MAY 2009
VOL. 88 NO. 5

Congressional Digest

A Pro & Con Monthly

Helping Homeowners

Mortgage Foreclosures and Bankruptcy Reform

Should the House Pass H.R. 1106, the Helping Families Save Their Homes Act?

Rep. Barney Frank (MA-D)
Rep. Jack Kingston (GA-R)

and others . . .

Pro & Con®

Contents

This month's feature:

Helping Homeowners

Mortgage Foreclosures and Bankruptcy Reform

Foreword 129

Housing Market Overview
Foreclosure Trends and the Federal Response 130

Homeowner Affordability and Stability
Summary of the Obama Administration Plan 135

Helping Families Save Their Homes Act
Major Provisions of H.R. 1106 137

Legislative Background
Recent Action on Mortgage Relief 139

Pro&Con®

Should the House Pass H.R. 1106, the Helping Families Save Their Homes Act?

PRO

Rep. Barney Frank (MA-D) 140

Rep. Debbie Wasserman Schultz (FL-D) 142

Rep. Sheila Jackson Lee (TX-D) 144

Rep. Alcee Hastings (FL-D) 152

Rep. Zoe Lofgren (CA-D) 156

CON

Rep. Jack Kingston (GA-R) 141

Rep. Lamar Smith (TX-R) 149

Rep. Spencer Bachus (AL-R) 151

Rep. James Sensenbrenner (WI-R) 155

Rep. Mike Pence (IN-R) 157

May 2009
Vol. 88 ■ No. 5

Congressional Digest
(ISSN 0010-5899) is an independent publication featuring controversies in Congress, Pro & Con. It is not an official organ, nor is it controlled by any party, interest, class, or sect. Published monthly except for July and August. Annual online Index included with subscription. Indexed in *Readers' Guide* and other indexing publications.

Published by
The Congressional Digest Corp.
PO Box 240
Boyds, MD 20841-0240
800-637-9915
congressionaldigestcorp.com/pcp

Founder
Alice Gram Robinson

Publisher
Page Robinson Thomas

Executive Editor
Erika Fitzpatrick

Editor in Chief
Sarah Orrick

SUBSCRIPTIONS
Rates:
1 year $68; 2 years $120;
3 years $180.
Single Copy: $10
Single Copy Bulk Rates:
3-10 @ $4.00 each; 11-25 @ $3.50 each; more than 25 @ $3.25 each.
Write for back copy rates

Foreign Subscribers:
Add annual surface mail postage of $7.25 for Canada and Mexico; $8.50 for all other countries. Air mail available, rates vary
Telephone Orders:
Accepted with Visa or MasterCard
(800) 637-9915
Customer Service:
(301) 916-1800

Periodicals postage paid at Boyds, MD, and at additional mailing offices.

POSTMASTER
Send address changes to:
Congressional Digest
Congressional Digest Corp.
PO Box 240
Boyds, MD 20841-0240

Helping Homeowners
Mortgage Foreclosures and Bankruptcy Reform

"He who decides a case without hearing the other side . . . Tho he decide justly, cannot be considered just." — *Seneca*

F O R E W O R D

Owning a home has traditionally been considered part of the "American Dream," but houses are expensive and most people need to borrow money to buy one. At the beginning of the twenty-first century, mortgage interest rates were low and housing prices were increasing steadily, so homeownership seemed like a good investment. Banks offered easy access to money, and even people with poor credit could qualify for subprime loans. Many homeowners refinanced and took second mortgages to get cash out of their homes' equity and then use the money to maintain a standard of living while wages remained stagnant.

Starting in 2006, however, housing sales began to decline, home prices stopped rising, and foreclosures and bankruptcies increased dramatically. In late 2008, about one in 10 homeowners were delinquent in their mortgages. There was a general consensus that changes in laws and regulations were needed to keep the housing market from getting even worse.

In February, President Barack Obama unveiled a foreclosure-prevention package designed to help homeowners obtain more affordable mortgage terms. The three major elements of the proposal would allow 4 million to 5 million people with little equity in their homes refinance into cheaper mortgages; create a $75 billion plan to keep 3 million to 4 million homeowners out of foreclosure; and double the Federal commitment to mortgage giants Fannie Mae and Freddie Mac.

While some of the measures the President announced could be implemented by executive action, others required congressional approval. A key part of the package was legislation to allow bankruptcy judges to modify the mortgages of distressed homeowners, including by reducing the principal of the loan to the property's current market value.

Democratic leaders in Congress have long sought such a change, often called "cramdown" authority, but have run up against strong opposition by the banking industry. Current law excludes mortgage cramdowns for primary residences but bankruptcy courts can make exceptions for vacation home and multifamily housing loans.

In early March, the House passed the Helping Families Save Their Homes Act, sponsored by Judiciary Committee Chairman John Conyers (MI-D). Under the measure, bankruptcy judges could reduce the principal on a homeowner's mortgage, cut the interest rate, and extend the terms. The legislation also modifies the HOPE for Homeowners program — enacted last summer and generally deemed to have failed in its goal to help 400,000 borrowers avoid foreclosure.

Those favoring the bill say that it is another necessary step in resolving the current economic crisis. They claim that if it is not enacted, millions more homeowners will join the record-setting 5 million-plus families who were foreclosed on or were behind in their mortgages at the end of 2008. They add that it is only fair to offer the same alternative to average families that has been available to those with vacation homes, investment properties, and luxury yachts. They point out that the mortgage modification provision poses no expense to taxpayers and would enable lenders to at least recoup some of the money owed to them.

Opponents argue that the measure will make it too easy for many homeowners to shirk their loan obligations and could lead to an outbreak of bankruptcy filings by those who see it as an easy way out. In addition, they warn that the cramdown provisions could create uncertainty in the market, which in turn could exacerbate the current credit crunch and drive up interest rates. Opponents also charge that the bill would set a dangerous precedent of Federal Government incursion into the housing market, forcing out private institutions.

The Helping Families Save Their Homes Act has now moved to the Senate, where its fate is uncertain. Senate sponsors are reaching out to large banks and credit unions, hoping to forge a compromise. As with other controversial bills in this Congress, concessions will be needed to lock in the 60 Senate votes needed to ensure passage. Ultimately, Members may feel the most pressure from homeowners themselves, especially those from States with unusually high numbers of foreclosures. ■

Housing Market Overview
Foreclosure Trends and the Federal Response

The foreclosure rate in the United States has been rising rapidly since around the middle of 2006. The large increase in home foreclosures since that time has negatively impacted individual households, local communities, and the economy as a whole. Consequently, an issue before Congress is whether to use Federal resources and authority to help prevent further increases in home foreclosures and, if so, how to best accomplish this objective.

Foreclosure refers to formal legal proceedings initiated by a mortgage lender against a homeowner after the homeowner has missed a certain number of payments on his or her mortgage. When a foreclosure is completed, the homeowner loses his or her home, which is either repossessed by the lender or sold at auction to repay the outstanding debt. In general, the term "foreclosure" can refer to the foreclosure process or the completion of a foreclosure.

In order for the foreclosure process to begin, two things must happen: A homeowner must fail to make a certain number of payments on his or her mortgage, and a lender must decide to initiate foreclosure proceedings rather than pursue other options (such as offering a repayment plan or a loan modification).

A borrower who misses one or more payments is usually referred to as being delinquent on a loan; when a borrower has missed three or more payments, he or she is generally considered to be in default. Lenders can choose to begin foreclosure proceedings after a homeowner defaults on his or her mortgage, although lenders vary in how quickly they begin foreclosure proceedings after a borrower goes into default. Furthermore, the rules governing foreclosures, and the length of time the process takes, vary by State.

■ Recent Market Trends

Home prices rose rapidly throughout some regions of the United States beginning in 2001. Housing has traditionally been seen as a safe investment that can offer an opportunity for high returns, and rapidly rising home prices reinforced this view. During this housing "boom," many people decided to buy homes or take out second mortgages in order to access their increasing home equity.

Furthermore, rising home prices and low interest rates contributed to a sharp increase in people refinancing their mortgages; for example, between 2000 and 2003, the number of refinanced mortgage loans jumped from 2.5 million to over 15 million. Around the same time, subprime lending, which generally refers to making mortgage loans to individuals with credit scores that are too low to qualify for prime rate mortgages, also began to increase, reaching a peak between 2004 and 2006.

Beginning in 2006 and 2007, however, home sales started to decline, home prices stopped rising and began to fall in many regions, and the rates of homeowners becoming delinquent on their mortgages or going into foreclosure began to increase.

The percentage of home loans in the foreclosure process in the U.S. has been rising rapidly since the middle of 2006. Although not all homes in the foreclosure process will end in a foreclosure completion, an increase in the number of loans in the foreclosure process is generally accompanied by an increase in the number of homes on which a foreclosure is completed.

According to the Mortgage Bankers Association, an industry group, about 1 percent of all home loans were in the foreclosure process in the second quarter of 2006. By the third quarter of 2008, the rate had tripled to almost 3 percent.

The foreclosure rate for subprime loans has always been higher than the foreclosure rate for prime loans. For example, in the second quarter of 2006, just over 3.5 percent of subprime loans were in the foreclosure process compared to less than 0.5 percent of prime loans. However, both prime and subprime loans have seen similar increases in the foreclosure rate over the past several quarters. Like the foreclosure rate for all loans combined, the foreclosure rates for prime and subprime loans have both more than tripled, with the rate of subprime loans in the foreclosure process increasing to about 12.5 percent in

From the Library of Congress, Congressional Research Service report Preserving Homeownership: Foreclosure Prevention Initiatives, *February 9, 2009.*

third quarter 2008 and the rate of prime loans in the foreclosure process increasing to just over 1.5 percent in the same period.

According to the Congressional Budget Office (CBO), observers expect the high rate of foreclosures to continue in 2009 and beyond.

■ Impacts of Foreclosure

Losing a home to foreclosure can have a number of negative effects on a household. For many families, losing a home means losing the household's largest store of wealth. Furthermore, foreclosure can negatively impact a borrower's creditworthiness, making it more difficult to buy a home in the future.

Finally, losing a home to foreclosure can also mean that a household loses many of the less tangible benefits of owning a home. Research has shown that these benefits include increased civic engagement that results from having a stake in the community, and better health, school, and behavioral outcomes for children.

Some homeowners might have difficulty finding a place to live after losing their home to foreclosure. Many will become renters. However, some landlords may be unwilling to rent to families whose credit has been damaged by a foreclosure, limiting the options open to these families. There can also be spillover effects from foreclosure on current renters. Renters living in units facing foreclosure may be required to move, even if they are current on their rent payments.

As more homeowners become renters and as more current renters are displaced when their landlords face foreclosure, pressure on local rental markets may increase, and more families may have difficulty finding affordable rental housing. Some observers have also raised the concern that a large increase in foreclosures could increase homelessness, either because families who lost their homes have trouble finding new places to live or because the increased demand for rental housing makes it more difficult for families to find adequate, affordable units.

If foreclosures are concentrated, they can also have negative impacts on communities. Many foreclosures in a single neighborhood may depress surrounding home values. If foreclosed homes stand vacant for long periods of time, they can attract crime and blight, especially if they are not well maintained. Concentrated foreclosures also place pressure on local governments, which can lose property tax revenue and may have to step in to maintain vacant foreclosed properties.

■ The Policy Problem

There is a broad bipartisan consensus that the recent rapid rise in foreclosures is having negative consequences on households and communities. There is less agreement among policymakers about how much the Federal Government should do to prevent foreclosures.

Proponents of enacting government policies and using government resources to prevent foreclosures argue that, in addition to being a compassionate response to the plight of individual homeowners, such action may prevent further damage to home values and communities that can be caused by concentrated foreclosures. Supporters also suggest that preventing foreclosures may help stabilize the economy as a whole.

Opponents of government foreclosure prevention programs argue that foreclosure prevention should be worked out between lenders and borrowers without government interference. Opponents also express concern that people who do not really need help, or who are not perceived to deserve help, will unfairly take advantage of government foreclosure prevention programs. They argue that taxpayers' money should not be used to help people who can still afford their loans but want to get more favorable terms, people who may be seeking to pass their losses on to the lender or the taxpayer, or people who knowingly took on mortgages that they could not afford.

Despite the concerns surrounding foreclosure prevention programs, and disagreement over the proper role of the government in preserving homeownership, Congress and the Executive Branch have both recently taken actions aimed at preventing foreclosures. Many private companies and State and local governments have also undertaken their own foreclosure prevention efforts.

■ HOPE for Homeowners

Congress created the Hope for Homeowners program in the Housing and Economic Recovery Act, which was signed into law on July 30, 2008. The program, which is voluntary on the part of both borrowers and lenders, offers certain borrowers the ability to refinance into new mortgages insured by Federal Housing Administratrion if their lenders agree to certain loan modifications.

The Hope for Homeowners program began on October 1, 2008, and will remain in place until September 30, 2011. In order to be eligible for the program, borrowers must meet the following requirements:

- The borrower must have a mortgage that originated on or before January 1, 2008.

