continuing to market the "Mortgage Late? Don't Wait!" campaign, through targeted outreach.

2. *Web-based portal* - All sides indicated an overall frustration in the exchange of documents, for loss mitigation consideration as well as in preparation for post-filing mediation. Servicers should address loss mitigation in the same manner and with the same efficiency as provided through mortgage loan originations and other financial and banking services, such as on-line banking. Technology can bridge the communication gaps currently in place. The State should encourage servicers to implement loan servicing technology to enhance tracking of, and to provide a direct borrower link to, loss mitigation information as well as general loan information. Currently, DLLR and DHCD are working with GMAC who has partnered with the HOPE LoanPort to develop a pilot in Maryland, by which the HOPE LoanPort will launch a borrower-direct portal for homeowners to submit loss mitigation documentation and exchange documents for use during mediation. The pilot is set to launch shortly after the first of the year. It is unclear if all servicers will participate or support the pilot although wide scale participation is needed for the program to be successful.

   Through the Maryland Hope network of counselors and pro bono attorneys, outreach surrounding the launch and availability of this portal must be conducted. Currently, there are foreclosure prevention workshops across the State that provide for free consultations with pro bono attorneys and housing counselors. Under this framework, the workshops venues could be expanded to include "technology cafés" that provides self-help instruction and computer access for homeowners to log-in to the portal and complete a loss mitigation package. Additional partnerships with public libraries and community colleges around the State should be explored to offer computer access to homeowners with a webinar or short video instruction for how to complete a loss mitigation application on-line.

Addendum:

Pre-file Mediation Procedure & Parameters for Checklist:

1. Notice of Intent to foreclose – trigger

   a. Provide NOI that includes option if offered by servicer
   b. 25 days for borrower to "opt in" (accept servicer's offer) (opt-in accepted via electronic delivery, if functionality exists)
   c. Must schedule appointment with housing counselor during the 25 day window (not have to meet but schedule) – counselor uses mediation portal to provide confirmation of appointment (and counselor creates electronic record if not yet created by borrower)
   d. OAH notified (by written request – explore electronic delivery for exchange) and schedules within 60 days (delay OTD until mediation session takes place, not necessarily 60 days)
   e. Settlement agreement and mediators report remains on file in portal and provided to both parties
   f. Fee set by regulation to cover the cost of administering the program, some portion of which may be recapitalized in the borrower's underlying debt obligation. To be placed in special fund – Housing Counseling Fund to cover program costs
   g. If case proceeds to OTD, mediator's report included in OTD filing
   h. If change in circumstances, borrower/borrower's representative provides documentation to Single Point of Contact provided for during pre-file mediation session

2. **Counseling – prerequisite to mediation session**:

   a. Telephone counseling is acceptable
   b. "self-help" clinics through pro-bono workshops around the State (need electronic portal access)
   c. Checklist for counselors provided (same as for mediation options)
   d. Through the checklist and counseling session, borrowers must be made aware of their rights to representation and any legal rights or defenses that they have to foreclosure

3. **Document exchange – electronic or paper**:

   a. Documents required under current post-file mediation exchange or electronic delivery
   b. NPV analysis and inputs, if used or applicable

4. **Resolution of case**:

   a. Retention or Liquidation
   b. Parties must review "mediation checklist" as created by Regulation and signed by both parties participating in the session to address the following:

      i. Retention

         1. Shared-equity refinance/modification
         2. Over-equity refinance
         3. Extended forbearance
         4. Rent-back
         5. Modification
         6. Payment in full (reinstate loan)
         7. Other

ii. Liquidation

1. Structured liquidation agreement - limited property listing with approved expiration date and consent to proceed to foreclosure/waiver of deficiency balance for income-eligible borrowers
2. Short sale
3. Deed in lieu
4. "Cash for Keys"
5. Private auction (on property or part of group auction)
6. Other

iii. Deficiency balance[10]

iv. Post-filing waiver of mediation

5. **Mediator's report shall include, but is not limited to**:

a. Checklist of options discussed

[10] Discussion of a potential deficiency balance or the secured party's preservation of right to pursue a deficiency balance is not intended to provide consent to accept a deficiency balance or otherwise waive a right available pursuant to bankruptcy or other remedy that the borrower may have available. The use of "deficiency balance" as a checklist item is intended to serve merely as a disclosure to the borrower that he/she may be pursued for the collection of a deficiency balance by the secured party or agent of the secured party so that the borrower makes an informed decision at the time of pre-file mediation.

CHAPTER THREE: STRENGTHENING MARYLAND NEIGHBORHOODS

I. Introduction

The Strengthening Maryland Neighborhoods Work Group convened in person or by conference call twelve times between late September and mid-December 2011. Participants in the Work Group represented the full range of public and private interests, including the banking industry, community advocates and local governments. Early meetings of the Work Group focused on documenting the principal challenges to maintaining safe and stable neighborhoods where foreclosures and vacancies are now concentrated. Later meetings focused on key legislative or best-practice strategies for strengthening affected neighborhoods.

The Work Group agreed to the following stated purpose and objectives:

Purpose of the Work Group:

- To identify innovative and effective strategies to strengthen Maryland neighborhoods impacted by foreclosure.

Objectives for the Work Group:

- To document the community cost of foreclosures including declining local housing values, decreased local taxes, and increased costs of local services;
- To identify strategies to mitigate these costs; and
- To identify incentives that will direct new private sector investment in reclamation of vacant homes in neighborhoods impacted by foreclosure.

Costs to Marylanders and Local Governments Related to Housing Market Decline.

The Work Group found that, after four years into the foreclosure crisis, the end is not yet in sight. High levels of underemployment and unemployment persist alongside a large backlog of mortgage loans in default. Based on key data trends, it has been projected that foreclosures will increase in intensity in the coming year. Furthermore, the housing industry, particularly home sales and values, may not recover fully for several years more.

To date, most of the focus nationally and in Maryland has been on the impact of the crisis on homeowners and the health of the financial services industry. That focus will continue, however, it is increasingly important to consider the mounting costs of foreclosures upon neighborhoods, communities, and local and state governments.

The troubles in Maryland's housing market have greatly impacted both housing values and local tax revenues. This impact is projected to reach a cumulative total of more than $31 billion for the period 2009 through 2012, largely in the loss of housing values. The related decline in local real property tax revenue is estimated at $305 million and the loss of the state real property tax revenue is $35 million.

Housing Value & Tax Revenue Impact of Housing Downturn in Maryland 2009 - 2012	
Number of Houses Experiencing Devaluation	1,971,842
Decline in House Values ($millions)	$31,265.8
Local Real Property Tax Reductions ($millions)	$305.06
State Real Property Tax Reductions ($millions)	$35.02
TOTAL ($millions)	$31,605.9
Source: Center for Responsible Lending and DHCD, Office of Research	

The foreclosure cost analysis summarized in the chart above is based on the Center for Responsible Lending's (CRL) May 2009 report on the spillover impact of mortgage foreclosures. DHCD has utilized the CRL methodology in making a 3-year impact estimate. The CRL methodology is based on the statistics reported by two previous studies. The first study was conducted by Dan Immergluck and Geoff Smith in 2006 and titled "*The Impact of Single Family Mortgage Foreclosures on Property Values*". The second study, titled "The Contagion Effect of Foreclosed Properties" was published in 2008 by Harding, John P., Rosenblatt, Eric and Yao, Vincent W.

Along with increases in foreclosures, local governments are experiencing increased costs for code enforcement relating to securing and maintaining vacant and foreclosed properties (mowing, boarding, removing trash, abating infestation, stabilizing walls & roofs, water leaks, gas leaks, demolition, etc.) For example, Montgomery County reports that the costs they bear for mowing lawns at vacant properties has increased five-fold from $20,000 annually to $100,000 annually. In addition, according to local government members of the Work Group, vacant homes and buildings can be fire hazards and attract criminal activity; these properties then place a burden on local police and fire services as well as pose safety risks to neighbors and first responders.

Harder to quantify, but important to consider, is the dampening effect on the economy related to the decline in consumer confidence in homeownership. There is significant economic impact associated with home-related consumer purchases, including rehabilitation and construction projects. When home transactions slow, so do the consumer purchases associated with establishing a new household.

Strengthening Neighborhoods: Challenges

The Work Group identified *the following six key challenges* that are affecting the stability of Maryland neighborhoods as a result of the foreclosure crisis and ongoing economic downturn. Within each listed downturn is a more detailed list of factors that Work Group members cited as contributing to neighborhood instability.

1. **The decline of the housing market and housing values negatively affects neighborhoods.**

   - *Current renters* are less inclined to transition to homeownership because of concern that housing values will continue to decline.
   - *Existing homeowners* are less likely to invest in rehabilitation or repairs if they feel that doing so is not a good investment; they are feeling "house poor" due to decline in equity or being underwater.
   - *Existing homeowners* may be less able to access lines of credit/home equity loans for housing rehab and maintenance due to decline in home value/equity.
   - *Existing homeowners* are less inclined to make a "move up" purchase to another house.

