COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

I. **Welcome and Call to Order** – *Senator Mamie Locke, Chair*
- 3:06 p.m.
- Introductions – Commission Members

II. **Brief Overview and Work Group Configurations** – *Elizabeth Palen, Executive Director*
- Almost every bill endorsed by the Commission was passed and signed by Governor
    - Overview of bills passed
        - SB 1052 – Affordable Housing Assessment Bill (Patron: Senator Whipple)
        - SB 1143- Common Interest Communities Clean-up Bill (Patron: Senator Whipple)
        - HB 1671- Derelict Buildings Bill (Patron: Delegate Dance)
        - HB 2031- Mortgage Loan Originators Bill (Patron: Delegate Danny Marshall)
    - Unfortunately, SB 1055 – Housing Trust Fund Bill – was tabled due to budget constraints.
    - Many bills referred from the 2009 Legislative Session– work groups can take these up at the discretion of the chair of each group.
    - Housing Bills amended by the governor.
        - HB2096 (Orrock)) and HB2417(Bouchard)
- 2009 interim Housing Commission work groups
    - Common Interest Communities
    - Housing and Environmental Standards
    - Affordable Housing and Mortgages
    - Neighborhood Transitions
- *Delegate Daniel Marshall* – Comment on HB 1671 – This bill caught a fever due to misinformation; the issue was that people thought the bill was about eminent domain; we never heard this during the time we were working on the bill, and we would have liked to have heard these concerns as we were trying to get this bill finished. Luckily, the bill was passed, but we are asking the audience, as we go through the bills, if you have an issue, please bring it up to us – we want all parties to bring the issues to the table and be a part of the discussion.

III. **Mortgage Trends** – *Courtney Mailey, Regional Community Development Manager, Community Affairs, Federal Reserve Bank of Richmond*

- Graph of FHFA House Price Index for Virginia Metro Areas (see power point presentation):
  - Virginia Beach Area
  - Northern Virginia Market
  - VA Beach/Norfolk (includes the entire Hampton roads area)
- Subprime loan concentrations in Virginia – small pockets of higher percentage subprime mortgages.
- Delinquencies:
  - Continuing to rise for every type of loan.
  - Prime fixed loans rising at the slowest rate.
  - Subprime adjustable rate loan delinquencies rising at the fastest rate.
- Foreclosures by type of loan:
  - Subprime loans contribute approximately 48 percent of the foreclosures in Virginia, even though they make up about 9 percent of total loans in Virginia.
  - Prime loans contribute approximately 46 percent of the foreclosures, and FHA & VA loans contribute the remaining approximately 7 percent.
- Loan Performance
  - Prime loan performance in Virginia (map format by zip code showing concentration of Real Estate Owned (REOs) and foreclosures in VA for prime loans, see power point presentation).
    - Areas with many 90 day delinquencies include Martinsville, Danville, Culpeper, and Winchester.
  - Subprime loan performance in Virginia (map format by zip code showing concentration of REOs and foreclosures in VA for subprime loans, see power point presentation).
    - Staunton/Waynesboro area has most delinquencies – 22 percent 90 day delinquencies.
    - Culpeper/Winchester/NOVA – second highest number of subprime delinquencies.
      - Keeping an eye on Harrisonburg, Lynchburg, Richmond, and Norfolk.
- Unemployment:
  - Map showing percentage point changes in unemployment rates (see power point presentation).
- Alt-A Loans
  - Loans given to borrowers with prime credit:
    - Small down payments or interest only payments.
  - Used interest only loans as a proxy for alt-A loans.
    - Northern Virginia very prominent in this category -Winchester and Northern Shenandoah Valley.
- Emerging Fraud Schemes
  - Three main emerging themes: Foreclosure Prevention Schemes, Elderly and Immigrant Fraud, Builder Bail-Out Fraud.
  - The Federal Reserve is not a law enforcement agency, but we work with law enforcement to help them identify areas of concern.

