The Helping Families Save Their Homes Act

March 5, 2009

I rise today in support of the Helping Families Save Their Homes Act of 2009 (H.R. 1106), and to commend Chairman Frank, Chairman Conyers, and the Financial Services and Judiciary Committees for their leadership and hard work on this measure. I urge my colleagues to support it.

No doubt, the experience of my colleagues is the same at when the economy spiraled out of control last year, my constituents did not call me and write me and come to my Town Hall meetings saying ``please give my hard-earned taxpayer dollars to Wall Street. Wall Street is really hurting, and I want to do my part to help.'' No, they came to me saying ``I am in trouble. I played by the rules. I did everything right, but my life is falling apart, and my home is about to be taken away. Please help me.'' We responded a few weeks ago by enacting the American Recovery and Reinvestment Act to help stimulate the economy and get people back to work while providing for the essential services people need to get by. Today, we are taking another very important step by responding to the foreclosure crisis that is at the root of the recession.

The foreclosure crisis is a vicious cycle. Due to plummeting home values in recent years, an estimated 14 million homeowners owe more on their homes than their homes are worth; their mortgages are ``under water''. For a variety of reasons, including predatory lending abuses, exploding adjustable rate mortgage payments, and increasing job losses, homeowners all over the country have tried to refinance their mortgages into lower rates just to make ends meet. But the decreased values of their homes made that impossible. Unable to afford their current mortgage payments, unable to refinance them, and unable to sell the homes due to the depressed housing market, many face foreclosure. According to the trade research organization RealtyTrac, lenders made foreclosure filings on 2.3 million properties last year alone. Each foreclosed home reduces nearby property values by as much as 9 percent, sending those surrounding homes down the path towards being under water. And the cycle continues. Congress must act, must act now, and must act with force and determination.

The Helping Families Save Their Homes Act attacks the foreclosure crisis aggressively, and approaches the problem from many angles at once, but is measured in its application. The bill would help millions of homeowners stay in their homes, by including incentives to encourage lenders to negotiate affordable mortgages for homeowners whose mortgages are under water, who are at risk of foreclosure, and who are facing bankruptcy. For example, it would modify the Hope for Homeowners program by reducing the fees that discouraged lenders from voluntarily participating in that program last year, and by providing for a $1,000 incentive payment to servicers for each successful refinancing of an existing loan.

The bill also provides special protections for veterans, by allowing the Department of Veterans Affairs, the Federal Housing Administration (FHA), and U.S. Department of Agriculture to guarantee and/or insure mortgage loans that have been administratively or judicially modified. Therefore the bill would provide additional financial incentives for lenders to voluntarily modify mortgage loans instead of foreclosing. The bill also would expand the FHA's mortgage loan modification abilities by allowing a reduction of interest payments of up to 30 percent of the outstanding loan balance.

Most importantly, the bill would pay for adjustments to existing programs by tapping into $2.316 billion in already-authorized funding under the Troubled Assets Relief Program enacted last year. Therefore, to be clear--this is not a ``new bailout.'' This bill gives back to taxpayers more than 2 billion taxpayer dollars that previously had been allocated to Wall Street by previously-enacted legislation.

In addition to incentivizing lenders to modify mortgages to keep families in their homes, the bill would give homeowners an important new tool to fend for themselves: judicial modification of primary home loans. By allowing bankruptcy judges to modify the terms of the home mortgages at the core of the economic crisis--the mortgages already issued prior to enactment of this bill under terms, conditions and circumstances that forced so many of them into foreclosure or the brink of failure--we help our constituents remain in their homes under revised payment plans they can afford. This important protection also does not cost taxpayers anything, but it could reduce foreclosures by 20 percent.

The mere fact that homeowners have judicial modification of primary home mortgages available as an option, which is already available for vacation home loans and other consumer loans, will further encourage lenders to modify mortgages before borrowers file for bankruptcy. In addition, as it would be further fine-tuned by the Conyers amendment, the bill would apply a ``good faith'' test to deny bankruptcy modification relief to individuals who can afford to repay their mortgages without it, and extend the negotiation period requiring the debtor to certify that he or she contacted the lender and sought to reach agreement on a qualified loan modification. As perfected, the amendment would also allow a court to consider, in lieu of reducing principal in a modification, reducing the interest rate to lower the borrower's monthly payment; enhance the ``good faith'' test restricting the use of judicial modification to reduce principal by requiring courts to determine whether a lender offered to modify the loan and whether the debtor could afford the offered modification; and increase the proportion of appreciation on a home that a lender could recoup in a sale within five years after the modification. The bill already includes a provision protecting mortgage servicers from lawsuits by investors who may be unhappy with the mortgage modifications.

Some have expressed the concern that this bankruptcy option will increase the cost of borrowing for other homeowners. Compared to the alternative of foreclosure, however, judicial modification should maximize, rather than decrease, the value of troubled mortgages for the lender. According to economist Mark Zandi, ``[g]iven that the total cost of foreclosure to lenders is much greater than that associated with a Chapter 13 bankruptcy, there is no reason to believe that the cost of mortgage credit across all mortgage loan products should rise.'' In addition, because the bankruptcy modification right only applies to mortgages issued before enactment of the bill, home mortgages issued in the future will be viewed as more stable, reliable and predictable than loans that can be modified in bankruptcy, and capital should again in the future readily flow to the home mortgage industry as it did in the past.

The bill also recognizes that unchecked predatory lending activity was one of the root causes of the crisis we face today and attacks that problem directly in several ways. For example, it requires the Department of Housing and Urban Development (HUD) to approve all parties participating in the FHA single family mortgage origination process, allows HUD to impose a civil money penalty against loan originators which are not HUD-approved but participate in FHA mortgage originations, and establishes other rigorous conditions on eligibility for would-be participants in the program.

Finally, it makes permanent an increase, from $100,000 to $250,000, in the amount of bank or credit union deposits insured by Federal banks and credit union regulators, and increases these regulators' authority to obtain additional liquidity from the US Treasury.

It is an aggressive and comprehensive, but thoughtful and measured bill. It puts taxpayers first, and most of it costs nothing or is already paid for by taking taxpayer funds that had been allocated to Wall Street and returning them to Main Street. I urge my colleagues to support it.