Statement of

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Hearing on

"Growing Mortgage Foreclosure Crisis: Identifying Solutions and Dispelling Myths"

Madam Chairwoman, Ranking Member Cannon and members of the Committee, I am David G. Kittle, CMB, President and Chief Executive Officer of Principle Wholesale Lending, Inc. in Louisville, Kentucky and Chairman-Elect of the Mortgage Bankers Association (MBA).[1] I appreciate the opportunity to appear before you today to testify on behalf of MBA and the mortgage industry concerning the situation in today's market, to help identify solutions and to dispel the myths about legislation that would alter the treatment of home mortgages under Chapter 13 of the Bankruptcy Code.

The myths most in need of dispelling concern H.R. 3609, the ''Emergency Home Ownership and Mortgage Equity Protection Act of 2007,'' introduced by Representative Brad Miller and Chairwoman Linda Sanchez and amended by Representative Steve Chabot in the full Judiciary Committee. The amended bill makes key changes to Chapter 13 of the Bankruptcy Code including allowing the following changes for seven years:

- modification of "subprime" and "non-traditional" mortgages secured by principal residences ("home mortgages") originated between 2000 and the date of enactment of the bill;
- allowing home loans to be repaid beyond the term of the Chapter 13 plan, which today cannot exceed three to five years;
- eliminating the requirement to obtain credit counseling before the debtor can file for bankruptcy when the lender has notified the debtor that it may foreclose the loan; and
- requiring that fees and charges, accruing during the bankruptcy proceeding be filed with the court and that such fees do not exceed the value of the property.

If these provisions are enacted, there will be significant consequences for future borrowers, mortgage servicers, investors, pension funds and other global investors in mortgage-backed securities (MBS), as well as, the entire American economy. For these and other reasons, MBA opposes H.R. 3609.

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 500,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 3,000 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

Myth: H.R. 3609 Simply Closes a Loophole in the Bankruptcy Code
Fact: Congress Deliberately Acted to Improve Mortgage Market Liquidity

Today, a mortgage secured by the principal residence of a debtor cannot be modified in bankruptcy. This policy has been in existence over 100 years, since the Bankruptcy Act of 1898, and is a cornerstone to an efficient U.S. residential mortgage market. The protection provided to home mortgages was not a loophole or oversight. It was a deliberate act of Congress to ensure the continued low cost and free flow of home mortgage credit (see Legislative History, Attachment A). A shift in public policy to remove such protections will encourage debtors not to pay their contractual mortgage obligations and would dramatically change the residential mortgage market. H.R. 3609 would introduce significant risks for home lenders, investors and loan servicers. The risks include the ability to set aside certain mortgage contracts and modify interest rates and other terms. It would also allow liens to be stripped down to the fair market value of the underlying properties, although the bill does not define fair market value. The increased risk would result in mortgage lenders passing on the associated costs to borrowers in the form of higher interest rates and fees.

Myth: Passing H.R. 3609 (Chabot Compromise) Will Have Little Impact on Servicers and the Mortgage Market
Fact: H.R. 3609 Will Have Immediate and Long-Term Impact on the Mortgage Market

If H.R. 3609 were enacted, lenders, securitizers, investors, and loan servicers would see significant new risks on their existing portfolios. Because the bill, as amended by the Chabot Compromise, continues to be retroactive, these parties would absorb significant immediate losses that could have dire financial consequences. The obvious outcome of the bill would be that large principal losses never anticipated or priced into the interest rate or closing costs when the loan was made would have to be absorbed. Bondholders, including mutual funds, pension funds and government entities would see their investments decline. Servicers who never assumed principal risk of loss would suddenly have to absorb losses due to the loss of credit enhancements. Servicers and portfolio lenders with origination capability could offset the losses with new lending, however, such loans would have to carry higher interest rates and costs. Given the decline in originations, the costs would have to be concentrated on a smaller population and thus the cost of credit would be higher per borrower than if applied across a larger home buying or refinance population. The correlation of losses to income is not perfect and, as a result, new loan costs would be higher than necessary to cover real and anticipated losses and to ensure mortgage companies' continued solvency.

Moreover, bankruptcy attorneys would aggressively advertise to borrowers to seek the benefits of this bill if their homes have declined in value, whether or not the borrower is in default. The cost of defending these bankruptcy cases would be staggering to the industry.

We believe that it is important for Congress to understand what H.R. 3609 actually does, to understand why it would so drastically affect the mortgage market and why MBA opposes its passage. In addition to the risks previously described, other risks are introduced, perhaps unintended, but which would have serious consequences. We would like to discuss the full range of risks in greater detail, which will illustrate why MBA is so concerned with this bill.

Myth: H.R. 3609 Would Not Have a Negative Effect on Mortgage Market Participants
Fact: Key Provisions of H.R. 3609 Would Introduce Substantial New Risks and Losses for Mortgage Market Participants

A. Permits Modifications and Strip Downs of Home Mortgages

As stated above, the bill amends section 1322(b)(2) of the Bankruptcy Code, which currently prohibits bankruptcy judges from modifying the terms of mortgages secured by "principal residences" in Chapter 13. The bill would permit bankruptcy courts to change the terms of certain mortgages without the lender's consent (often referred to as a "cram down"), including modifying the interest rate, extending the maturity date, capitalizing arrearages and reamortizing the loan. In addition, judges would be granted the authority to "strip down" a secured home mortgage. A strip down (sometimes also known as a "lien strip") is a type of cram down that effectively converts the portion of the secured debt that exceeds the fair market value of the home into unsecured debt. The unsecured portion is treated like other unsecured debt, which is generally paid little or nothing through the Chapter 13 Plan, and is discharged upon successful completion of the plan.

The modification provisions in H.R. 3609 apply to the vast majority of "subprime" and all "non-traditional" mortgages secured by principal residences." Unfortunately, the definition of "subprime" would also cover a significant number of prime loans. Needless to say, this broad application of cram downs to these mortgages would introduce substantial new risks not priced into the product or contemplated when originally setting servicing fees.

B. H.R. 3609 Eliminates Substantial Controls

In addition to permitting cram downs of home mortgages, H.R. 3609 goes further and would remove significant controls that virtually ensure that bankruptcy filings will skyrocket. Consumer groups perpetuate the myth the bill will *not* substantially increase creditor risk or mortgage costs because there are few cram downs of second homes and investor properties since cram downs were permitted on those property types in 1978. Consumer groups fail to mention the whole truth.

H.R. 3609 would create a quintessential moral hazard. Today, the Bankruptcy Code generally allows mortgages other than those secured by principal residences of the debtor to be crammed down. However, if such loans are crammed down, the debtor must pay the *entire amount* of the secured claim within the three-to-five-year duration of the Chapter 13 plan.[2] The unsecured portion of the claim that gets crammed down gets an apportioned payment to the extent there is additional income or cash that can support those payments. If there are no funds remaining to pay unsecured creditors after paying secured and priority claims, the unsecured creditors receive nothing and the unsecured debt is discharged upon termination of the plan. For example, under current law, if a mortgage contract of $150,000 gets stripped down to $100,000, the debtor must pay the entire $100,000 within three-to-five years in equal monthly installments. This control limits unbridled runs on the bankruptcy court whenever property values or rates decline. This control, however, is stripped from the rights of creditors by allowing the modified home mortgages to be paid over 30 years. H.R. 3609 thereby would ensure more borrowers will seek Chapter 13 bankruptcy for home loans.

In addition to the restriction mentioned above, vacation homes and investment properties seldom get to the point of cram down because there is generally little reason to cram down these loans. A vacation home clearly is not necessary to provide a roof over the borrower's head and with no equity, and little or no income, is a burden on the estate. Likewise, an investor property that has no equity and a negative cash flow is not necessary for reorganization and is a burden on the estate.[3] Thus, cram down of these types of loans is seldom attempted. Instead, the lender obtains termination of the automatic stay and the property is foreclosed without stripping down the lien. Conversely, a principal residence *is essential* to the reorganization of the borrower and thus if H.R. 3609 were enacted, courts would not release the assets from the stay and judges would be required to impose strip down of the lien. In effect, H.R. 3609 would treat home mortgage debt far worse than other secured debts in bankruptcy.

By stripping down secured debt, H.R. 3609 also would make more funds available in the repayment plan for credit cards and other unsecured debts. This is contrary to the basic legal premise of secured debt. Bankruptcy is generally a zero sum proposition. If funds are deducted from one set of debts – the priority debts, such as a home mortgage – it makes more funds available for non-priority and unsecured debts. While it may not be this Committee's intent to shift the bankruptcy process to the advantage of credit card and other unsecured lenders, this would be one of the impacts.

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[2] 11 USC 1322(d)(2007). See also In re Enewally, 368 F.3d 1165 (9th Cir., 2004).

[3] Investment properties with no equity but with a positive cash flow are still subject to repayment during the 3/5 year term of the plan and thus seldom get crammed down.

Because H.R. 3609 also removes the credit counseling requirement when the debtor has received notice of possible foreclosure, the bill would remove the final control against unfettered bankruptcy filings. 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 to help a borrower save his home without filing bankruptcy.

There is no doubt the impact of the modification provision combined with elimination of all creditor protections would result in increased Chapter 13 filings. The considerable incentive of financial gain to the borrower would ensure cram downs on home loans would skyrocket. Servicers, portfolio lenders and bondholders would suffer significant losses. New creditworthy borrowers would have to pay for the value of these "takings." Financially responsible borrowers in the future would pay for the risky behavior and speculative decisions made by existing borrowers. Lenders would have a fiduciary duty to offset losses created by this bill through higher interest rates, points and fees on new loans. Anticipated losses from cram downs could trigger additional lay-offs in the mortgage industry, including lay-offs at mortgage servicers. The legislation would result in a further constriction of mortgage credit. These would not be welcome developments as most companies have tripled or quadrupled staffing to process loss mitigation requests and handle delinquent loans.

C. Cram Downs Voids Significant Types of Credit Enhancements

Proponents of bankruptcy reform argue creditors will take the same losses if the loan is stripped down to the fair market value as they would if the loan is foreclosed. This is a myth, as it fails to recognize certain insurance contracts would be voided for the amount of the cram down.

Specifically, servicers lose their FHA insurance and VA guarantee claims for the amount of any lien strip down. The servicer would have to advance the amount stripped down to Ginnie Mae security holders and absorb the principal loss. This is a substantial shift in liability that servicers certainly did not contemplate when they agreed to service Ginnie Mae securities. As stated previously, servicers rarely take principal losses today. The severity of losses to which servicers would now be exposed would be comparable to what FHA and VA lose with each foreclosure – more than $30,000 per property. Yet, if those loans went to foreclosure sale, FHA insurance and VA guarantees would protect the servicer against principal loss.

VA and FHA loans are not insulated from the havoc H.R. 3609 would wreak. In fact, the Chabot Compromise's definition of subprime as a loan with a three point spread over Treasury securities of comparable maturity measured at the time of application ensures a significant number of government loans (and prime loans) would be eligible for lien stripping.

