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Testimony of Lara Kasper-Buckareff, Esq.

Director of Foreclosure Prevention

Legal Services of the Hudson Valley

2017-2018 Joint Legislative Budget Hearing – Economic Development

February 1, 2017

Your Honors,

My name is Lara Kasper-Buckareff. I am an attorney and the Director of Foreclosure Prevention at Legal Services of the Hudson Valley (“LSHV”). LSHV is a non-profit law firm which provides free, high quality foreclosure prevention legal services to low- and middle-income residents of Westchester, Rockland, Putnam, Orange, Sullivan, Dutchess, and Ulster counties. With the exception of Rockland County, we are the only non-profit law firm in the aforementioned counties that provides free foreclosure prevention legal services.

Our Foreclosure Prevention Unit consists of nine attorneys and four paralegals.

In 2016, LSHV provided foreclosure prevention legal services to 767 households and prevented 104 mortgage foreclosures. LSHV prevented additional foreclosures due to unpaid taxes, homeowner or condominium association fees, or cooperative association maintenance fees.

The Homeowner Protection Program (“HOPP”), the principal source of foreclosure prevention funding upon which we have relied, is ending in September 2017. Without a new source of funding to fill this gap, every year, LSHV will be forced to turn away hundreds of Hudson

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Valley residents in danger of losing their homes to foreclosure. Without LSHV, these homeowners will be more likely to lose their homes because they cannot afford to hire an attorney.

The mortgage foreclosure rate in New York State remains very high as compared with the rest of the nation. The Mortgage Bankers Association reported in November of 2016 that, “in the third quarter of 2016[,] New Jersey and New York had the highest percentage of loans in foreclosure, at 5.79 and 4.32, respectively[.]”<sup>1</sup> Foreclosure cases represent nearly 26% of the Supreme Courts’ civil caseload. The Mid-Hudson region has been hit particularly hard. The Mid-Hudson region and Long Island have the greatest number of pending mortgage foreclosure cases in New York.<sup>2</sup> One in every 44 housing units is in foreclosure in Rockland County, and one in every 48 housing units is in foreclosure in Putnam County.<sup>3</sup>

Legal Services of the Hudson Valley collaborates with HUD-approved housing counseling agencies, also funded by HOPP, to prevent foreclosures. The positive effects of preventing foreclosure are well-known. Homeowners who save their homes from foreclosure have incentive to pay their property and school taxes and other municipal bills.<sup>4</sup> They are also more likely to maintain their homes which increases the value of other homes in the neighborhood and property assessments for tax purposes.<sup>5</sup> Zombie properties are associated with crime and nuisance activity, increasing the costs of police and fire departments.<sup>6</sup>

During the 2016 Legislative Session, new legislation was enacted to prevent mortgage foreclosures and address the bane of “zombie properties.” Continued funding of legal services and housing counseling will ensure robust implementation of this legislation.

Reverse mortgage foreclosures are increasing. The Office of the New York State Attorney General is investigating reverse mortgage servicing companies’ practices, in particular,

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<sup>1</sup> Mortgage Bankers Association, “Delinquencies and Foreclosures Decrease in Latest Survey,” November 10, 2016. Available at: <https://www.mba.org/2016-press-releases/november/delinquencies-and-foreclosures-decrease-in-latest-survey>.

<sup>2</sup> Office of the New York State Comptroller, “The Foreclosure Predicament Persists,” August 2015. Available at: <https://www.osc.state.ny.us/localgov/pubs/research/snapshot/foreclosure0815.pdf>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

“whether the businesses employed tactics that pushed elderly borrowers into foreclosure.”<sup>7</sup> In our experience, many seniors are facing reverse mortgage foreclosures that can be resolved through repayment plans or Chapter 13 bankruptcy plans, but they need legal advocacy to obtain this relief.

Tax foreclosures are a growing problem and HOPP legal services providers are integral in resolving these cases through repayment plans or Chapter 13 bankruptcy plans. In both cases, the county and school district taxes are repaid, along with interest.

Mortgage foreclosure cases are harder to resolve today than they were even a couple months ago. Homeowners need attorneys advocating for them now, more than ever. The federal Home Affordable Modification Program ended in December 2016. While HAMP was not perfectly executed, with respect to loan modifications, it created some structure and accountability. Additionally, the sale of distressed mortgages by federal agencies means tougher negotiations with private Wall Street investors.

I would like to share with you a couple success stories from last year. These are illustrative of the foreclosure prevention work that we do every day at Legal Services of the Hudson Valley under HOPP funding.

In 2015, a Putnam County resident whom I will call Mary contacted Legal Services of the Hudson Valley seeking our help in stopping the imminent foreclosure auction of her home. Mary is a veteran, a domestic violence victim, and a working, single mother of a disabled child. LSHV filed a motion for a temporary restraining order and the TRO was granted. As a result, Mary was able to apply for and obtain a loan modification last year, enabling her to avoid foreclosure and save her home.

In 2016, a Sullivan County resident whom I will call John contacted Legal Services of the Hudson Valley. He was in danger of losing his home to foreclosure and was concerned that he, his wife, and their three children would become homeless. The company that serviced John’s mortgage loan offered him a loan modification, but it required him to sign the deed to his home

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<sup>7</sup> “New York State Attorney General Investigating Reverse Mortgages at Firm Steven Mnuchin Ran,” Wall Street Journal, January 18, 2017. Available at: <https://www.wsj.com/articles/new-york-attorney-general-investigating-reverse-practices-at-firm-steven-mnuchin-ran-1484753721>.

over to the lender at the time of modification. The loan modification was also not affordable. LSHV appeared as John's attorney in the foreclosure action and negotiated a loan modification for John that did not include transfer of the deed. The modification also included loan forgiveness of over \$127,000 which resulted in a more affordable mortgage payment.

Without HOPP funding, LSHV would not have been able to help Mary and John save their homes. We strongly urge you to fill the gap that will be left when HOPP funding ends in September 2017 by allocating \$30 million in funding for foreclosure prevention services over the next two State fiscal years--\$10 million for 2017-2018 and \$20 million for 2018-2019 and going forward. Thank you.