- The borrower's mortgage payments must have been more than 31 percent of their gross monthly income as of March 1, 2008.

- The borrower must not own another home.

- The borrower must not have intentionally defaulted on his or her mortgage, and must not have been convicted of fraud during the last 10 years under either Federal or State law.

- The borrower must not have provided false information to obtain the original mortgage.

Under the original terms of the program, the lender agreed to write the mortgage down to 90 percent of the home's currently appraised value. The home therefore must be reappraised by an FHA-approved home appraiser in order to determine its current value, and the lender absorbs whatever loss results from this write-down. The new mortgage is a 30-year fixed-rate mortgage with no prepayment penalties, and may not exceed $550,440. Any second lienholders were required to release their lien in exchange for a share of any future profit when the home is eventually sold.

The homeowner pays an upfront mortgage insurance premium of 3 percent, and an annual mortgage insurance premium of 1.5 percent. When the homeowner sells or refinances the home, he or she must share between 50 percent and 100 percent of the proceeds with the Department of Housing and Urban Development (HUD), depending on the length of time that passes between the time the borrower enters the program and when he or she sells the home. After one year, 100 percent of the equity in the home and any home value appreciation is shared with FHA, while after five years, only 50 percent is shared with FHA.

On November 19, 2008, HUD announced three changes to Hope for Homeowners in order to simplify the program and encourage participation. These changes did the following:

- Increased the maximum loan-to-value ratio of the new loan to 96.5 percent of the home's currently appraised value, instead of the original 90 percent, in order to minimize losses to lenders.

- Allowed lenders to increase the term of the mortgage from 30 to 40 years in order to lower borrowers' monthly payments.

- Offered an immediate payment to second lien-holders, instead of a share in future profits, in return for their agreement to relinquish the lien.

The CBO originally estimated that up to 400,000 homeowners could be helped to avoid foreclosure over the life of the program. As of February 3, 2009, the program had received 451 applications and 25 new mortgages had closed. Some have suggested that more borrowers and lenders have not used Hope for Homeowners because the program requires so many players to take losses; lenders must write down part of the principal, and borrowers must share future equity in their homes and any home price appreciation. Others have suggested that borrowers and lenders have been hesitant to use the program as long as interest in developing other foreclosure prevention plans continues, in case a new plan is enacted that offers more favorable terms.

■ Changing Bankruptcy Law

One method that has been suggested to help more homeowners remain in their homes is to amend bankruptcy law to allow a judge to order a mortgage loan modification as part of a bankruptcy proceeding. Bankruptcy judges currently have the authority to modify or reduce other types of outstanding debt obligations, including mortgages on second homes and vacation homes, but this authority does not extend to mortgages on primary residences. Opponents of such a change do not want judges to have such broad power to amend a contract after the fact. They argue that allowing these "cramdowns" would make lenders more hesitant to make mortgage loans in the future, since the threat of a loan being modified in this way could make mortgage lending more risky.

Supporters of amending bankruptcy law say that, in addition to helping a borrower in bankruptcy avoid foreclosure through a court-mandated loan modification, such a change might also encourage lenders to work with borrowers to modify loans before the bankruptcy process begins in the first place.

■ Challenges Associated with Preventing Foreclosure

There are several challenges associated with designing successful programs to prevent foreclosures. Some of these challenges are practical and concern issues surrounding the implementation of loan modifications. Other challenges

Chapter 13 Overview

Chapter 13 of the Bankruptcy Code provides an avenue by which debtors may get relief from their debts. Chapter 13 governs reorganizations for most individuals. A reorganization generally means that debts are paid from the debtors' future income. Outside of bankruptcy, debtors and creditors may attempt to consensually modify the terms of their contractual obligations. If the parties attempt to reach a voluntary workout outside of bankruptcy, the Chapter 13 framework may serve as a baseline for negotiations with the parties understanding that if they cannot agree, the terms may be modified in accordance with the parameters of the Code if the debtor files and qualifies for bankruptcy.

When a qualified debtor cannot meet outstanding obligations or negotiate revised payments with his or her creditors, the debtor may file a petition for an individual reorganization. In most cases, debtors must receive credit counseling before filing a Chapter 13 petition. Under Chapter 13, the debtor is required to file a proposed reorganization plan with the court. The proposed Chapter 13 plan generally is submitted at the same time as the petition for bankruptcy. If the plan meets the Code's requirements, the court may confirm the plan.

Chapter 13 plan disputes among debtors and creditors are settled by the bankruptcy judge. The Code provides courts some leeway to adjust the value of certain debts. For many secured debts, the court has "strip down" — also, commonly referred to as "cramdown" — authority. Strip down is the power to lower, over the creditor's objections, the amount the debtor must pay the creditor for the secured claim to as low as the collateral's fair market value. Amounts in excess of fair market value are treated as unsecured debt and may be discharged.

Among the secured debts that the court may not strip down under the current Chapter 13 are those that are secured by the debtor's principal residence. Other real property liens, however, are commonly modified in bankruptcy reorganizations. As a general rule, a real property lien is only protected as a nondischargeable secured debt up to the market value of the collateral. Indebtedness under a mortgage or security interest is treated as unsecured — and therefore modifiable or potentially dischargeable to the extent that the amount of indebtedness exceeds the value of the collateral.

The Code allows a court to modify a mortgage secured by the debtor's vacation home, investment home, and family farm, for instance, but a court may not strip down the claim on a mortgage secured by the same individual's primary residence. Even after this provision was enacted by the Bankruptcy Reform Act of 1978, some courts interpreted the Code as allowing strip down of primary residences until they were overruled by a 1992 U.S. Supreme Court decision. Hence, the Code's prohibition on the modification of liens that secure a primary residence is arguably the exception, not the rule. The purpose of the exception, at least based on analysis of its legislative history as expressed in a concurring Supreme Court opinion by Justice Stevens, was to "encourage the flow of capital into the home lending market."

are more conceptual, and are related to questions of fairness and precedent. This section describes some of the most prominent considerations involved in programs to preserve homeownership.

Who has the Authority to Modify Mortgages. In recent years, the practice of lenders packaging mortgages into securities and selling them to investors has become more widespread. This practice is known as securitization, and the securities that include the mortgages are known as mortgage-backed securities (MBS). When mortgages are sold through securitization, several players become involved with any individual mortgage loan, including the lender, the servicer, and the investors who hold shares in the MBS.

The servicer is usually the organization that has the most contact with the borrower, including receiving monthly payments and initiating any foreclosure proceedings. However, servicers are usually subject to contracts with investors, which limit the activities that the servicer can undertake and require it to safeguard the investors' profit.

One major question facing foreclosure prevention programs, therefore, is who actually has the authority to make a loan modification. Contractual obligations may limit the amount of flexibility that servicers have to modify loans in ways that could arguably yield a lower return for investors. In some cases, loan modifications can result in less of a loss for investors than foreclosure; however, lenders and servicers may not want to risk having investors challenge their assessment that a modification is more cost-effective than a foreclosure.

This problem can be especially salient in streamlined programs in which large numbers of loans are modified at once. With such streamlined programs, the cost-effectiveness of loan modifications depends on questions such as how many loans would have likely ended up in foreclosure without the modification, making it more difficult to say whether wholesale loan modifications are in the best interest of investors.

Volume of Delinquencies and Foreclosures. Another issue facing loan modification programs is the sheer number of delinquencies and foreclosure proceedings underway. Lenders and servicers have a limited number of employees to reach out to troubled borrowers and find solutions. Contacting borrowers — some of whom may avoid contact with their servicer out of embarrassment or fear — and working out large numbers of individual loan modifications can overwhelm the capacity of the lenders and servicers who are trying to help homeowners avoid foreclosure. Streamlined plans that use a formula to modify all loans that meet certain criteria may make it easier for lenders and servicers to help a greater number of borrowers in a shorter amount of time. However, streamlined plans are more likely to run into the contractual issues between servicers and investors described above.

Possibility of Redefault. Another major challenge associated with loan modification programs is the possibility that a homeowner who receives a modification will nevertheless default on the loan again in the future. This possibility is especially problematic if the home's value is falling, because in that case delaying an eventual foreclosure reduces the value that the lender can recoup through a foreclosure sale.

Data released by the Comptroller of the Currency and the Office of Thrift Supervision show that 37 percent of loans modified in the first quarter of 2008 were 30 or more days delinquent again three months after the modification, and 55 percent were 30 or more days delinquent six months after the modification. The same data show that a smaller percentage of modified loans were 60 or more days delinquent: 19 percent of loans were 60 or more days delinquent three months after the modification, and 37 percent were 60 or more days delinquent 60 or more days after the modification.

Opponents of aggressive loan modification programs point to these data as evidence that loan modifications are not effective at preventing foreclosures. However, proponents of such programs argue that the definition of loan modification used in these data is overly broad, and that many of the modifications did not actually result in lower monthly payments for the borrower. These supporters believe that loan modifications that focus on creating truly affordable payments for troubled borrowers will exhibit lower rates of re-default.

Fairness Issues. Opponents of some foreclosure prevention plans argue that it is not fair to help homeowners who have fallen behind on their mortgages while homeowners who have been scraping by to stay current receive no help. Others argue that borrowers who got in over their heads, particularly if they intentionally took out mortgages that they knew they could not afford, should face consequences.

Supporters of loan modification plans point out that many borrowers go into foreclosure for reasons outside of their control, and that some troubled borrowers may have been victims of deceptive, unfair, or fraudulent lending practices. Furthermore, a case can be made that foreclosure prevention programs are necessary not only out of compassion for the homeowner, but because foreclosures can create problems for other homeowners in the neighborhood by dragging down property values or putting a strain on local governments.

To address these concerns about fairness, some loan modification programs reach out to borrowers who are struggling to make payments but are not yet delinquent on their mortgage. Most programs also specifically exclude individuals who provided false information in order to obtain a mortgage.

Incentives. Another challenge is that loan modification programs may provide an incentive for borrowers to intentionally miss payments or default on their mortgage in order to qualify for a loan modification that provides more favorable mortgage terms. While many of the programs described above, including Hope for Homeowners, specifically require that a borrower must not have intentionally missed payments on his or her mortgage in order to qualify for the program, it can be difficult to prove a person's intention.

Programs that are designed to reach out to distressed borrowers before they miss any payments, as well as those who are already delinquent, may minimize the incentive for homeowners to intentionally fall behind on their mortgage in order to receive help.

Precedent. Some opponents of government efforts to provide or encourage loan modifications argue that changing the terms of a contract retroactively sets a troubling precedent for future mortgage loans. These opponents argue that if lenders believe that they could be forced to change the terms of a mortgage in the future, they will be less likely to provide mortgage loans in the first place or will only do so at higher interest rates to counter the perceived increase in the risk of not being repaid in full.

Most existing programs attempt to address this concern by limiting the program's scope. These programs apply only to mortgages that originated during a certain time frame, and end at a pre-determined date. ■

Homeowner Affordability and Stability
Summary of the Obama Administration Plan

The Obama Administration's Homeowner Affordability and Stability Plan will offer assistance to as many as 7 million to 9 million homeowners making a good-faith effort to stay current on their mortgage payments, while attempting to prevent the destructive impact of foreclosures on families and communities. It will not provide money to speculators, and it will target support to the working homeowners who have made every possible effort to stay current on their mortgage payments. Just as the American Recovery and Reinvestment Act works to save or create several million new jobs and the Financial Stability Plan works to get credit flowing, the Homeowner Affordability and Stability Plan will support a recovery in the housing market and ensure that these workers can continue paying off their mortgages.

By supporting low mortgage rates by strengthening confidence in Fannie Mae and Freddie Mac, providing up to 4 to 5 million homeowners with new access to refinancing, and enacting a comprehensive stability initiative to offer reduced monthly payments for up to 3 to 4 million at-risk homeowners, this plan — which draws off the best ideas developed within the Administration, as well as from congressional housing leaders and Federal Deposit Insurance Corporation Chair Sheila Bair — brings together the government, lenders, and borrowers to share responsibility towards ensuring working Americans can afford to stay in their homes.

■ Access to Low-Cost Refinancing for Responsible Homeowners

Provide the Opportunity for Up to 4 to 5 Million Responsible Homeowners Expected to Refinance. Mortgage rates are currently at historically low levels, providing homeowners with the opportunity to reduce their monthly payments by refinancing. But under current rules, most families who owe more than 80 percent of the value of their homes have a difficult time securing refinancing. (For example, if a borrower's home was worth $200,000, he or she would have limited refinancing options if he or she owed more than $160,000.) Yet millions of responsible homeowners who put money down and made their mortgage payments on time have — through no fault of their own — seen the value of their homes drop low enough to make them unable to access these lower rates. As a result, the Obama Administration is announcing a new program that will provide the opportunity for 4 to 5 million responsible homeowners who took out conforming loans owned or guaranteed by Freddie Mac and Fannie Mae to refinance through the two institutions over time.