The risk of uninsured losses and repurchase risk created by H.R. 3609 would cause existing servicing portfolios to decline in value, requiring accounting write downs of servicing assets. The velocity at which loans would enter bankruptcy could cause capital and liquidity problems for servicers. This disruption could also cause significant problems with voluntary mortgage workouts as bankruptcy cram downs would consume the servicer's financial and personnel resources. The stated objective of encouraging more voluntary workouts through H.R. 3609 would simply not materialize because (1) the reward in bankruptcy is far more lucrative than what servicers could offer and (2) servicers may have to cut costs to offset losses by eliminating critical jobs.

When these government programs were created, there was no risk of cram down on home mortgages. As a result, authorizing statutes and regulations of the government programs fail to deal appropriately with the risk that would be created by H.R. 3609. Statutes were developed to deal with foreclosures, not bankruptcy modifications and strip downs. FHA and VA are not permitted *by statute* to pay an insurance claim or guarantee for the strip down amount. [4] It was simply not contemplated. An additional act of Congress would be required to restore these credit enhancements.

At a time when the public policy process is moving toward an increased reliance on the FHA and VA to serve the low income and first time homebuyers, H.R. 3609 would disadvantage government lending and drive lenders away from it.

D. Impact of Cram Downs on Investors and the MBS Market

Securitization increases homeownership. Today, banks and other lenders resell mortgage debt to other investors, or "securitize" it. This frees up capital and allows banks and mortgage companies to invest more into local economies and makes home mortgage credit more widely available. As a result, homeownership has risen significantly since the mid-1990s. The share of Americans who owned homes rose from 64 percent in 1994 to 69 percent by 2005. This is the highest increase in homeownership since the surge that followed World War II.

Securitization of mortgages is based on the underlying value of those mortgage contracts. Granting bankruptcy judges the authority to retroactively modify a mortgage in Chapter 13 proceedings would have a materially adverse impact on the mortgage contract. The resulting uncertainty would mean securitizers or

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[4] 12 USC 1710a (2007). FHA can only pay a claim when it receives title to the property, the mortgage is foreclosed, the loan gets assigned, there is a pre-foreclosure sale or there is a loss mitigation partial claim. A partial claim is a specialized loss mitigation tool, which allows arrearages to be subordinated into a junior lien held by HUD. VA is only allowed to pay the unpaid principal balance, plus accrued interest and applicable charges. 38 USC 3832 (2007).

investors could not assess prices or calculate the risk of how many mortgages could be modified. If, with a stroke of a pen, the US government could eliminate the entire secured nature of these investments whenever there is a cyclical down turn in the real estate market, why would investors return the our mortgage markets? They would simply take their money to other more secure and predictable investments. Existing MBS values would also decline as investors dump MBS collateralized by subprime and at-risk assets and as credit rating agencies further downgrade securities.

Investors such as Fannie Mae and Freddie Mac also would be required to purchase the covered loans out of the MBS pools if the loans are modified and absorb the principal losses.

E. Lenders Will be Forced to Absorb the Risk of Properties Damaged by Natural Disasters or Borrower Misconduct

Another significant concern created by H.R. 3609 would be the windfall borrowers would obtain when the property is either 1) damaged by the borrower or 2) damaged by natural disasters such as Hurricanes Katrina and Rita or the recent wildfires of southern California.

Borrowers in default often fail to properly maintain their property, and sometimes intentionally damage their property. In some cases, borrowers attempt significant renovations but fail to complete them, leaving the collateral significantly devalued. We do not believe these debtors should be rewarded through loan stripping, but H.R. 3609 would do just that if passed.

Likewise, we do not think borrowers should be able to wipe out the security interests of creditors when their properties are destroyed by natural disasters, but H.R. 3609 could do just that. A recent relevant example is the damage to properties from Hurricanes Katrina and Rita. As you may know, lenders have offered borrowers who were impacted by the hurricanes over two years of forbearance and/or have also modified their mortgages. Some properties have zero or negative values. Now that insurance and Community Development Block Grant (CDBG) money is flowing to homeowners to rebuild these properties, this legislation would render a devastating blow to investors and servicers: the ability for borrowers to wipe out *all or significant portions* of the debt in Chapter 13 bankruptcy.

The impact of lien stripping on insurance proceeds and grant funds as secured assets is also brought into question. Based on cases associated with other secured debts, it appears creditors may lose their secured interests in hazard insurance proceeds for the amount of the cram down, with possibly no recourse to recover the value of the original debt. H.R. 3609 would place lenders, servicers and investors in an inappropriate role of property insurers of last resort and/or guarantors of property values. Lenders and servicers would not have priced for the risk at origination, and would require cross-subsidization from new originations to avoid massive losses. That cross-subsidization would result in higher costs for new loans.

Myth: Consumers' Only Benefit Will Be Foreclosure Avoidance
Fact: H.R. 3609 Gives Enormous Windfalls to Borrowers

What is probably one of the most inequitable results of H.R. 3609 is the fact that debtors in depressed real estate markets or with damaged or destroyed properties would reap a windfall at the expense of borrowers who honor their debts, as well as servicers and investors. This windfall would occur if the borrower is permitted to reduce the debt to the depressed value of the property, retain the property and realize future appreciation in value when market conditions improve (or repairs get made with insurance and government aid), while having no obligation to pay the lender the full contractually agreed upon debt. Executing a strip down based on a snapshot of value ensures borrowers will make significant profits when the property appreciates later in time. The case in point is illustrated by In re: Enewally 368 F.3d 1165 (9th Cir., 2004).[5] Despite the current market turndown, over the last 30 years home prices nationally have risen six percent per year on average.[6]

The unfair result H.R. 3609 would create does not occur today in Chapter 7 or when the borrower is allowed to foreclose on the property. The creditor in either case would have the right to acquire the property by bidding its claim. The creditor could then, if it chose, hold the property until market conditions improved (and retain full mortgage insurance benefits and security interests in hazard insurance and grant proceeds in the case of damaged property), thereby reducing its losses. Furthermore, with foreclosures, the servicer could in most cases seek a deficiency judgment for the difference between the value of the property and the contractual obligation. No such remedies are permitted in H.R. 3609.

Myth: H.R. 3609 Is Needed Because the Mortgage Industry Is Not Doing Enough to Help Borrowers in Need
Fact: Industry is Engaged in Historic Efforts to Assist Distressed Borrowers

Recently, MBA released an empirical report on how servicers helped borrowers in the third quarter of 2007. As indicated earlier, this was before the HOPE NOW initiative got off the ground, so it gives a good sense of servicers' traditional

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[5] At the time of the bankruptcy court's ruling in 2001, the debtor's property had declined in value to $210,000. The mortgage debt was approximately $245,000 and the borrowers sought cram down. However by the time the United States Supreme Court rejected the Writ of Certiorari three years later, that same property was worth $600,000. Had the debtors' cram down not been overturned on appeal, the debtors would have received a significant windfall.
[6] OFHEO House Price Index.

ability to help, while also setting a floor from which the industry could be judged moving forward. The report is included in the testimony, but several important facts should be highlighted.

During the third quarter of last year, mortgage servicers helped about 183,000 borrowers through repayment plans. They modified the rates or terms on about 54,000 more loans, 3,000 of which were subprime ARM loans, 15,000 subprime fixed rate loans, 4,000 prime ARM loans and 21,000 prime fixed-rate loans. As you can see from these numbers, the industry helped over 230,000 borrowers.

The MBA paper also discussed something known in our industry as the “Moody’s One Percent Number.” In September 2007, Moody’s released a study suggesting the mortgage industry had assisted only one percent of the people who needed help. A later report then increased the number to 3.5 percent. Unfortunately, these numbers were not put into the proper context and represent a poor picture of how many people have been helped. In fact, the Moody’s report that indicated loan modifications had increased to 3.5 percent, clearly noted the actual percentage of borrowers who received some type of ***workout*** was 24 percent.

The problem with this type of analysis is the math was off in two places. In order to come up with a percentage, a researcher uses simple high school level division, with a numerator and a denominator. The Moody’s report limits the numerator to loan modifications and excludes all other types of assistance offered to borrowers. As discussed earlier, borrower assistance can come in many different forms. This is not the kind of process that produces a single solution for every consumer. The denominator Moody’s used was the complete universe of subprime ARMs whose rates reset in a particular period. In the third quarter of 2007, according to MBA’s National Delinquency Survey, over 80% of subprime ARM borrowers were paying on time. Certainly Moody’s was not advocating that mortgage servicers modify the loans of people who are paying on time and who had not contacted the servicer for assistance?

A more appropriate measure is to look at the number of people helped relative to the number who become seriously delinquent or request help. It makes no sense to compare the smallest possible number of people who get help (those who receive formal loan modifications) against the largest possible number of borrowers (the total number of resetting subprime ARMs).

Members of this Committee have discussed their goal of keeping people in their homes. The Mortgage Bankers Association absolutely shares that goal. No one wants a family to lose its home and MBA’s members are trying their best to help. Servicers are providing unprecedented levels of loss mitigation to eligible borrowers in distress. These alternatives to foreclosure include forbearance and repayment plans, modifications, partial claims, short sales and deed in lieu of foreclosure.

The single largest barrier to helping consumers is the low contact rate servicers have with borrowers. Historically, 50 percent of borrowers who reached foreclosure had no contact with the servicer despite multiple efforts on the servicer's part to reach out. Contact volume is still low and borrowers often simply don't know where to turn for reliable advice and assistance. Servicers have been working diligently to ensure all borrowers know about alternatives to foreclosure and to coordinate with housing counselors if borrowers are uncomfortable talking to their servicers. To help provide a coordinated and centralized approach to foreclosure prevention, the industry, with the assistance of the Department of Treasury and Department of Housing and Urban Development launched HOPE NOW.[7] While Faith Schwartz, Executive Director of HOPE NOW, will provide greater detail on the accomplishments of the industry, it is important to highlight HOPE NOW servicers have mailed approximately 500,000 letters to no-contact delinquent borrowers alerting them of the servicer's loss mitigation telephone number and the toll free HOPE Hotline. In addition, HOPE NOW servicers are centralizing their points of contact for expedited service to counselors and are providing counselors with new technology to expedite loss mitigation solutions.

Myth: Bankruptcy is the Preferable Way to Help Consumers
Fact: Bankruptcy is a Long, Difficult and Burdensome Process with Severe Long-Term Negative Consequences for Consumers

The proponents of bankruptcy reform fail to acknowledge the very real and severe consequences for consumers who declare bankruptcy. A bankruptcy stays on a consumers' credit report for 10 years, making it difficult to acquire future credit, especially in the tighter credit environment. Bankruptcy makes it more difficult for borrowers to get credit cards, buy a home, car or hazard insurance and in some cases, obtain employment. Bankruptcy costs consumers about $3,000 in attorney and court fees. Two-thirds of bankruptcy repayment plans fail. Moreover, bankruptcy repayment plans do not take into account new expenses that an individual incurs, such as unanticipated health related costs or emergencies. Attached to the testimony is a document produced by Professor Lynn M. LoPucki detailing the bankruptcy process (also available at http://www.bankruptcyvisuals.com/viewcharts.html). It is inconceivable Congress would rather push people into this process rather than focus on other more effective and less burdensome ways to help consumers.