- *Underwater homeowners* are less able to refinance to today's lower interest rates; refinancing would help them better afford to pay their mortgages and avoid default, as well as to pay other monthly household expenses.
- *Appraisers* not familiar with local neighborhoods are making appraisals based on distressed sales which negatively affects the values of "regular."
- *Rental/investor owned properties* may increase in neighborhoods, especially where home foreclosures are concentrated. Rental housing is not inherently negative; however the experience and ability of landlords to maintain property value can vary widely.
- *"Strategic Defaulters"* contribute to neighborhood instability if they default due to being underwater on their mortgage, despite being able to afford their mortgage.
- *Existing homeowners* may find it difficult to sell their homes due to the number of foreclosed properties on the market in the neighborhood that may sell for lower prices.

2. Concentrations of vacant foreclosed properties, including creditor "real estate owned" property ("REO"), negatively affect neighborhoods

- Vacant properties lower surrounding home values, increase the cost of future rehab the longer they are vacant, often present blighting maintenance issues, can be fire hazards and can harbor crime in once stable communities.
- Parties with an ownership interest after the foreclosure auction may be out of state and may contract with others for property maintenance. Such delegated authority is not easily determined by local agencies.
- Due to budget pressures from the economic downturn, local jurisdictions are less able to take on the cost of maintenance of vacant foreclosed properties.

3. Difficulties that buyers may face in getting financing for the purchase and rehabilitation of foreclosed properties in today's market.

- Prospective homeowners face tighter underwriting standards, including increased credit score and down payment requirements.
- Very limited resources/incentives for *purchase and rehab* of foreclosed properties for both homeowners and developers, particularly where subsidy is needed because purchase/rehab results in costs that exceeds possible resale price.
- Homeowners are not comfortable financing the purchase of homes needing rehab to make homes "live in ready"
- Capacity of local non-profit Community Development Corporations (CDC) or Community Development Financial Institutions (CDFI) is not strong enough to meet current challenges; nonprofits need operating support and affordable financing for construction financing.
- Financing for purchase of condos is difficult in buildings with lower owner-occupancy rates.
- Property assessments and tax rates likely reflect higher values than the current market values; therefore, when homeowners apply for loans, their eligibility may be calculated on larger tax payments than necessary.

4. Properties sold through foreclosure often go to investors from outside of the neighborhood; these investors have varying degrees of experience and ability to redevelop or manage properties.

- If a foreclosed property is not attracting homeownership investment, another possible and positive alternative to vacancy is conversion to rental; however, if landlords are not responsible or experienced, this option may result in lowering the market value of properties in the

neighborhood, and may increase opposition to rental housing by local communities where homeownership has traditionally predominated
- Most Maryland foreclosure programs focus on assistance to single-family homeowners rather than the preservation of rental opportunities.
- There is not sufficient information on foreclosures of multi-family rental properties; this information could be helpful in preserving affordable rental options.
- Foreclosure auctions at the "courthouse steps," do not usually attract the participation of buyers who are interested in occupying the properties as a principal residence.

5. **Local government revenues are decreased by lowered home values while costs can increase related to inspecting, securing, and maintaining vacant foreclosed properties.**

   - It is difficult for local governments to determine who/what entity to call related to the condition of the properties during the "limbo period" between foreclosure auctions and recordation of the deed. Until deed recordation, county land records reflect the prior owner(s), notwithstanding the fact that this party no longer has an ownership interest in the property by virtue of the foreclosure sale.
   - Foreclosure purchasers are recording deeds and paying transfer taxes and recordation fees post-foreclosure sale ratification; however, local governments continue to experience a loss of revenue as some foreclosure purchasers do not record their deeds, waiting until a third party purchases the property and records its deed.
   - Local governments have less financial ability to intervene in the housing market, including through subsidy and support of nonprofit Community Development Corporations (CDC).
   - Costs of addressing code, fire and crime issues increase as vacant housing increases, including costs that a government may take on related to property maintenance or abatement of health, public safety, and environmental issues.

6. **The sales price on a "distressed residential property" decreases the longer it takes to sell the property to a new homeowner or other third party. However, there are barriers to shortening the time it takes to make these sales.**

   - Investor expectations for property sales prices may slow the speed at which properties move into the hands of a third-party "end" owner.
   - Related to the above, servicers are bound by their agreements with certain investors (including Fannie Mae, Freddie Mac and HUD/FHA) to achieve certain sales prices at foreclosure auction.
   - Agreements with mortgage insurers may influence whether or not lenders agree to certain offers of purchase of distressed properties.
   - Short sale offers are not easily processed, due to multiple lien holders, mortgage insurers and investors that must agree to the sale and price.

II. Strengthening Maryland Neighborhoods: Recommendations

In order to address the above challenges, the Work Group has discussed the strategies below. These strategies are separated into (**A.**) those that may require legislative or regulatory reform and (**B.**) those that are recommended as best practices to be considered by all stakeholders.

A. Legislative Recommendations

1. **Create a centralized statewide Foreclosed Property Registry:**

   This recommendation is to create a simple-to-use central resource by which State and local governments have timely access to contact information for reaching the purchasers of foreclosed properties after the auction. The Registry is not intended to change or diminish any existing law with respect to property ownership responsibility or liability.

The Registry will, however, allow government officials to better locate and communicate with parties who have an interest in maintaining the condition of the foreclosed property during the "limbo period" – defined for this report's purposes as *that period of time between a foreclosure auction and the recordation of the property deed.*

Estimates for the length of this limbo period range from nine to eighteen months, depending upon a number of factors, including but not limited to:

- Right of homeowner/property owner to challenge the foreclosure auction (up to 30 days from auction)
- Time required for Courts to ratify the foreclosure sale (which a foreclosure attorney has indicated can exceed 90 days)
- Clearing of any priority government liens against the property
- Eviction proceedings in cases where an insurer, such as FHA, requires that the property be in conveyable condition prior to deed recordation and where lender/servicer does not access property until after eviction is complete.
- Market demand or lack thereof for the property by a new homeowner, and
- Whether or not foreclosure purchasers record the deed prior to resale, or in the alternative, wait to record upon resale to a 3rd party purchaser.

During this limbo period it is difficult for local governments to know who/what entity to call about issues that may arise with the property that may affect the stability of the property itself as well as the surrounding neighborhood. This is of special concern when a property is vacant.

Work Group members agree that it can be advantageous for the new purchasers of foreclosed properties to be alerted to property conditions. In order to address local government needs for reaching involved parties during the limbo period, it is proposed that a successful bidder at foreclosure auction provide basic information through an easy-to-use central repository – a Foreclosed Property Registry.

Registry features should include:

- An on-line web portal for foreclosure purchasers to input basic information about auctioned properties and interested parties.
- Access by local agencies responsible for housing codes, tax/lien collection and public safety, health and/environmental matters.
- No general public access; however, neighbors that prove local residency may call their local officials for information on a specific property.
- Functionality to map foreclosed properties, allowing State and local governments to form and promote strategic partnerships with one another and other stakeholders, such as with realtors, in order to encourage homeownership and reinvestment in harder hit neighborhoods.
- Approaches to alerting foreclosure buyers about obligation to register; for instance requiring auctioneers to provide notice to foreclosure buyers at foreclosure auction about requirements for registration.
- A registration fee at time of INITIAL REGISTRATION.

    - Contact information for the foreclosure buyer ("the Buyer").
    - Contact information for the entity that inputs the Initial Registration ("the Registrant"), if different than the Buyer, including its relation to the Buyer.

- Date of foreclosure auction
- Sales price
- Type of property (check one: single family detached; single family attached; multifamily; condominium; or, other.)
- Property address
- Whether, to the best of Registrant's knowledge at the time of registration, the property is occupied or vacated.
- Investor contact information, if different than the Buyer.
- Contact information for person or entity responsible for property management; the Servicer's REO contact information if applicable to lender owned property.
- Purchaser's Realtor contact information, if applicable and known
- Contact information for service of legal process.

- CLOSE OUT OF REGISTRATION: Within a reasonable number of days (TBD) of deed recordation, the Buyer or its agent will finalize the registration with the following information:

  - Date of foreclosure sale ratification
  - Date deed is filed in land records
  - Contact information for owner on deed.

Much progress has been made in the discussion of a Foreclosed Property Registry. As of its last meeting on December 15, 2011, the Work Group does not have consensus as to the amount of the registration fee. There appears to be some agreement that a modest fee to cover the costs of development and management of a statewide resource might be acceptable to most Work Group members. At minimum, a fiscal estimate for the cost of development and maintenance of a Registry must be developed in order to advance this discussion.

Several task Force members suggested that in addition to covering the costs of development and management of the statewide Registry, the registration fee should be in some greater amount so that the fees can be used to provide funds to local jurisdictions for code-related property maintenance. There is no consensus on this point at this time.

Similarly, several Task Force members proposed that the fee increase if registration does not occur within the to-be-determined timeframe. There is no consensus on this point at this time. Lastly, it has been suggested that registration be required as a precondition to sale ratification in order to enforce timely registration. There is no consensus on this point at this time.

2. **Enact a Neighborhood Conservation Tax Credit to incentivize the purchase of foreclosed properties by new homeowners by enabling local governments (should they choose) to reduce certain local taxes in target areas.**

Neighborhoods that have been destabilized by foreclosures are at a disadvantage in the market for attracting private investment. New homebuyers may prefer the ease of a "move in ready" home. Therefore it is critical that the public sector consider incentives that will particularly increase new investment in neighborhoods that have been affected by the foreclosure crisis.
Neighborhood Conservation Tax credit program elements could include:

- Authorization for local governments to tailor a package of local property tax and transfer or other fee incentives to benefit purchasers of foreclosed properties in target communities.
- Potential enhancement through State income tax credits for purchasers that will be homeowner occupants.

