

November 6, 2007

The Honorable John Conyers, Jr.  
Chairman  
House Committee on the Judiciary  
U.S. House of Representatives  
2426 Rayburn Building  
Washington, DC 20515

The Honorable Lamar S. Smith  
Ranking Member  
House Committee on the Judiciary  
U.S. House of Representatives  
2184 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Conyers and Ranking Republican Smith:

We understand that your Committee is considering legislation to change the bankruptcy code and allow judges to change the terms of existing mortgage loans in a Chapter 13 bankruptcy proceeding. As former regulators who collectively served in the Carter Administration through the second Bush Administration, including through the severe banking crisis of the 1980s and early 1990s, we believe that legislation of this nature is ill-advised, particularly at this time. The proposed legislation would add a great deal of uncertainty to an already volatile and illiquid housing market, **and the last thing the markets need now is more uncertainty.**

The proposed “Emergency Home Ownership and Mortgage Protection Act,” H.R. 3609, would allow bankruptcy judges – who have no expertise in mortgage lending or the safety and soundness issues that apply to financial institutions – to reduce the outstanding principal balance of a mortgage loan, extend the terms of the loan, reduce the interest rate and/or delay the reset of an ARM. The unpredictability regarding how loan terms might change will make valuing the benefit of the underlying collateral practically impossible. This will add significantly to the risk and costs that a lender faces when making any loan.

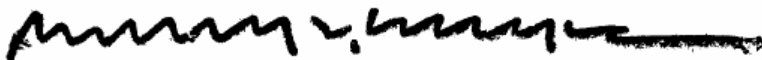
Since lenders will not know which loans will end up in the bankruptcy process, the rate of interest charged on all mortgage loans – both prime and subprime – will likely rise. This would impose a cost on all homeowners, including the vast majority who meet their obligations and never file for bankruptcy. Moreover, because greater uncertainty as to which loans will end up in bankruptcy means greater risk for lenders, they will likely be less willing to lend to higher-risk, but creditworthy, borrowers.

The suggestion that changes to the bankruptcy code need only last for a short while in order to be effective misses the point. Anything that delays the market from getting back to normal as soon as possible – as H.R. 3609 certainly will – will only create more havoc and lead to more bankruptcy filings. H.R. 3609 is also likely to encourage borrowers to file for bankruptcy even if they are in a position to make their scheduled payments. The promise by lawyers to reduce borrowers' housing payment obligations significantly, while still being able to remain in their homes, will attract not only those that are truly in need of a fresh start, but also those "investors" that want to be bailed out of a bad investment. This will increase the perception that the problems in the mortgage sector are much worse than they actually are.

There is no question that our country is going through a very difficult time as many homeowners are struggling to meet their monthly mortgage payments. But changes in the bankruptcy code, however well-intentioned, are not an effective means for dealing with the current situation, nor are they likely to prevent problems from repeating themselves in the future.

Things clearly went too far in recent years in the subprime market, and the entire mortgage market is now contracting. Efforts to provide relief should be supported and banks are coming forward as part of the solution by stepping up their mortgage lending, helping people re-finance their mortgages, encouraging borrowers to agree to appropriate "workouts," and joining not-for-profit alliances designed to help people avoid foreclosure. H.R. 3609 will undermine efforts like these by making it harder and more costly for borrowers to obtain mortgage loans. We respectfully urge you to reject this approach.

Sincerely,



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The Honorable Robert L. Clarke  
Comptroller of the Currency, 1985 to 1993



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The Honorable William M. Isaac  
FDIC Chairman, 1981 to 1985  
Board Member, 1978 to 1985



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The Honorable Donald E. Powell  
FDIC Chairman, 2001 to 2005