Reducing Monthly Payments. For many families, a low-cost refinancing could reduce mortgage payments by thousands of dollars per year. For example, consider a family that took a 30-year fixed rate mortgage of $207,000 with an interest rate of 6.5 percent on a house worth $260,000 at the time. Today, that family has $200,000 remaining on their mortgage, but the value of that home has fallen 15 percent to $221,000 — making them ineligible for today's low interest rates that generally require the borrower to have 20 percent home equity. Under this refinancing plan, that family could refinance to a rate near 5.16 percent — reducing their annual payments by over $2,300.

■ A $75 Billion Homeowner Stability Initiative

The Treasury Department, working with the government-sponsored enterprises (GSEs), the Federal Housing Administration, and the Federal Deposit Insurance Corporation and other federal agencies, will undertake a comprehensive multipart strategy to prevent millions of foreclosures and help families stay in their homes. This strategy includes the following five features:

An Initiative to Reach Up to 3 to 4 Million At-Risk Homeowners. This initiative is intended to reach millions of responsible homeowners who are struggling to afford

From a summary of the Homeowner Affordability and Stability Plan prepared by the U.S. Department of the Treasury. See www.treasury.gov/initiatives/eesa/homeowner-affordability-plan/FactSheet.pdf.

their mortgage payments because of the current recession, yet cannot sell their homes because prices have fallen so significantly. In the current economy, in which 3.6 million jobs have been lost over the past 14 months, millions of hard-working families have seen their mortgage payments rise to 40 or even 50 percent of their monthly income — particularly if they received subprime and exotic loans with exploding terms and hidden fees.

The Homeowner Stability Initiative operates through a shared partnership to temporarily help those who commit to make reasonable monthly mortgage payments to stay in their homes, providing families with security and neighborhoods with stability. This plan will also help to stabilize home prices for homeowners in neighborhoods hardest hit by foreclosures.

Based on estimates concerning the relationship between foreclosures and home prices, with the average house in the U.S. valued around $200,000, the average homeowner could see his or her home value stabilized against declines in price by as much as $6,000 relative to what it would otherwise be absent the Homeowner Stability Initiative.

The Homeowner Stability Initiative has a simple goal: reduce the amount homeowners owe per month to sustainable levels. This program will bring together lenders, servicers, borrowers, and the government, so that all stakeholders share in the cost of ensuring that responsible homeowners can afford their monthly mortgage payments — helping to reach up to 3 to 4 million at-risk borrowers in all segments of the mortgage market, reducing foreclosures, and helping to avoid further downward pressures on overall home prices.

Clear and Consistent Guidelines for Loan Modifications. A lack of common standards has limited loan modifications, even when they are likely to both reduce the chance of foreclosure and raise the value of the securities owned by investors. Mortgage servicers — who should have an interest in instituting common-sense loan modifications — often refrain from doing so because they fear lawsuits. Clear and consistent guidelines for modifications are a key component of foreclosure prevention.

Requiring All Financial Stability Plan Recipients to Use Guidance for Loan Modifications. The Treasury Department will require all Financial Stability Plan recipients going forward to participate in foreclosure mitigation plans consistent with Treasury's loan modification guidelines.

Allowing Judicial Modifications of Home Mortgages During Bankruptcy for Borrowers Who Have Run Out of Options. The Obama administration will seek careful changes to personal bankruptcy provisions so that bankruptcy judges can modify mortgages written in the past few years when families run out of other options.

Strengthening FHA Programs and Providing Support for Local Communities. The Hope for Homeowners program offers one avenue for struggling borrowers to refinance their mortgages. In order to ensure that more homeowners participate, the FHA will reduce fees paid by borrowers, increase flexibility for lenders to modify troubled loans, permit borrowers with higher debt loads to qualify, and allow payments to servicers of the existing loans.

As part of the recovery plan signed by the President, the Department of Housing and Urban Development will award $2 billion in competitive Neighborhood Stabilization Program grants for innovative programs that reduce foreclosure. Additionally, the recovery plan includes an additional $1.5 billion to provide renter assistance, reducing homelessness and avoiding entry into shelters

■ Strengthening Confidence in Fannie Mae and Freddie Mac

Ensuring Strength and Security of the Mortgage Market. Today, using funds already authorized in 2008 by Congress for this purpose, the Treasury Department is increasing its funding commitment to Fannie Mae and Freddie Mac to ensure the strength and security of the mortgage market and to help maintain mortgage affordability.

The increased funding will enable Fannie Mae and Freddie Mac to carry out ambitious efforts to ensure mortgage affordability for responsible homeowners, and provide forward-looking confidence in the mortgage market.

Treasury is increasing its Preferred Stock Purchase Agreements to $200 billion each from their original level of $100 billion each.

Promoting Stability and Liquidity. In addition, the Treasury Department will continue to purchase Fannie Mae and Freddie Mac mortgage-backed securities to promote stability and liquidity in the marketplace.

Increasing The Size of Mortgage Portfolios. To ensure that Fannie Mae and Freddie Mac can continue to provide assistance in addressing problems in the housing market, Treasury will also be increasing the size of the GSEs' retained mortgage portfolios allowed under the

Continued on page 160

Helping Families Save Their Homes Act

Major Provisions of H.R. 1106

The following is a summary of H.R. 1106, the Helping Families Save Their Homes Act, as passed by the U.S. House of Representatives on March 5, 2009.

■ Prevention of Mortgage Foreclosures

Modification of Residential Mortgages. Amends Federal bankruptcy law governing a Chapter 13 debtor (adjustment of debts of an individual with regular income) to exclude from the computation of debts the secured or unsecured portions of: (1) debts secured by the debtor's principal residence if the value of the residence is less than the applicable maximum amount of noncontingent, liquidated, secured debts; or (2) debts secured or formerly secured by the debtor's principal residence that was either sold in foreclosure or surrendered to the creditor if the property's value was less than the applicable maximum amount of noncontingent, liquidated, secured debts.

Applies the credit counseling requirement to a Chapter 13 debtor who certifies receipt of notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure on it. Allows such a debtor to satisfy the requirement within 30 days after filing a petition for relief from debt. (Currently the requirement must be satisfied within 180 days before the filing of a petition.)

Requires the court to disallow a claim that is subject to any remedy for rescission under the Truth in Lending Act, notwithstanding the prior entry of a foreclosure judgment.

Permits a Chapter 13 bankruptcy plan to modify the rights of claim holders with respect to a claim for a loan originated before the effective date of this act and secured by a security interest in the debtor's principal residence that is the subject of a foreclosure notice.

Authorizes reduction of a claim secured by the debtor's principal residence, but only in specified circumstances, particularly if the debtor sells the residence.

Permits a Chapter 13 bankruptcy plan to deny debtor liability for certain fees and charges incurred while the bankruptcy case is pending and arising from a debt secured by the debtor's principal residence, unless the claim holder observes specified requirements.

Adds to conditions for court confirmation of a plan in bankruptcy that: (1) the holder of a claim secured by the debtor's principal residence retain the lien securing the claim until the later of the payment of the claim as reduced and modified, completion of all payments under the plan, or the discharge of a debtor from all debts; and (2) the plan modifies the claim in good faith and the court does not find that the debtor has been convicted of obtaining by actual fraud the extension, renewal, or refinancing of credit that gives rise to a modified claim.

Authorizes the court, upon request, to confirm a plan proposing a reduction in the interest rate on the loan secured by such security interest and that does not reduce the principal, provided the total monthly mortgage payment is reduced to a percentage of the debtor's income in accordance with the guidelines of the Obama Admin-istration's Homeowner Affordability and Stability Plan, and the debtor, thereafter, would be able to prevent foreclosure and pay a fully amortizing 30-year loan at such reduced interest rate without such reduction in principal.

Excludes from the final discharge of a debtor from all debts any unpaid portion of such a claim as reduced.

Amends the Federal judicial code to prescribe standing trustee fees regarding certain payments received under a Chapter 13 bankruptcy plan.

Instructs the comptroller general to study and report to certain congressional committees on: (1) the number of Chapter 13 debtors who filed, during the year following enactment of this Act, for the purpose of restructuring their principal residence mortgages; (2) the number of mortgages restructured under this act that subsequently resulted in default and foreclosure; (3) a comparison between the effectiveness of mortgages restructured under programs outside of bankruptcy and mortgages restructured under this act; (4) the number of cases presented to the bankruptcy courts where mortgages were restructured under this act that were appealed; (5) the number of bankruptcy

From a summary of H.R. 1106 provided by the Library of Congress, Legislative Information Service.

cases where mortgages were restructured under this act that were overturned on appeal; (6) the number of bankruptcy judges disciplined as a result of actions taken to restructure mortgages under this act; and (7) whether the amendments made by this act should be amended to include a sunset clause.

Directs the comptroller general to report to Congress on: (1) a comprehensive review of the effects of the amendments made by this subtitle on the bankruptcy court; (2) a survey of whether the program should limit the types of homeowners eligible for the program, and (3) whether such amendments should remain in effect.

Related Mortgage Modification Provisions. Expands Federal procedures governing default on veterans' housing loans. Authorizes the Secretary of Veterans Affairs, in the event of a modification in bankruptcy, to pay the holder of the obligation the unpaid balance due as of the date of the filing of the bankruptcy petition, plus accrued interest, but only upon assignment, transfer, and delivery of all rights, interest, claims, evidence, and records regarding the loan.

Amends the National Housing Act to authorize the secretary of Housing and Urban Development (HUD) to: (1) pay Federal Housing Administration (FHA) mortgage insurance benefits for a mortgage modified under federal bankruptcy law; and (2) implement a program solely to encourage loan modifications for eligible delinquent mortgages through the payment of insurance benefits and assignment of the mortgage to the secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved by the mortgagee.

Amends the Housing Act of 1949 to authorize the secretary of Agriculture to pay: (1) the guaranteed portion of any losses incurred by the holder of a note or the loan servicer resulting from a modification in a bankruptcy proceeding; and (2) for losses incurred by holders or servicers in the event of a modification pursuant to a bankruptcy proceeding.

Declares unenforceable as contrary to public policy certain investment contracts between servicers and securitization vehicles or investors that require excess bankruptcy losses that exceed a certain dollar amount on residential mortgages.

Requires the comptroller general to report to certain congressional committees on the volume of mortgage modifications reported to the Office of the Comptroller of the Currency and the Office of Thrift Supervision (OTS), under the mortgage metrics program of each such Office, during the previous quarter.

■ Foreclosure Mitigation and Credit Availability

Shields servicers from liability for implementing mortgage loan modifications or loss mitigation plans if they are in compliance with fiduciary duties required by the Truth in Lending Act (including any refinancing undertaken pursuant to standard loan modification, sale, or disposition guidelines issued by the Secretary of the Treasury).

Amends the National Housing Act to modify the HOPE for Homeowners Program (HOPE).

Requires mortgagor certification to HUD that the mortgagor has neither intentionally defaulted on an existing mortgage, nor provided false information, nor (as under existing law) been convicted for fraud during the 10-year period ending upon the insurance of the mortgage under this act.

Authorizes the secretary of HUD to permit the establishment of a second lien on a property under an eligible mortgage to be insured, for the purpose of facilitating payment of closing or refinancing costs by a state or locality using funds provided: (1) under the HOME Investment Partnerships program; (2) under the community development block grants program under the Housing and Community Development Act of 1974; or (3) by a State or local housing finance agency.

Authorizes HUD to provide exceptions to primary residence and exclusive present ownership interest requirements for any mortgagor who has inherited a property or has relocated to a new jurisdiction, and is in the process of trying to sell such property or has been unable to sell it due to adverse market conditions.

Bans from the HOPE program mortgagors whose net worth exceeds $1 million.

Authorizes the secretary to establish a payment of up to $1,000 per insured loan to the loan servicer of the existing senior mortgage for every loan insured under HOPE.

Directs the secretary to establish, if feasible, an auction to refinance eligible mortgages on a wholesale or bulk basis.

Reduces by $2.316 billion the $700 billion limit on the secretary of the Treasury's authority to purchase troubled assets under the Troubled Asset Relief Program (TARP) (in order to offset the costs of program changes).

Limits participation in the origination of an FHA-insured loan to a person or entity approved by the secretary as a mortgagee, unless the secretary otherwise authorizes such participation.

Prohibits approval as a mortgagee of any applicant any of whose officers, partners, directors, principals, manag-

Continued on page 160

Legislative Background
Recent Action on Mortgage Relief

Controversial changes in the bankruptcy code aimed at reducing foreclosures are moving through the Congress but still face a rough road to passage.

■ House Action

On January 6, 2009, House Judiciary Committee Chair John Conyers (MI-D) introduced H.R. 200, the Helping Families Save Their Homes in Bankruptcy Act. Under the bill, bankruptcy judges would be able to write down the principal and interest rate of eligible loans for people whose mortgages have outpaced the value of their homes. They could also extend the life of such loans for up to 40 years. (Under current law, bankruptcy judges are prohibited from changing the terms of a loan for a primary residence.)

The Judiciary Cmmittee held hearings on the bill on January 22, and reported it to the full House on January 27 by a vote of 21 to 15. The House Democratic leadership considered including it in the economic stimulus package but concern that it could hold up passage of the stimulus in the Senate led lawmakers to take it up as a standalone measure instead.