- Identification of areas where home purchases are eligible for tax credit – Neighborhood Conservation Areas – which each jurisdiction has established as part of DHCD's HUD-funded Neighborhood Stabilization Program (NSP).
- Potential limitations with respect to size of tax credits per home purchase and target neighborhood area.
- Review of a target property's tax assessment to determine if it should/could be lowered for the new homeowner based on current market value.

This recommendation has been informed by the Neighborhood Stabilization Act of 1996 wherein two target neighborhoods – one in Baltimore City and one in Baltimore County – benefited from local property and State income tax incentives in order to encourage new homeownership investment. The Baltimore County experience, in particular, is that this property tax incentive (40% reduction for first five years, declining over next five years) was a significant factor in promoting new homeownership investment in a neighborhood that was otherwise trending downward in homeownership rates. The County tax credit was matched 1:1 by a State income tax credit.

B. Best Practice Recommendations

3. Expand financing tools and incentives for reclamation of foreclosed properties.

- Develop a pool of funds to provide below market interest and flexible term loans to nonprofit CDCs/CDFIs that acquire and rehab vacant/foreclosed properties in impacted areas.
- Provide operating support for non-profits CDCs and CDFIs for this work, possibly through expansion of the State's Community Investment Tax Credit program (CITC).
- Consider alternative funding mechanisms to maintain current defaulted homeowners in their homes with "rent-to-buy" or new mortgage options. Much effort is put into preventing foreclosure; however, foreclosure does result in the "resetting" of a property's sale potential to, at most, current market value, providing potential opportunities for former homeowners to afford to remain in their home if a financial restructuring can be accomplished. Several financial mechanisms have been considered in other parts of the country and in Maryland. Identifying the appropriate target neighborhoods, homeowners that are willing to engage in a strong housing counseling program, and securing the needed capital can provide viable alternatives to preserve homeowners in their homes. Examples include:
    - A Boston nonprofit CDFI is purchasing foreclosed properties at a discount and reselling them to homeowners that remain in the home through the transactions.
    - A Chicago nonprofit financial entity is buying selected notes of delinquent borrowers at a discount and is restructuring the loan for the existing homeowner.
    - Similar types of programs have been discussed in Maryland, and DHCD is providing technical assistance.
- Consider incentives for owners of foreclosed properties to renovate and maintain them to a high "market rate" standard.

4. Encourage expanded partnerships between nonprofits, local governments and REO holders and other Foreclosure Purchasers.

- Encourage lenders to give "right of first refusal" to nonprofits and local government for purchase of REO properties, especially in targeted Neighborhood Conservation Areas. FYI --

Neighborhood Conservation Areas have already been designated by local gov'ts statewide as part of the HUD funded/DHCD administered Neighborhood Stabilization Program (NSP).

- Maximize lender donation/discount of foreclosed/REO properties to non-profits or government entities, especially in locally designated Neighborhood Conservation Areas, such as through the National Community Stabilization Trust.

5. **Encourage transition of distressed properties, including multi-family properties, to high quality affordable rental opportunities, particularly near transit and good schools.**

- Consider Montgomery County's "first look" program for multi-family properties wherein the County has an option to consider purchasing distressed properties prior to foreclosure.
- Develop a system for identifying troubled multi-family properties so that local and State stakeholders can coordinate possible approaches to rental housing preservation.

6. **Encourage the timely resale of distressed and REO properties to new 3rd party owners, with an emphasis on selling homes to new homeowners, especially where high homeownership rates have traditionally predominated.**

- Encourage collaboration between REO holders and their brokers for "on site" neighborhood scale auctions that can attract realtors and homeowners interested in foreclosed properties for affordable homeownership.
- Encourage incentives such that short sale offers at the current market value are processed in a timely manner and fewer properties transition to REO status.
- Encourage greater communication between lenders and realtors in order to increase the success of short sale offers and reduce the timeline that these offers now entail. (see Loss Mitigation Group recommendations for more information on recent progress on this point).
- Encourage reassessment of value of foreclosed properties prior to resale to homeowners so that more homeowners can qualify for affordable homeownership (such that property taxes/monthly escrows are based on current market value of the foreclosed property).

APPENDIX A

One Family's Story

A Face of the Foreclosure Crisis – December 22, 2011

In 2007, Maryland homeowner Fanny Melvin experienced two events simultaneously that greatly impacted her ability to pay her mortgage; her marriage ended abruptly and her employer downsized, causing her to lose her $71,000-per-year job. Born in India, Melvin received her U.S. citizenship in 2003 and currently resides in Bowie. She is now a single parent of two children, a 22-year-old daughter who will graduate from UMBC this fall and an 11-year-old son. A determined and focused woman, Melvin enrolled in Prince George's Community College as she decided to embark on a different career path and learn new skills. Melvin continued to encourage herself, "I'm an experienced educated person, I'm sure I will find another job." While attending college, she applied for a job and is now a cyber-security program coordinator with the college at an annual salary of $33,000.

Melvin was a first-time homebuyer and worked for two years trying to modify her loan with her lender. After meeting with Luis Perez, a housing counselor with Housing Initiative Partnership, it was confirmed that she was given more than five forbearances (temporary modifications) in the last three years and would not be eligible for another forbearance until January 2012. Melvin feared, "I purchased my house with every penny I had. I was scared, should I stay, should I go, is it worth it going through the pain?"

Although she made all her payments on time, her efforts to resolve her situation were hampered by investor's guidelines which state that permanent modifications are only given if one person on the deed is deceased. Therefore, the only options that were available to Melvin were to bring her account current or make additional payments. She shared her concern, "If there are people out there, like me, to have a home, the American dream. If you want this place to raise your children, your family, try hard to keep it."

She was very proactive, the word 'no' was not accepted as she pursued various options. Melvin continuously worked with pro bono attorneys, visited Maryland's MDHOPE website looking for resources, met with HIP staff including Housing Counseling Program Director Mary Hunter and Luis Perez. Both Perez and Wilson Randall encouraged her to attend the department's Mortgage Late, Don't Wait workshop in April to get information on the EMA program with the purpose to provide her with other options to help bring her loan current and help with monthly payments.

Melvin applied for and was one of the first recipients to receive an Emergency Mortgage Assistance (EMA) program loan from the Maryland Department of Housing and Community Development (DHCD), a move she felt released a heavy burden released from her. Melvin was thrilled, "EMA was the final step for me, it was my lucky day, otherwise I would have lost everything. The EMA program allowed me to breathe; I finally could have a good night rest."

Melvin was approved for an EMA loan in the amount of about $42,400. The assistance is spread out over 24 months and helps Melvin meet her monthly payment of about $2,465; she pays a manageable portion of about $1,399 and DHCD pays $1,065. Melvin closed her loan in June and has made six payments on time. With her family's wellbeing as her primary motivation, she is determined to do whatever is necessary to keep her home.

"I want to keep my house, my goal is to restructure and refinance my home. Without EMA, I would have walked away from my home, rent a space. It would have been hard. This situation has made me stronger."

On May 9, 2011, on the lawn of Melvin's home, Governor Martin O'Malley along with Lt. Governor Anthony Brown, Secretary Raymond Skinner, and elected and community leaders, housing counselors and DHCD staff highlighted the EMA program and announced that Maryland was the first state in the country to close an EMA loan.

The EMA program helped more than 1400 Maryland families like the Melvins. Maryland was one of the most successful states to utilize these funds with over $56 million in obligated loans to assist beleaguered households. However, the program ended on September 30th with no indication that additional funds would be forthcoming in the foreseeable future from the federal government to address the continuing foreclosure crisis.

APPENDIX B

INCIDENCE OF FORECLOSURES IN MARYLAND COMMUNITIES

From A Report of the DHCD Office of Research

RealtyTrac data for the third quarter of 2011 show that foreclosure filings declined in all Maryland jurisdictions except in Allegany County and Baltimore City. Over 27.0 percent of all foreclosures statewide (or 892 filings) occurred in Prince George's County, by far the largest share among all Maryland jurisdictions. However, foreclosure activity in Prince George's County was 40.5 percent below the previous quarter and 78.3 percent below last year (Exhibit 1). Baltimore City with 507 foreclosure filings (15.6 percent of the total) had the second highest number of foreclosures in Maryland. The City's foreclosure activity increased by 3.8 percent above the previous quarter but was down 72.9 percent below last year. Baltimore County had the third largest number of foreclosures in the third quarter (437 filings), accounting for 13.4 percent of the total. Montgomery County reported a total of 349 foreclosure filings (the fourth highest statewide), representing a decline of 25.9 percent below the previous quarter and down 75.6 percent below last year. Anne Arundel County with 239 foreclosures and Frederick County with 142 foreclosures rounded up the fifth and the sixth top foreclosure jurisdictions in Maryland. Together, these six jurisdictions represented 78.9 percent of all foreclosure activity statewide.

