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PURPOSE: FUNDING FOR FORECLOSURE PREVENTION SERVICE PROVIDERS

Dear Chairman and Esteemed Members of the Committees:

Thank you all for the opportunity to speak to you today. My name is Jay Flemma, and I'm a lawyer with the Utica office of the Legal Aid Society of Mid-New York, where I've worked in the mortgage and tax foreclosure defense practice group for the last seven-and-a-half years. And I'm here once again to ask this august body to reprise its funding for one of the most critical items in the budget – foreclosure defense funding.

Twice in the last five years, I have been joined by more than 100 foreclosure defense attorneys, housing counselors, and fair housing advocates to raise in urgent alarm before your Joint Hearings on Economic Development: the desperate need for funding for foreclosure defense. You answered those clarion calls admirably. Thank you.

Through your generous funding, HOPP program *in toto* saves New York State over \$1.2 billion a year in property value preservation, tax savings and additional cost savings to localities. Over the life of the program, every \$1 million invested in HOPP yielded a return of over \$5 million in tax and property cost savings to localities...and the constituents of each and every senator and assemblyperson.

We are always within our fiscal allotment and comfortably out-perform our yearly goals. Perennially, we – and all foreclosure prevention service providers across the state of New York as a whole - are one of the best bargains in the budget. We could not perform a more important service at a more competitive price.

Foreclosure affects everyone, of all ethnicities, socio-economic backgrounds, religions, and political ideologies. The foreclosure crisis doesn't care if you're young or old, black or white, Christian or Muslim, Democrat or Republican,

rich or poor. It cuts its devastating swath across all walks of life. Sadly, the Coronavirus pandemic was a devastating blow to financial recovery and growth.

The national foreclosure crisis was still with us before the pandemic, but now every metric we study indicates that the number of homeowners in foreclosure crisis will skyrocket astronomically. Before the pandemic struck, more than one out of every four cases in New York was a mortgage foreclosure action. Now that number looks to increase significantly. Right now, New York is seeing the highest delinquency rate ever. Even before the pandemic, foreclosures continued to be a significant problem, but now NYS has unprecedented mortgage delinquency rates, tax defaults and increased threats to homeownership. The average weekly mortgage delinquency rate in New York between July and October 2021 was 10.75% (433,423 homeowners on average) according to US Census Household Pulse Survey data. This rate is over two times the average delinquency rate of 4.9% between the time HOPP began in 2012 and the pandemic, and over three times the delinquency rate in January 2020 of 3.4% according to the CFPB's mortgage performance trends. Latino, Hispanic, Black and Asian homeowners have been impacted much more severely – their average rate of delinquency is 19.8% compared to 6.6% for white homeowners (US Census Household Pulse Survey data). Now that the foreclosure stay is lifted, we expect a Himalayan avalanche of foreclosure filings. More homeowners will need our services than ever before and they will need them imminently.

The NYS Office of the Attorney General has been running HOPP at the same cost of \$20 million per year since 2012. Prior to 2012, funding was provided through NYS Homes and Community Renewal for these services. The first few years of funding for HOPP came from settlement dollars the OAG received. Since 2015, HOPP funding has come through the state budget process. HOPP has never been a line item in the budget and must be added each year. If funding is not provided in this year's budget, services will end on or about July of this year. The vast majority of HOPP providers have no other dedicated funding for foreclosure prevention services, a truly chaotic state of affairs.

Finally, mortgage foreclosure law is as deep in its complexity as it is voluminous in its breadth. The sheer number of sources of mortgage foreclosure law is staggering. Federal regulations, state statutes, court rules, CPLR provisions, mortgagee letters, investor guidelines, stock/bond prospectuses: thousands upon thousands of pages governing myriad types of loans, none of which are identical to the other. And the law changes on almost a daily basis. In my 28 years as an attorney, I have practiced in

many complex areas of law, including intellectual property and Internet law: two disciplines known for prolixity, complexity, and almost daily changes. But even those disciplines are not as labyrinthine as the law and practice of mortgage foreclosure defense. Without lawyers to guide them, homeowners will be lost in the Byzantine maze the practice has become, and they lack any leverage to be able to negotiate fair resolutions from banks that are ruthlessly trying to prize the last possible cent from their already strained wallets.

As such, we ask you to promptly fund the state's foreclosure defense service providers \$35 million in the 2022-23 Budget, and a commitment of \$40 million for each of the next two years to ensure stable funding so we can increase services to meet the higher demand, as well as maintaining seamless services. Without it, homeowners face a hopeless task alone and property values statewide will plummet, increasing the cost to every constituent.