Myth: H.R. 3609 Will Put Second Lien Holders in No Worse Position Than They Are Today
Fact: The Second Lien Market Will Be Badly Hurt from this Legislation

The second mortgage market has been particularly hard hit by current declining real estate values. Many borrowers are not paying their second mortgages when the fair market value of their property declines below the principal balance of the

[7] http://www.hopenow.com/

second loan. The second lien holder is left with no other option, but to allow the delinquency to continue, but retain the lien. They are not foreclosing on the second mortgages. These delinquent borrowers are not necessarily insolvent. Eventually home values will rise and these borrowers will begin repaying their second liens. H.R. 3609 would take away the lender's right to retain the lien and seek repayment at a later date. H.R. 3609 would wipe out existing second lien holders that are deemed subprime.

These second liens serve as credit enhancements for many first mortgages in the subprime market and thus are not and should not be extinguished indiscriminately. Proponents claim lenders are no worse off in bankruptcy than in foreclosure. This is a myth. This facile analysis fails to recognize many lenders, especially second lien lenders, are not seeking foreclosure, and are thus preserving their assets. H.R. 3609 would strip lien holders of this crucial right, effectively taking the asset from them.

Myth: Congress Has Not Done Enough to Address the Subprime Crisis
Fact: Congress Can Take Great Pride in Its Response to the Crisis

Members of the House can take considerable pride in the steps taken to address problems in the mortgage market. The House passed legislation modernizing the Federal Housing Administration (FHA), giving it a greater ability to help troubled borrowers refinance their loans. The House passed legislation that would exclude discharged debt on principal residences from gross income for tax purposes, thereby saving borrowers already in trouble from higher tax bills and encouraging work outs. The House passed meaningful housing government sponsored enterprise (GSE) reform and passed legislation establishing an affordable housing trust fund to ensure more high quality housing is available for more low- and moderate-income families.

Moreover, the House passed H.R. 3915 that would create a new legal regime for the mortgage market. This is a very serious piece of legislation. The mortgage industry believes it should be significantly improved. As this activity shows, the answer to this problem lies in improving the statutes governing lending, not in amending the bankruptcy code.

In addition to Congressional actions, FHA recently announced FHASecure,[8] which allows borrowers the opportunity to refinance into FHA insured loans. What is remarkable about this program is that it would allow a borrower who is six months delinquent on an ARM to refinance into an FHA loan, despite his or her delinquency, provided the borrower had a good payment history prior to the ARM rate reset and can afford the new payments. The program also allows borrowers who are upside down on their mortgages (i.e., owe more than their property is worth) to refinance a portion of their loan into non-FHA insured subordinate liens. In the past, combined loan-to-value requirements prohibited

[8] http://www.fha.gov/about/fhasfact.cfm

such activity. Unfortunately, it is unclear whether the threat of H.R. 3609 would discourage these subordinate loans from being originated, thus depriving borrowers of useful assistance.

While Congress has made strides in assisting borrowers in distress, H.R. 3609 would go too far. It encourages damaging behavior that would only serve to increase the cost of credit to financially responsible borrowers in the future and would place at risk the solvency of mortgage servicers and lenders, while also reducing the value and yield on certain securities.   It would repudiate existing contracts, void credit enhancements, rights to certain insurance claims, trigger mandatory buyback options and impose a home price guaranty on existing mortgages. For proponents to argue these changes would not have a significant affect on lenders, servicers and bondholders is either dangerously naïve or simply disingenuous.

Conclusion

MBA opposes H.R. 3609 because of the harm it would cause to the mortgage market and borrowers who seek home mortgages. While well-intentioned, H.R. 3609 would increase rates significantly, dry up investor interest in mortgage-backed securities and impose significant losses on the mortgage industry and bondholders. Credit enhancements that protect lenders and investors from loss in the event of foreclosure would be void for the amount of the lien strip. Noteholders' interest in insurance claims would be at risk. With investor appetite for U.S. mortgages waning, it is ill-advised to pass legislation that would further disrupt the mortgage market. We urge Members of the House to look deeper into the implications of H.R. 3609. We are convinced that upon further detailed analysis you will agree that further action on this legislation is ill-advised.

Thank you for this opportunity to share our concerns with the Subcommittee.

Attachment

Legislative History on the Enactment of the Bankruptcy Code And the Anti-Modification Provisions For Mortgages Secured by Principal Residences

MBA was asked to provide information on the legislative history associated with the current status of the Bankruptcy Code that prohibits modification of a mortgage secured by the borrower's principal residence, but permits such modifications on other mortgage debt, including mortgages on second homes and investor properties.

Consumer groups argue that the prohibition against modifications and cram downs for home mortgages was first offered in 1978 with the passage of the Bankruptcy Code. This is not accurate. The protection against cram downs and modifications of mortgages secured by principal residences has been in existence since the 1898 Bankruptcy Act. In fact, under the Bankruptcy Act, an individual wage earner's plan could not modify or otherwise affect the rights of a holder of a mortgage on the real property of the wage earner.

When the Bankruptcy Code was first proposed to replace the Bankruptcy Act, in the House, no limitations were set on the ability of an individual wage earner to modify the rights of holders of secured claims or of holders of unsecured claims.[1] The Senate version, on the other hand preserved the expansive protections afforded real estate mortgage creditors in Chapter XIII of the Act.[2] The report accompanying the bill noted that the Senate bill would not permit modification of "claims wholly secured by real estate mortgages."[3]

At the Senate hearing in the 95th Congress on November 29, 1977, MBA and other representatives of mortgage industry voiced concerns that the House version of Section 1322(b)(2) would limit the availability of mortgage funds. In testimony before the Subcommittee on Improvements in the Judicial Machinery of the Committee on the Judiciary, Mr. Edward J. Kulik, Senior Vice President, Real Estate Division, Massachusetts Mutual Life Insurance Co., pointed out that reducing a mortgagee's claim to the actual value of any real estate securing the claim would have a dramatically negative impact on the mortgage industry.

Specifically addressing the proposed provision of Chapter 13, Mr. Kulik emphasized that the House version of Section 1322(b)(2) would have a particularly adverse impact on the availability of home mortgage funds, especially where the financial resources of the individual home buyer were not particularly strong. To avoid this result, he proposed that the legislation be modified to protect holders of residential mortgages. He stated:

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[1] H.R. 82000, 95th Cong., 1st Sess. (1977).
[2] S. 2226, 95th Cong. 2d Sess. (1978)
[3] S. Rep. No. 989, 95th Cong. 2d Sess., 141 (1978).

> "Serious consideration should be given to modifying [the legislation] so that at the leas[t] …, a mortgage on real property other than an investment property may not be modified.[4]

It is against this background that the compromise language embodied in present Section 1322(b)(2) of the Bankruptcy Code was adopted. The language preserves the protections afforded mortgage lenders under Chapter XIII of the Bankruptcy Act then in effect, but restricts that protection (along the lines that Mr. Kulik suggested) to mortgages secured by residential property of the debtor. The intent of this provision is explained in the Joint Explanatory Statement agreed on by the House and the Senate floor managers, following the floor debates on the compromise bill:

> "Section 1322(b)(2) of the House amendment represents a compromise agreement between similar provisions in the House bill and Senate amendment. Under the House amendment, the plan may modify the rights of holders of secured claims other than a claim secured by a security interest in real property that is the debtor's principal residence."[5]

Several courts since passage of the Bankruptcy Code have also viewed the anti-modification protections to be as a result of "a congressional reaction to fears that, if debtors were allowed to readjust all types of secured debt, including home mortgage loans, this would severely affect the stability of the home mortgage finance industry and the availability of financing by the industry by consumers."[6]

In *Grubbs v Houston First American Savings Assn*, the Fifth Circuit explained the reason for this exception:

> "This limited bar was apparently in response to perceptions, or to suggestions advanced in the legislative hearings . . . that home-mortgage lenders performing a valuable social service through their loans needed special protection against modification thereof (i.e., reducing installment payments, secured valuations, etc.)"[7]

Of considerable importance in understanding the legislative history of the treatment of home mortgages in Chapter 13, is the recognition that the enactment of Section 1322(b)(2) occurred following very serious consideration by policymakers. In a series of Acts over almost six decades, Congress developed programs, institutions, favorable tax treatment and broad legislative intent to encourage homeownership and efficient financing for homeownership for Americans of modest means. The FHA mortgage insurance programs, the VA

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[4] Bankruptcy Reform Act of 1978, Hearings before the Subcommittee on Improvements of the Judicial Machinery Committee on the Judiciary, 95th Cong., 1st Sess. 709, 714 (1977).
[5] 124 Cong. Rec. S17424 (October 6, 1978)
[6] Victoria Miles, , *The Bifurcation of Undersecured Residential Mortgages Under §1322(b)(2) of the Bankruptcy Code: The Final Resolution,* 67 Am. Bankr. L.J. 207 (Spring, 1993)
[7] Grubbs v. Houston First American Savings Assn, 730 F. 2d 236, 246 (CA5 1984)

Home Loan Guaranty Program, Fannie Mae, Freddie Mac, Ginnie Mae and the ability to deduct interest payable on home mortgage are each examples of the Congressional intent to foster a robust mortgage credit market and to encourage homeownership.

AN EXAMINATION OF MORTGAGE FORECLOSURES, MODIFICATIONS, REPAYMENT PLANS AND OTHER LOSS MITIGATION ACTIVITIES IN THE THIRD QUARTER OF 2007

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The rate of mortgage foreclosures started in the United States set another in a series of record highs in the Third Quarter of 2007. The increases for prime adjustable rate mortgages (ARMs) and subprime ARMS were particularly alarming. The *increase* for prime ARMs between the second and third quarters was larger than the *level* of foreclosure starts just a year earlier. Similarly, the increase for subprime ARMs was only slightly below the level of foreclosure starts only a few years ago. While fixed rate prime and subprime loans also had increases in their rates of foreclosure started, the increases were not of the same magnitude as those seen for ARMs. While ARMs historically perform worse than fixed-rate loans, even when interest rates are falling,[1] the magnitude of the rapid increase of foreclosure rates in the third quarter for ARMs relative to fixed-rate loans points to the role being played by rate resets. This has led to calls by various regulators, elected officials and industry observers for a freeze on ARM payments until the current situation with mortgage defaults, home price declines and high level of unsold home inventories begin to subside.

This paper is a snapshot of the actions lenders took to assist borrowers in the third quarter of 2007, including loan modifications, repayment plans, deed in lieu transactions and short sales. More importantly, however, it examines the extent of these other circumstances so as to put the degree of assistance to borrowers into some sort of context. It looks at the number of foreclosures attributable to borrowers who do not occupy the properties, borrowers who cannot be located or won't respond to lenders and borrowers who have already failed a previous repayment plan. It finds that, during the third quarter the approximately 54 thousand loan modifications done and 183 thousand repayment plans put into place exceeded the number of foreclosures started, excluding those cases where the borrower was an investor/speculator, where the borrower could not be located or would not respond to mortgage servicers, and when the borrower failed to perform under a plan or modification already in place.