The bulk of the foreclosure *Hot Spots* are located in Prince George's County. The OPPR defines a foreclosure *Hot Spot* as a community that had more than ten foreclosure events in the current quarter and recorded a foreclosure concentration ratio of greater than 100. The concentration ratio, in turn, is measured by a foreclosure index. The index measures the extent to which a community's foreclosure rate exceeds or falls short of the State average foreclosure rate. An index of 100 represents the weighted average foreclosure rate of 460 homeowner households per foreclosure in the third quarter of 2011. For example, the Franklin community of Baltimore City (zip code 21223) recorded a total of 40 foreclosure events in the third quarter, resulting in a foreclosure rate of 110 homeowner households per foreclosure and a corresponding foreclosure index of 417. As a result, the foreclosure concentration in Franklin was 317 percent above the state average index of 100. Overall, a total of 1,934 foreclosure events, accounting for 59.5 percent of all foreclosures in the third quarter, occurred in 68 *Hot Spots* communities across Maryland (Exhibit 2). These communities recorded an average foreclosure rate of 256 homeowner households per foreclosure and an average foreclosure index of 179. The *Hot Spots* communities are further grouped into three broad categories: "high," "very high," and "severe."

The "high" foreclosure communities posted foreclosure indices that fall between 100 and 200. Maryland jurisdictions with a "high" foreclosure problem recorded a total of 1,012 foreclosures in 41 communities, accounting for 52.3 percent of foreclosures in all *Hot Spots* and 31.1 percent of all foreclosures statewide. These jurisdictions recorded an average foreclosure rate of 311 and an average foreclosure index of 148.

The "very high" group includes jurisdictions that posted foreclosure indices of between 200 and 300. Jurisdictions with a "very high" foreclosure problem recorded 783 events in 24 communities, representing 40.5 percent of foreclosures across all *Hot Spots* and 24.1 percent of foreclosures statewide. These communities had an average foreclosure rate of 208 and an average foreclosure index of 222.

The "severe" group represents communities in which the foreclosure indices exceeded 300. Maryland jurisdictions with a "severe" foreclosure problem posted a total of 139 foreclosures in 3 communities, accounting for 7.2 percent of all foreclosures in *Hot Spots* communities, and 4.3 percent of foreclosures statewide. These jurisdictions recorded an average foreclosure rate of 134 and an average foreclosure index of 343.

EXHIBIT 1. PROPERTY FORECLOSURE EVENTS IN MARYLAND JURISDICTIONS
THIRD QUARTER 2011

Jurisdiction	Notices of Default	Notices of Sales	Lender Purchases (REO)	Total			
				Number	County Share	% Change from	
						2011Q2	2010 Q3
Allegany	12	2	3	16	0.5%	31.7%	-62.9%
Anne Arundel	79	78	82	239	7.4%	-31.3%	-76.7%
Baltimore	147	172	117	437	13.4%	-13.9%	-72.1%
Baltimore City	175	212	120	507	15.6%	3.8%	-72.9%
Calvert	22	3	8	34	1.0%	-16.0%	-85.3%
Caroline	3	0	6	8	0.3%	-66.9%	-91.5%
Carroll	32	9	17	57	1.8%	-16.7%	-77.7%
Cecil	10	5	6	21	0.6%	-32.3%	-89.6%
Charles	40	44	20	104	3.2%	-24.9%	-78.8%
Dorchester	7	6	5	18	0.6%	-40.9%	-78.5%
Frederick	75	41	25	142	4.4%	-32.7%	-78.7%
Garrett	1	0	1	3	0.1%	-67.5%	-93.3%
Harford	52	36	18	106	3.3%	-20.5%	-79.2%
Howard	38	40	32	109	3.4%	-17.7%	-74.6%
Kent	2	1	5	8	0.2%	-33.0%	-76.7%
Montgomery	163	93	93	349	10.7%	-25.9%	-75.6%
Prince George's	323	306	263	892	27.4%	-40.5%	-78.3%
Queen Anne's	28	0	4	32	1.0%	-4.7%	-71.4%
Somerset	0	0	7	7	0.2%	-48.9%	-83.4%
St. Mary's	21	11	9	41	1.2%	-2.0%	-79.4%
Talbot	5	2	5	12	0.4%	-66.0%	-81.9%
Washington	45	5	19	69	2.1%	-48.6%	-79.3%
Wicomico	7	1	10	18	0.6%	-47.1%	-81.0%
Worcester	12	0	8	20	0.6%	-62.0%	-85.4%
Maryland	***1,299***	***1,068***	***884***	***3,251***	***100.0%***	***-27.9%***	***-76.9%***

Source: RealtyTrac

EXHIBIT 2
CHARACTERISTICS OF FORECLOSURE HOT SPOTS IN MARYLAND: 2011 Q3

Category	High	Very High	Severe	All *Hot Spots* Communities
Number of Communities	41	24	3	68
% of *Hot Spots* Communities	60.3%	35.3%	4.4%	100.0%
% of *All* Communities	7.9%	4.6%	0.6%	13.1%
Foreclosures	1,012	783	139	1,934
% of *Hot Spots* Communities	52.3%	40.5%	7.2%	100.0%
% of All Communities	31.1%	24.1%	4.3%	59.5%
Average Foreclosure Rate	311	208	134	256
Average Foreclosure Index	148	222	343	179
Number of Households	314,448	162,516	18,659	495,623
% of *Hot Spots* Communities	63.4%	32.8%	3.8%	100.0%
% of All Communities	21.0%	10.9%	1.2%	33.1%

Source: RealtyTrac and DHCD, Office of Policy, Planning and Research

Property foreclosures in "severe" foreclosure *Hot Spots* were concentrated in Baltimore City and Prince George's County (Exhibits 5 and 6). Baltimore City with 72 foreclosures accounting for 51.8 percent of all foreclosures in this group recorded the highest number of properties in the "severe" foreclosure category. The impacted communities in the City posted a weighted average foreclosure rate of one foreclosure per 127 homeowner households and an average foreclosure index of 361. Prince George's County with 67 foreclosures represented 48.2 percent of foreclosures in this group. The severe hot spots in that county had an average foreclosure rate of 142 homeowner households per foreclosure and an average foreclosure index of 325.

The "severe" *Hot Spots* communities with highest foreclosure incidence include Franklin and Druid in Baltimore City and Capitol Heights in Prince George's County. The intensity of foreclosures in these communities was 2.4 times higher than the statewide average. The hardest hit community in Maryland during the third quarter of 2011 was Franklin in Baltimore City (zip code 21223). This community recorded a total of 40 foreclosure events, resulting in a foreclosure rate of 110 homeowner households per foreclosure and a corresponding foreclosure index of 417. As a result, the foreclosure concentration in this Baltimore zip code was 317 percent above the state average.

Property foreclosures in "very high" foreclosure *Hot Spots* were highly concentrated in Prince George's County and Baltimore City. Prince George's County with 522 foreclosures represented 66.6 percent of all foreclosures in the "very high" foreclosure category. The impacted communities in Prince George's County posted a weighted average foreclosure rate of one foreclosure per 207 homeowner households and an average foreclosure index of 222. Top ten communities with the highest foreclosure incidence include Clifton East End, Waverly, Clifton and Patterson in Baltimore City; and Beltsville, Laurel, Indian Head, Oxon Hill and Cheverly in Prince George's County.

Foreclosure filings in "high" foreclosure *Hot Spots* were concentrated in 12 jurisdictions including Anne Arundel, Baltimore, Charles, Frederick, Harford, Howard, Montgomery, Prince George's, Queen Anne's, St. Mary's and Washington counties as well as Baltimore City. Prince George's County communities with 263 foreclosures, or 26.0 percent of all foreclosure events, represented the largest concentration of properties in this category. The county's communities recorded an average foreclosure rate of 254 homeowner households per foreclosure and an average foreclosure index of 181. Baltimore County communities with 186 foreclosures (18.3

percent of the group) had the second largest number of foreclosures in this group. These communities had an average foreclosure rate of 317 and an average foreclosure index of 145. Montgomery County with a reported 141 foreclosures (13.9 percent of the total) and Frederick County communities with a total of 74 foreclosures (or 7.3 percent of the total) represented the third and the fourth largest concentration of "high" foreclosures *Hot Spots.*