On March 5, the House passed H.R. 1106, the Helping Families Save their Homes Act (also sponsored by Conyers), a larger bill that incorporated H.R. 200 and several of the legislative initiatives laid out by President Barack Obama in a $275 billion housing plan unveiled on February 17. That plan provided $75 billion in direct spending to keep people in their homes and the rest in additional financial backing for government-sponsored enterprises Fannie Mae and Freddie Mac.

The bankruptcy judge provision — known as "cramdown" — was the most controversial, and faced strong opposition from the banking industry and its supporters. But the House leadership worked with opponents to include compromise language in the form of a "manager's amendment" that would give bankruptcy judges the option of reducing interest rates before cutting the principal of a mortgage and allow lenders to collect a portion of the profit if a home is sold within four years of the loan term's modification. The House-passed bill also included provisions of three other bills:

- H.R. 7, to overhaul the HOPE for Homeowners program, enacted in the summer of 2008.
- H.R. 788, to shield mortgage servicers from lawsuits if a homeowner defaulted (or seemed likely to default) on a revised loan.
- H.R. 786, to make permanent an increase in insurance limits for the Federal Deposit Insurance Corporation and the National Credit Union Administration and to increase their borrowing authority.

■ Senate Outlook

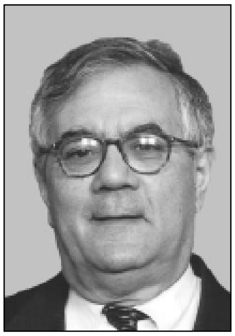
The Senate leadership is planning to bring up the House-passed bill for consideration soon, though no date has been scheduled. With an uphill fight ahead, supporters are working to line up backers in the financial industry, including credit unions. ■

Selected Internet Sites

- Federal Housing Administration
  http://www.fha.gov
- Federal Housing Finance Agency
  http://www.fhfa.gov
- Obama Administration Financial Stability Plan
  http://www.financialstability.gov
- Federal Deposit Insurance Corporation
  http://www.fdic.gov
- National Credit Union Association
  http://www.ncua.gov
- House Judiciary Committee Hearings
  http://judiciary.house.gov/hearings/hear_090122.html
- Helping Families Save Their Homes Act — Congressional Budget Office Cost Estimate
  http://www.cbo.gov/doc.cfm?index=10010
- Foreclosure Statistics
  http://www.currentforeclosures.com/Stats

Pro & Con®

Should the House
the Helping Families



Honorable Barney Frank

United States Representative, Massachusetts, Democrat

Representative Frank, of the Fourth District of Massachusetts, was first elected to the U.S. House of Representatives in 1980. He served in the Massachusetts House of Representatives from 1972 to 1980. He is Chair of the Financial Services Committee. The following is from the February 26, 2009, House floor debate on H.R. 1106, the Helping Families Save Their Homes Act of 2009.

"Even where there are people willing to modify mortgages, there are some legal tangles."

This bill is a joint product of two committees: the Committee on the Judiciary and the Committee on Financial Services.

I think the bankruptcy provisions — which are the product of the Judiciary Committee, not the committee I chair — are essential. I will enter into the [*Congressional*] *Record* letters from the National Council of Life Insurers specifically approving the bankruptcy provision, and from the National Association of Realtors also approving the bill. Obviously, there are people entitled to a variety of opinions, but I think it's relevant to note that two important groups, one involved in housing, the realtors, and another very much involved in finance, the Life Insurance Council, support the bill, including the bankruptcy provision.

There is another reason why bankruptcy is relevant to some of the things in the jurisdiction of our committee. Even where there are people willing to modify mortgages, there are some legal tangles. We have this form of a servicer. A servicer is an entity which has been given control or authority over packages of mortgage securities. Even in cases where the servicer has been willing, in some cases, to do a modification, that entity is facing lawsuits from investors who say you can't do it.

There are also second mortgages — that is, even in cases where there are a lot of willing parties to this on both the lender and the borrower's side, the fact that there is such a tangle of legal rights has been an obstacle. Bankruptcy is the only way to cut through that. And given the moderate way in which bankruptcy has been put into this bill — let me put it this way, people are saying let's have voluntary modification. But some modifications that are supported by almost everybody cannot go forward because of this.

Beyond that, this bill has some things that are widely supported. For instance, the increase in the insurance deposit limits is supported by the community banks and the National Federation of Independent Business and almost every other group. It does provide to the servicers to whom I just alluded a protection that was a bipartisan production of the gentleman from Delaware [Rep. Michael Castle(R)] and the gentleman from Pennsylvania (Rep. Paul Kanjorski (D)] to say that if you as the servicer modify a loan that you hold on behalf of an investor in ways that will minimize the loss to the investor, you could not be successfully sued because you will have carried out your obligation. It authorizes the payment of a fee of up to a thousand dollars to servicers for modifications because this is a job that many of them did not expect.

Continued on page 142

Pass H.R. 1106, Save Their Homes Act?

Pro & Con®

Honorable Jack Kingston

United States Representative, Georgia, Republican

Representative Kingston of the First District of Georgia, was first elected to the U.S. House of Representatives in 1992. He served in the Georgia House of Representatives from 1984 to 1992. He sits on the Appropriations Committee. The following is from the February 26, 2009, House floor debate on H.R. 1106, the Helping Families Save Their Homes Act of 2009.

I certainly applaud the committee for trying to do something about this problem, but I'm afraid that this is not the right solution. It actually seeks to help a few at the cost of all homeowners.

First of all, the government seems to be very content these days picking winners and losers. But I don't understand if Mr. Bachus [Rep. Spencer Bachus (AL-R)] is paying his mortgage and I'm not, why am I necessarily, just because of that, deserving to renegotiate the contract? What is it that the Federal bankruptcy judge will know about me which will make me have the insider advantage over my friend from Alabama?

It doesn't make sense. The judge will have to decide, well, was I laid off because of something that I did? Did I bite off more than I should have chosen, because of my irresponsibility, because of the lender's irresponsibility? I think the precedent of this is extremely scary. And why only contracts that involve real estate? What about other contracts that people get involved with in terms of debt?

The fact is, it's going to not just put the government in a position of picking winners and losers, but it's going to put more uncertainty in the market. And right now, as I talk to realtors and bankers, and investors, what this market needs on Main Street and Wall Street is knowledge of rules.

Rules that govern, regulatory practices, whatever they are, if they're here or if they're here. What Wall Street and the investment community needs to know is, what are the rules? We will adjust to them. But here we go one more time increasing uncertainty by changing the rules.

The Helping Families Save Their Homes Act (H.R. 1106) would allow bankruptcy judges to reduce the principal owed on a mortgage, a practice often referred to as a "cramdown." Judges would also be able to reduce interest rates or lengthen the term of the mortgage. This will help only a few people while raising the cost of borrowing for thousands of moderate-income and first-time homebuyers.

Although supporters claim that this is a limited provision that applies only to existing mortgages, the cramdown language can easily be amended to make it permanent at a later date — which would then be priced into future mortgages. In addition, the House bill lacks many of the targeted limitations designed to make sure that bankruptcy is a last resort. It even weakens language passed earlier by the House Judiciary Committee that was designed to keep those who filed fraudulent mortgage applications from taking advantage of cramdowns.

Continued on page 143

"The fact is, it's going to not just put the government in a position of picking winners and losers, but it's going to put more uncertainty in the market."

Frank,

continued from page 140

It also improves the HOPE for Homeowners program, which, when we passed it in July, had some hopes and they weren't realized; and I will acknowledge that we didn't do that well. We were at the time responding to pressures that said don't be too generous. As a result, particularly after the Senate got through with it, it became unworkable.

The impetus for change came in part from the [George W.] Bush Administration. The FHA [Federal Housing Administration], under the Bush Administration, [Department of Housing and Urban Development] Secretary [Steve] Preston and [Federal Housing Administration] Commissioner [Brian] Montgomery, said you've made this unworkable. So we have amendments that would make it workable. And what we hope coming together is this: No one ought to be encouraged to go bankrupt or think bankruptcy is an easy path. We do prefer voluntary modifications.

What we have is a package, along with the very good proposals enunciated last week by the President, worked on by Treasury Secretary [Timothy] Geithner and [Housing and Urban Development] Secretary [Shaun] Donovan, who did an excellent job on it. We have a menu of ways using all the powers of the Federal Government, including authority, by the way, that we first gave the Administration [under President Barack Obama], the Bush Administration, in the TARP [Troubled Asset Relief Program] bill, which they sadly refused to use. But this Administration is using authorities that were given to the Bush Administration through Fannie Mae and Freddie Mac, through the TARP, through other ways, through the FDIC [Federal Deposit Insurance Corporation], and other bank regulators. This enhances the authority to do modifications.

So the result — we strengthen the community banks, in particular, with this increase in the deposit insurance; we provide a set of options other than bankruptcy to modify; and we remove legal obstacles, to the extent we can constitutionally do so, to such voluntary modifications. But we then believe that in some cases, you will still need to go to bankruptcy to deal with these tangles that I mentioned, and we also believe that the fact that there is a bankruptcy looming will be an encouragement to negotiations.

". . . this will promote exactly the kind of communication between lenders and borrowers that we hoped would go forward."

On both the lender's and the borrower's side, we've heard complaints that they have tried to communicate with the other. Some people say, "I wrote to my lender. He didn't answer." Some lenders say, "I wrote to the borrower. She didn't respond." One of the things that the Judiciary Committee did very well is to say that if you want to go bankrupt, you have to notify your lender and then there is a waiting period. So this will promote exactly the kind of communication between lenders and borrowers that we hoped would go forward.

Honorable Debbie Wasserman Schultz

United States Representative, Florida, Democrat

Representative Wasserman Schultz, of the Twentieth District of Florida, was first elected to the U.S. House of Representatives in 2004. She served in the Florida House of Representatives from 1992 to 2000 and in the Florida Senate from 2000 to 2004. She sits on the Appropriations Committee, where she chairs the Legislative Branch Subcommittee, and on the Judiciary Committee. She is also a Chief Deputy Whip for the Majority. The following is from the February 26, 2009, House floor debate on H.R. 1106, the Helping Families Save Their Homes Act of 2009.

Continued on page 144

Kingston,

continued from page 141

H.R. 1106 does contain two important provisions to correct flaws in the housing bailout plan passed last year.

Problems with cramdowns: Allowing bankruptcy judges to modify mortgages would raise mortgage costs for everyone and even more for first-time homebuyers. Cramdowns would add additional risk that mortgages will not be repaid as the contract requires. Lenders must charge for that added risk, and experts estimate that the additional costs would raise mortgage rates by as much as two full percentage points or substantially increase required down payments. This increase would apply to every mortgage applicant in order to ensure that the entire pool of mortgages remains profitable upon resale to the secondary market.

Mortgage companies would greatly expand "risk based pricing" of individual mortgages, as well. These added costs would fall hardest on moderate-income and first-time homebuyers, who have a higher risk of defaulting on a mortgage. This will price many families out of the housing market.

Further undermine the value of mortgage-backed securities: Banks and other investors are already facing heavy losses not only because mortgage-backed securities have lost much of their value but because of uncertainties about whether the mortgages will be paid. The language in H.R. 1106 increases this uncertainty. Investors will be at risk of both foreclosure and cramdowns that reduce the earnings of these securities. Many cramdown mortgages will later go into foreclosure. Since investors have no idea what this new provision will do to the value of their securities, prices will drop further.

"Banks and other investors are already facing heavy losses . . . The language in H.R. 1106 increases this uncertainty."

Fail to help many homeowners: Only one-third of all Chapter 13 filers completes the process successfully and gets the fresh start that bankruptcy promises. The other two-thirds pay court fees, pay attorney's fees, pay fees to the bankruptcy trustee, invest time and money to restructure their financial affairs, and then wind up with nothing more than temporary relief. In fact, one third of Chapter 13 filers go on to file for bankruptcy again.

The Helping Families Save Their Homes Act also contains a mixture of other housing and financial provisions. These include:

Liability waivers for mortgage servicers that modify mortgages: Mortgage servicers receive payments from mortgages and forward them (after fees) to the owners of the mortgages. As the main contact with homeowners, mortgage servicers should be able to refinance or alter mortgages in order to ensure that the owners get the best possible return, but many fear that unhappy mortgage owners would sue them. The legislation provides these servicers with a safe harbor so long as they act within certain specified boundaries. This is a needed change.

Making $250,000 FDIC [Federal Deposit Insurance Corporation] and NCUA [National Credit Union Association] deposit insurance levels permanent: Last fall, Congress increased deposit insurance coverage by FDIC and NCUA to $250,000 until December 2009. This bill makes that change permanent and also increases the agencies' borrowing authority to cover their losses. Borrowing authority is used only if the deposit insurance fund runs out. This is a useful change but unlikely to be needed.

Keeping predatory lenders from taking advantage of FHA programs: Section 203 of H.R. 1106 makes it easier for HUD [Department of House and Urban Development] and the FHA [Federal Housing Administration] to prevent predatory lenders from underwriting FHA-guaranteed home loans. This is a needed reform.

