

September 24, 2007

The Honorable John Conyers
Chairman, Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn HOB
Washington, D.C. 20515

The Honorable Lamar Smith
Ranking Member, Committee on the Judiciary
U.S. House of Representatives
2142 Rayburn HOB
Washington, D.C. 20515

The Honorable Linda Sánchez
Chairman, Subcommittee on Commercial
and Administrative Law
U.S. House of Representatives
362 Ford HOB
Washington, D.C. 20515

The Honorable Chris Cannon
Ranking Member, Subcommittee on
Commercial and Administrative Law
U.S. House of Representatives
362 Ford HOB
Washington, D.C. 20515

Dear Chairman Conyers, Chairman Sánchez, Rep. Smith, and Rep. Cannon:

The undersigned organizations share your concern about growing mortgage delinquencies and foreclosures and are working hard to help consumers whose difficulties might lead to foreclosures. For example, we support proposals to enhance the Federal Housing Administration (FHA) by allowing the FHA to assist borrowers who are 90-days delinquent in payments and to modernize the FHA to make it a more viable alternative to support lending to low- and moderate-income borrowers. In addition, the industry is working with individual borrowers to keep them out of foreclosure.

Lenders and servicers are taking a variety of actions, individually and in partnership with non-profits, to reach out to borrowers in difficulty. Individual companies are actively trying to contact their customers who are behind on their mortgages or who may be facing resets in adjustable rate loans. Companies work one-on-one with customers who have fallen behind on their payments, often up to the actual point of foreclosure, on options to keep them in their homes. In addition, our member companies and others in the industry are actively working with non-profits to reach borrowers who are reluctant to call their lenders. One successful effort is the 1-888-995-HOPE national counseling program. Independent, non-profit counseling is available to any consumer who calls that number, 24 hours a day, seven days a week. These efforts are on-going and will continue.

However, we are very concerned about legislative proposals intended to respond to problems in the subprime market by making major changes to our bankruptcy system. In particular, the Emergency Home Ownership and Mortgage Equity Protection Act of 2007 (H.R. 3609), as well as other legislative proposals, would allow bankruptcy judges to modify the terms of a mortgage in a Chapter 13 proceeding. This proposal could involve reducing the value of the loan, extending the terms of the loan, lowering the interest rate, delaying the effective date of an adjustable rate increase, and similar provisions.

If a mortgage loan can be modified or rendered unsecured during bankruptcy, it will be far more difficult to originate or sell mortgages in the secondary market. Such changes introduce substantial risks that the terms of loans will be changed in unpredictable ways. The cost of mortgages would have to increase to reflect this additional risk. These proposals would reduce liquidity and make it

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harder for Americans to obtain a new mortgage or refinance their existing mortgage, the exact opposite of what the mortgage market needs now.

We also have concerns about other provisions of H.R. 3609, in particular the provisions that permit debtors to extend mortgage payments beyond the original amortization date and that eliminate the credit counseling requirements. Allowing bankruptcy courts to extend the repayment period, regardless of the remaining term on the loan, would introduce tremendous uncertainty into the mortgage and home equity loan marketplace, as well as undermine the stability of mortgage backed securities. Eliminating the credit counseling requirement would be against the interests of debtors. Congress enacted the pre-filing counseling requirement to assure that debtors in financial difficulty had the benefit of two independent sources of information – approved non-profit counselors, and bankruptcy attorneys. Credit counselors are well versed in housing assistance that can help a borrower save his home without filing bankruptcy. Further, this provision is unnecessary since the Bankruptcy Code already allows judges to waive this requirement for “exigent” circumstances.

We ask that you oppose these changes in our nation’s bankruptcy laws. We do want to work with you on constructive solutions to this difficult problem. Thank you for considering our views.

Sincerely,

American Bankers Association
America’s Community Bankers
American Financial Services Association
Consumer Bankers Association
The Financial Services Roundtable
The Housing Policy Council
Independent Community Bankers of America
Mortgage Bankers Association
National Association of Home Builders
Securities Industry and Financial Markets Association
The Council of Federal Home Loan Banks
U.S. Chamber of Commerce

Cc: Members of the House Committee on the Judiciary