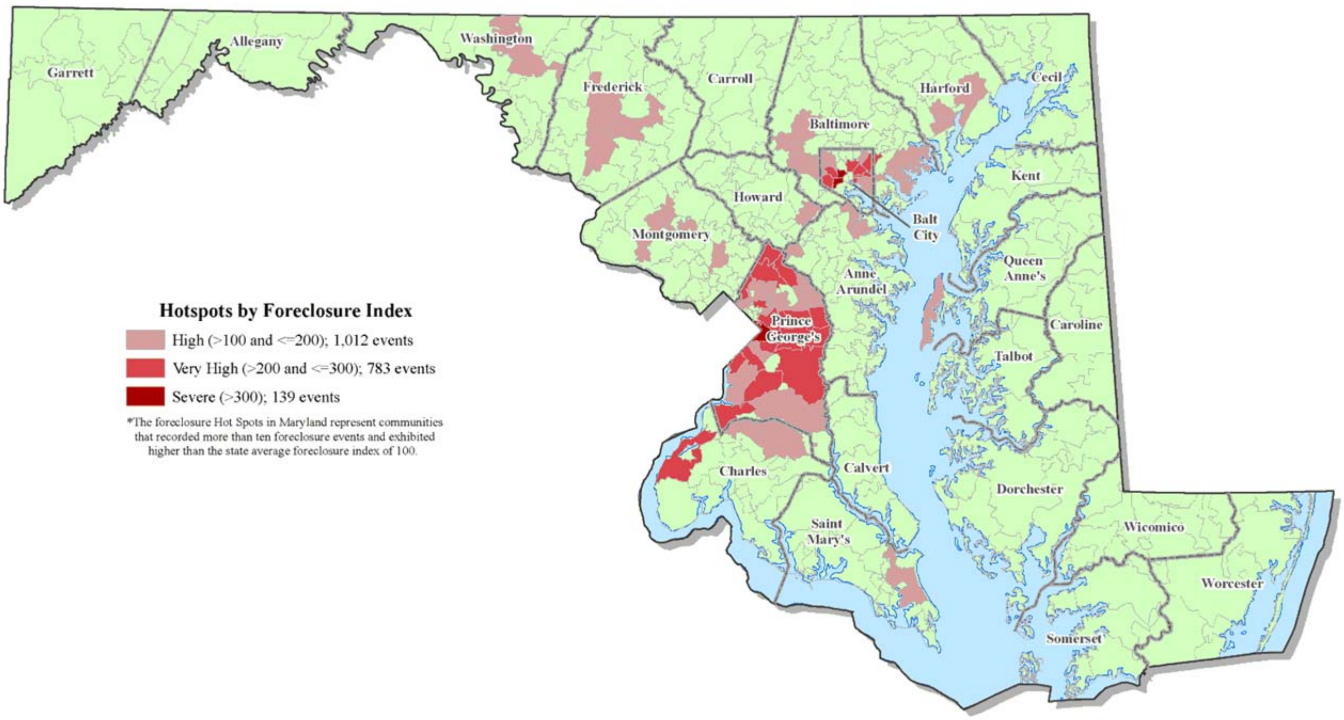
Communities with the highest foreclosure incidence in this group include Ford Washington, Lanham, Suitland, Cheverly, Brandywine and West Hyattsville in Prince George's County; Waldorf in Charles County; Darnestown in Montgomery County; and Highlandtown in Baltimore City.

EXHIBIT 3
FORECLOSURE *HOT SPOTS* IN MARYLAND: 2011 Q3

Jurisdiction	Number of Zip Codes	Foreclosures		Rate	Index	Number of Households
		Events	Percent			
Severe Foreclosures						
Baltimore City	2	72	51.8%	127	361	9,178
Prince George's	1	67	48.2%	142	325	9,481
Maryland	***3***	***139***	***100.0%***	***134***	***343***	***18,659***
Very High Foreclosures						
Baltimore	1	17	2.2%	229	201	3,956
Baltimore City	7	229	29.3%	208	221	47,737
Charles	1	15	1.9%	183	251	2,744
Prince George's	15	522	66.6%	207	222	108,079
Maryland	***24***	***783***	***100.0%***	***208***	***222***	***162,516***
High Foreclosures						
Anne Arundel	3	45	4.4%	364	126	16,370
Baltimore	7	186	18.3%	317	145	58,918
Baltimore City	4	107	10.6%	286	161	30,594
Charles	3	62	6.2%	293	157	18,304
Frederick	3	74	7.3%	372	124	27,541
Harford	3	51	5.0%	409	112	20,865
Howard	1	20	2.0%	361	128	7,183
Montgomery	4	141	13.9%	321	143	45,268
Prince George's	10	263	26.0%	254	181	66,746
Queen Anne's	1	13	1.3%	328	140	4,268
St. Mary's	1	14	1.4%	336	137	4,705
Washington	1	36	3.6%	380	121	13,686
Maryland	***41***	***1,012***	***100.0%***	***311***	***148***	***314,448***

Source: RealtyTrac and DHCD, Office of Policy, Planning and Research

EXHIBIT 4
DISTRIBUTION OF FORECLOSURE *HOT SPOTS* IN MARYLAND
THIRD QUARTER 2011



Source: RealtyTrac and DHCD, Office of Policy, Planning and Research

NOTICES OF INTENT TO FORECLOSE BY COMMUNITY PROFILE

This study also identifies the socio-economic profiles of Maryland communities that have received NOIs during the January to September 2011 period. To overlay NOI data on socio-economic characteristics of communities, OPPR constructed a standardized economic profile for each census tract, using the Environmental Systems Research Institute, Inc. (ESRI) community profiles for 2010. These profiles were then used to develop a community development index that compares and measures economic development conditions across Maryland census tracts. This "composite" index is based on three separate indices that measure economic well-being, housing market rigor, and educational attainment of a community. The well-being index consists of four community indicators: poverty rate, median household income, growth rate of household income (2000-2010), and household formation between 2000 and 2010 (a proxy for quality of life). The housing market index measures the health and vigor of a community's housing market and includes four components: median value of owner occupied housing units, growth in the median value of housing units (2000-2010), vacant housing units, and the concentration of the NOIs. Finally, the education index measures educational attainment of a community and includes the following components: percent of population with a college degree (both undergraduate and graduate degrees) and percent of population without a high-school diploma. Exhibit 5 summarizes the results of our analysis by grouping Maryland census tracts into five development categories – distressed, at-risk, stable, vibrant and robust -- based on each community's development index score.

EXHIBIT 5. COMMUNITY DEVELOPMENT INDICES IN MARYLAND: 2010

Community Development Index Range	Development Category	# of Census Tracts	Percent of Total	Total Index	Well Being Index	Education Index	Housing Market Index	Total Population	% of Total
<=50	Distressed	16	1.3%	48	51	28	64	49,959	0.9%
>50 & <=95	At Risk	429	35.3%	76	77	58	93	1,612,696	28.1%
>95 & <=140	Stable	417	34.3%	117	114	106	129	2,122,435	37.0%
>140 & <=185	Vibrant	174	14.3%	161	146	168	168	980,034	17.1%
>185	Robust	180	14.8%	248	182	320	241	965,768	16.9%
Statewide		***1,216***	***100.0%***	***100***	***100***	***100***	***100***	***5,730,892***	***100.0%***

Source: DHCD, Office of Policy, Planning and Research

The "distressed" communities recorded development indices that are less than or equal to 50. These communities are represented by 16 census tracts accounting for 1.3 percent of all Maryland tracts and recorded a total population of 49,959 or 0.9 percent of the total. The distressed communities posted an average composite development index of 48 compared to the statewide average development index of 100. Comparing to an average statewide index of 100, these communities recorded average indices of 51 for economic well-being, 28 for educational attainment, and 64 for housing market conditions. During the first three quarters of 2011, 5.6 percent of households in the distressed communities received NOIs, accounting for only one percent of all NOIs issued statewide (Exhibit 6). Investor-owned properties in these communities represented 3.3 percent of all investor-owned properties that received NOIs statewide, while accounting for 52.0 percent of all NOIs issued to the community residents. Total amount owed on back pay and penalties in these communities was $13.8 million, amounting to an average of $15,783 per delinquent homeowner. The average number of default days in the distressed communities was 229. The distressed communities recorded a poverty rate of 34.1 percent, annual household income growth of 1.6 percent, annual household formation rate of -1.0 percent, housing vacancy rate of 30.4 percent and median house price growth of 73.2 percent (Exhibit 7). African American and minority population represented 81.5 percent and 85.6 percent of all residents in the distressed communities, respectively.

The "at-risk" communities posted development indices that are greater than 50 but less than or equal to 95. These communities include 429 census tracts accounting for 35.3 percent of all Maryland tracts, and recorded a total population of 1,612,696 or 28.1 percent of the total. The at-risk communities recorded an average composite development index of 76. These communities had an average index of 77 for economic well-being, 58 for educational attainment, and 93 for housing market conditions. Between January and September 2011, 5.1 percent of households in at-risk communities received NOIs, representing 32.9 percent of all NOIs issued in Maryland. Investor-owned properties in at-risk communities represented 43.5 percent of all investor-owned properties that received NOIs statewide (the largest share), while accounting for 20.2 percent of the NOIs issued to the community residents. Total amount owed in these communities was $543.5 million, representing an average of $18,433 per delinquent homeowner. The average number of default days in at-risk communities was 218. The at-risk communities posted a poverty rate of 15.0 percent, annual household income growth of 2.0 percent, annual household formation rate of zero percent, housing vacancy rate of 17.6 percent and median house price growth of 77.9 percent. African American and minority population represented 45.7 percent and 53.5 percent of all residents in these communities, respectively.

The "stable" communities posted development indices that are greater than 95 but less than or equal to 140. These communities include 417 census tracts representing 34.3 percent of all tracts, and recorded a total population of 2,122,435 or 37.0 percent of the total. The stable communities recorded an average composite development index of 117 and posted average indices of 114 for economic well-being, 106 for educational attainment, and 129 for housing market conditions. About 4.6 percent of households in stable communities received NOI notices, thus accounting for 40.6 percent of all NOIs statewide. Investor-owned properties in stable communities represented 34.2 percent of all investor-owned properties that received NOIs statewide, while accounting for 12.9 percent of the NOIs issued to the community residents. Total amount owed in stable communities was $817.0 million, amounting to an average of $22,434 per delinquent homeowner. The average number of default days in stable communities was 220. The stable communities had a poverty rate of 6.9 percent, annual household income growth of 2.1 percent, annual household formation rate of 0.9 percent, housing vacancy rate of 7.4 percent and median house price growth of 82.5 percent. African American and minority population represented 25.4 percent and 36.9 percent of all residents in these communities, respectively.