Trying to fix the Hope for Homeowners program: Last summer, Congress created Hope for Homeowners, an FHA-based program. FHA claimed the program, which is

Continued on page 145

Wasserman Schultz,

continued from page 142

I rise in support of H.R. 1106, the Helping Families Save Their Homes Act.

Mortgage foreclosures lay at the very heart of our financial crisis. Until we stop this bleeding, we cannot hope to stabilize the housing market and truly rescue our economy.

This legislation is about more than just shoring up our economy, it's about helping hardworking Americans hold on to the American Dream. Foreclosures uproot families and decimate communities. Vacant homes blight our neighborhoods and depress all of our property values.

"This legislation is about more than just shoring up our economy, it's about helping hardworking Americans hold on to the American Dream."

Foreclosure rates are now approaching heights not seen since the Great Depression. In my own home State of Florida, we have the second highest foreclosure rate in the Nation. Since January, more than 4,200 Florida families have lost their homes. Another 1.2 million Florida homeowners are "under water" — that is, they owe more than their homes are worth.

My constituents, our constituents, need a lifeline, and we must throw it to them. Voluntary modification is just not working, and our current bankruptcy laws fail our families.

Unlike every other secured debt, including debts secured by second homes, investment properties, luxury yachts, and private jets, the mortgage for a primary residence cannot be modified in bankruptcy. That is simply not fair.

The Bankruptcy Code should be a safety net of last resort for families in distress. In this recession, excluding the family home makes no sense and fans the flames of foreclosure.

This bill allows families to remain in their homes and avoid foreclosure. It will also lead to a financial recovery for the lender that would be as good or better than they could get at a foreclosure sale. This is a win-win.

I know some well-meaning opponents believe families will rush headlong into filing for bankruptcy. We all know, however, that the grave consequences of filing for bankruptcy mean it will always be a last resort.

Honorable Sheila Jackson Lee

United States Representative, Texas, Democrat

Representative Jackson Lee, of the Eighteenth District of Texas, was first elected to the U.S. House of Representatives in 1994. She served on the Houston City Council from 1990 to 1994. She sits on the following committees: Judiciary; Homeland Security, where she chairs the Subcommittee on Transportation Security and Infrastructure Protection; and Foreign Affairs. The following is from the February 26, 2009, House floor debate on H.R. 1106, the Helping Families Save Their Homes Act of 2009.

I rise in strong support of H.R. 1106, Helping Families Save Their Homes Act of 2009. I urge my colleagues to support this bill because it provides a viable medium for bankruptcy judges to modify the terms of mortgages held by homeowners who have little recourse but to declare bankruptcy.

This bill could not have come at a more timely moment. Just a day after the President's address before the Joint Session of Congress, where President Obama outlined his eco-

Continued on page 146

Kingston,

continued from page 143

run jointly with Treasury, would help up to 2 million homeowners. To date, according to the FHA, it has actually helped about 500. The legislation makes a number of changes that will make it more attractive to homeowners, raise the cost of it by $2.3 billion, but is unlikely to otherwise improve it.

Making the Problem Worse: Mortgage cramdowns would further destabilize an already damaged housing market while increasing mortgage costs for future borrowers. The useful changes it makes are necessary but in no way overcome the downsides associated with the passage of this legislation.

Analysis of the Homeowner Affordability and Stability Act

Two of the bill's three key components are designed to provide subsidies and benefits primarily to homeowners who, while still current in their payments, may not be able to take advantage of attractive refinancing opportunities at lower interest rates because the value of their home has declined beyond the loan-to-value ratio permitted by rules governing mortgage investments made by Fannie Mae and Freddie Mac.

The second such provision of the plan would provide taxpayer and investor subsidies to mortgage borrowers who have taken on more debt than they could safely manage, including, in some cases, credit card and automobile debt.

The third component of the plan encourages the enactment of legislation allowing bankruptcy judges to alter the terms of certain mortgage loans, a practice that to date has been prohibited by Federal law.

The legislation suffers from 12 specific weaknesses and risks: The plan's Stability Initiative bestows new and costly benefits on those who took on more debt than they could handle, including credit cards, automobile loans, and mortgages (including refinancing and seconds). Worse, the value of the benefits will vary in direct proportion to the degree of borrower financial irresponsibility and the intensity of community land regulations. Homeowners with a first mortgage as large as $729,750 are eligible for the initiative, meaning that the well-to-do will receive more financial benefits than those of modest means. And as analysts at one nationwide financial firm noted, "The modifications would go disproportionately to borrowers who overstretched and who lied about their income." This moral hazard sends a clear message to the American people: The worse the behavior, the greater the reward.

Under this Stability Initiative, borrowers with a ratio of mortgage debt service to income greater than 31 percent can have their mortgage interest rate reduced to as little as 2 percent if that is what it takes to achieve the 31 percent ratio-with government paying half the subsidy and the investor/lender surrendering the other half. If this concession is insufficient to reach 31 percent. Eligible borrowers may also have loans that are as much as 50 percent greater than the value of the house.

It is also unlikely that, under the Stability Initiative, borrowers with a ratio of debt service payment to income as high as 55 percent — because of combined mortgage, credit card, and automobile debt — will be eligible to receive temporary payment reductions if they merely agree to HUD-approved counseling. Such borrowers may then be eligible for permanent payment reductions.

Because the investor/lenders will be responsible for a portion of the mortgage rate reduction, this program will deter private sector investment in all but the best mortgages. Combined with the proposed "cramdown" bankruptcy proposals, the net effect

Continued on page 147

"Mortgage cramdowns would further destabilize an already damaged housing market while increasing mortgage costs for future borrowers."

Jackson Lee,

continued from page 144

nomic plan for America and discussed the current economic situation that this country is facing.

To be sure, there are many economic woes that saddle this country. The statistics are staggering.

Home foreclosures are at an all-time high, and they will increase as the recession continues. In 2006, there were 1.2 million foreclosures in the United States, representing an increase of 42 percent over the prior year. During 2007 through 2008, mortgage foreclosures were estimated to result in a whopping $400 billion worth of defaults and $100 billion in losses to investors in mortgage securities. This means that one per 62 American households is currently approaching levels not seen since the Depression.

The current economic crisis and the foreclosure blight have affected new home sales and depressed home value generally. New home sales have fallen by about 50 percent. One in six homeowners owes more on a mortgage than the home is worth, raising the possibility of default.

Home values have fallen nationwide from an average of 19 percent from their peak in 2006, and this price plunge has wiped out trillions of dollars in home equity. The tide of foreclosure might become self-perpetuating. The Nation could be facing a housing depression — something far worse than a recession.

Obviously, there are substantial societal and economic costs of home foreclosures that adversely impact American families, their neighborhoods, communities, and municipalities. A single foreclosure could impose direct costs on local government agencies totaling more than $34,000.

I am glad that this legislation is finally on the floor of the United States House of Representatives. I have long championed, in the first TARP bill that was introduced and signed late last Congress, that language be included to specifically address the issue of mortgage foreclosures. I had asked that $100 billion be set aside to address that issue. Now, my idea has been vindicated as the TARP today has included language — and we here today are continuing to engage in the dialogue to provide monies to those in mortgage foreclosure. I have also asked for modification of homeowners' existing loans to avoid mortgage foreclosure. I believe that the rules governing these loans should be relaxed. These are indeed tough economic times that require tough measures.

"I believe that the rules governing these loans should be relaxed. These are indeed tough economic times that require tough measures."

Because of the pervasive home foreclosures, Federal legislation is necessary to curb the fallout from the subprime mortgage crisis. For consumers facing foreclosure sale who want to retain their homes, Chapter 13 of the Bankruptcy Code provides some modicum of protection.

The Supreme Court has held that the exception to a Chapter 13's ability to modify the rights of creditors applies even if the mortgage is undersecured. Thus, if a Chapter 13 debtor owes $300,000 on a mortgage for a home that is worth less than $200,000, he or she must repay the entire amount in order to keep his or her home, even though the maximum that the mortgage would receive upon foreclosure is the home's value, i.e., $200,000, less the costs of foreclosure.

Importantly, H.R. 1106 provides for a relaxation of the bankruptcy provisions and waives the mandatory requirement that a debtor must receive credit counseling prior to the filing for bankruptcy relief, under certain circumstances. The waiver applies in a Chapter 13 case where the debtor submits to the court a certification that the debtor has received notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure proceeding against such residence.

Continued on page 148

Kingston,
continued from page 145

will be to require a substantial and permanent Federal presence in the housing finance market to accommodate those many potential borrowers who are not highly qualified.

The plan also includes a formal endorsement by the President of a bankruptcy provision that allows judges to alter the terms of certain mortgages. This provision will increase the risk to lenders of all mortgages. The industry is already treating this as a permanent measure. Increased risk requires higher costs to compensate lenders, and either down payments or interest rates would have to rise, while potential borrowers with checkered credit histories would be denied access to credit. However, these costs would not rise evenly for all borrowers: Higher-risk borrowers (first-time buyers and moderate-income workers) would see costs rise more and have fewer opportunities to buy a house.

"Higher-risk borrowers (first-time buyers and moderate-income workers) would see costs rise more and have fewer opportunities to buy a house."

Anticipating such criticisms, the proposal contends that it will "seek careful changes to personal bankruptcy provisions."

However, because any changes in bankruptcy law must be passed in legislation, this outcome may merely be wishful thinking. As the President wants to make sure that "millionaire homes don't clog bankruptcy courts," mortgages eligible for judicial "cramdown" cannot exceed $729,750 in value. Moreover, the most recent version of the legislation weakens language adopted earlier by the House Judiciary Committee to prevent borrowers who committed fraud in their mortgage application from taking advantage of cramdown.

The plan's Refinancing Initiative creates a new right for American borrowers now current in their mortgage payments; the right to refinance their home at a lower interest rate even if the quality of the loan — as measured by the loan-to-value ratio — would otherwise pose a risk to the lender.

As such, this proposal establishes the act of being highly leveraged or slightly "underwater'" (the amount that a borrower owes on his or her mortgage is more than the value of the house) as a legitimate reason to default, and as a policy problem worthy of taxpayer support and Federal intervention.

The creators of this new right fail to recognize that many other consumer credit markets operate comfortably, successfully, and safely despite the fact that many borrowers are underwater the minute they sign the contract — notably home improvements, mobile homes, automobiles, RVs, and HDTV's. Though those borrowers do expect to be "under water" for these kinds of purchases, it raises the question of whether future legislation will extend this concession to car loans and credit card debt, which are also experiencing significant levels of default.

Only borrowers with loans held or repackaged by the federally controlled and subsidized Fannie Mae and Freddie Mac will be eligible to exercise this new right to refinance. Borrowers whose loans are held by private investors are denied this right, further distorting the housing markets with government-selected winners and losers.

To date, the several Federal loan modification programs that have been put in place have had very limited success, and the rate of failures exceeds that of successes, especially for loans where one or more payments have been missed. For loans that were four months past due at time of modification, the recidivism rate is 80 percent after 12 months. For loans one month past due, the recidivism rate after 12 months is 60 percent. With the nationwide decline in house prices accelerating in recent months, the risk of recidivism under the new program could remain at high levels.

The program will cost $275 billion ($75 billion for problem mortgages and $200 billion for Fannie Mae and Freddie Mac).

Continued on page 149

Jackson Lee,

continued from page 146

This bill also prohibits claims arising from violations of consumer protection laws. Specifically, this bill amends the Bankruptcy Code to disallow a claim that is subject to any remedy for damages or rescission as a result of the claimant's failure to comply with any applicable requirement under the Truth in Lending Act or other applicable State or Federal consumer protection law in effect when the noncompliance took place, notwithstanding the prior entry of a foreclosure judgment.

H.R. 1106 also amends the Bankruptcy Code to permit modification of certain mortgages that are secured by the debtor's principal residence in specified respects. Lastly, the bill provides that the debtor, the debtor's property, and property of the bankruptcy estate are not liable for a fee, cost, or charge incurred while the Chapter 13 case is pending and that arises from a debt secured by the debtor's principal residence, unless the holder of the claim complies with certain requirements.

"I have worked with [Judiciary] Chairman [John] Conyers [MI-D] and his staff to add language that would make the bill stronger and that would help more Americans."

Manager's Amendment

Because I have long championed the rights of homeowners facing mortgage foreclose in the recent TARP bill and before the Judiciary Committee, I have worked with [Judiciary] Chairman [John] Conyers [MI-D] and his staff to add language that would make the bill stronger and that would help more Americans. I co-sponsored sections of the manager's amendment (offered by Chairman Conyers) and I urge my colleagues to support the bill.

Specifically, I worked with the Chairman Conyers to ensure that in Section 2 of the amendment, Section 109(h) of the Bankruptcy Code, would be amended to waive the mandatory requirement, under current law, that a debtor receive credit counseling prior to filing for bankruptcy relief. Under the amended language there is now a waiver that will apply where the debtor submits to the court a certification that the debtor has received notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure proceeding against such residence.

This is important because it affords the debtor the maximum relief without having to undergo a slow credit counseling process. This will help prevent the debtor's credit situation from worsening, potentially spiraling out of control, and result in the eventual loss of his or her home.