1 Among the possible reasons are that borrowers are attracted to the loan with the lowest initial payments and do not sufficiently plan for higher payments, and that the choice of an ARM is correlated with risk-taking behavior or other credit risks that are not revealed in normal credit evaluations.

Introduction

Two types of loans have received broad discussion as their rates reset, subprime "2/28" and "3/27" loans. While the features of these loans varied from lender to lender, a typical "2/28" loan gave the borrower a low introductory teaser rate for a few months,[2] when the rate would rise to a fixed rate for the balance of the two-year period. At the end of the two-year period the rate would increase to a fixed spread over a short-term rate index like LIBOR, usually resulting in a large increase in the required monthly payment. In addition, some of these loans were interest-only during the initial two year period, meaning that at the end of the two-year period the monthly payment increased not only due to the increase in the interest rate but because loan principal payments kicked in also.

Traditionally, typical borrower outcomes ranged from refinancing into a prime loan, refinancing into another subprime loan, making the higher payments or selling or losing the house. If the borrower had made most, if not all, of the payments on time during the two year period, the borrower could refinance into a prime loan, particularly if the home had increased in value, thus lowering the loan-to-value ratio. Borrowers with spotty payment records but who were generally current could refinance into another subprime loan, and borrowers who had made payments on time but who wanted to take extra cash out of the house such that they could not meet prime underwriting standards would also refinance with a subprime loan. If the borrower had a poor payment history and was in default, the borrower would usually seek to sell the house, particularly in markets that had seen home price appreciation, or face foreclosure action.

The big increases in the inventories of homes for sale, due to wide-scale overbuilding and the population and job declines in the Midwest, have led to home price declines that have upset these potential outcomes. First, general credit conditions tightened and borrowers found they may no longer be eligible to refinance. For example, borrowers who had made all of their payments found that they could not refinance due to increases in their loan to value ratios caused by falling home prices, and even if they had made their payments on

2 These offers are similar to the initial zero-percent interest offers on credit cards or large purchases made on credit.

time, their total debt to income ratios might preclude them from refinancing with a prime mortgage. Borrowers with spotty credit records found that they did not have home price appreciation to fall back on if they wanted to sell the house and there were no longer lenders willing to make a loan to them because there were no longer investors willing to purchase loans from individuals with their level of risk, or the lenders simply were no longer in business.[3] This was particularly true for subprime borrowers who had relied on repeated cash-out refinancings to support lifestyles they otherwise could not afford or to pay off credit cards. This quandary has led to the many calls for the mortgage industry and investors in these mortgages to modify them until the current situation has stabilized.

The mortgage industry has historically used modifications sparingly[4] due to the degree to which they can quickly destroy borrower discipline and result in some combination of higher borrowing costs for all borrowers and tighter credit standards for granting loans. Even in the current environment, loan modification of ARMs in the form of freezing interest rates can be seen as rewarding borrowers who decided to take a risk and take out loans with lower initial payments than what they would have been required to make with fixed rate, fully amortizing loans

The Current Situation and the Measurement of the Level of Loan Modifications

The current environment of rapidly declining home prices due to an over-supply of homes in some areas, particularly in states like California and Florida that have large numbers of the subprime ARM loans in the country, have changed the calculation for investors of wholesale modification of adjustable rate loans. Given that foreclosing on these loans in the adverse home price environment where they are located would greatly increase losses to the investors in those loans and to lenders who hold those loans in portfolio,[5] mortgage

3 It is important to remember that the default rate among subprime lenders has been far greater than the default rate among subprime borrowers.

4 The one possible exception is with subprime fixed mortgages where it is common to add missed payments to the end of the mortgage. In addition, in the wake of Hurricane Katrina, numerous mortgages were modified.

5 The fundamental problem is that the supply of homes is relatively inelastic, that is, the supply of homes does not respond quickly to changes in home prices. This leads to rapid home price increases when demand increases and rapid home price declines when demand falls. On the demand side, household formation is relatively inelastic to changes in home prices so

servicers are attempting to maintain the cash flows on those loans through more extensive use of modifications. In addition, a number of policy makers, regulators and others have concluded that the broader public purpose of slowing the cycle of home price declines and foreclosures outweighs the long-term costs of wholesale modifications.

Given the investor, public, regulatory, and political interest in the degree of loan modifications being done on subprime ARM loans, much attention has been given to the level of modifications, but there has been little information against which to judge the number of modifications being done. For example, Moody's issued a report in September 2007[6] that effectively called the industry to task for modifying only 1 percent of the subprime ARM loans that are resetting. Although subsequent reports by Moody's have given a more complete picture, this type of analysis tends to minimize the amount of help being given borrowers because it limits the numerator to loan modifications and excludes other types of assistance offered to borrowers to either keep them in their homes or relieve them of the financial burden if they decide to move out. Borrower assistance can come in the form of loan modifications or repayment plans that are traditionally more common, particularly with FHA loans. In addition, deed in lieu transactions allow the borrower to turn the property over to the lender in exchange for complete extinguishment of the debt. In short sale transactions, the borrower is allowed to sell the home to a third party for less than the outstanding mortgage, usually with forgiveness of the remaining balance. In both cases the borrower is relieved of the loan without a foreclosure filing against their credit records.

The other problem with the Moody's analysis is that it uses at the denominator the complete universe of subprime ARMs whose rates are resetting in a particular period. Only a limited number of borrowers with subprime ARMs can be helped or need to be helped. A significant percentage refinance on their own prior to the rate reset. A significant percentage default before the rate reset for reasons completely unrelated to the rate reset. These reasons can include the loss of a job, health issues, a divorce, the death of one of the income earners in the household, or becoming overextended with other credit like credit cards or car pay-

price-influenced demand would come from attracting credit worthy buyers from rentals and buyers wanting to buy for investment purposes. Both are unlikely to come in the market in a big way until there are signs that the decline in home prices has ended.

6 Drucker, Michael P. and Fricke, William 2007. "Moody's Subprime Mortgage Servicer Survey on Loan Modifications", Structured Finance, New York, NY: Moody's Investors Service.

ments. If they cannot make their current low payments, freezing payments at the pre-rate reset levels will not help those borrowers. A more appropriate measure is not to look the total number of borrowers helped versus all loans outstanding but the numbers helped relative to the number that go into foreclosure. But even looking at the foreclosure number by itself is not a good measure because a number of borrowers facing foreclosure cannot be helped by a payment modification plan. Among these are:

Investors — In a number of cases the borrower does not occupy the house but has bought it either to speculate on increasing home prices or as a business transaction hoping to make a profit on the combination of rental income and price appreciation. As has been seen in California, Florida, Nevada, Arizona and elsewhere, these investors are among the first to default if they see that home prices are falling and there is little chance of recouping their money, much less making a big profit. Rather than throwing good money after bad by continuing to make payments, these borrowers will stop making payments rather abruptly.

Borrowers who do not respond to lenders or who cannot be located — Some borrowers simply will not respond to repeated attempts by lenders to contact them to see if the situation can be resolved through loan modification or other means. Contact attempts include phone calls and letters, but some borrowers cannot be located at all, which happen when someone loses a job and moves to find employment elsewhere. It is not unusual for mortgage servicing representatives to find the house vacant, evidence that the borrower has already given up on the house and the loan.

Defaulted despite a previous loan modification or repayment plan — Many borrowers with whom lenders establish a loan repayment plan or modification cannot live up to the modified terms. Most such plans deal with borrowers who have had a short-term setback, such as being between jobs or dealing with a temporary disability. While these borrowers may be able to make their mortgage payments going forward, they are clearly not able to catch up with the missed payments. In a typical case, a borrower would agree to a plan whereby any delinquent payments will be spread over some period of time. The borrower is expected to remain current and make the additional required payments.

This rest of this paper provides information on the actions lenders took to assist borrowers in the third quarter of 2007, including loan modifications, repayment plans, deed in lieu transactions and short sales. However, it first looks at the extent the other circumstances discussed above essentially eliminated a number of borrowers from possible loan modification. It looks at the number of foreclosures attributable to borrowers who do not occupy the properties, borrowers who cannot be located or won't respond to lenders and borrowers who have already failed a previous repayment plan, and then estimates the number of foreclosure actions started relative to the number of loan modifications, repayment plans and other actions taken by mortgage servicers.

Data

Mortgage servicers[7] provided information to the Mortgage Bankers Association approximately 33 million loans serviced during the 3rd quarter of 2007 representing approximately 62 percent of the loans outstanding. The numbers are broken down as follows, with FHA loans included in the prime loan categories:

Subprime ARM loans	2.1 million
Subprime fixed-rate loans	2.1 million
Prime ARM loans	4.8 million
Prime fixed-rate loans	23.8 million

7 A mortgage servicer is a firm that collects payments from borrowers and passes on the payments to the investor in that mortgage. The mortgage servicer may or may not be part of the same institution that owns the mortgage. In addition to sending the payments to the investors, calculating the rate changes for adjustable-rate mortgages and handling other tasks like making tax and insurance payments out of escrow accounts and providing year-end tax statements for borrowers, servicers are responsible for all of the collection and foreclosure activities surrounding delinquent loans.

Mortgage servicers were asked to provide information on the number of formal, written repayment plans established, loan modifications put in place, deed in lieu transactions and short sales during the quarter.[8] Mortgage servicers were also asked to provide information on foreclosure actions filed during the third quarter, as well as some of the circumstances surrounding those foreclosures. Servicers were asked to identify the number of foreclosures filed on investor-owned properties, that is, properties where the owner of the property did not live in it but bought it for speculative purposes or to rent it. Since some number of borrowers will falsely claim at the time the loan is originated that they will occupy the house in order to secure a lower interest rate, servicers were instead asked to use a metric that has proven to be a better measure of investor properties -- identify investors as those cases where the property address was not the same as the billing address. Servicers were also asked to identify those cases where borrowers either would not respond to repeated attempts by lenders to contact them, or who could not be located at all. It is not uncommon for borrowers to simply leave the house without notifying the lender. Finally, lenders were asked to provide information on the number of foreclosures where the borrower already had a repayment plan or loan modification in place but could not perform according to the agreed upon terms and defaulted again.

Since the data cover about 62% of the market, the numbers were adjusted to reflect the estimated level of industry activity. In order to be conservative with the estimates, servicers with particularly high levels of loan modifications or repayment plans were excluded from the industry averages and loan totals when the numbers were grossed up, with their numbers added separately to the industry count.. It is entirely possible that the actual numbers for the third quarter are higher than those reported here, but it is not likely that they are lower.

8 Such plans were counted only if a formal written agreement was executed with the borrower. Informal plans, such a verbal promise to bring the mortgage current over the next few months were not counted.

