



Testimony on PA Senate Bill 1291

Thank you, Mr. Chairman and members of the Senate Urban Affairs and Housing Committee, for this opportunity to testify on behalf of the Pennsylvania Bankers Association concerning [Senate Bill 1291](#) of the 2007-08 legislative session. We understand this legislation will be re-introduced this legislative session.

My name is Mike Allen. I am Executive Vice President, Market Leader and Senior Lending Officer at Kishacoquillas Valley National Bank, a community bank with assets of \$500 million headquartered in Reedsville, PA. Our institution has offices in Mifflin, Huntingdon, and Centre Counties. I have been in banking for 24 years.

I also serve as Chairman of the PBA's Lending Advisory Committee.

The Pennsylvania Bankers Association is the statewide trade association representing approximately 185 financial institutions of all sizes located throughout the Commonwealth including national and state banks, bank and trust companies, trust companies, savings institutions, and their subsidiaries and affiliates.

The PBA appreciates this opportunity to state its concerns regarding SB 1291 which would address commercial and residential property maintenance.

Banks and savings institutions care deeply about the communities in which they operate. The health and vitality of these communities has a direct impact on financial institutions themselves and it is always in their best interests to work towards making their neighborhoods and communities strong and vibrant.

PBA supports the legislative intent of this bill to preserve properties and neighborhood values by timely intervention when properties are deteriorating through neglect or abandonment. Banks take an active role in dealing with such properties by inspecting them to determine vacancy, securing and boarding them, clearing debris, mowing lawns, and otherwise maintaining the properties through the delinquency/foreclosure process.

When notified of a code violation, banks contact borrowers to determine their plans to correct the violation. Mortgage payment default and abandonment of the property often go hand in hand, however. Because Pennsylvania has one of the longest foreclosure processes in the nation, properties in mortgage default may deteriorate for more than a year before the lienholder is able to acquiring title through foreclosure, access the property to inspect and secure it, and ascertain the need for repairs.

Property preservation costs paid by mortgage servicers in Pennsylvania during 2007 to a single vendor totaled over \$10 million. This figure includes inspection, preservation, grass mowing and insurance inspections. Add to that total the amounts paid to the other property maintenance firms that banks in the

Commonwealth utilize and one would have a better picture of banks' significant efforts and expenditures to preserve properties in which they have an interest¹.

Not only do banks care about what happens to their real estate collateral, our regulators care. In 2008, the Federal Deposit Insurance Corporation reminded the institutions it regulates that maintaining "Other Real Estate Owned" (ORE) according to local property codes contributes to an institution's safety and soundness and is subject to regulatory reporting.²

There are a number of concerns in SB 1291 of last session which PBA believes need to be addressed before enactment. As you may know, the provisions establishing the Abandoned and Blighted Property Conservatorship Act were enacted as separate legislation that was signed into law as Act 135 of 2008 on November 28, 2008. Act 135 just took effect at the end of February of this year, so it is too soon to determine its impact in addressing blighted properties.

I would like to briefly describe our concerns with some of the other provisions of SB 1291:

1. Senate Bill 1291 as originally introduced imposed property maintenance responsibilities and liability on mortgage lenders 30 days following foreclosure on a property. (Subchapter C beginning pg. 11). I mentioned previously that Pennsylvania has one of the longest foreclosure processes in the nation. Owners facing foreclosure often neglect or even intentionally damage properties prior to vacating them. Given this long period during which lenders cannot access the property to prevent neglect or damage, 30 days following foreclosure is insufficient to adequately assess and correct a property's maintenance and repair needs prior to shifting liability to the lender for code violations. In addition, does "foreclosure" mean notice of intent to foreclose? Initiation of a foreclosure proceeding? Entry of an order of foreclosure? A better trigger of responsibility might be entry of an order giving a mortgage lender the right to occupy the property, or upon surrender of the right to possession by a delinquent borrower. Before such an order is issued, or occupancy rights surrendered, a mortgage lender might not have the legal or practical ability to take action to remedy code violations.
2. Not only is the lender not fully able to require mortgagors to maintain properties while a mortgage is in force, its ability to do so rapidly declines when the mortgagor lacks funds to pay the mortgage - let alone perform routine maintenance and repairs. Shifting repair and maintenance liability to a lender who already faces a significant loss on its loan and the value of its collateral is unfair in those cases where cost of repair is not justified by the remaining property value. Such a liability shift would increase mortgage lending risk dramatically and place lenders more in the role of a property casualty insurer than a lender. Therefore, the bill should be amended to stay the assignment of liability for code violations to a mortgage lender foreclosing upon title to a property (1) pending the disposition of a petition to establish a conservatorship; or (2) upon the filing by the lender of a notice of assignment and lien to a municipality, municipal authority or community development organization providing the assignee the right to possession to correct code violations and a lien with priority over the interests of the lender to recover the costs of bringing the property into compliance with code requirements.

² See <http://www.fdic.gov/news/news/financial/2008/fil08062a.html>

We hope you will consider these comments in the manner in which they are intended – to improve upon the framework of this legislation so that financial institutions can continue to partner with local neighborhood and community organizations to maintain and improve their communities for the benefit of the citizens of our Commonwealth.

PBA welcomes the opportunity to work with this Committee and others concerned with this issue.

Thank you for considering our views.