Section 4 of the manager's amendment relaxes certain bankruptcy requirements under Chapter 13 so that the debtor can modify the terms of the mortgage secured by his or her primary residence. This is an idea that I have long championed in the TARP legislation — the ability of debtors to modify their existing primary mortgages. Section 4 allows for a modification of the mortgage for a period of up to 40 years. Such modification cannot occur if the debtor fails to certify that it contacted the creditor before filing for bankruptcy. In this way, the language in the manager's amendment allows for the creditor to demonstrate that it undertook its "last clear" chance to work out the restructuring of the debt with its creditor before filing bankruptcy.

Importantly, the manager's amendment amends the bankruptcy code to provide that a debtor, the debtor's property, and property of the bankruptcy estate are not liable for fees and costs incurred while the Chapter 13 case is pending and that arises from a claim for debt secured by the debtor's principal residence.

Lastly, I worked to get language in the Manager's Amendment that would allow the debtors and creditors to get to negotiate before a declaration of bankruptcy is made. I made sure that the bill addresses present situations at the time of enactment where

Continued on page 150

Cons,

continued from page 147

Honorable Lamar Smith

United States Representative, Texas, Republican

Representative Smith, of the Twenty-First District of Texas, was first elected to the U.S. House of Representative in 1986. He served in the Texas House of Representatives from 1981 to 1982 and as Bexar County, Texas, Commissioner from 1982 to 1985. He is the Ranking Republican Member of the House Judiciary Committee and also sits on the Homeland Security Committee and the Science and Technology Committee. The following is from the February 26, 2009, House floor debate on H.R. 1106, the Helping Families Save Their Homes Act of 2009.

Our country has fallen into a serious economic recession, a recession that is worsened by the foreclosure crisis. Until we address the rising number of foreclosures, it will be difficult for the economy to recover.

Some of what is in this bill we consider today will be helpful. Providing loan servicers a safe harbor from the threat of litigation if they offer borrowers meaningful loan modification will, in fact, help blunt the crisis.

But the bill also includes many counterproductive components, especially the bankruptcy provision. This bankruptcy provision not only will fail to solve the foreclosure crisis, but also will make the crisis deeper, longer and wider.

Allowing bankruptcy judges to rewrite mortgages will increase the overall cost of lending. Lenders and investors will hesitate to put up capital in the future if they fear that judges will rewrite the terms of their mortgage contracts. Less available capital and increased risk means that borrowers will pay higher interest rates in the future.

Allowing bankruptcy judges to rewrite mortgages will also encourage borrowers to file for bankruptcy. Under this bill, a borrower will be able to reduce, for example, a \$500,000 mortgage to \$400,000. When housing prices rise in the future, that borrower has no obligation to pay back the \$100,000 amount they crammed down. Thus, the borrower receives a \$100,000 windfall. And experts predict that receiving this windfall will provide an incentive for borrowers to file for bankruptcy.

"This bankruptcy provision not only will fail to solve the foreclosure crisis, but also will make the crisis deeper, longer and wider."

If bankruptcy filings increase as a result of this legislation, which is predicted, it is unlikely that the country's only 368 bankruptcy judges could handle the additional caseload in an effective manner. This will prolong the crisis as borrowers wait for their bankruptcy plan to be court-approved.

In fact, even Senator [Richard] Durbin [IL-D], the primary sponsor of this legislation in the Senate, has stated that he is "willing to restrict" this legislation to subprime mortgages in an effort to make this proposal "reasonable."

So, the legislation we are considering today, and the Housing Affordability and Stability Plan announced by the President last Tuesday, really amount to another entitlement program, a program that comes at the expense of the 92 percent of the homeowners who are making their payments on time.

And it is a program that benefits lenders who wrote irresponsible loans and borrowers who borrowed more than they could afford. In other words, this legislation will punish the successful, tax the responsible, and hold no one accountable.

If we pass this legislation, what message does it send to responsible borrowers who are making their payments on time? How can we ask them to foot the bill for their neighbors' mortgages? What are homeowners to think if they pay back the full amount of principal they owe, while others receive a government-granted reduction in principal?

Continued on page 151

Jackson Lee,

continued from page 148

homeowners are in the process of mortgage foreclosure. This is done with a view toward consistency predictability and a hope that things will improve.

Housing and Foreclosures

Despite being such a large State, Texas ranks only seventeenth in foreclosures, below the national average. One reason is that Texas homeowners enjoy strong constitutional protections under the State's home-equity lending law. These consumer protections include a 3 percent cap on lender's fees, 80 percent loan-to-value ratio (compared to many other States that allow borrowers to obtain 125 percent of their home's value), and mandatory judicial sign-off on any foreclosure proceeding involving a defaulted home-equity loan.

Nationwide, the number of home foreclosures rose nearly 60 percent from February 2007 to February 2008, while foreclosures in Texas actually decreased 1 percent during the same period. In fact, statewide foreclosure filings in Texas dropped 17 percent from January to February.

Still, in the last month, in Texas alone there have been 30,720 foreclosures and, sadly, 15,839 bankruptcies. Much of this has to do with a lack of understanding about finance — especially personal finance.

Last year, Americans' personal income decreased $20.7 billion, or 0.2 percent, and disposable personal income decreased $11.8 billion, or 0.1 percent, in November, according to the Bureau of Economic Analysis. Personal consumption expenditures decreased $56.1 billion, or 0.6 percent. In India, household savings are about 23 percent of their GDP.

Even though the rate of increase has showed some slowing, uncertainties remain. Foreclosures and bankruptcies are high and could still beat last year's numbers.

Home foreclosures are at an all-time high and they will increase as the recession continues. In 2006, there were 1.2 million foreclosures in the United States, representing an increase of 42 percent over the prior year. During 2007 through 2008, mortgage foreclosures were estimated to result in a whopping $400 billion worth of defaults and $100 billion in losses to investors in mortgage securities. This means that one per 62 American households is currently approaching levels not seen since the Depression.

"One in six homeowners owes more on a mortgage than the home is worth, raising the possibility of default."

The current economic crisis and the foreclosure blight have affected new home sales and depressed home value generally. New home sales have fallen by about 50 percent.

One in six homeowners owes more on a mortgage than the home is worth, raising the possibility of default. Home values have fallen nationwide from an average of 19 percent from their peak in 2006 and this price plunge has wiped out trillions of dollars in home equity. The tide of foreclosure might become self-perpetuating. The Nation could be facing a housing depression — something far worse than a recession.

Obviously, there are substantial societal and economic costs of home foreclosures that adversely impact American families, their neighborhoods, communities, and municipalities. A single foreclosure could impose direct costs on local government agencies totaling more than $34,000.

Recently, the Congress set aside $100 billion to address the issue of mortgage foreclosure prevention. I have long championed that money be a set aside to address this very important issue. I believe in homeownership and will do all within my power to ensure that Americans remain in their houses.

Continued on page 152

Smith,

continued from page 149

We need to do everything we can to help solve the foreclosure crisis, but we need to do so in a manner that doesn't bankrupt the taxpayers or our financial system and that is, in fact, fair to all.

And as we work to solve the foreclosure crisis, we need to remember how we got here. As the President said in his address to Congress on Tuesday, "It is only by understanding how we arrived at this moment that we'll be able to lift ourselves out of this predicament."

This foreclosure crisis was brought on largely by irresponsible mortgage policies. Those policies were implemented by lenders and supported by government-sponsored entities like Fannie Mae, who were all too willing to put profits ahead of prudence. Their irresponsible behavior was encouraged by Members of Congress and the Clinton Administration. Too often borrowers, spurred on by cheap credit and little or nothing as a down payment, borrowed more than they could afford.

The mortgage bankruptcy provisions in this bill are not the answer. Allowing bankruptcy modification of home mortgages will be costly, generate unintended consequences, and likely delay the resolution of the foreclosure crisis itself.

If we're going to enact this bankruptcy provision, despite all of its flaws, we should at least limit relief to subprime and nontraditional mortgages. We should provide bankruptcy judges with clear guidance on the procedure to follow in modifying the terms of home mortgages, guidance that would make lowering payments to an affordable level the paramount goal of bankruptcy modification. And we should provide much stricter provisions for allowing a lender to recapture any principal that is reduced in bankruptcy if the home is later sold at a profit.

This bill, and the amendments we are going to consider today, provide none of these safeguards.

"We need to . . . help solve the foreclosure crisis, but we need to do so in a manner that doesn't bankrupt the taxpayers or our financial system . . ."

Honorable Spencer Bachus

United States Representative, Alabama, Republican

Representative Bachus, of the Sixth District of Alabama, was first elected to the U.S. House of Representatives in 1992. He served in the Alabama Senate from 1983 to 1984 and in the Alabama House of Representatives from 1984 to 1987. He is the Ranking Minority Member on the House Financial Services Committee. The following is from the February 26, 2009, House floor debate on H.R. 1106, the Helping Families Save Their Homes Act of 2009.

I would like to introduce into the Record an article from the *New York Times*, dated September 30, 1999, and here's what it says: "Fannie Mae, the Nation's biggest underwriter of home mortgages, has been under increasing pressure from the Clinton Administration to expand mortgage loans among low and moderate income people ..."

And then they quote Franklin Raines [then chairman and CEO of Fannie Mae]: "Fannie Mae has expanded home ownership for millions of families in the 1990s by reducing down payment requirements. Yet there remains too many borrowers whose credit is just below what our underwriting has required and who have been relegated to paying significantly higher mortgage rates ... ."

Continued on page 153

Jackson Lee,

continued from page 150

Bankruptcy

"... this ... will do yeoman's work helping America get back on the right track with respect to the economy and the mortgage foreclosure crisis."

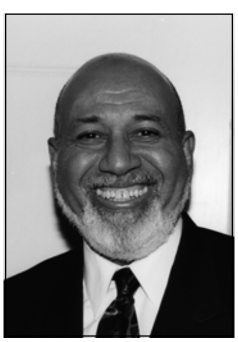
I have long championed in the first TARP bill that was introduced and signed late last Congress, that language be included to specifically address the issue of mortgage foreclosures. I had asked that $100 billion be set aside to address that issue. Now, my idea has been vindicated as the TARP that was voted upon this week has included language that would give $100 billion to address the issue of mortgage foreclosure. I am continuing to engage in the dialogue with leadership to provide monies to those in mortgage foreclosure. I have also asked for modification of homeowners' existing loans to avoid mortgage foreclosure. I believe that the rules governing these loans should be relaxed. These are indeed tough economic times that require tough measures.

Credit Crunch

A record number of commercial real estate loans coming due in Texas and nationwide the next three years are at risk of not being renewed or refinanced, which could have dire consequences, industry leaders warn. Texas has approximately $27 billion in commercial loans coming up for refinancing through 2011, ranking among the top five States, based on data provided by research firms Foresight Analytics LLC and Trepp LLC. Nationally, Foresight Analytics estimates that $530 billion of commercial debt will mature through 2011. Dallas-Fort Worth has nearly $9 billion in commercial debt maturing in that time frame.

Most of Texas's $27 billion in loans maturing through 2011 ? $18 billion ? is held by financial institutions. Texas also has $9 billion in commercial mortgage-backed securities, the third-largest amount after California and New York, according to Trepp.

I believe that this bill is important and will do yeoman's work helping America get back on the right track with respect to the economy and the mortgage foreclosure crisis. I wholeheartedly urge my colleagues to support this bill.



Honorable Alcee Hastings

United States Representative, Florida, Democrat

Representative Hastings, of the Twenty-Third District of Florida, was first elected to the U.S. House of Representatives in 1992. He served as Broward County (Florida) Circuit Court Judge from 1977 to 1979. He sits on the Rules Committee, where he chairs the Legislative and Budget Process Subcommittee, and serves as Vice Chair of the Permanent Select Committee on Intelligence. The following is from the March 5, 2009, House floor debate on H.R. 1106, the Helping Families Save Their Homes Act of 2009.

The Helping Families Save Their Homes Act takes a crucial step toward reviving our housing market, stemming the tide of home foreclosures, and putting our Nation's economy back on track.

This bill provides for a safe harbor from liability to mortgage servicers who engage in loan modifications to remove any impediments that may prevent them from partaking

Continued on page 154

Bachus,

continued from page 151

I think we know the rest was history. They lowered their standards, they moved into this new risky form of lending, and then last July the American people were submitted the bill, and that bill was a half trillion dollars, and every day we're adding billions of dollars to that tab. And there were people at that time who warned that it was risky and who warned that ultimately the taxpayers may have to step in and bail out Freddie and Fannie. Now today we are being asked to adopt legislation, the HOPE for Homeowners Program, which would require FHA to insure loans with a greater risk of default and require a higher per loan taxpayer subsidy.

In fact, the Congressional Budget Office [CBO] says that this program is going to help 25,000 borrowers, but it's going to cost up to $579 billion. Now, coupled with the new projection that the HOPE for Homeowners is going to only help 25,000 borrowers — that's $23,000 per borrower that you're going to ask the American people to pay or expose them to that risk.