- Questions:
  - *Delegate Cosgrove*- What is a Builder Bail-Out Fraud Scheme?
    - *Courtney Mailey* - When a builder or a fraudster convinces an investor to help him take on an unfinished or foreclosed project. The investor puts up the money, but the work is never completed or is not completed to standard.
  - *Delegate Marshall*– Can we have an electronic version of this power point presentation?
    - *Elizabeth Palen* – The presentation will be posted on the Virginia Housing Commission's website.
  - *Senator Whipple* – What is immigrant fraud?
    - *Courtney Mailey* –A fraudster will steal the identity of elderly person or an immigrant and use it in some kind of fraudulent transaction – often reverse mortgages. Immigrants who rent are discovering that their landlord may have used their information for a fraudulent scheme.
  - *Gary Garczynski* – Are any of these loan types not being accepted?
    - *Ned Prescott*, *Vice President of Research* – Discount window takes mortgage backed securities and individual loans.
  - *Delegate Oder* – Further explanation of the pie chart showing the universe of foreclosures, and the 48 percent subprime loan foreclosure rate?
    - *Ned Prescott*- The foreclosure rate on prime loans is much smaller than subprime loans; the composition of foreclosed properties is heavily from subprime loans.
  - T.K. Somanath – Has the Federal Reserve looked into the correlation between foreclosers and Community Reinvestment Act (CRA) lending?
    - *Ned Prescott* – The Federal Reserve Board of Governors has done research and compiled it related to Community Reinvestment Act Lending; the finding was that this has not contributed to the current issues in any way.
    - *Senator Watkins* – Overall approach to what is acceptable in terms of assessments and appraisals and the ability to qualify for subprime loans goes well beyond the CRA.
    - *Ned Prescott* – Six percent of loans that have gone bad are CRA, the other 94 percent were standard, regular loans generated for profit.
  - *Senator Watkins* – Wouldn't it be a better question to ask what percentage of foreclosures are Fannie Mae/Freddie Mac mortgages?
    - *Ned Prescott* – We will look into this for you.
  - *Senator Whipple* – In most cases, the trends are still pretty pronounced. Are we having any success in foreclosure prevention?
    - *Courtney Mailey* – As a representative of the Federal Reserve Bank, I cannot answer this question. If you look at the totality of the programs in place, and some of the more quantitative aspects, many datasets are still backdated – what was shown today was data

from December of 2007 to December 2008. We do see some evidence of change, but it is probably still too soon to say.

IV. Virginia Housing Updates

- *Susan Dewey, Executive Director, Virginia Housing Development Authority(VHDA)*
  - Severity of recession and some of the issues have extended some short-term issues.
  - Not seeing return of capital markets to normalcy- having to adapt programs to meet housing needs.
  - Three key "short-term" challenges:
    - Challenge 1 - Ability to access adequate loan capital for VHDA programs and to support the recovery of Virginia's housing market.
      - ♦ Most of VHDA's capital came from state tax-exempt bonds.
        - The demand for loan products exceeded the tax-exempt allocation.
        - The General Assembly changes to Virginia's private activity bond allocation formula and process alleviated this problem.
        - Also, the federal Housing and Economic Recovery Act (HERA) of 2008 temporarily increased the federal volume cap for housing bond issue.
      - ♦ Now, market dysfunctions are limiting use of new bond authority.
        - This is an issue that has impacted municipal bond issuers all across the country.
        - The federal take over of Fannie Mae and Freddie Mac distorted the normal relationship of mortgage interest rates by lowering the GSE's cost of funds.
        - Housing bond issuers cannot raise capital for home purchase loans at a cost competitive with the GSE's pricing.
      - ♦ Some housing agencies in other states have looked at other models in past few years.
        - VHDA was approved by Ginnie Mae to participate in pass-through securities program.
        - This will help sustain a high level of home purchase lending at a time when affordable credit for first-time buyers is needed.
        - Focus is the continued use of FHA lending programs.
        - This will enable the continuation of VHDA's FHA plus program.

    - VHDA has been able to issue bonds from multifamily programs.
        - Strong Moody's financial rating – ranked VHDA as one of three state housing finance agencies best able to weather current market conditions.
        - Enabling continued sale of multifamily bond issues.
- Challenge 2- Addressing housing needs in a difficult market environment, and ensuring that available resources are used prudently and equitably to address Virginia's home purchase and rental housing needs.
    - VHDA operates under a basic model.
    - The housing industry and local governments are relying on VHDA as the primary provider of affordable credit to first-time homebuyers, due to the difficult market.
    - Free homeownership education across the state, anyone can access this class. There are about 30,000 people currently tapping into this program.
        - We currently have an ad campaign running in some areas of the state where we see more foreclosures, trying to get people to take the classes.
        - We require all borrowers to participate in the program.
    - Sound underwriting – do not have any subprime or alt-A loan programs, do basic fixed rate programs; this works best for the first time homebuyer.
        - In-house service of our own loans, so if people are having trouble, we can step in and assist them.
    - Issues we see are because people are losing jobs or are underemployed; loss of family income is the number one issue we see with servicing.
    - VHDA foreclosure rate is below the state and national rates, because we work first-hand with our buyers.
    - Rental housing still faces major challenges.
        - Primary vehicle is the federal government's low income housing tax credit program, but developers are having a hard time getting tax credits syndicated, making it difficult for developers to move forward with some projects.
    - Stimulus funds can be used to revitalize multifamily lending.
        - TCAP program- provides direct HUD grant funds for VHDA to allocate to eligible properties.

