

HOW SENATE BILL 61 WOULD SAVE HOMES FROM FORECLOSURE *AT NO COST TO TAXPAYERS*

How big is the home foreclosure problem now?

Our country is facing a foreclosure crisis that is unprecedented. Home mortgage payments have risen dramatically in the last few years, making it impossible for more and more homeowners to afford to keep their homes. More than 6,600 family homes are lost to foreclosure every day. Over 8,000,000 American homes will be lost in foreclosure in the next five years unless action is taken immediately.

This crisis has not only affected homeowners and neighborhoods across the country, but has also placed our nation's overall economy in its worst shape since the Great Depression.

Exactly what caused mortgage payments to skyrocket on so many loans?

During the Bush administration's first term, the Federal Reserve Board kept interest rates (and therefore, the cost of money to mortgage lenders) unusually low to encourage the homebuilding industry to drive the economy upward. In addition to low interest rates, mortgage lenders began offering new types of higher risk mortgages that had not previously been made widely available. These new types of loans were marketed aggressively, with billboards and television advertising used at unprecedented levels.

As an example, many of these new loans offered very low payments that did not even cover the monthly interest on the mortgages. These very bad loan terms were not obvious in the fine-print of the loan papers, so homeowners did not know how bad the loans were. As a result, by making those lower monthly payments, homeowners actually owed *increasing* balances on their loans as time passed. Instead of owing the original balance of \$350,000, after two years the homeowner might owe \$370,000 and not even realize it.

In addition, the initial low interest rates were only temporary and loans provided that the rates would jump up dramatically after a few years. Again, these loan terms were not properly disclosed and the interest rate increases came as a shock to homeowners, years after they had refinanced. These interest rates are unreasonably high – as high as 10% or more on first mortgages when the cost of money to mortgage lenders now is the lowest in modern history.

Many long-time homeowners were trapped into taking these loans (not just first-time homeowners). Among them were senior citizens who fell victim to fast-talking mortgage brokers who convinced them to refinance pre-existing good mortgages into these bad mortgages so the mortgage brokers could make large commissions. Others were homeowners who became unemployed and fell briefly behind on their payments on good mortgages and were convinced to refinance into the bad loans.

Why is it important to slow home foreclosures?

When homes are foreclosed, more damage is done than just to the owners who lose their homes. Because home values are based on the sale prices of surrounding homes, foreclosures (at particularly low prices) drive down values in the neighborhood. When several foreclosures occur in a neighborhood, this negative influence on property values multiplies into a downward spiral that is difficult to stop. As property values dive, local governments are being deprived of critical revenues, creating a serious problem for school districts, fire, and police departments. The impact on local governments is being seen today, with deficit budgets reaching historic proportions. In addition, many neighborhoods full of foreclosed homes are being abandoned entirely, turning them into blighted areas ripe for crime and causing other serious problems for these communities.

What can we do to stop home foreclosures?

Fortunately, there is a solution that would cost taxpayers nothing. Senate Bill 61 (S. 61), like H.R. 1106 which just passed the House, would allow homeowners in bankruptcy who cannot afford to keep paying their very high mortgage payments to restructure their home mortgages by reducing the loan amounts to the value of the home, re-setting the current high rates of interest to much lower fixed rates, and re-amortizing the loans to 30- or 40-year loans. This would provide the lenders much more return than they would get if the home was foreclosed. Debtors often can afford mortgage payments necessary to provide a fair rate of interest and value for their homes, but cannot afford the grossly inflated mortgage payments that have been caused by the bizarre terms of the bad mortgages made a few years ago.

By keeping homeowners in their homes at court-established fair market values, the surrounding neighborhoods are protected from the worsening effects of foreclosed and abandoned homes. By establishing realistic values and re-setting mortgage payments, the downward spiral of home prices can be slowed and even stopped.

When values begin to rise, H.R. 1106 includes a provision (likely also to be included in S. 61) that will return to lenders a high but decreasing percentage of any equity acquired by the homeowner in the five years following the mortgage modification. That way, a homeowner will not be able to walk away with a windfall profit by filing a bankruptcy and then quickly selling their home.

Why will S. 61 not cost taxpayers money?

Unlike the banks' proposals to have the government pay them for their losses after homes are foreclosed (for example, by guaranteeing known "underwater" loans that are likely to be foreclosed), S. 61 does not reward at taxpayers' expense mortgage lenders who made risky loans without concern for the predictable consequences we see today.

Banks do not like S. 61 and are claiming that if the law is passed interest rates on new home loans will have to go up. Nothing could be further from the truth. That argument is just simply "made up" and has been rejected by leading economists. The cost of money to lenders, true values of real estate, and the credit standards used by future mortgage lenders will and should be the primary driving forces in determining future interest rates. In fact, S. 61 will not apply to any future loans, but rather will only apply to loans entered into before this law takes effect.

Why do the banks oppose S. 61?

The main reason banks oppose this legislation is because the setting of home values by courts will force them to begin to correct their accounting books to reflect the true value of the mortgages they hold. They do not want to do that. They want to continue to pretend that these mortgages are worth the full amounts – and are holding out for taxpayer bailouts for even greater losses down the road.

Who supports S. 61?

This solution has been endorsed by leading economists, 22 state Attorneys General, state and local elected officials, newspaper editorial boards from around the country, and nearly 100 leading national organizations representing seniors, consumers, religious organizations, financial professionals, working families, and civil rights and housing groups. This solution was mentioned often by President Obama during the campaign and was included as a major element of his recently released housing package.

In addition, the National Association of Consumer Bankruptcy Attorneys, Inc. (a non-profit organization) supports S. 61 and H.R.1106. NACBA is a nationwide organization of attorneys who represent consumer debtors in bankruptcy. It was formed in 1992, to help consumer debtor attorneys protect the rights of honest, hard-working, financially distressed Americans in need of bankruptcy. NACBA's member attorneys meet every day with thousands of families who are in the midst of foreclosure or expecting it shortly. NACBA's members want to be able to help their clients keep their homes on reasonable terms, which will directly benefit their larger communities, and help turn around the overall economy of the country.

Why is action needed now?

Unfortunately, S. 61 is losing momentum in the Senate due to tremendous opposition lobbying by the banking industry. It is time for our government to say loud and clear to banks: "Enough is enough!"

It is critical that our Senators hear from their voters this week, or the Senate may lose interest in passing this important bill.