The "vibrant" communities had development indices that are greater than 140 but less than or equal to 185. These communities are represented by 174 census tracts -- accounting for 14.3 percent of all tracts -- had a total population of 980,034 or 17.1 percent of the total. The vibrant communities recorded an average composite development index of 161 and posted average indices of 146 for economic well-being, 168 for educational attainment, and 168 for housing market conditions. The NOI rate in vibrant communities was 3.8 percent, representing 16.0 percent of all NOIs issued during the period. Investor-owned properties in vibrant communities represented 12.0 percent of all investor-owned properties that received NOIs statewide, while accounting for 11.4 percent of the NOIs issued to the community residents. Total amount owed in vibrant communities was $415.6 million, amounting to an average of $28,882 per delinquent homeowner. The average number of default days in vibrant communities was 220. The vibrant communities posted a poverty rate of 4.2 percent, annual household income growth of 2.2 percent, annual household formation rate of 1.1 percent, housing vacancy rate of 5.0 percent and median house price growth of 87.8 percent. African American and minority population represented 20.4 percent and 33.3 percent of all residents in these communities, respectively.

Finally, the economically "robust" communities posted development indices that are greater than 185. These communities include 180 census tracts accounting for 14.8 percent of all Maryland census tracts, and recorded a total population of 965,768 or 16.9 percent of the total. The robust communities recorded an average composite development index of 248. These communities had average indices of 182 for economic well-being, 320 for educational attainment, and 241 for housing market conditions. The robust communities had a NOI concentration rate of 2.3 percent (the lowest) while accounting for 9.6 percent of all NOIs issued in Maryland. Investor-owned properties in robust communities represented 6.9 percent of all investor-owned properties that received NOIs statewide, while accounting for 11.0 percent of the NOIs issued to the community residents. Total amount owed in robust communities was $279.9 million, amounting to an average of $32,531 per delinquent homeowner. The average number of default days in vibrant communities was 218. The robust communities recorded a poverty rate of 2.7 percent, annual household income growth of 2.1 percent, annual household formation rate of 0.8 percent, housing vacancy rate of 4.0 percent and median house price growth of 86.8 percent. African American and minority population represented 11.1 percent and 25.3 percent of all residents in these communities, respectively.

EXHIBIT 6
NOTICES OF INTENT TO FORECLOSE BY COMMUNITY CATEGORY
JANUARY-SEPTEMBER 2011

Indicator	Community Category					Maryland
	Distressed	At Risk	Stable	Vibrant	Robust	
Number of NOI	877	29,487	36,416	14,390	8,605	89,775
NOI Share	1.0%	32.9%	40.6%	16.0%	9.6%	100.0%
NOI Rate (% of Households)	5.6%	5.1%	4.6%	3.8%	2.3%	4.2%
Amount Owed ($millions)	$13.8	$543.5	$817.0	$415.6	$279.9	$2,069.9
Average Amount Owed	$15,783	$18,433	$22,434	$28,882	$32,531	$23,057
Average Default Days	229	218	220	220	218	221
Owner-Occupied	**421**	**23,532**	**31,733**	**12,749**	**7,657**	**76,092**
% of all Community Units	48.0%	79.8%	87.1%	88.6%	89.0%	84.8%
% of Maryland Owner Occupied	0.6%	30.9%	41.7%	16.8%	10.1%	100.0%
Apartments	63	1,038	1,758	933	488	4,280
% of Community Owner Occupied	15.0%	4.4%	5.5%	7.3%	6.4%	5.6%
Single Family Homes	233	13,425	22,506	8,384	5,171	49,719
% of Community Owner Occupied	55.3%	57.0%	70.9%	65.8%	67.5%	65.3%
Townhouses	125	9,069	7,469	3,432	1,998	22,093
% of Community Owner Occupied	29.7%	38.5%	23.5%	26.9%	26.1%	29.0%
Investor-Owned	**456**	**5,955**	**4,683**	**1,641**	**948**	**13,683**
% of all Community Units	52.0%	20.2%	12.9%	11.4%	11.0%	15.2%
% of Maryland Investor Owned	3.3%	43.5%	34.2%	12.0%	6.9%	100.0%
Apartments	54	629	552	223	137	1,595
% of Community Investor Owned	11.8%	10.6%	11.8%	13.6%	14.5%	11.7%
Single Family Homes	322	2,826	2,919	852	507	7,426
% of Community Investor Owned	70.6%	47.5%	62.3%	51.9%	53.5%	54.3%
Townhouses	80	2,500	1,212	566	304	4,662
% of Community Investor Owned	17.5%	42.0%	25.9%	34.5%	32.1%	34.1%

Source: DHCD, Office of Policy, Planning and Research

EXHIBIT 7
NOTICES OF INTENT TO FORECLOSE BY
ECONOMIC CHARACTERISTICS OF MARYLAND COMMUNITIES

Indicator	Community Category					Maryland
	Distressed	At Risk	Stable	Vibrant	Robust	
Number of NOI	877	29,487	36,416	14,390	8,605	89,775
NOI Share	1.0%	32.9%	40.6%	16.0%	9.6%	100.0%
Poverty Rate	34.1%	15.0%	6.9%	4.2%	2.7%	8.2%
Annual Household Income Growth (2000-10)	1.6%	2.0%	2.1%	2.2%	2.1%	2.3%
Annual Household Growth (2000-10)	-1.0%	0.0%	0.9%	1.1%	0.8%	0.8%
Vacancy Rate	30.4%	17.6%	7.4%	5.0%	4.0%	9.8%
Median House Price Growth (2000-10)	73.2%	77.9%	82.5%	87.8%	86.8%	85.3%
African American Share	81.5%	45.7%	25.4%	20.4%	11.1%	28.3%
Minority Share	85.6%	53.5%	36.9%	33.3%	25.3%	39.3%

Source: DHCD, Office of Policy, Planning and Research

APPENDIX C:

Additional Commentary from Task Force Members and Participants

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January 06, 2012

Dear Secretaries Sanchez and Skinner,

Thank you for the opportunity to participate in the Maryland Foreclosure Task Force and to comment on the final report. The Maryland Legal Aid Bureau ("Legal Aid") represents low income Marylanders in a wide variety of civil matters. During our 100 year history, representing homeowners facing foreclosure has been a high priority for our attorneys. To respond to the increased demand for foreclosure related assistance, we established a Foreclosure Legal Assistance Project in 2008, through which we serve hundreds of clients facing foreclosure every year.

We appreciate the hard work of all parties in drafting the 2012 Maryland Foreclosure Task Force Report, and we have the following general comments on the report.

1. Loan modifications for homeowners in distress - Homeowners should be treated fairly and efficiently and promptly evaluated for modifications, including principal reductions. They should be offered meaningful modifications that reflect the current market value of the property.

2. Deficiency Judgments - When a modification is not possible even with a principal reduction and reasonable interest rate, the liquidation of the property should include a waiver of any deficiency. Many Marylanders were encouraged to buy homes or borrow equity in existing homes based on inflated property values. Inflated home values were due largely to lending industry practices. Now that property values have plummeted and many homeowners are underwater, lenders should bear some of the burden of the decreased property values. Often when a foreclosure, short sale or deed in lieu of foreclosure occurs, the homeowner still owes a large debt to the lender. It is in no one's interest for so many Marylanders to be subject to such crippling debt or to be forced into bankruptcy. Waivers of deficiencies must become the norm, which would benefit all of our communities by helping to put the foreclosure crisis behind us.

3. Tenants in Foreclosed properties – Tenants must be properly notified of their rights under the federal Protecting Tenants at Foreclosure Act and Maryland Real Prop. Art § 7-105.6.

This includes honoring existing leases and in the cases where a lease has expired or the tenancy is month to month, given 90-days notice to vacate. Many foreclosure firms and foreclosure purchasers send out misleading notices to tenants, undermining the intent of the 90-day notice and making tenants believe they could be evicted even if they have a valid lease. Steps should be taken against those that send out misleading notices to ensure that tenants receive the notice required by law.

4. "Rent-to-buy" or new mortgage options - We strongly urge the state and local governments to support the development of alternative funding mechanisms to maintain current defaulted homeowners in their homes with "rent-to-buy" or new mortgage options, as has been done in other states. Allowing a home to go to foreclosure does result in the lowering of the debt owed on the home to current market value, providing potential opportunities for former homeowners to afford to remain in their home if a financial restructuring can be accomplished.

5. Affordable rental opportunities - We urge the state and local governments to encourage the transition of distressed properties, including multi-family properties, to high quality affordable rental properties, particularly focusing on properties near transit and good schools. The foreclosure crisis provides a rare opportunity to obtain properties in high opportunity areas for rock bottom prices and to provide much needed affordable rental housing for citizens of Maryland.