            - The “Exchange” program – can turn back a portion of unused credits at the average syndication price prior to the market downturn, and then allocate funds to eligible properties.
    - Challenge 3 –Supporting the work of the Virginia Foreclosure Prevention Task Force.
        - Task force created by the governor in November 2007.
        - VHDA, DHCD, DPOR, and SCC staff have all lent support to the Task Force.
        - Three committees:
            - Foreclosure Impact – monitors economic, social, and fiscal impacts of foreclosures, works to mitigate the effects on families and communities. Includes monitoring implementation of the federal Neighborhood Stabilization program.
            - Education and Outreach – increases knowledge and awareness of foreclosure prevention options, works with counseling agencies, and promotes best practices and loss mitigation. Task Force website created:www.virginiaforeclosureprevention.com . Media campaign developed and regional clinics held to educate homeowners. New training program certifies more counselors throughout Virginia. The General Assembly appropriated $250,000 for FY09 and FY10 to fund operating grants to foreclosure prevention counseling agencies. These amounts are being matched by VHDA.
            - Regulatory Reform – reviews existing laws to identify areas where adjustments are necessary. Facilitated the passage of SB 797 which provided eligible homeowners facing foreclosure with breathing room to explore workout options. Supported other consumer protection legislation.
  - Questions:
    - *Delegate Marshall* – Will the contractors have to comply with the Davis Bacon Act (if you lend to them?)
        - *Susan Dewey*-Yes, it will increase the costs to the developers, but it will not increase the rents that will be paid. Costs are more substantial in certain areas of Virginia, like Northern Virginia, where you see the high rises. This is where you will see the significant additional costs.

- *Shea Hollifield, Deputy Director of Housing, VDHCD*
  - Highlights from the budget:

        - In FY09, had to reduce housing related activities by $1.7 million.
        - $250,000 allocated for foreclosure prevention counseling, matched dollar by dollar by VHDA, went to 12 areas across the state.
        - FY10 will see the same budget reductions, with an additional $100,000 reduction in shelter funds.
            - But will also see the $250,000 allocation and the VHDA match again.
    - Federal Economic Recovery Actions
        - HERA – passed in July 2008.
            - Neighborhood Stabilization Program- intended to acquire and redevelop foreclosed properties to prevent blight and abandonment within targeted communities – channeled through Community Development Block Grant (CDBG) program.
                - Fairfax - $2.8 million.
                - Prince William County - $4.1 million.
                - DHCD administering the rest throughout the state ($38.7 million). Open submission ($20 million); planning grants ($250,000); competitive round ($10 million); and performance pool ($5 million plus incoming program income).
        - American Recovery and Reinvestment Act (ARRA) – passed in February 2009.
            - HUD CDBG-Governor Kaine announced first three grants in CDBG program- being carried out in conjunction with Central Virginia Housing Coalition
            - DOE Weatherization
            - HUD TCAP
            - HUD Homelessness Prevention Fund
            - HUD Lead Hazard Reduction (City of Roanoke)
            - HUD Project Based Rental Assistance
            - HUD Public Housing Capital Fund
            - *Delegate Marshall* – How are these funds distributed to counties?
                - *Shea Hollifield* – Through established formulas. For homeless prevention program for example, use a HUD funding formula.
            - *Delegate Marshall* – Housing Commission should see a breakdown of how the monies are going to the counties.
            - *T.K. Somanath*– What about the DOE weatherization?
                - *Shea Hollifield* – This is also done by formula, must use the existing providers by federal regulation, and has to be spent within three years.
                - *Senator Watkins* – Does this run with LIHEAP?

                - *Shea Hollifield* – The normal program runs with LIHEAP, but there was no LIHEAP money included in the DOE stimulus program, so this is a creature of its own. There was an increase in LIHEAP money but this was through a special appropriation in the last fiscal year, separate from any of these recovery programs.
                - *Senator Watkins* - If the formula is close to LIHEAP, there is an overabundance that gets directed towards heating days rather than cooling days, so most of this gets spent in northern areas of the country; does it take the same formula in the money we are getting through the recovery?
                - *Shea Hollifield* – My understanding is that it is the same formula so other areas may be getting a disproportionate amount.
            - ♦ *Gary Garcynski* – Is this all new money or an increase?
                - *Shea Hollifield* – This is on top of our regular allocation; brand new money beyond what we would regularly receive in a program year.
            - ♦ *Delegate Hull* – Can any of this money be used for personnel costs?
                - *Shea Hollifield* – Each of the programs will vary, but there are amounts that can be used for administration and staff support.
            - ♦ *Shea Hollifield* -There is also an additional Neighborhood Stabilization Program that is part of the ARRA competitive funds in the amount of $1.9 billion. Applications for this are due in June to July. This money will likely be targeted to areas that have highest foreclosure impact, so California, Nevada, etc. will probably absorb most of this money.
            - ♦ *Delegate Marshall* – Will there be oversight to ensure that the monies are being spent correctly?
                - *Shea Hollifield* – There will be heavy focus on transparency and accountability; every agency getting money through these allocations has to hire additional monitors and auditors; we are giving serious considerations to increasing monitoring.

