

Supporters of Judicial Modification of Mortgages

President Barack Obama

Vice President Joe Biden

Lawrence Summers, Chief Economic Advisor to President Obama and former Secretary of the Treasury¹

Robert Reich, former Secretary of the U.S. Department of Labor²

Jack Kemp, former Secretary of the U.S. Department of Housing and Urban Affairs and former Member of Congress³

Governor Martin O'Malley, Maryland⁴

Governor Jennifer Granholm, Michigan

Governor Bill Richardson, New Mexico

Governor Ted Strickland, Ohio

22 Attorneys General and the Attorney General of the District of Columbia⁵

Mayor Michael Bloomberg, New York City

U.S. Conference of Mayors

¹Letter from Lawrence Summers, Director-Designate, National Economic Council, to Nancy Pelosi, Speaker, U.S. House of Representatives, *et al.* (Jan. 15, 2009) (on file with the Committee).

²*A Comprehensive Jobs and Recovery Plan: Hearing before the Democratic Steering and Policy Comm.*, 111th Cong. (2009) (testimony of Robert Reich); *The Housing Crisis and Wall Street Shame (Or Lack Thereof)*, HuffPost Social News (Nov. 29, 2009), at http://www.huffingtonpost.com/robert-reich/the-housing-crisis-and-wa_b_373137.html

³*Hearing on the Growing Mortgage Foreclosure Crisis: Identifying Solutions and Dispelling Myths: Hearing Before the Subcomm. on Commercial and Administrative Law of the H. Comm. on the Judiciary*, 110th Cong. (2008) (testimony of Jack Kemp, former Secretary of the U.S. Dep't of Housing and Urban Affairs); Op. Ed., Jack Kemp, *Bringing Bankruptcy Home*, L.A. TIMES, Jan. 18, 2008.

⁴Op. Ed., Gov. Martin O'Malley, *Hard Lessons in Helping Homeowners*, WASH. POST, Mar. 9, 2009.

⁵Letter from Terry Goddard, Attorney General of Arizona, *et al.* to Rep. Nancy Pelosi, Speaker, U.S. House of Representatives (Jan. 6, 2009) (on file with the Committee).

Mark Zandi, Chief Economist and co-founder of Moody's Economy.com⁶

Paul Krugman, professor of economics and international affairs, Princeton University, and 2008 winner of the Nobel Memorial Prize in Economic Sciences

Joseph E. Stiglitz, professor of economics, Columbia University, and co-winner of the 2001 Nobel Memorial Prize in Economic Sciences

Robert J. Shiller, Stanley B. Resor Professor of Economics and Professor of Finance at Yale University, Research Associate at the National Bureau of Economic Research, and Chief Economist and co-founder of MacroMarkets LLC⁷

Lewis Ranieri, founder of Hyperion Equity Funds and generally considered the father of the residential mortgage backed securities market⁸

Professor Elizabeth Warren, Harvard Law School, and Chair of the TARP Congressional Oversight Panel

Douglas W. