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My name is Jordan Modrzynski, and I am the Managing Attorney of the Housing Unit at the Western New York Law Center. I submit this testimony in support of continued funding for New York's Home Ownership Protection Program ("HOPP"), which is the sole source of funding for the statewide network of housing counseling agencies and legal services agencies providing foreclosure prevention and homeownership preservation services for New York's struggling low and moderate income ("LMI") homeowners. **The Governor's proposed budget eliminates all funding for HOPP, even though the services this network provides are more crucial than ever.**

The Western New York Law Center ("WNYLC") is a non-profit legal services agency in Buffalo, New York. We advocate on behalf of low-income and underserved Western New Yorkers on matters including housing, access to credit, consumer debt, and more. WNYLC has been providing free foreclosure prevention services since the 1990's and has been part of the HOPP network of free housing counseling and legal service agencies providing free foreclosure prevention assistance since its inception. We serve hundreds of families providing mortgage and tax foreclosure representation in Erie, Genesee, and Wyoming Counties to work out settlements, apply for loan modifications/repayment plans, litigate defenses, provide expert advice to homeowners regarding the foreclosure process, and defend homeowners against foreclosure rescue scams in the communities we serve. Demand for these services will be at the highest in history as delinquency rates rise to astronomical levels.

Across New York State, the HOPP network comprises 89 non-profit housing counseling and legal services providers who help New York homeowners, coop owners and condo owners avert homelessness and displacement by preventing avoidable mortgage and tax lien foreclosures and combating mortgage fraud, deed theft, loan modification and partition scams; and who challenge predatory and discriminatory lending and abusive mortgage servicing practices that disproportionately impact New York's most vulnerable communities—seniors and people of color. The network serves every county in New York State and all five boroughs of New York City, but current grants funding this vital network end on July 15, 2024, and the Governor's budget proposes to de-fund this program even though the need for these services is more acute than ever before. A total of \$40 million is needed to ensure that the existing HOPP network can meet the existing need considering the unprecedented homeowner distress across New York State, which dwarfs the rates of default seen during the last foreclosure crisis.

As recently as November 14, 2023, Governor Hochul signed important legislation making improvements to various aspects of the law that will benefit homeowners who have already been victimized by deed theft scams. At a bill signing ceremony at Brooklyn Law School that day, Governor Hochul spoke compellingly about how central homeownership is to the American dream. Sitting beside her as she signed that legislation, along with Attorney General Letitia James, were Joseph Clarke and Jacqueline Knight, who were victims of a pernicious deed theft scam and clients of a HOPP grantee legal services agency who had successfully pursued protracted litigation that restored the title to their home. Governor Hochul praised the HOPP agency's efforts over years of litigation to restore the couple's home, but less than two months later her proposed budget would eliminate funding for the very program whose advocates restored Mr. Clarke and Ms. Knight's home after they fell prey to a deed theft scam. The recent legislation, as well as additional provisions contemplated in the proposed budget, are important protections, but without the HOPP network distressed homeowners will have nowhere to turn but to the scammers looking to prey on them, and the provisions meant to provide protections for deed theft and partition scam victims (including those contemplated in the Governor's proposed budget) will be of no use if the HOPP-funded programs representing homeowners seeking to vindicate their rights under those initiatives are eliminated.

We are thankful for the Legislature's consistent support for HOPP and we recognize that without the restoration of funding for this program every year when funding for it was excluded from the executive budget proposals, New York would have long ago lost its investment in the country's most robust foreclosure prevention network. The executive budget's exclusion of any funding for the HOPP network—New York's only program focused on preserving existing homeownership, largely in communities of color and affecting the elderly—threatens the termination of this vital program just when it is most needed.

- New York is continuing to see high delinquency rates, especially in communities of color. According to U.S. Census Household Pulse Survey data, as of fall 2023, an average 8% of New York homeowners were delinquent on their mortgage loans, with an average of 306,587 New York families at risk of losing their homes. These numbers show a significant increase in mortgage distress since the prior year, when the number of families at risk was 288,261. This delinquency rate dwarfs the rate of 2.2% in January 2020, right before the COVID pandemic started, and exceeds the high of 3.8% in January 2009, during the height of the financial crisis and Great Recession. Court filings are also rising, with New York State Unified Court System data showing nearly 11,000 new foreclosure case filings in the first eight months of calendar year 2023, and nearly 21,000 pending foreclosure cases across the State.
- HOPP preserves homeownership in communities of color. Statewide, 43% of clients served by our network providers are homeowners of color; in NYC, the number exceeds 75%. The foreclosure crisis following the great recession disproportionately impacted New York's communities of color, who were targeted for the predatory lending that precipitated that crisis. The COVID-19 pandemic has been no different, with the health impacts and the economic pain felt more acutely amongst black and brown New Yorkers. On average,

15.72% of Black homeowners in NY are delinquent compared to 7% of non-Hispanic white homeowners, as reflected in the US Census Pulse Survey data available in the fall of 2023.

