

February 27, 2008  
Dear Senator

The Senate is expected to consider bringing S. 2636, the Foreclosure Prevention Act of 2008, directly to the floor for a vote, bypassing the Committee process. Title IV of this legislation, even as modified by the Reid Substitute, is fatally flawed because it would allow bankruptcy courts to change the terms of a mortgage contract by reducing the amount owed a lender ("cram down"), changing the interest rate or extending the term of the mortgage. While this well-intentioned legislation includes other provisions that are worthy of support, we urge you to oppose S. 2636 and any other legislation that includes changes to the bankruptcy code.

As you know, the mortgage market is already experiencing a serious credit crunch. Allowing courts to alter the terms of a mortgage contract will only serve to further destabilize the housing market and the economy. Lenders will no longer be sure that the money they lend is truly secure. This uncertainty will require higher interest rates and larger down payments to offset the new risk and will prevent many Americans from being able to afford a home and make it more expensive for those who still can.

Congress has taken many significant steps to assist troubled borrowers. Congress passed legislation excluding discharges of debt on primary residences from gross income, thereby saving borrowers from the tax liability resulting from foreclosure avoidance. The legislation also extended the deduction for mortgage insurance premiums, which benefits homeowners. The President recently signed an economic stimulus package that will help inject liquidity into the capital markets. Congress is currently working to reconcile legislation that will modernize the Federal Housing Administration (FHA).

Lenders are also taking action to help borrowers in trouble. HOPE NOW, a private sector alliance, reported that over 545,000 subprime and 324,000 prime borrowers received help in the second half of 2007. Through HOPE NOW, the industry is reaching out to potentially distressed borrowers and keeping them out of foreclosure. Bankruptcy impedes the ability of servicers to help borrowers who are in trouble.

We respectfully urge you to oppose efforts to bring legislation to the Senate floor that would allow bankruptcy judges to change the terms of a mortgage contract, specifically Title IV of S. 2636. Title IV will only increase costs for borrowers and ultimately limit opportunities for future homeowners.

American Bankers Association  
American Financial Services Association  
American Insurance Association  
BB&T  
Citigroup  
Consumer Bankers Association  
Consumer Mortgage Coalition  
The Financial Services Roundtable  
Housing Policy Council  
HSBC-North America  
Independent Community Bankers of America  
JPMorgan Chase  
Manufactured Housing Institute  
Mortgage Bankers Association  
National Association of Home Builders  
National Bankers Association  
The Securities Industry and Financial Markets Association  
U.S. Chamber of Commerce  
Wachovia

Washington Mutual  
Wells Fargo & Co.