On specific sections of the report, we have the following comments:

Chapter Two, Part II (1) - Pre-filing mediation - Legal Aid supports the concept of making mediation available at the time a homeowner receives a notice of intent to foreclose. In some cases, particularly when a borrower has recovered from financial difficulties and is able to reinstate a loan and maintain mortgage payments, an earlier mediation will prevent a borrower from falling further into debt. It will provide a quicker resolution which is more likely to avoid a foreclosure. However, Legal Aid objects to any provision making earlier mediation subject to the consent of both parties, because we doubt that many lenders will consent to early mediation. Pre-file mediation should be mandatory at the election of the homeowner.

We also object to any provision that participation in pre-file mediation require the borrower to waive the opportunity for post-filing mediation. In cases where no resolution is reached at a pre-filing mediation, borrowers who can show substantial change of circumstances such as re-employment and increased income, should be entitled to a post-filing mediation. A single point of contact at the servicer is not sufficient.

Any agreement to liquidate property through a short sale or other means, should include a waiver of the right to pursue a deficiency judgment against the borrower.

We strongly support the adoption of regulations to provide for a checklist of retention/liquidation options to be discussed and provided to both parties during mediation so that all available options for loss mitigation are explored. Legal Aid would be happy to participate in development of the final checklist.

Chapter Two, Part II (2) - Require notice for tenant occupied properties - We strongly support a DLLR advisory on the required language for notice to tenants under the Protecting Tenants at Foreclosure Act and enforcement action if necessary.

Chapter Two, Part II (3) – Provide a tool which allows for "fast track" liquidation of vacant properties - We do not object to an expedited process for foreclosure of properties that are uninhabited and uninhabitable as certified by municipalities. We would object to any weakening of provisions that require municipalities to determine definitively that properties are actually vacant and uninhabitable, not just vacant because the owner is in a nursing home or on vacation. We agree that service of the Order to Docket to both the record owner and occupant is necessary. We also believe that posting of the notice on the property should be required. We recommend that a form be included with the notice so that anyone living in the property could easily file the form with the court stating that the property is inhabited.

Chapter Two, Part II (4) - Eliminate regulatory barriers to short sales - Short sales can be useful to homeowners who cannot afford to pay even a modified mortgage. But this is only true if lenders waive deficiency judgment as part of an agreement for a short sale.

Chapter Two, Part III- Best Practices – We support all of the best practices findings and urge that they be made mandatory.

Chapter Two, Part IV (1) - Housing counselor support - We agree that housing counseling has been a crucial service for homeowners and a great benefit to loan servicers as well. Borrowers would be overwhelmed without housing counselors who communicate with servicers and send in documents on behalf of borrowers. The time involved in this process is extreme, and without housing counselors, many borrowers would have to take much time off from work to submit documents and communicate with servicer representatives. Servicers' time and effort is saved by the efficient work of counselors. We believe any financial incentives made to servicers for modifications should be shared with HUD certified housing counselors.

Chapter Two, Part IV (2) - Web-based portal - We strongly support development of a web based portal that provides for an exchange of information corresponding to the requirements of Real Property (RP) Article §7-105. The mediation statute contains a mediation specific provision authorizing the borrower to seek a stay based on the conduct of mediation. RP § 7-105.1(k)(2). Within 15 days of the date of mediation the borrower "may file a motion to stay the foreclosure sale." And the "motion to stay under this paragraph must allege specific reasons why loss mitigation should have been granted." RP § 7-105.1(k)(2)(iii). Because the statute requires the borrower to provide specific reasons loss mitigation should have been granted in mediation, it is fair to assume the mediation must be structured in such a way to inform the borrower of the existence of loss mitigation options and the reasons why options were denied.

We strongly agree that servicers should address loss mitigation in the same manner and with the same efficiency provided for mortgage loan originations and other financial and banking services. The state should require servicers to provide a direct borrower link to loss mitigation information as well as general loan information. In mediations, the Maryland HOPE Loan portal should provide all of the NPV inputs used. Requiring servicers to do a transparent NPV analysis including inputs for principal reduction based on current fair market value will greatly improve the goal of enhancing loss mitigation outcomes for Maryland homeowners. It also fits into the requirements of the mediation statute. In fact, unless servicers provide the details of the analysis used to deny modifications, borrowers will be unable to allege specific reasons why loss mitigation has should have been granted. RP § 7-105.1 (k)(2) clearly anticipates that borrowers will have been provided with enough information to determine whether they should have been granted a modification.

Legal Aid would like to actively participate on behalf of borrowers in development of the MD HOPE loan portal.

Chapter Three, Part II A. (1) - Create a centralized statewide Foreclosed Property Registry – We support the creation of a centralized foreclosed property registry and encourage drafters of the legislation to ensure that local authorities will be authorized to provide registry information to occupants of the property, condo and co-op association officers, neighborhood associations, and others who have a legitimate need for the information.

We support the other recommendations contained in Chapter Three.

Thank you again for the opportunity to participate in the Task Force and provide these comments.

Sincerely,

Cheryl L. Hystad

Vicki King Taitano/cxt

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MARYLAND ASSOCIATION OF REALTORS®

The Maryland Association of REALTORS® was pleased to participate in the deliberations of the Maryland Foreclosure Task Force. We thank Secretaries Sanchez and Skinner for the opportunity to contribute to this work product.

We agree with the legislative and regulatory proposals generated by the Task Force and we urge policy makers to search for additional initiatives to facilitate early foreclosure interventions with distressed borrowers. Much more needs to be done to promote short sales approvals and loan modifications. We will not see property values stabilize until the lenders, servicers and investors promptly intervene with borrowers and aggressively seek foreclosure alternatives. The benefits of foreclosure avoidance accrue to lenders, homeowners, real estate agents, neighborhoods and the broader economic recovery for Maryland and the nation.

While 'Single Point of Contact' and optional pre file mediation are important initiatives, they depend on lenders acting on their own enlightened self interests. REALTORS® assisting distressed homeowners often confront lenders who are motivated to limit the loss on a particular loan but also conflicted by the potential hazard to their entire loan portfolio of making concessions after an individual borrower fails to pay. REALTORS® believe that lenders and servicers must devote greater resources to loss mitigation efforts and work more quickly to identify and assist borrowers sliding toward foreclosure.

We note that the report contains several references to REALTORS® when the term used should be "real estate licensees". REALTOR® is a trade marked term and may only be used to describe members of the National Association of REALTORS®.

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REALTOR®

MCRC The Voice For Maryland Consumers
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January 11, 2012

Secretary Raymond A. Skinner,
Maryland Department of Housing and Community Development

Secretary Alexander M. Sanchez,
Maryland Department of Labor, Licensing, and Regulation

Dear Secretary Skinner and Secretary Sanchez:

The Maryland Consumer Rights Coalition (MCRC) advances and protects fairness and justice for Maryland consumers through research, education, and advocacy. Since 2000, MCRC has promoted strong consumer protections and worked to curb predatory financial transactions, particularly those that target low-income and vulnerable Marylanders.

In 2006, MCRC's report *Protecting Homeownership: The Challenge of Preventing Abusive Lending and Foreclosure Practices* tellingly predicted a sharp increase in foreclosures. The report called for stronger notices for homeowners, new support for housing counseling programs, and for the development and promotion of new loss-mitigation options for homeowners in distress.

In the six years since MCRC published that report, Maryland homeowners have been devastated by just the kind of foreclosures the report predicted. Yet the state has also, in recent years, made impressive progress in reforming its foreclosure process. Struggling homeowners now receive better notice of their rights, and have access to an advice hotline, a network of housing counselors, and a thoughtful mediation program even as they benefit from important legal reforms.

While these reforms have slowed the rising tide of foreclosures, they have not stemmed it. Three years after the housing bubble burst, the state continues to be plagued by such a high rate of foreclosures, that, in the third quarter of 2011, Maryland ranked seventh nationally in homeowner delinquencies.

In 2010, MCRC advocated for the right of homeowners to mediation. In 2011, the coalition supported legislation to extend the time homeowners have to opt-in to mediation. Over the last six months, MCRC has appreciated the opportunity to help craft new solutions to the ongoing foreclosure crisis as a member of the Maryland Foreclosure Task Force,

The overall goals and recommendations of the Task Force are good new initiatives to help home-owners and reduce the foreclosure inventory. However, several areas warrant more attention.

MCRC's comments and recommendations on the task force's proposals follow. Our comments are limited to chapter two of the report on loss mitigation, an area that is the focus of MCRC's research and policy work on the housing market.

• **Negative Equity is a critical problem that must be addressed**
The housing market is awash in homes with negative equity, and these underwater mortgages are a drag on the entire economy. Nationally, Georgetown Professor Adam Leviton estimates there is $700 billion in negative equity in the housing market. Across the country, 25 percent of homeowners are underwater and homeowners simply will not spend money when they owe so much more than their homes are worth. Since consumer spending accounts for 70% of U.S. GDP, the whole economy suffers as a result. If households aren't buying, businesses (large and small) suffer. Businesses refuse to hire workers during periods of weak spending. That means that few jobs are available for members of the many households where people have lost jobs, and this further constrains consumer spending. And the economy finds itself in a vicious cycle.

Negative equity is a function of mortgages being held at face value, rather than re-valued to reflect their actual market value, on banks' books. It might cost the banks one-quarter to one-third of the book value of their mortgage assets to remove all this negative equity from their balance sheets, but investors already understand that the $200,000 mortgage on a $150,000 house in most cases won't yield $200,000 of income to the bank.