Results

Of the foreclosure actions started in the third quarter of 2007,[9] 18 percent were on properties that were not occupied by the owners, 23 percent were in cases where the borrower did not respond or could not be located, and 29 percent were cases where the borrower defaulted despite already having a repayment plan or loan modification in place. Tables 1 through 5 give the percentages by loan type for all of the states and the US total. The results show, for example, that the degree to which invest investor-owned properties drove foreclosures in the third quarter differed widely by state and by loan type. They ranged from a high of 35 percent of prime ARM foreclosures in Montana to a low of 6 percent of prime fixed-rate foreclosures in South Dakota. For the nation, investor loans comprised 18 percent of subprime ARM foreclosures, 28 percent of subprime fixed-rate foreclosures, 18 percent of prime ARM foreclosures and 14 percent of prime fixed-rate foreclosures. Table 6 shows, for example, that while 11 percent of foreclosures on prime ARM and prime fixed-rate loans were on non-owner occupied properties, the percentages for subprime loans were almost double that — 19 percent for subprime ARMs and 20 percent for subprime fixed-rate. In Ohio, a state that has had some of the highest foreclosure rates in the nation, investor-owned properties accounted for 21 percent of subprime ARM foreclosures and 34 percent of subprime fixed-rate foreclosures, versus 18 percent of prime ARM and 14 percent of prime fixed-rate foreclosures. Nevada had among the highest investor-owned share of foreclosures, with investors accounting for 36 percent of subprime fixed-rate foreclosures, 18 percent of subprime ARM foreclosures, 24 percent of prime ARM foreclosures and 14 percent of prime fixed-rate foreclosures.

Borrowers who could not be located or who would not respond to repeated attempts by lenders to contact them accounted for 23 percent of all foreclosures in the third quarter, 21 percent of subprime ARM foreclosures, 21 percent of subprime ARM foreclosures, 17 percent of prime ARM foreclosures and 33 percent of prime fixed-rate foreclosures. Thus, as a percent of foreclosures, the inability to get a borrower to respond to a mortgage servicer

9 The actual number of foreclosures started was likely closer to 400,000 based on the MBA's National Delinquency Survey. However, these foreclosures were on loans that cannot be identified by type as to fixed or adjustable rate and are therefore excluded. In addition, VA loans were not included but FHA loans were lumped into the prime loan categories.

is a much bigger problem for prime-fixed rate borrowers than for subprime borrowers. Again the results differed widely by state and loan type. The highest was 69 percent for prime fixed-rate foreclosures in Oklahoma versus a low of 7 percent of prime ARM foreclosures in Wisconsin. Table 7 shows that in Ohio and Michigan, 25 and 26 percent respectively of all foreclosures started in those states were for borrowers who would not respond to repeated attempts to contact them or could not be located.

Borrowers who had worked with their lenders and established loan modification or formal repayment plans, and then failed to perform according to those plans, accounted for 29 percent of all foreclosures in the third quarter. The inability of borrowers to meet the terms of their repayment plans or loan modifications accounted for 40 percent of subprime ARM foreclosures, 37 percent of subprime fixed foreclosures, 17 percent of prime ARM foreclosures and 14 percent of prime fixed foreclosures. Table 8 shows that the states of Vermont, North Dakota, New Mexico and Arkansas, with little else in common, had the highest shares of foreclosures due to the inability of borrowers to live up to prior plans.

Tables 9 through 13 present the information on the number of loan modifications, repayment plans, deed in lieu transactions and short sales, and compare those numbers with the number of foreclosures started. During the third quarter, mortgage servicers put in place approximately 183 thousand repayment plans and modified the rates or terms on approximately 54 thousand loans. Lenders modified approximately 13 thousand subprime ARM loans, 15 thousand subprime fixed rate loans, 4 thousand prime ARM loans and 21 thousand prime fixed-rate loans. In addition, servicers negotiated formal repayment plans with approximately 91 thousand subprime ARM borrowers, 30 thousand subprime fixed-rate borrowers, 37 thousand prime ARM borrowers and 25 thousand prime fixed-rate borrowers. During this period the industry did approximately one thousand deed in lieu transactions and nine thousand short sales.

In an effort to put these numbers into context, Tables 9 through 13 also provide a comparison with the repayment plan and loan modification numbers. They show a breakdown of the number of foreclosures started net of those that clearly could not be helped due to reasons already discussed — investor-owned, borrower would not respond or could not be located, or borrower failed to live up to an agreement already in place. As previously discussed, the percentages were adjusted downward to eliminate double counting for those borrowers who fell into more than one category. Therefore, while an estimated 166 thousand subprime ARM foreclosures were started during the third quarter, only 50 thousand did not fall into one of those three categories. In comparison, about 90 thousand repayment plans were renegotiated and 13 thousand loan modifications were done, for a total of 103 thousand. Of the net 50 thousand foreclosures, many of these likely occurred due to the traditional reasons for default, loss of job, divorce, illness or excessive debt burden relative to income, not just the impact of rate resets, thus eliminating any possible benefit of a rate freeze.

For subprime fixed loans, only about 12 thousand foreclosures did not fall into one of the categories, versus about 30 thousand repayment plans and 15 thousand loan modifications. For the prime ARM loans, the net foreclosure number was about 41 thousand versus 37 thousand repayment plans and 4 thousand loan modifications. For prime fixed-rate loans, the net foreclosure number was about 46 thousand versus 25 thousand repayment plans and 21 thousand loan modifications.

Conclusion

The mortgage industry took major steps during the third quarter in helping those borrowers who could be helped. The numbers of loan modifications, negotiated repayment plans, short sales and deed in lieu transactions are large and compare favorably with the number of foreclosure actions started, particularly when those foreclosures are adjusted to remove the borrowers who clearly could not be helped. It is likely that the number of loan modifications for subprime ARMs will continue to grow as the number of subprime ARMs with rates resetting peak in the first half of 2008. More importantly, during the third and fourth quarters of 2007, several legal, accounting and regulatory impediments to more widespread modifications were removed, which should also lead more increases in the loan modification numbers going forward.

The current situation in the housing market is presenting major challenges to borrowers, mortgage servicers, investors in mortgages and regulators. In many ways, the way in which the industry and regulators respond will determine the viability of the mortgage finance system for years to come. It appears that, based on these numbers, the mortgage industry is doing its part to help those borrowers who can be helped.

TABLE 1- Factors Impacting Foreclosure Starts
All Loan Types - 2007 3rd Quarter

	Not Occupied by Owner	Borrower Would Not Respond	Borrower Defaulted Despite Previous Plan	Total*
Alabama	18%	23%	27%	60%
Alaska	14%	36%	27%	73%
Arizona	22%	23%	23%	59%
Arkansas	18%	24%	41%	75%
California	16%	20%	29%	57%
Colorado	20%	25%	27%	63%
Connecticut	13%	19%	34%	61%
Delaware	16%	21%	31%	60%
District of Columbia	16%	27%	34%	70%
Florida	22%	24%	27%	65%
Georgia	19%	26%	28%	65%
Hawaii	18%	16%	29%	57%
Idaho	17%	30%	28%	67%
Illinois	18%	25%	21%	56%
Indiana	19%	23%	32%	67%
Iowa	18%	26%	34%	72%
Kansas	19%	26%	24%	62%
Kentucky	16%	23%	29%	63%
Louisiana	16%	26%	30%	65%
Maine	13%	19%	42%	70%
Maryland	14%	24%	33%	65%
Massachusetts	16%	22%	29%	60%
Michigan	21%	26%	29%	66%
Minnesota	19%	25%	26%	60%
Mississippi	14%	25%	37%	70%
Missouri	19%	24%	29%	63%
Montana	17%	19%	20%	52%
Nebraska	14%	33%	34%	76%
Nevada	22%	19%	21%	53%
New Hampshire	12%	27%	33%	67%
New Jersey	18%	21%	22%	53%
New Mexico	12%	31%	44%	83%
New York	20%	20%	27%	59%
North Carolina	16%	19%	34%	64%
North Dakota	13%	23%	47%	80%
Ohio	22%	25%	28%	65%
Oklahoma	18%	47%	24%	80%
Oregon	19%	25%	32%	68%
Pennsylvania	15%	21%	31%	60%
Rhode Island	16%	19%	39%	69%
South Carolina	16%	24%	29%	64%
South Dakota	11%	24%	19%	49%
Tennessee	16%	23%	32%	65%
Texas	18%	27%	31%	68%
Utah	17%	21%	30%	61%
Vermont	10%	19%	54%	80%
Virginia	15%	22%	24%	53%
Washington	16%	22%	34%	65%
West Virginia	15%	29%	34%	72%
Wisconsin	18%	21%	23%	56%
Wyoming	18%	30%	31%	72%
Total USA	18%	23%	29%	63%

*Columns do not add to the total because some borrowers fell into more than one category. For example, some borrowers were both investors and would not respond to mortgage servicers.

TABLE 2- Factors Impacting Foreclosure Starts
Subprime ARMs - 2007 3rd Quarter

	Not Occupied by Owner	Borrower Would Not Respond	Borrower Defaulted Despite Previous Plan	Total*
Alabama	13%	18%	41%	66%
Alaska	14%	22%	45%	77%
Arizona	21%	23%	30%	63%
Arkansas	14%	13%	58%	80%
California	19%	22%	36%	67%
Colorado	22%	25%	37%	71%
Connecticut	12%	17%	42%	64%
Delaware	9%	14%	43%	62%
District of Columbia	15%	23%	45%	75%
Florida	21%	22%	39%	72%
Georgia	18%	18%	43%	71%
Hawaii	19%	17%	41%	70%
Idaho	19%	29%	32%	70%
Illinois	19%	26%	26%	61%
Indiana	17%	18%	44%	73%
Iowa	13%	22%	50%	80%
Kansas	19%	24%	34%	68%
Kentucky	14%	17%	43%	69%
Louisiana	11%	19%	42%	66%
Maine	13%	13%	57%	78%
Maryland	13%	20%	44%	70%
Massachusetts	16%	24%	38%	69%
Michigan	18%	20%	43%	73%
Minnesota	19%	24%	37%	71%
Mississippi	14%	19%	50%	78%
Missouri	17%	24%	37%	68%
Montana	14%	24%	35%	66%
Nebraska	13%	19%	51%	78%
Nevada	20%	23%	30%	62%
New Hampshire	11%	23%	49%	77%
New Jersey	18%	28%	31%	67%
New Mexico	10%	12%	60%	80%
New York	17%	25%	34%	66%
North Carolina	14%	13%	52%	74%
North Dakota	11%	9%	65%	84%
Ohio	21%	22%	40%	74%
Oklahoma	13%	22%	37%	65%
Oregon	20%	17%	40%	69%
Pennsylvania	12%	20%	39%	66%
Rhode Island	16%	18%	49%	78%
South Carolina	13%	21%	41%	69%
South Dakota	10%	22%	35%	60%
Tennessee	16%	19%	45%	72%
Texas	16%	19%	43%	70%
Utah	15%	15%	43%	67%
Vermont	8%	9%	68%	83%
Virginia	14%	22%	34%	61%
Washington	17%	19%	44%	71%
West Virginia	12%	22%	44%	74%
Wisconsin	19%	25%	32%	67%
Wyoming	11%	26%	43%	72%
Total USA	18%	21%	40%	70%

*Columns do not add to the total because some borrowers fell into more than one category. For example, some borrowers were both investors and would not respond to mortgage servicers.