I'm going to give you the same warning that was given in 1999. It's the taxpayer that's going to have to take up the cost of this subsidy and this risk. And for that reason, I am not willing to burden the taxpayer with another dollar.

These are terrible economic times. All taxpayers are under risk. Many taxpayers are facing loss of their job. At a time like this, an uncertain time like this, to further expose the taxpayers of this country, the American families we represent, to another half trillion dollars' worth of exposure is not something that I'm willing to do.

I am willing, and I have said many times I was willing, to endorse the Kanjorski-Castle [Reps. Michael Castle (DE-R] and Paul Kanjorski (PS-D)] provision, which would allow servicers with lenders and borrowers to work out terms, and I applaud that provision in the bill. Strip out this $23,000 per-loan program and we will all go down and vote for Castle-Kanjorski.

And let me say this: We have had one too many bailouts. We don't need another one. It's time that we started watching out for the taxpayer and help borrowers without submitting the bill to hardworking Americans.

There are elements in this legislation that I support, such as permanently increasing deposit insurance coverage limits to $250,000 that will strengthen our banking system and help avoid destabilizing bank runs. The Kanjorski-Castle language, providing a safe harbor for mortgage servicers, is a timely and targeted solution that encourages loan modifications that benefit both homeowners and investors. It is a commonsense approach to help keep American families in their homes.

While I do support certain provisions in this bill ? and did so in committee — I oppose the legislation as a whole, and urge my colleagues to do the same.

"It's the taxpayer that's going to have to take up the cost of this subsidy and this risk."

Enacted by Congress last July, Hope for Homeowners has been a failure by virtually every metric. And rather than cut taxpayer losses, this legislation aims to fix a fundamentally unfixable program, while abandoning key taxpayer safeguards.

Initially, proponents claimed this program would provide relief to 400,000 borrowers. They were wildly off mark. In fact, the program has received a mere 400 applications and closed on just 43 new loans.

If today's legislation was enacted, the Hope for Homeowners program would allow FHA to insure loans with greater risk of default and require a higher per loan taxpayer subsidy. The non-partisan Congressional Budget Office projects that even with these changes, the program will help a mere 25,000 borrowers, at best. Far from the 400,000 promised, and far from a success.

Continued on page 155

Hastings,

continued from page 152

in voluntary modifications. It also makes much-needed changes to the HOPE for Homeowners Program in order to encourage more lenders to participate and ensure that the program meets its intended objective.

The bill further makes permanent the temporary increase in deposit insurance coverage for both the FDIC Deposit Insurance Fund and the National Credit Union Administration Share Insurance Fund, in order to both enhance the liquidity and stability of our banking institutions and help restore confidence in our financial system.

The underlying legislation also makes several long overdue changes to our bankruptcy code. Now, some have understandably questioned these provisions which would allow bankruptcy judges the ability to modify loans on a homeowner's principal residence if the homeowner meets specified stringent criteria. It has been argued that allowing judicial modifications will lead to a sudden slew of bankruptcy filings, will cause massive losses to financial institutions, and will increase the cost of borrowing for other homeowners. However, this will simply not be the case.

Bankruptcy will remain, as it always has been, a last resort. And modifications will be at the individual discretion of a bankruptcy judge who will determine if a borrower has acted responsibly and if a claim has any merit.

Most importantly, allowing judicial modifications will maximize, not lessen, the value of troubled mortgages for lenders, and will avoid the continuous decline in property values in neighborhoods with foreclosed properties.

Additionally, this rule provides for a revised manager's amendment that will make the bankruptcy provision and this legislation even more effective and efficient. The revised manager's amendment will allow a court to consider lowering the interest rate to reduce a homeowner's mortgage payments in lieu of reducing the mortgage principal.

It also gives mortgage holders a greater proportion of a home's appreciation should the home be sold during the bankruptcy plan, and it makes changes to the good faith requirement, further ensuring that judicial modifications are only used when borrowers have exhausted all other options.

The bankruptcy provisions in this legislation with the changes proposed in the revised manager's amendment will help thousands of American families stay in their homes. We must remember that bankruptcy is no walk in the park. It is a strict, demanding, and intrusive process in which every aspect of one's financial life is scrutinized and controlled, and that says nothing of the negative stigma and of the long-lasting effects of filing for bankruptcy.

"Bankruptcy will remain, as it always has been, a last resort."

In addition, to be eligible for such loan modifications, families must show that they will be able to repay their debts and that they have tried to obtain a loan modification outside of bankruptcy. But let's not kid ourselves. Under current law, similar loan modifications are available for every other type of secured loan except for loans securing primary residences.

If a millionaire or a billionaire can modify a loan on a private jet and if a housing speculator can modify loans on countless failed investment properties, why can't we allow struggling families to modify their mortgages so that they're not put out on the streets?

It's easy to stand up here and claim that this bill is simply a bailout for reckless homeowners; but as our Nation creeps deeper into this financial crisis, it is painfully clear that our housing market is having a rippling effect on the economy. Families who

Continued on page 156

Bachus,

continued from page 153

According to CBO research, taxpayers may be responsible for up to $579 million as a result of potential defaults. This nearly billion dollar figure, coupled with the new projection that Hope for Homeowners will only assist at most 25,000 borrowers, could potentially cost the taxpayer an astounding $23,000 per loan.

Throughout the campaign, President Obama almost daily expressed his goal of ending wasteful, underperforming, and duplicative government programs. How many times do we have to attempt to change a program that has helped 43 borrowers nationwide? Under President Obama's criteria, HOPE for Homeowners would certainly qualify as a program to be cut.

And worse, bankruptcy cramdown provisions included in this bill will further reward poor decisions made by a small amount of individuals and lenders, while adding uncertainty to the market and increasing mortgage costs for the vast majority of Americans.

Congress should be asking: Who is this legislation intended to help, and is it fair? Will this bill reward irresponsible behavior and punish those who have played by the rules and lived within their means? And how will this legislation stimulate the economy?

Times are tough for American families — we all know that. But merely throwing good taxpayer money after bad is not the solution to our economic problems. We must consider the long-term consequences of our actions and how working American families and taxpayers will be affected. This legislation is not the answer. I urge my colleagues to vote "no."

"Will this bill reward irresponsible behavior and punish those who have played by the rules and lived within their means?"

Honorable James Sensenbrenner

United States Representative, Wisconsin, Republican

Representative Sensenbrenner, of the Fifth District of Wisconsin, was first elected to the U.S. House of Representatives in 1978. He served in the Wisconsin Assembly from 1968 to 1974 and in the Wisconsin Senate from 1974 to 1978. He sits on the Judiciary Committee, the Science and Technology Committee, and the Select Committee on Energy Independence and Global Warming. The following is from the March 3, 2009, House floor debate on H.R. 1106, the Helping Families Save Their Homes Act of 2009.

What we have just heard is that the amendments that will modify the Conyers [Judiciary Committee Chair John Conyers (MI-D)] manager's amendment are going to solve the problems and concerns that were raised last week. This is not the case, and the modification that this rule makes in order still makes this modification of the bankruptcy law smoke and mirrors. The devil is really in the details, and let me point out three instances where the details make this amendment a sham.

First of all, it gives a defaulting homeowner two bites at the apple. Far from making bankruptcy a last resort, it allows it to guarantee abuse of the system. If the homeowner obtains a mortgage modification that is compliant with the President's terms, he still can file for bankruptcy, but the lender is bound by the modifications under the President's program should it be enacted into law. So the borrower and the bankruptcy attorneys can shop around and can find out which is the better deal for the homeowner. That's something that we deny the lender the opportunity to do, and this is a guarantee of abuse of the system.

Continued on page 157

Hastings,

continued from page 154

have acted responsibly and who have paid every single payment on time are finding themselves, in one way or another, swept up by the foreclosure crisis, oftentimes through no fault of their own.

As foreclosures rise, surrounding home prices fall, funding for vital public services goes down, financial institutions are saddled with losses, access to credit shrinks, and our economy grinds to a halt. This legislation will put a stop to this deadly spiral. It will rebuild this economy from the bottom up, for our Nation simply cannot recover if we here in Congress turn our backs on the millions of Americans struggling to care for their families and to stay in their homes.

This bill may not help every family. It will, however, help responsible individuals stay in their homes, and it will mitigate the destructive impact of this housing crisis by clearing legal impediments to loan modifications, by improving the HOPE for Homeowners Program, by ensuring confidence in our banking system, and by finally making commonsense reforms to our bankruptcy laws.

". . . our Nation simply cannot recover if we here in Congress turn our backs on the millions of Americans struggling to care for their families and to stay in their homes."

Honorable Zoe Lofgren

United States Representative, California, Democrat

Representative Lofgren, of the Sixteenth District of California, was first elected to the U.S. House of Representatives in 1994. She served on the Santa Clara Board of Supervisors from 1980 to 1994. She chairs the Committee on Standards of Official Conduct and is a member of the following committees: Judiciary, where she chairs the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law; Homeland Security; and House Administration, where she chairs the Subcommittee on Elections. The following is from the March 5, 2009, House floor debate on H.R. 1106, the Helping Families Save Their Homes Act of 2009.

I just wanted to say a word about the manager's amendment to make sure that everyone is clear.

The second-degree amendment is going to make sure that fairness is restored to the bankruptcy laws to give needed relief to homeowners at a time when there is a truly historic crisis in the housing market.

The manager's amendment strengthens the good faith provisions of the bill to ensure that borrowers who can't afford to pay their debts do so. The good faith provision also requires the court to take into consideration an offer of a qualified loan modification. And when an affordable loan modification is available, we want homeowners to take that route.

The manager's amendment also advises courts to consider the Treasury's guidelines in crafting modifications, and in doing so, it works seamlessly with the Obama Administration's Making Homes Affordable plan. In both instances, fairness and affordability are the touchstones.

It doesn't make any kind of sense that relief in Chapter 13 is denied to homeowners while it is provided to speculators and investors, which is what the current law provides. By changing the law, we've restored basic fairness to the system.

Continued on page 158

Sensenbrenner,

continued from page 155

Secondly, this amendment encourages happy-go-lucky borrowers. Nothing happens to a borrower who rejects the terms under the President's mortgage modification plan. The bankruptcy court can theoretically refuse to confirm a borrower's cramdown plan, but under the terms of the amendment, that will likely happen only when the lender is offered a modification anyhow.

What about borrowers who are within 30 days of a foreclosure sale? They don't even have to contact their lenders under this amendment about voluntary modifications, so none of this amendment's modifications and accommodations apply. The new manager's amendment does nothing to change this exception that swallows the bill, and as a result, cagey borrowers and their attorneys can game the system by simply waiting until the borrowers are within 30 days of a foreclosure sale to file for bankruptcy.

Finally, this bill allows free money to be offered. The amendment provides an alternative to cram down a principal, but astoundingly, the alternative is free money. If a judge doesn't want to give a cramdown, he can just rewrite the mortgage as a no-interest loan over the full terms of a new 30-year, fixed-rate mortgage. Lenders can kiss their principal goodbye because the amendment seeks to resuscitate the earlier agreement to let lenders claw back and cram down principal if the borrower sells the house after a cramdown.

But the clawback is a sham. Once the borrower emerges from bankruptcy, the lender gets nothing back from the crammed-down principal, and since the point of the bill is to help the borrowers stay in the house during bankruptcy, sales aren't going to occur until after bankruptcy — when the lenders' clawback is worthless.

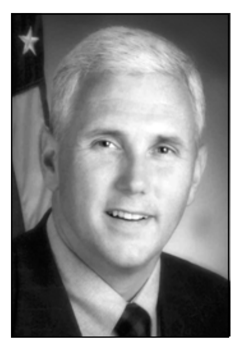
The bankruptcy law since 1898 has prohibited bankruptcy judges from rewriting the terms of mortgages that are placed on principal residences. There is a reason for that, and the reason is simple: It allows the mortgage industry to attract more capital to lend out to qualified borrowers at reasonable rates. If the capital isn't there, and the capital is not attracted, then what you will see is the cost of mortgages go up, whether it's in interest rates, points, fees or whatever.

It seems to me that Congress did the right thing during the Depression in not changing this law. We should not change the law today.

"Congress did the right thing during the Depression in not changing this law. We should not change the law today."

Honorable Mike Pence

United States Representative, Indiana, Republican



Representative Pence, of the Sixth District of Indiana, was first elected to the U.S. House of Representatives in 2000. He was a practicing attorney from 1986 to 1991, President of the Indiana Policy Review Foundation from 1991 to 1993, a radio broadcaster on Network Indiana from 1992 to 1999, and a public affairs television host from 1995 to 1999. He sits on the Foreign Affairs Committee. The following is from the February 26, 2009, House floor debate on H.R. 1106, the Helping Families Save Their Homes Act of 2009.

I rise in opposition to the rule and to the Helping Families Save Their Homes Act.

It's legislation that really will punish those who played by the rules, lived within their means, by forcing them to subsidize Americans who made irresponsible choices. This bill also throws good money after bad.

Continued on page 159

Pro & Con

"Bankruptcy should be a last resort. For an extended period of time, all of the debtor's personal financial life is in public."