A number of economists recommend debt restructuring. "If an economy cannot (1) grow, (2) save, or (3) inflate itself out of an excessive debt problem, then the only solution remaining is (4) debt restructuring: reduction and/or conversion into equity. This is widely recognized to be true for businesses but is just as true for governments, households, banks, and other financial institutions." (*The Way Forward: Moving from the Post-Bubble, Post-Bust Economy to Renewed Growth and Competitiveness*, Daniel Alpert; Robert Hockett; and Noriel Roubini).

Yet the current housing market and servicing system is marked by several important market failures that stand in the way of restructuring negative home equity and have contributed to the continuing dysfunction of the housing market.

First, there is a failure of market choice for homeowners who cannot choose their servicers. Homeowners have no choice about who services their mortgage; they are unable to shop around for the best performance and rates -- instead they are stuck with whatever servicing firm the mortgage investor selects. Homeowners cannot "fire" their servicer, and this leaves servicers with little incentive to provide adequate customer service.

Second, servicers operate under a set of incentives that conflict with the incentives of investors. Recent research from the Center for Responsible Lending that examined loan level data and simulated NPV outcomes under a variety of scenarios found that, under most conditions, payment-reducing loan modifications would return more value to investors than foreclosures, even at high projected modification re-default rates. Although investors would receive less money from a homeowner if the principal was reduced, the costs of foreclosing on a home are high. The costs include legal and servicing fees, property maintenance, sales costs, and the depressed values that are received at foreclosure auctions. Some estimates suggest that these losses are as high as 49% for prime loans; 59% for Alt-A loans, and 75% for sub-prime loans.

This strongly suggests that loan modifications would benefit investors as well as homeowners in distress. Yet these beneficial loan modifications are not occurring nearly often enough, in large part because of the misaligned incentives for servicers who receive higher fees for maintaining loans that are being paid (which costs less to service) than for providing loss-mitigation on non-performing loans (which cost more to service). In addition, servicers can charge and collect a variety of fees after the homeowner defaults which the servicer can fully recover in foreclosure proceedings.Servicers reduced payments to modify loans coupled with their ability to continue to charge fees while a homeowner has defaulted, may explain the reluctance of servicers to modify loans to a sustainable level.

Chapter Two: Loss Mitigation

1. Best Practices
Although the Work Group did not mandate adherence to a servicer code of conduct, MCRC recommends that all state and national firms servicing Maryland mortgages adopt the "best practices" of the Work Group; particularly:

- **Establish a Single Point of Contact (SPOC)**: Servicers should provide Maryland borrowers with a single point of contact to assist in the loss-mitigation process. This would reduce confusion for homeowners and inefficiencies in the loan modification process.

- **Establish an Extended Forbearance Plan**: Servicers should implement an extended forbearance program.
-
- **Establish Rent Back/Own to Rent option:** Own-to-rent, or sale-leaseback, programs allow former homeowners to stay in place and rent their residences after a foreclosure. The Right-to-Rent plan promotes transactions in which an investor purchases a property and immediately rents it to the previous owner at market rate for a significant length of time such as 10 years. This approach allows investors to immediately collect income on the property even as it safeguards family and neighborhood stability. Moreover, according to the table below, struggling Baltimore families would save, on average, nearly $4,500 per year by renting the homes they once owned.

Metropolitan Statistical Area	Median House Price 2006-2007	Monthly Ownership Costs	Monthly Fair Market Rent	Monthly Savings Gained by Renting
Baltimore-Towson	$306,550	$1,576	$1203	$373
Boston-Cambridge	$400,300	$2057	$1357	$700
New York	$463,550	$2383	$1359	$1024
Philadelphia	$235,300	$1209	$1095	$114
Washington-Arlington	$456,300	$2345	$1494	$851

Source: "The Gains from Right to Rent in 2010," Baker, Dean and Hye Jin Rho, Center for Policy Research, September 2010, www.cepr.net

- **Establish shared-equity and principal-reduction loan modifications**

Economists from the left and right are calling for more principal reductions. With more than one-quarter of homeowners underwater, more than 10 million properties may have to be disposed of in distress sales after defaults unless more balances are cut, according to Amherst Securities Group LP analyst Laurie Goodman. A Deutsche Bank report in October 2011 found that borrowers are 1.7 times more likely to re-default after a loan is modified if the balance is not cut. Therefore, every effort should be made to increase the number of shared-equity or principal-reduction loan modifications in Maryland.

Specifically, during the mediation process:

✓ Each servicer must report whether it participates in a shared-equity program or offers principal-reduction loan modifications.

✓If the servicer says it is precluded from participating in such a program by the investors who own the mortgages, the servicing firm must substantiate that statement with appropriate documentation.

✓If the servicer does not have a shared-equity or principal-reduction program, but is not prohibited from agreeing to such a modification, it must seriously consider a shared-equity or principal-reduction modification during the mediation process.

In addition to the "Best Practices" that the Work Group supported, additional measures should be implemented to address the problem of negative equity, including:

- **Increase transparency of the NPV test and require a loan modification should the NPV test be positive.**

Specifically, during the mediation process:

✓Servicers should systematically conduct NPV tests and the results of the NPV tests (both inputs and outputs) should be shared with homeowners.

✓When an NPV test is positive, the servicer should be required to offer a loan modification.

The state should also consider offering tax incentives and other inducements for loan servicers that make loan modifications.

Other Recommendations:

Reporting

To assess the effectiveness of these new measures, it will be necessary to report on outcomes at every level of the process to document best practices and address challenges.

- Housing counselors' success rate in mediation should be tracked by DCHD and the data should include information about caseloads, servicers, and county of origin. This will help to assess what kind of additional training for housing counselors is needed.
- DCHD should track mediation outcomes by servicer. This information should be made publicly available on DCHD's website.

- Reporting measures about borrowers should, whenever possible, include relevant demographic data including sex, head of household status, race, and ethnicity.
- Reports on outcomes should delineate between the options offered. Retention options should be tracked by program (i.e., shared-equity, over-equity refinance), and loan modifications should be disaggregated between government and proprietary programs, and extended forbearance programs.
- Similarly, liquidation options should be tracked by program (rent-back, short sale, deed in lieu, private auction, and fast track).

Marceline White
Executive Director
MCRC

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

January 9, 2012

Mr. Raymond A. Skinner, Secretary
Maryland Department of Housing and Community Development
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Mr. Alexander M. Sanchez, Secretary
Maryland Department Labor, Licensing, and Regulation
500 North Calvert Street, Suite 401
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Ray Alex
Dear Secretary Skinner and Secretary Sanchez:

Let me take this opportunity to thank both of you for the time and effort you put forth to shepherd the Foreclosure Task Force through the process and to the point of reaching agreement on a number of positive recommendations to the Governor. I also want to thank the dedicated, knowledgeable and supportive staff who worked with the task force in reaching our conclusions.

While I am supportive of all of the recommendations of the task force, I wanted to highlight a couple that are of particular interest and value to Montgomery County. As you know, we are strong supporters of housing counseling and any interventions early in the process for homeowners. I think the pre-filing mediation is a positive step and combined with counseling is an opportunity for delinquent homeowners to achieve a positive outcome before getting to deep into delinquency.

Our Department of Housing and Community Affairs (DHCA) programs and staff have been directed at minimizing the impact of foreclosure on neighborhoods and the recommendation for a centralized foreclosed property registry is a great compliment to those efforts. Again, the earlier the intervention the more chance we have to maintain stability in our neighborhoods. Providing the ability for local governments to provide a tax incentive for new homeowners to purchase foreclosed properties is a useful option.

Again, thank you for working with stakeholders, around the state, to develop recommendations further addressing this foreclosure problem that has become so pervasive. I look forward to the passage of this package of recommendations.

Sincerely,

Rick

Richard Y. Nelson, Jr.
Director

RYN:sns

Office of the Director

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THE PRINCE GEORGE'S COUNTY GOVERNMENT
Department of Housing and Community Development

RUSHERN L. BAKER, III
County Executive

Key to Progress
Eric C. Brown
Director

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Honorable Alexander M. Sanchez, Secretary
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500 North Calvert Street, #401
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Dear Secretary Skinner and Secretary Sanchez:

The Prince George's County Department of Housing supports the recommendations of the Strengthening of Maryland Neighborhood Work Group. As you know, Prince George's County has been more adversely impacted by foreclosure than any other County. The County is implementing a number of strategies to stabilize neighborhoods and is considering a number of other strategies.

The recommendation to create a centralized foreclosed property registry would greatly enhance the County's ability to locate the parties responsible for maintaining foreclosed properties especially during the period between a foreclosure and the recordation of the property deed. This is the period that is most challenging for the County and most frustrating as we try to stabilize communities. The registry will be a powerful tool for local governments dealing with foreclosed properties.

The recommendation to enact a Neighborhood Conversation Tax Credit to incentivize the purchase of foreclosed properties by new homeowners by enabling local government to reduce certain local taxes in targeted areas has a special appeal to us and would greatly enhance and compliment our neighborhood stabilization strategies.

I greatly appreciate the opportunity to support the aforementioned recommendations as well as serve on the Foreclosure Taskforce.

Sincerely,

Eric C. Brown
Executive Director

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