# FEDERAL RESERVE BOARD
# HOPEA HEARING – ORAL STATEMENT
# JUNE 14, 2007

Good afternoon Governor Kroszner and Director Braunstein.

My name is Steven L. Antonakes and I serve as the Commissioner of Banks for the Commonwealth of Massachusetts. My office supervises nearly 260 state-chartered banks and credit unions with total combined assets in excess of $225 billion and over 2,000 licensed mortgage lenders and brokers.

Changes in the subprime mortgage market, compounded by a weakening real estate market and increased interest rates have led to a substantial increase in foreclosures. These issues have been well chronicled.

My goal this afternoon is to focus primarily on efforts underway in Massachusetts to improve supervision of the mortgage industry and assist homeowners facing foreclosure. I will also touch briefly on coordinated efforts among state mortgage regulators and some actions I believe the Federal Reserve could take under existing authority to further enhance consumer protection.

Last year, my office conducted over 400 examinations of non-bank mortgage lenders and brokers. Examinations include a review of overall financial safety and soundness and compliance with Massachusetts and federal consumer protection laws and regulations.

As a result of our examinations and other supervisory efforts, my office issued over 100 enforcement actions last year against licensed mortgage lenders and brokers.

In addition to our normal examination activities, we also conducted a sweep of 90 mortgage brokers predominantly serving low and moderate-income communities to focus upon stated income loans. As a result of these visitations, my office issued several cease and desist orders essentially shuttering companies found to be intentionally overstating income on reduced documentation loans or engaging in other types of deceptive practices.

In an effort to develop a comprehensive strategy to address increasing foreclosure rates, my office organized a mortgage summit in November attended by nearly 50 individuals representing 29 government, industry, and nonprofit organizations.

As a result of the Summit, we established two Working Groups, one to focus on “Rules and Enforcement” and the other on “Consumer Education and Foreclosure Assistance”. Each Working Group met every two weeks for three months before issuing their recommendations in April.

Massachusetts Governor Deval Patrick has taken steps to effect both long term and short term goals to improve supervision over the mortgage industry and protect homeowners.

He has directed my office to immediately begin implementing the recommendations of the Mortgage Summit Working Groups, including amendments to existing regulations and drafting new legislation.

Changes in regulations will result in increased net worth and bonding requirements for licensed mortgage lenders and brokers; increased licensing and examination fees for mortgage lenders and brokers to support additional examiner hires and the staffing of a mortgage fraud unit; and increased experience requirements for licensed mortgage lenders and brokers.

Earlier this week, Governor Patrick filed a bill to enact the legislative recommendations of the

Mortgage Summit Working Groups. The bill includes provisions to criminalize mortgage fraud; prohibit abusive foreclosure rescue schemes; require a notice of intent to foreclose and a right to cure; prohibit a lender from making an adjustable rate subprime loan unless a consumer affirmatively opts-out of a fixed rate product and presents a certificate indicating that they have received homebuyer counseling; and establish a central repository of foreclosure information at the Division of Banks to enable my office to track foreclosure data by product, geographic region, and originator, broker, and lender.

In addition, the Patrick Administration has already testified in favor of bills to license mortgage loan originators and extend provisions of the Massachusetts Community Reinvestment Act to certain licensed mortgage lenders.

In order to provide immediate assistance, Governor Patrick also directed my office to seek, on a case-by-case basis, delays in the foreclosure process from mortgage lenders and servicers for any Massachusetts homeowner who files a complaint with our office.

The goal is to provide a short amount of time to allow my office to review complaints, refer homeowners to reputable homeownership counseling firms, and encourage mortgage lenders to utilize this time to work with homeowners who are unable to make their mortgage payments.

To date, the Division has fielded calls from over 400 Massachusetts residents either in foreclosure or experiencing difficulty managing their mortgage obligations.

In recent years, state mortgage regulators have also been working collaboratively to improve supervision of the residential mortgage industry. Several high profile nationwide settlements have returned nearly $1 billion to consumers.

In addition, through the Conference of State Bank Supervisors and American Association of Residential Mortgage Regulators, three years of work has gone into the development and implementation of a nationwide database of mortgage professionals. This system will provide a national repository of licensing and enforcement actions and is scheduled to be launched on January 1, 2008.

Finally, over 40 state mortgage regulators have either adopted or are in the process of adopting guidance similar to federal interagency guidance on nontraditional mortgage loans. Similar action is expected once the statement on subprime lending is finalized.

Based on my experience as a state regulator, I believe there are areas where the Federal Reserve Board could use its broad rulemaking authority to ensure one set of rules exist throughout the country relative to subprime mortgage lending. Respectfully, I would recommend that the Board consider the following:

- Prepayment penalties should expire at least 30 days prior to the first adjustment period for subprime adjustable rate mortgage loans;

- The Board should use its broad authority under HOEPA to ensure that all creditors abide by prepayment penalty limitations applicable to them, whether federal or state laws;

- The Board should require escrows for taxes and insurance for all subprime mortgage loans with the ability of the borrower to affirmatively opt-out;

- The Board should consider adopting a rule whereby consumers qualifying for subprime credit would normally receive a thirty-year fixed rate, fully amortizing, full documentation loan. An affirmative opt-out and completion of independent counseling would be required for a subprime borrower to apply for a subprime loan which either features an adjustable rate, negative amortization, or less than full documentation of income; and

- The Board should require lenders to underwrite all subprime and nontraditional mortgage products based on the fully indexed rate or on a fully amortizing payment schedule.

I appreciate the opportunity to testify and look forward to your questions.