

October 3, 2007

The Honorable Linda Sánchez  
Chairman, Subcommittee on Commercial and Administrative Law  
Committee on the Judiciary  
U.S. House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Sánchez:

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. However, for the reasons outlined below we oppose the “Emergency Home Ownership and Mortgage Equity Protection Act of 2007” (H.R. 3609) and urge you to vote against it when it is marked up by the Commercial and Administrative Law Subcommittee on October 4, 2007.

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.

**We oppose H.R. 3609 because it will make it harder and more costly for consumers to obtain mortgages, which is exactly the opposite of what the mortgage market needs now.** H.R. 3609 makes major changes to our bankruptcy system by allowing 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 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 oppose 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

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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 do want to work with you on constructive solutions to this difficult problem but ask you to vote against H.R. 3609. Thank you for considering our views.

Sincerely,

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