- A complicated patchwork of federal and state programs has evolved in the aftermath of the pandemic that homeowners cannot navigate on their own. FHA, Fannie Mae, Freddie Mac, and conventional lenders launched different forbearance plans and loss mitigation options for distressed borrowers, and New York State enacted its own law on forbearance programs for New York-regulated lenders and mortgage servicers. Accessing relief requires understanding the details of these various interventions and knowing who owns the loan in question and what program a homeowner may be eligible for. Homeowners need help to ensure they can access relief and they need advocates to make sure lenders are complying with applicable federal or NY laws and regulations. New York's Homeowner Assistance Fund, which has made federal funding available to assist distressed New York homeowners in a program administered by NY Homes and Community Renewal ("HCR"), which is now winding down, has reached a small portion of New York's distressed homeowners, and it has been dependent on the HOPP network to assist homeowners in accessing the program.
- For more than a decade, this network has been helping families in every county across New York State, and in each of the five boroughs of New York City, navigate complex housing challenges -- including mortgage fraud, scams, displacement, discriminatory lending and mortgage servicing -- and it has helped thousands of families to keep their homes and allowed them to stay in their communities. It has helped not just the individual families affected by foreclosures but the communities at large, by preventing displacement and by preventing the increased crime and reduced property values that accompany waves of foreclosure, which, in turn, adversely affect the local community tax base.

Without the restoration of the funding that would be eliminated by the Governor's proposed budget many of those not-for-profit housing counseling agencies and legal services providers will be ending their homeownership retention services when current contracts expire on July 15, 2024 and will be forced to turn away homeowners needing their assistance, leaving New York's struggling homeowners more vulnerable to the scammers peddling foreclosure rescue deed theft schemes and distressed property consultants, whose ranks have been multiplying as real estate values are increasing in many regions of the state. Indeed, even now, with the Governor's proposed elimination of the program causing uncertainty about the continuation of the program after the current contract year (as it does every year) case acceptance at HOPP-funded agencies is inhibited, because agencies cannot in good conscience accept new cases that have no prospect of resolution prior to July 15, 2024, with the continuation of the program after that date in question. This uncertainty is also damaging to HOPP staff morale, many of whom are lost every year when the program's continuation is thrown into question by the Governor's proposal to de-fund HOPP.

Losing HOPP funding will mean the Western New York Law Center can no longer function in its current capacity. We will need to drastically cut our homeowner foreclosure representation in Erie, Genesee, and Wyoming counties. After July 15, 2024, these homeowners will no longer have legal representation at settlement conferences. They will have to navigate the court system by

themselves and will be expected to understand the complicated foreclosure process. It is crucial that the funding is renewed so we can ensure NY homeowners receive full protection under the law.

Not only will New York families suffer and face displacement; employees across almost 90 organizations are in danger of losing their jobs, and their expertise, along with the associated infrastructure in place that supports this network, which represents a substantial investment by the State of New York, will be discarded. Without continued HOPP funding, our agency will have to let go of dedicated paralegals and attorneys who have been serving the WNY community for decades.

There are also several laws and programs in New York State that depend on HOPP network services; HOPP service providers are embedded in New York's consumer protections enacted after the foreclosure crisis, which are now a permanent part of our foreclosure process, such as:

- Lenders are required by law to send pre-foreclosure notices specifically identifying counseling agencies serving the homeowners' county—the very agencies that will no longer be funded to do foreclosure prevention work if funding lapses.
- Network providers are integral to NY's pioneering foreclosure settlement conference process, where we partner with the courts to staff clinics and conferences and have been instrumental in drastically increasing the numbers of homeowners with representation at settlement conferences and in increasing the numbers of homeowners answering foreclosure complaints and preventing default judgments. Courts in Erie, Genesee, and Wyoming Counties know and expect our agency to appear at foreclosure settlement conferences to provide representation for homeowners. We get hundreds of referrals from the court system, and the courts know that they can rely on our agency to answer questions or simply give information to the community.

The homeowners receiving help from HOPP agencies are working, LMI families, New Yorkers of color who were targeted for predatory loans, seniors battling a wave of foreclosures on reverse mortgages and tax and water liens, and families who have experienced illness or deaths that have landed them in financial distress. The network mitigates displacement from foreclosures, scams and mortgage distress and its advocates challenge abusive mortgage servicing by financial institutions and discriminatory lending practices such as reverse redlining, in which vulnerable communities were targeted for the most toxic of loan products. Of late, the HOPP network has been tackling the epidemic of “zombie second lien” foreclosures, pursued by debt buyers who purchased for pennies on the dollar long-abandoned second mortgages, which were marketed during the heyday of predatory lending as toxic “80/20” loans targeted to communities of color. The originating lenders abandoned those underwater loans years ago, but with appreciating real property values, speculators and private equity are now attempting to foreclose on homes saddled with these second liens, even though the claims are largely barred by statutes of limitations.

We URGE the New York State Legislature to restore \$40 million in funding for HOPP in this year's budget so that the HOPP network can continue its great work combating urgent housing issues and continuing to help homeowners in distress and foreclosure.

For more information, please contact Jordan Modrzyński, Esq. at (716) 828-8438.