Lofgren,

continued from page 156

In addition to the heightened good faith requirement, the amendment would extend the pre-filing notice from 15 to 30 days and require the debtor to submit financial documentation to the lender so a meaningful negotiation could take place. It also enhances the clawback provision to increase the amount of appreciation returning to the lender if a home should be sold for profit after judicial modification.

Bankruptcy should be a last resort. For an extended period of time, all of the debtor's personal financial life is in public. You can't spend anything without permission of the court. You can't tithe to your church unless the bankruptcy judge says okay. Santa can't come to your house on Christmas unless the court permits expenditures for a toy. It is a permanent mark on your record.

And so to think that someone would go into that proceeding frivolously with that kind of stain, that burden and that kind of a stigma, is just not realistic. And I hope the people understand this is not something that people do in a frivolous way or an unthoughtful way.

Pence,

continued from page 157

If the HOPE for Homeowners program was intended to help 400,000 borrowers, the American people deserve to know that to date the program has assisted 43 borrowers, not 43,000, not 430 — 43. The President said it was his goal to, quote, eliminate government programs that are not performing. We could start with the HOPE for Homeowners program.

More than anything else, we are witnessing a disturbing pattern here in Washington, one that rewards bad decisions at the expense of people that have made right choices. We saw it in the bailout of Wall Street under a prior administration and continued under the new one.

We saw this with the so-called stimulus bill that was designed to stem the rising tide in this economic crisis but was nothing more than a wish list of spending priorities put on the backs of our children and grandchildren. But today we should note more than 90 percent of Americans are paying their mortgages on time and meeting their financial obligations, even in these difficult days, let me say with authority as we consider this bill.

People back in Indiana don't want a handout. They don't want to turn a blind eye to people who, through no fault of their own, found themselves in loans in which they should not have been engaged, but Hoosiers don't want to be put on the hook for a handout for people who knowingly made bad choices.

These are tough times. We should all be willing to make the sacrifices necessary to weather this economic storm, but we need to begin by reaffirming the principle of personal responsibility.

The bill before us fails this essential standard. Rewarding bad behavior will not solve our problems, it will only worsen them. We should reject this bill. We should pursue the kinds of policies that put personal responsibility first and ultimately create the incentive for Americans who have invested in their homes and in their lives to continue to expand and prosper.

". . . we are witnessing a disturbing pattern here in Washington, one that rewards bad decisions at the expense of people that have made right choices."

Obama Administration Plan

Continued from page 136

agreements — by $50 billion to $900 billion — along with corresponding increases in the allowable debt outstanding.

Supporting State Housing Finance Agencies. The Administration will work with Fannie Mae and Freddie Mac to support State housing finance agencies in serving homeowners. ■

Bill Summary

Continued from page 138

ers, supervisors, loan processors, loan underwriters, or loan originators is currently suspended, debarred, otherwise restricted, indicted or convicted of certain offenses, engaged in nonconforming business practices, or subject to unresolved findings of a HUD audit, investigation, or review.

Requires an approved mortgagee to notify the secretary immediately of any such sanctions applied to it or any of its personnel, including revocation of a State-issued mortgage loan originator license or similar declaration of ineligibility under State law.

Directs the secretary to: (1) expand the existing process for reviewing new applicants for participation in FHA-insured mortgages on one- to four-family residences in order to identify applicants who represent a high risk to the Mutual Mortgage Insurance Fund (MMIF); and (2) implement procedures that, for mortgagees approved during the 12 months before enactment of this act, expand the number of mortgages originated by such mortgagees reviewed for compliance with laws, regulations, and policies, including a process for random reviews and one for reviews based on volume of such mortgages.

Amends the Federal Deposit Insurance Act (FDIA) and the Federal Credit Union Act (FCUA) to: (1) increase deposit insurance coverage permanently to $250,000; and (2) increase the borrowing authority of the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA).

Amends the FDIA to: (1) extend to eight years the time period applicable to a Deposit Insurance Fund (DIF) restoration plan; and (2) revise requirements for special assessments to recover the loss to the DIF arising from actions taken to contain systemic risk with respect to certain insured depository institutions.

Amends the FCUA to direct the NCUA Board to establish a National Credit Union Share Insurance Fund Restoration Plan whenever the Board projects that the equity ratio of the National Credit Union Share Insurance Fund will fall below a minimum designated equity ratio.

Requires the secretary of the Treasury, when using certain funds under the Emergency Economic Stabilization Act of 2008 (EESA) to prevent and mitigate foreclosures on residential properties (including mortgage modifications), to provide that the limitation on the maximum original principal obligation of a mortgage that may be assisted shall not be less than the dollar amount limitation on the maximum original principal obligation of a mortgage that may be purchased by the Federal Home Loan Mortgage Corporation (Freddie Mac) for the area in which the property involved in the transaction is located.

Amends the National Housing Act with respect to insurance of home equity conversion mortgages for the elderly. Redefines a mortgage on the alternative kind of leasehold under such insurance program as one that has a term that ends no earlier than the minimum number of years, as specified by HUD, beyond the actuarial life expectancy of the mortgagor or co-mortgagor, whichever is the later date. (Currently, a lease having a period of not less than 10 years to run beyond the mortgage maturity date.)

■ Mortgage Fraud

Establishes in the Department of Justice the Nationwide Mortgage Fraud Task Force to address mortgage fraud in the United States. Requires the task force to: (1) establish Federal, State, and local coordinating entities to organize initiatives to address mortgage fraud; (2) provide training to Federal, State, and local law enforcement and prosecutorial agencies with respect to mortgage fraud; (3) collect and disseminate data with respect to mortgage fraud; and (4) perform other functions determined by the attorney general to enhance the detection of, prevention of, and response to mortgage fraud in the United States.

Authorizes the task force to: (1) initiate and coordinate Federal mortgage fraud investigations and, through the coordinating entities, State and local investigations; (2) establish a toll-free hotline for reporting mortgage fraud and providing the public with access to related information and resources; (3) create a database about suspensions and revocations of mortgage industry licenses and certifications to facilitate the sharing of such information by States; and (4) make recommendations and propose Federal, State, and local government legislation. ■

Congressional Digest, A Pro & Con® Monthly
800-637-9915
congressionaldigestcorp.com
PO Box 240, Boyds, MD 20841-0240

Order Congressional Digest Here:

Subscription*: ❑ 3 yrs. $180 ❑ 2 yrs. $120 ❑ 1 yr. $68 $ ________
Start my subscription with ❑ Next issue ❑ Issue ___________
Overseas postage: ❑ Canada $7.25 ❑ All others $8.50 $ ________

Bulk copies: Quantity______ Issue date ____________________ $ ________

Single copy: $10 each Issue date ____________________ $ ________

(See below for online ordering information.)

Additional Shipping $ ________

Prepayment, Purchase Order, or Credit Card required to process your order

Total $ ________

NAME DAYTIME PHONE

ADDRESS

CITY STATE ZIP

P.O # / MASTERCARD or VISA NUMBER/EXP. DATE SIGNATURE

**Congressional Digest* is published monthly except July and August. Annual Cumulative Index included with subscription.

Recent Issues

Check below:

- ❑ **Reshaping National Priorities** *April 2009*
- ❑ **Unionizing Workers** *March 2009*
- ❑ **Saving the Big Three** *February 2009*
- ❑ **Infrastructure Financing** *January 2009*
- ❑ **Tobacco Regulation** *December 2008*
- ❑ **Forestalling Economic Disaster** *November 2008*
- ❑ **The 2008 Election** *October2008*
- ❑ **Energy Consumption** *September 2008*
- ❑ **Biofuels Expansion** *June 2008*
- ❑ **No Child Left Behind Revisited** *May 2008*
- ❑ **Food Safety** *April 2008*
- ❑ **Foreign Intelligence Gathering** *March 2008*
- ❑ **The Torture Debate** *February 2008*
- ❑ **Mine Safety** *January 2008*
- ❑ **Affordable Housing** *December 2007*
- ❑ **U.S. Troop Deployment** *November 2007*
- ❑ **Covering Uninsured Children** *October 2007*

Single issues are available for purchase and download at: congressionaldigestcorp.com/pcp/pubs/list.html

Congressional Digest
A Pro & Con Monthly

Since 1921

An independent monthly featuring controversies in Congress, Pro & Con. *Congressional Digest* (originally *The Capitol Eye)* is not an official organ, nor is it controlled by any party, interest, class, or sect.

ISSN 0010-5899

The Congressional Digest Corporation
P.O. Box 240
Boyds, MD 20841-0240
800-637-9915
congressionaldigestcorp.com

The 111th Congress

First Session of 111th Congress convened on January 6, 2009. (Information below as of April 14, 2009)

The U.S. Senate

Total Membership, 100:
56 Democrats
41 Republicans
1 Independent
1 Independent Democrat
1 Vacancy

Presiding Officer:
Vice President
Joseph R. Biden

President Pro Tempore:
Robert C. Byrd (WV)

Floor Leaders:
Majority Leader
Harry Reid (NV)
Minority Leader
Mitch McConnell (KY)

Party Whips:
Majority Whip
Richard Durbin (IL)
Minority Whip
Jon Kyl (AZ)

The U.S. House of Representatives

Total Membership, 435:
254 Democrats
178 Republicans
3 Vacancies

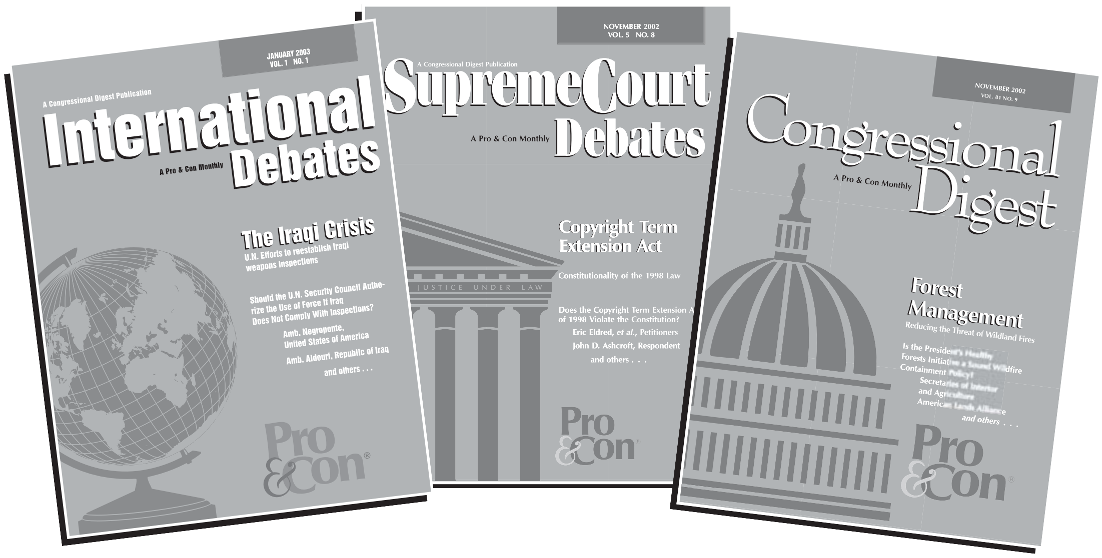
Presiding Officer:
Speaker of the House
Nancy Pelosi (CA)

Floor Leaders:
Majority Leader
Steny Hoyer (MD)
Minority Leader
John Boehner (OH)

Party Whips:
Majority Whip
James Clyburn (SC)
Minority Whip
Eric Cantor (VA)

Congressional Digest
A Congressional Digest
Corp. Publication
PO Box 240
Boyds, MD 20841-0240

Periodicals Postage
Paid at
Boyds, MD,
and additional
offices



Yes! We want Pro & Con® Online with *Congressional Digest*, *Supreme Court Debates*, and *International Debates*. We understand that with Pro & Con® Online we will receive multi-user access to the online database, which includes electronic versions of *Congressional Digest, Supreme Court Debates, International Debates,* and Teaching Resources.

PRODUCTS Please indicate your choice:

❑ Pro & Con Online (1yr) $300
❑ Congressional Digest (1yr).......................... $68

*International Debates and Supreme Court Debates are delivered monthly to subscribers in portable document format as part of Pro & Con Online.

Purchase and renew subscriptions online at: congressionaldigestcorp.com/pcp/pubs/order.html

CONTACT INFORMATION Please complete below:

Subscription # (top line mailing label, i.e. ID18637 – if applicable)

Name

Title

Organization

Address

City State Zip

Phone

E-mail

Select User ID

Select Password #1(teacher/administrator)

Select Password #2 (student/patron)

IP Range (optional)

Update account information at: congressionaldigestcorp.com/pcp/pubs/emailform.html

PAYMENT METHOD Please indicate your choice:
❑ Enclosed is our check for $______ payable to *Congressional Digest Corp.*
❑ Please bill us directly:
P.O. #________________

For fastest service, call **1-800-637-9915**
or **MAIL** to *Congressional Digest Corp.*, PO Box 240, Boyds, MD 20841-0240

09Z0CPN