TABLE 3- Factors Impacting Foreclosure Starts

Subprime Fixed-Rate - 2007 3rd Quarter

	Not Occupied by Owner	Borrower Would Not Respond	Borrower Defaulted Despite Previous Plan	Total*
Alabama	28%	18%	40%	74%
Alaska	18%	26%	43%	83%
Arizona	28%	19%	33%	69%
Arkansas	27%	18%	35%	70%
California	20%	17%	38%	68%
Colorado	37%	21%	35%	81%
Connecticut	21%	19%	39%	73%
Delaware	33%	24%	38%	80%
District of Columbia	20%	16%	49%	78%
Florida	27%	22%	33%	73%
Georgia	32%	18%	40%	78%
Hawaii	13%	16%	38%	59%
Idaho	21%	22%	46%	76%
Illinois	33%	23%	24%	67%
Indiana	35%	23%	29%	74%
Iowa	24%	18%	43%	75%
Kansas	31%	23%	33%	74%
Kentucky	24%	19%	39%	73%
Louisiana	24%	23%	36%	73%
Maine	23%	9%	47%	74%
Maryland	24%	20%	39%	75%
Massachusetts	27%	22%	30%	69%
Michigan	36%	29%	31%	78%
Minnesota	29%	25%	33%	75%
Mississippi	19%	16%	51%	78%
Missouri	29%	20%	37%	75%
Montana	31%	17%	24%	65%
Nebraska	15%	8%	58%	77%
Nevada	33%	23%	24%	64%
New Hampshire	23%	20%	37%	72%
New Jersey	32%	20%	26%	68%
New Mexico	20%	26%	51%	88%
New York	32%	20%	35%	73%
North Carolina	32%	18%	40%	77%
North Dakota	12%	15%	66%	90%
Ohio	34%	26%	34%	78%
Oklahoma	29%	40%	32%	90%
Oregon	28%	26%	34%	76%
Pennsylvania	25%	18%	39%	72%
Rhode Island	16%	16%	46%	73%
South Carolina	24%	15%	43%	74%
South Dakota	37%	29%	23%	71%
Tennessee	18%	18%	49%	78%
Texas	25%	17%	42%	74%
Utah	37%	15%	31%	69%
Vermont	10%	12%	56%	74%
Virginia	25%	21%	40%	74%
Washington	25%	23%	34%	70%
West Virginia	25%	25%	44%	80%
Wisconsin	28%	22%	27%	67%
Wyoming	35%	16%	30%	73%
Total USA	28%	21%	37%	74%

*Columns do not add to the total because some borrowers fell into more than one category. For example,

TABLE 4 - Factors Impacting Foreclosure Starts
Prime ARMs - 2007 3rd Quarter

	Not Occupied by Owner	Borrower Would Not Respond	Borrower Defaulted Despite Previous Plan	Total*
Alabama	27%	16%	16%	53%
Alaska	23%	38%	13%	58%
Arizona	26%	18%	16%	55%
Arkansas	25%	26%	35%	76%
California	11%	14%	17%	39%
Colorado	17%	20%	18%	50%
Connecticut	18%	16%	16%	46%
Delaware	24%	13%	18%	53%
District of Columbia	29%	20%	9%	51%
Florida	27%	20%	14%	54%
Georgia	22%	24%	14%	49%
Hawaii	22%	9%	16%	43%
Idaho	24%	26%	12%	50%
Illinois	15%	19%	16%	46%
Indiana	18%	21%	27%	60%
Iowa	21%	23%	26%	64%
Kansas	11%	20%	24%	47%
Kentucky	20%	20%	11%	47%
Louisiana	24%	24%	10%	53%
Maine	16%	20%	29%	60%
Maryland	12%	22%	17%	48%
Massachusetts	11%	12%	14%	34%
Michigan	18%	19%	20%	50%
Minnesota	20%	16%	17%	40%
Mississippi	17%	31%	23%	64%
Missouri	21%	14%	19%	44%
Montana	35%	22%	4%	52%
Nebraska	14%	46%	28%	83%
Nevada	24%	13%	13%	45%
New Hampshire	12%	25%	15%	47%
New Jersey	13%	15%	11%	36%
New Mexico	19%	28%	39%	78%
New York	15%	16%	13%	40%
North Carolina	19%	14%	25%	50%
North Dakota	21%	24%	34%	72%
Ohio	18%	18%	15%	45%
Oklahoma	31%	18%	14%	57%
Oregon	17%	24%	16%	45%
Pennsylvania	13%	22%	22%	49%
Rhode Island	18%	13%	10%	37%
South Carolina	20%	23%	16%	51%
South Dakota	14%	14%	14%	38%
Tennessee	20%	21%	14%	50%
Texas	28%	18%	27%	63%
Utah	23%	19%	18%	55%
Vermont	19%	25%	42%	80%
Virginia	14%	19%	8%	35%
Washington	13%	17%	21%	46%
West Virginia	18%	15%	29%	59%
Wisconsin	12%	7%	13%	31%
Wyoming	20%	20%	0%	40%
Total USA	18%	17%	17%	46%

*Columns do not add to the total because some borrowers fell into more than one category. For example, some borrowers were both investors and would not respond to mortgage servicers.

TABLE 5 - Factors Impacting Foreclosure Starts
Prime Fixed Rate - 2007 3rd Quarter

	Not Occupied by Owner	Borrower Would Not Respond	Borrower Defaulted Despite Previous Plan	Total*
Alabama	13%	31%	8%	47%
Alaska	13%	44%	17%	70%
Arizona	16%	28%	13%	50%
Arkansas	17%	46%	14%	68%
California	11%	23%	15%	44%
Colorado	13%	29%	15%	52%
Connecticut	10%	25%	18%	50%
Delaware	13%	32%	10%	47%
District of Columbia	9%	44%	18%	67%
Florida	18%	33%	11%	54%
Georgia	15%	37%	14%	60%
Hawaii	15%	18%	8%	38%
Idaho	12%	35%	21%	64%
Illinois	9%	26%	11%	43%
Indiana	13%	31%	18%	56%
Iowa	18%	34%	17%	63%
Kansas	17%	29%	14%	56%
Kentucky	14%	30%	15%	54%
Louisiana	14%	34%	16%	59%
Maine	10%	33%	22%	60%
Maryland	11%	37%	14%	58%
Massachusetts	12%	25%	15%	46%
Michigan	17%	35%	13%	57%
Minnesota	13%	32%	14%	52%
Mississippi	11%	36%	14%	57%
Missouri	17%	30%	11%	51%
Montana	12%	17%	12%	40%
Nebraska	14%	48%	18%	73%
Nevada	14%	21%	8%	35%
New Hampshire	9%	36%	16%	58%
New Jersey	11%	13%	10%	31%
New Mexico	10%	55%	24%	85%
New York	12%	15%	10%	33%
North Carolina	10%	29%	12%	47%
North Dakota	13%	41%	24%	73%
Ohio	14%	28%	13%	49%
Oklahoma	12%	69%	10%	85%
Oregon	12%	41%	23%	71%
Pennsylvania	11%	24%	19%	50%
Rhode Island	16%	26%	17%	52%
South Carolina	12%	33%	13%	54%
South Dakota	6%	25%	13%	43%
Tennessee	15%	31%	11%	51%
Texas	14%	40%	17%	65%
Utah	10%	30%	20%	56%
Vermont	13%	45%	21%	74%
Virginia	11%	28%	9%	42%
Washington	11%	30%	21%	59%
West Virginia	14%	43%	16%	68%
Wisconsin	11%	20%	10%	38%
Wyoming	12%	48%	21%	76%
Total USA	14%	33%	14%	55%

*Columns do not add to the total because some borrowers fell into more than one category. For example, some borrowers were both investors and would not respond to mortgage servicers.

TABLE 6 - Non-Owner Occupied Portion of Foreclosures Started

2007 Third Quarter

	PRIME ARM	PRIME FIXED	SUBPRIME ARM	SUBPRIME FIXED	ALL LOANS
Alabama	27%	13%	13%	28%	18%
Alaska	23%	13%	14%	18%	14%
Arizona	26%	16%	21%	28%	22%
Arkansas	25%	17%	14%	27%	18%
California	11%	11%	19%	20%	16%
Colorado	17%	13%	22%	37%	20%
Connecticut	18%	10%	12%	21%	13%
Delaware	24%	13%	9%	33%	16%
District of Columbia	29%	9%	15%	20%	16%
Florida	27%	18%	21%	27%	22%
Georgia	22%	15%	18%	32%	19%
Hawaii	22%	15%	19%	13%	18%
Idaho	24%	12%	19%	21%	17%
Illinois	15%	9%	19%	33%	18%
Indiana	18%	13%	17%	35%	19%
Iowa	21%	18%	13%	24%	18%
Kansas	11%	17%	19%	31%	19%
Kentucky	20%	14%	14%	24%	16%
Louisiana	24%	14%	11%	24%	16%
Maine	16%	10%	13%	23%	13%
Maryland	12%	11%	13%	24%	14%
Massachusetts	11%	12%	16%	27%	16%
Michigan	18%	17%	18%	36%	21%
Minnesota	20%	13%	19%	29%	19%
Mississippi	17%	11%	14%	19%	14%
Missouri	21%	17%	17%	29%	19%
Montana	35%	12%	14%	31%	17%
Nebraska	14%	14%	13%	15%	14%
Nevada	24%	14%	20%	33%	22%
New Hampshire	12%	9%	11%	23%	12%
New Jersey	13%	11%	18%	32%	18%
New Mexico	19%	10%	10%	20%	12%
New York	15%	12%	17%	32%	20%
North Carolina	19%	10%	14%	32%	16%
North Dakota	21%	13%	11%	12%	13%
Ohio	18%	14%	21%	34%	22%
Oklahoma	31%	12%	13%	29%	18%
Oregon	17%	12%	20%	28%	19%
Pennsylvania	13%	11%	12%	25%	15%
Rhode Island	18%	16%	16%	16%	16%
South Carolina	20%	12%	13%	24%	16%
South Dakota	14%	6%	10%	37%	11%
Tennessee	20%	15%	16%	18%	16%
Texas	28%	14%	16%	25%	18%
Utah	23%	10%	15%	37%	17%
Vermont	19%	13%	8%	10%	10%
Virginia	14%	11%	14%	25%	15%
Washington	13%	11%	17%	25%	16%
West Virginia	18%	14%	12%	25%	15%
Wisconsin	12%	11%	19%	28%	18%
Wyoming	20%	12%	11%	35%	18%
USA	18%	14%	18%	28%	18%

TABLE 7 - No Response from Borrower Portion of Foreclosures Started - 2007 Third Quarter