    - o Building and Fire Regulation Update
        - ▪ Initiated process for revising statewide building code; the 2009 ICC model codes serves as a basis for the Virginia Code. The model codes include many changes that might become a part of the Virginia codes.
            - ♦ Revised 2009 Energy Conservation Code.

            - Requirement for sprinklers in 1 and 2 family dwellings.
            - Required installation of carbon monoxide alarms in certain residential occupancies.
        - The board will deliberate and asses whether these should go into the Virginia code- will go into effect in July of 2010.

    - Proposed Federal Housing Trust Fund
        - HERA proposed to fund federal housing trust fund with proceeds from Fannie Mae and Freddie Mac, but limited available funding. New budget proposal includes $1 billion to capitalize an Affordable Housing Trust Fund.
            - *Delegate Hull* - If a state had its own housing trust fund, would this include some matching funds?
            - *Shea Hollifield* - Unsure at this time, but there has been some discussion of this occurring.
    - Other questions?
        - *Delegate Marshall* – When will we have something concrete about what the requirements are that are going into the building code?
            - *Emory Rodgers* – The proposed regulations will be available in July, and then there will be a comment period and hearings. The board will approve new regulations by May or June of 2010, and they will be effective by the fall of 2010.
        - *Delegate Marshall* – Can you offer the proposed regulations to the Commission so we can know what we are dealing with concerning these issues?
            - *Emory Rodgers* – Yes.

V. Mortgage Transactions and Foreclosure Activity – Data, Technology, and Information Systems – *David Berry, Veritec Systems*
- Technology tracking at a state level.
- Message- 3 things:
    - Predictability
    - Transparency
    - Enforcement
- The technology allows you to see the number of loans being offered and the types of products being offered, and then tie this data to unscrupulous activity.
- The only state currently utilizing this technology is Illinois.
- Simple, visual model:
    - Database that captures activity of brokers, appraisers, and real estate agents; gives the regulator a full view of what is happening.
    - Regulator can tie this information to specific points of interest.
        - Could see this data real time; the transparency is there to see the product being offered vs. the current model, which begins at the consumer complaint.
    - From here, can do a number of things:
        - Tie into the pipeline to see what other activity is being originated.

        - Transparency into the pipeline so the General Assembly can have data and make informed decisions vs. trying to look at foreclosures and tie future trends.
- Other states are looking at this technology.
    - Technology was not available three or four years ago.
- Questions:
    - *Delegate Hull* – Once a mortgage is approved by an originator, he would have to provide data right away to a database?
        - *David Berry* – Yes, he would have to input this data into an internet database once the loan is originated; input basic information on the loan, and from that point, it would feed through the pipeline.
    - *Delegate Hull* – Can this loan then be red flagged, so someone at the state level can put a hold on the transaction?
        - *David Berry* – In the Illinois model, they are looking for specific loans that are being offered – excessive fees, prepayment penalties, negative amortization – not to stop the loan, but to educate people or to track the loan to see where it ended up.
    - *Delegate Hull* – But we can only regulate state, not federally chartered institutions? So how can we require federally chartered banks to input the loans into the database?
        - *David Berry* – Federal banks do get a certificate of exemption – the system will know that a loan is originated, but it will not know the data behind it, so the database would only be tracking state loan originators.
    - *Delegate Hull* – What is to prevent unscrupulous lenders from fleeing the state, or getting around the system by changing the way that they are operated so that they are federally regulated instead of state regulated?
    - *Gary Garczynski* – This would have to be implemented by a licensing statute, is that what happened in Illinois?
        - *David Berry* – Yes.
    - *Gary Garczynski* – And you are targeting the areas where the abuse is most prominent?
        - *David Berry* - Yes.
    - *David Berry* – We hope to work closely with the Commission and subcommittees to inform the legislative body that there is technology to help you track the trends.

VI. *Senator Mamie Locke* -

- Thank you to the speakers for coming to speak to the Commission.
- Work group membership will be put up on website tomorrow morning.
- Issue of housing policy will be on the Commission's agenda, as well as the housing discrimination issues brought to our attention by HOME.
- Any other issues or comments?

    - *Senator Whipple* – Pleased that we are discussing housing policy at the next meeting; it is often hard to find the time to look at the bigger picture and figure out more general responses to housing issues.
- Anyone in the audience who would like to address the commission at this time?
- (Hearing none, adjourned at 4:34.)