	PRIME ARM	PRIME FIXED	SUBPRIME ARM	SUBPRIME FIXED	ALL LOANS
Alabama	16%	17%	18%	18%	23%
Alaska	38%	31%	22%	26%	36%
Arizona	18%	44%	23%	19%	23%
Arkansas	26%	28%	13%	18%	24%
California	14%	46%	22%	17%	20%
Colorado	20%	23%	25%	21%	25%
Connecticut	16%	29%	17%	19%	19%
Delaware	13%	25%	14%	24%	21%
District of Columbia	20%	32%	23%	16%	27%
Florida	20%	44%	22%	22%	24%
Georgia	24%	33%	18%	18%	26%
Hawaii	9%	37%	17%	16%	16%
Idaho	26%	18%	29%	22%	30%
Illinois	19%	35%	26%	23%	25%
Indiana	21%	26%	18%	23%	23%
Iowa	23%	31%	22%	18%	26%
Kansas	20%	34%	24%	23%	26%
Kentucky	20%	29%	17%	19%	23%
Louisiana	24%	30%	19%	23%	26%
Maine	20%	34%	13%	9%	19%
Maryland	22%	33%	20%	20%	24%
Massachusetts	12%	37%	24%	22%	22%
Michigan	19%	25%	20%	29%	26%
Minnesota	16%	35%	24%	25%	25%
Mississippi	31%	32%	19%	16%	25%
Missouri	14%	36%	24%	20%	24%
Montana	22%	30%	24%	17%	19%
Nebraska	46%	17%	19%	8%	33%
Nevada	13%	48%	23%	23%	19%
New Hampshire	25%	21%	23%	20%	27%
New Jersey	15%	36%	28%	20%	21%
New Mexico	28%	13%	12%	26%	31%
New York	16%	55%	25%	20%	20%
North Carolina	14%	15%	13%	18%	19%
North Dakota	24%	29%	9%	15%	23%
Ohio	18%	41%	22%	26%	25%
Oklahoma	18%	28%	22%	40%	47%
Oregon	24%	69%	17%	26%	25%
Pennsylvania	22%	41%	20%	18%	21%
Rhode Island	13%	24%	18%	16%	19%
South Carolina	23%	26%	21%	15%	24%
South Dakota	14%	33%	22%	29%	24%
Tennessee	21%	25%	19%	18%	23%
Texas	18%	31%	19%	17%	27%
Utah	19%	40%	15%	15%	21%
Vermont	25%	30%	9%	12%	19%
Virginia	19%	45%	22%	21%	22%
Washington	17%	28%	19%	23%	22%
West Virginia	15%	30%	22%	25%	29%
Wisconsin	7%	43%	25%	22%	21%
Wyoming	20%	20%	26%	16%	30%
USA	17%	33%	21%	21%	23%

TABLE 8 - Borrower Failed previous Plan Portion of Foreclosures Started - 2007 Third Quarter

	PRIME ARM	PRIME FIXED	SUBPRIME ARM	SUBPRIME FIXED	ALL LOANS
Alabama	16%	8%	41%	40%	27%
Alaska	13%	17%	45%	43%	27%
Arizona	16%	13%	30%	33%	23%
Arkansas	35%	14%	58%	35%	41%
California	17%	15%	36%	38%	29%
Colorado	18%	15%	37%	35%	27%
Connecticut	16%	18%	42%	39%	34%
Delaware	18%	10%	43%	38%	31%
District of Columbia	9%	18%	45%	49%	34%
Florida	14%	11%	39%	33%	27%
Georgia	14%	14%	43%	40%	28%
Hawaii	16%	8%	41%	38%	29%
Idaho	12%	21%	32%	46%	28%
Illinois	16%	11%	26%	24%	21%
Indiana	27%	18%	44%	29%	32%
Iowa	26%	17%	50%	43%	34%
Kansas	24%	14%	34%	33%	24%
Kentucky	11%	15%	43%	39%	29%
Louisiana	10%	16%	42%	36%	30%
Maine	29%	22%	57%	47%	42%
Maryland	17%	14%	44%	39%	33%
Massachusetts	14%	15%	38%	30%	29%
Michigan	20%	13%	43%	31%	29%
Minnesota	17%	14%	37%	33%	26%
Mississippi	23%	14%	50%	51%	37%
Missouri	19%	11%	37%	37%	29%
Montana	4%	12%	35%	24%	20%
Nebraska	28%	18%	51%	58%	34%
Nevada	13%	8%	30%	24%	21%
New Hampshire	15%	16%	49%	37%	33%
New Jersey	11%	10%	31%	26%	22%
New Mexico	39%	24%	60%	51%	44%
New York	13%	10%	34%	35%	27%
North Carolina	25%	12%	52%	40%	34%
North Dakota	34%	24%	65%	66%	47%
Ohio	15%	13%	40%	34%	28%
Oklahoma	14%	10%	37%	32%	24%
Oregon	16%	23%	40%	34%	32%
Pennsylvania	22%	19%	39%	39%	31%
Rhode Island	10%	17%	49%	46%	39%
South Carolina	16%	13%	41%	43%	29%
South Dakota	14%	13%	35%	23%	19%
Tennessee	14%	11%	45%	49%	32%
Texas	27%	17%	43%	42%	31%
Utah	18%	20%	43%	31%	30%
Vermont	42%	21%	68%	56%	54%
Virginia	8%	9%	34%	40%	24%
Washington	21%	21%	44%	34%	34%
West Virginia	29%	16%	44%	44%	34%
Wisconsin	13%	10%	32%	27%	23%
Wyoming	0%	21%	43%	30%	31%
USA	17%	14%	40%	37%	29%

TABLE 9 - Estimated Modifications and Foreclosures - All Loans

	Repayment Plans	Loan Modifications	Total	Deed in Lieu	Short Sales	Foreclosures Started*	Net Forclosures started*
Alabama	1,785	742	2,527	6	39	3,960	1,655
Alaska	733	167	899	0	1	330	92
Arizona	4,326	900	5,226	41	288	10,222	4,092
Arkansas	2,348	269	2,617	3	25	1,478	388
California	23,579	4,450	28,030	155	1,729	63,877	27,679
Colorado	3,201	1,300	4,501	30	625	8,663	3,293
Connecticut	2,646	572	3,218	7	112	3,661	1,454
Delaware	459	122	580	0	23	1,103	470
DC	561	100	661	0	17	502	160
Florida	16,507	3,279	19,786	155	656	44,150	15,761
Georgia	8,142	3,122	11,264	25	260	15,887	5,684
Hawaii	444	65	509	2	22	732	304
Idaho	871	288	1,159	4	51	1,072	369
Illinois	5,362	1,786	7,148	50	367	17,076	7,810
Indiana	5,090	1,562	6,652	22	239	11,954	4,240
Iowa	1,915	830	2,745	21	80	2,376	710
Kansas	1,011	409	1,420	10	74	1,994	784
Kentucky	1,676	659	2,335	11	130	3,855	1,474
Louisiana	2,225	925	3,150	3	91	3,392	1,239
Maine	1,460	213	1,673	3	48	991	294
Maryland	4,933	838	5,771	5	105	6,274	2,260
Massachusetts	3,252	917	4,169	14	241	7,467	3,174
Michigan	7,379	3,244	10,623	153	388	22,806	8,186
Minnesota	3,036	943	3,978	23	295	8,627	3,508
Mississippi	2,220	682	2,901	3	57	2,400	721
Missouri	3,390	1,074	4,464	15	133	6,911	2,710
Montana	302	111	412	2	12	366	165
Nebraska	1,953	678	2,632	4	42	1,265	295
Nevada	2,336	666	3,002	26	202	7,424	3,337
New Hampshire	792	335	1,127	4	47	1,388	458
New Jersey	3,427	983	4,410	13	187	9,241	4,593
New Mexico	2,262	404	2,666	1	47	1,007	170
New York	6,075	1,481	7,556	18	241	14,531	6,595
North Carolina	4,730	1,403	6,133	19	206	8,366	3,263
North Dakota	3,006	401	3,407	0	5	141	26
Ohio	7,221	3,135	10,356	140	607	20,705	7,940
Oklahoma	1,375	602	1,977	8	91	2,604	604
Oregon	1,381	349	1,730	0	92	2,138	719
Pennsylvania	5,995	2,003	7,998	24	204	9,682	3,929
Rhode Island	886	142	1,028	0	51	1,600	523
South Carolina	2,976	1,048	4,024	2	100	4,888	1,836
South Dakota	131	60	191	0	13	312	154
Tennessee	3,603	1,475	5,078	3	124	6,422	2,311
Texas	12,233	5,555	17,788	50	708	20,392	6,499
Utah	1,083	330	1,413	5	107	1,863	705
Vermont	2,092	140	2,232	0	6	238	49
Virginia	4,366	1,212	5,578	14	194	7,451	3,469
Washington	2,792	710	3,502	8	181	4,432	1,617
West Virginia	1,171	256	1,426	2	39	908	269
Wisconsin	1,838	611	2,449	23	187	5,127	2,455
Wyoming	123	27	149	0	3	175	55
U.S.	182,702	53,573	236,275	1,050	9,004	384,388	148,785

* Net foreclosures excludes investor-owned properties, nonresponsive borrowers and borrowers who failed to perform under an existing plan. Foreclosures estimated based on MBA's National Delinquency Survey and are grossed up to reflect the estimated market coverage of that survey.

TABLE 10 - Estimated Subprime ARM Modifications and Foreclosures

	Repayment Plans	Loan Modifications	Total	Deed in Lieu	Short Sales	Foreclosures Started	Net Forclosures started*
Alabama	803	151	953	6	17	1,234	415
Alaska	340	18	358	0	1	109	25
Arizona	2,604	348	2,952	26	170	5,670	2,096
Arkansas	920	63	983	2	10	532	105
California	12,099	1,972	14,071	97	1,024	35,567	11,720
Colorado	1,769	433	2,202	15	308	3,744	1,067
Connecticut	1,352	172	1,524	5	66	1,982	707
Delaware	233	39	272	0	8	367	138
DC	284	9	293	0	9	261	65
Florida	8,339	840	9,179	47	352	20,562	5,744
Georgia	3,958	645	4,603	5	108	5,871	1,698
Hawaii	184	17	201	0	13	378	115
Idaho	513	63	576	3	23	482	146
Illinois	3,156	462	3,618	18	214	7,518	2,917
Indiana	2,327	344	2,672	15	99	3,732	1,013
Iowa	820	113	933	2	21	701	139
Kansas	484	66	550	1	30	657	211
Kentucky	795	133	928	4	60	1,359	424
Louisiana	994	147	1,141	0	32	1,163	390
Maine	564	47	611	2	20	438	97
Maryland	2,636	256	2,892	2	54	3,136	954
Massachusetts	1,929	282	2,211	2	116	3,608	1,133
Michigan	4,142	719	4,860	85	170	9,158	2,514
Minnesota	1,672	311	1,983	11	177	3,989	1,173
Mississippi	1,034	132	1,167	2	16	881	198
Missouri	1,857	233	2,089	8	69	3,127	993
Montana	104	26	130	0	3	111	37
Nebraska	776	76	852	1	13	447	99
Nevada	1,494	264	1,758	15	124	4,239	1,592
New Hampshire	458	97	555	3	14	655	150
New Jersey	1,788	191	1,979	11	94	3,664	1,222
New Mexico	790	62	851	1	20	370	73
New York	2,801	243	3,045	9	128	5,549	1,868
North Carolina	2,087	275	2,361	5	79	2,604	666
North Dakota	941	28	969	0	2	66	10
Ohio	3,270	616	3,887	56	249	6,520	1,684
Oklahoma	599	94	693	1	33	866	305
Oregon	700	96	796	0	57	1,054	324
Pennsylvania	2,511	347	2,858	6	72	2,959	1,003
Rhode Island	470	48	518	0	21	906	197
South Carolina	1,270	173	1,443	2	42	1,449	447
South Dakota	49	8	57	0	1	95	38
Tennessee	1,521	278	1,799	0	36	2,450	690
Texas	5,706	868	6,574	7	263	7,005	2,097
Utah	553	83	636	3	66	874	292
Vermont	892	10	902	0	2	127	21
Virginia	2,629	402	3,031	3	100	3,692	1,432
Washington	1,549	235	1,784	2	121	2,073	598
West Virginia	607	47	654	1	9	228	60
Wisconsin	1,073	151	1,224	12	101	2,140	700
Wyoming	76	9	85	0	3	84	23
U.S.	90,522	12,741	103,263	418	4,053	166,415	50,063

* Net foreclosures excludes investor-owned properties, nonresponsive borrowers and borrowers who failed to perform under an existing plan. Foreclosures estimated based on MBA's National Delinquency Survey and are grossed up to reflect the estimated market coverage of that survey.

TABLE 11 - Estimated Subprime Fixed Modifications and Foreclosures

	Repayment Plans	Loan Modifications	Total	Deed in Lieu	Short Sales	Foreclosures Started	Net Forclosures started*
Alabama	377	275	653	0	9	644	168
Alaska	124	13	136	0	0	49	8
Arizona	487	193	680	2	27	806	247
Arkansas	240	107	347	0	9	287	87
California	1,889	1,022	2,910	18	362	3,628	1,164
Colorado	344	318	663	3	88	653	126
Connecticut	383	202	585	0	20	491	135
Delaware	93	33	126	0	4	128	26
DC	64	31	94	0	2	48	11
Florida	2,205	1,057	3,262	20	96	4,441	1,212
Georgia	1,319	752	2,072	4	57	1,810	392
Hawaii	81	20	101	0	9	110	45
Idaho	122	82	204	1	15	125	30
Illinois	824	467	1,292	5	59	1,914	636
Indiana	900	443	1,343	1	50	1,782	465
Iowa	327	256	583	3	19	323	79
Kansas	231	117	348	4	14	237	62
Kentucky	328	207	535	3	30	658	181
Louisiana	542	262	804	0	30	628	169
Maine	198	87	284	1	20	162	42
Maryland	619	180	799	2	26	789	197
Massachusetts	550	280	830	2	37	922	283
Michigan	934	980	1,915	9	46	2,373	527
Minnesota	299	252	551	3	40	592	149
Mississippi	396	288	684	0	25	519	115
Missouri	680	404	1,085	2	20	841	206
Montana	56	20	75	0	3	45	16
Nebraska	313	219	532	1	15	182	41
Nevada	179	194	372	5	20	418	149
New Hampshire	138	78	217	0	17	193	53
New Jersey	594	220	814	2	28	1,095	356
New Mexico	290	89	379	0	17	183	21
New York	2,053	573	2,626	5	70	2,874	780
North Carolina	1,016	369	1,385	4	56	1,367	314
North Dakota	384	147	530	0	1	26	3
Ohio	1,658	976	2,633	17	114	3,607	778
Oklahoma	406	225	630	2	21	550	56
Oregon	188	78	267	0	28	287	70
Pennsylvania	1,722	713	2,435	5	88	2,037	576
Rhode Island	128	48	175	0	14	202	55
South Carolina	800	357	1,157	0	27	1,008	261
South Dakota	7	7	14	0	2	35	10
Tennessee	764	407	1,171	0	43	1,200	262
Texas	3,088	1,411	4,499	5	136	3,702	961
Utah	127	53	180	0	20	201	61
Vermont	219	3	222	0	2	42	11
Virginia	741	398	1,139	0	33	861	228
Washington	394	187	581	0	35	583	176
West Virginia	145	103	248	1	18	186	37
Wisconsin	278	195	474	0	29	568	190
Wyoming	17	9	27	0	0	25	7
U.S.	30,261	15,407	45,668	130	1,954	46,438	12,232

* Net foreclosures excludes investor-owned properties, nonresponsive borrowers and borrowers who failed to perform under an existing plan. Foreclosures estimated based on MBA's National Delinquency Survey and are grossed up to reflect the estimated market coverage of that survey.

TABLE 12 - Estimated Prime ARM Modifications and Foreclosures

	Repayment Plans	Loan Modifications	Total	Deed in Lieu	Short Sales	Foreclosures Started	Net Forclosures started*
Alabama	67	21	88	0	0	414	193
Alaska	196	6	202	0	0	61	26
Arizona	850	123	973	5	67	2,320	1,035
Arkansas	954	2	955	0	0	179	44
California	7,869	1,079	8,948	36	289	20,258	12,330
Colorado	646	135	781	6	104	2,167	1,087
Connecticut	577	45	622	2	10	495	267
Delaware	56	7	63	0	7	318	151
DC	160	11	171	0	5	128	63
Florida	3,978	417	4,395	61	119	10,620	4,920
Georgia	1,442	179	1,621	0	27	2,724	1,398
Hawaii	108	5	112	0	0	135	76
Idaho	166	28	194	0	5	179	90
Illinois	521	159	680	18	30	3,184	1,709
Indiana	1,208	56	1,264	3	12	1,505	605
Iowa	478	44	522	0	5	428	154
Kansas	143	20	163	2	7	273	143
Kentucky	228	25	252	0	9	443	234
Louisiana	240	30	271	0	3	454	212
Maine	470	5	475	0	2	130	51
Maryland	1,147	96	1,243	2	18	1,214	629
Massachusetts	411	114	524	5	66	1,501	988
Michigan	1,308	279	1,587	32	61	3,938	1,985
Minnesota	648	84	732	8	42	1,961	1,183
Mississippi	611	18	629	0	1	294	106
Missouri	364	39	403	3	17	894	500
Montana	26	5	31	2	0	119	57
Nebraska	539	16	555	1	1	162	28
Nevada	521	134	655	4	43	1,995	1,098
New Hampshire	138	22	160	0	9	237	126
New Jersey	506	113	619	0	34	1,885	1,215
New Mexico	765	8	774	0	2	110	24
New York	464	64	528	0	6	1,936	1,154
North Carolina	665	69	734	2	14	1,100	549
North Dakota	1,042	2	1,043	0	0	20	6
Ohio	985	150	1,136	7	69	2,562	1,403
Oklahoma	141	16	157	0	6	237	102
Oregon	309	42	351	0	5	367	200
Pennsylvania	910	81	991	2	6	1,023	518
Rhode Island	168	1	169	0	4	246	154
South Carolina	342	41	383	0	7	618	301
South Dakota	40	6	46	0	2	50	31
Tennessee	588	67	655	0	4	748	372
Texas	1,659	158	1,816	2	33	1,954	719
Utah	242	47	288	0	7	289	129
Vermont	736	3	739	0	0	20	4
Virginia	526	116	642	11	39	1,741	1,140
Washington	574	67	640	2	13	863	467
West Virginia	347	4	350	0	2	140	57
Wisconsin	185	45	231	8	28	947	657
Wyoming	17	2	19	0	0	25	15
U.S.	37,279	4,307	41,585	223	1,235	75,608	40,706

* Net foreclosures excludes investor-owned properties, nonresponsive borrowers and borrowers who failed to perform under an existing plan. Foreclosures estimated based on MBA's National Delinquency Survey and are grossed up to reflect the estimated market coverage of that survey.

TABLE 13 - Estimated Prime Fixed Modifications and Foreclosures

	Repayment Plans	Loan Modifications	Total	Deed in Lieu	Short Sales	Foreclosures Started	Net Forclosures started*
Alabama	538	295	833	0	13	1,669	880
Alaska	73	130	203	0	0	110	33
Arizona	385	236	621	8	24	1,426	714
Arkansas	235	98	333	1	6	480	152
California	1,723	377	2,101	4	54	4,424	2,465
Colorado	441	414	855	5	125	2,099	1,013
Connecticut	334	153	486	0	16	692	345
Delaware	76	43	119	0	4	290	155
DC	53	50	103	0	1	64	21
Florida	1,986	963	2,949	27	88	8,527	3,884
Georgia	1,423	1,546	2,968	15	69	5,482	2,196
Hawaii	72	24	95	2	0	109	68
Idaho	71	115	185	0	8	287	104
Illinois	861	697	1,558	9	64	4,461	2,548
Indiana	655	719	1,374	4	78	4,936	2,157
Iowa	290	417	708	16	35	924	337
Kansas	154	205	358	3	22	827	367
Kentucky	326	294	620	3	32	1,394	635
Louisiana	449	486	935	3	25	1,147	468
Maine	228	74	303	0	6	262	104
Maryland	530	307	837	0	8	1,135	480
Massachusetts	363	241	604	5	22	1,436	769
Michigan	995	1,266	2,261	27	111	7,338	3,159
Minnesota	416	296	712	2	36	2,085	1,002
Mississippi	178	244	421	1	16	705	302
Missouri	490	397	887	2	26	2,048	1,010
Montana	116	61	176	0	6	91	55
Nebraska	326	367	693	1	13	473	126
Nevada	142	75	216	2	15	773	498
New Hampshire	58	138	196	1	8	304	129
New Jersey	538	459	997	0	31	2,597	1,800
New Mexico	416	246	662	0	7	344	51
New York	756	601	1,357	5	36	4,171	2,794
North Carolina	962	691	1,653	9	56	3,296	1,735
North Dakota	640	224	864	0	1	29	8
Ohio	1,308	1,392	2,700	60	175	8,017	4,076
Oklahoma	229	267	497	6	32	951	142
Oregon	184	132	316	0	3	430	125
Pennsylvania	852	861	1,714	10	38	3,663	1,832
Rhode Island	120	45	165	0	12	246	117
South Carolina	564	477	1,041	0	24	1,813	827
South Dakota	34	39	73	0	9	132	76
Tennessee	730	723	1,453	3	42	2,025	988
Texas	1,780	3,118	4,899	36	276	7,730	2,722
Utah	161	148	309	1	13	499	222
Vermont	245	124	369	0	1	49	13
Virginia	470	296	766	0	23	1,157	669
Washington	275	221	496	4	11	913	377
West Virginia	73	102	175	0	9	354	115
Wisconsin	302	219	521	2	30	1,472	908
Wyoming	12	6	19	0	0	42	10
U.S.	24,640	21,118	45,758	279	1,762	95,927	45,783

* Net foreclosures excludes investor-owned properties, nonresponsive borrowers and borrowers who failed to perform under an existing plan. Foreclosures estimated based on MBA's National Delinquency Survey and are grossed up to reflect the estimated market coverage of that survey.

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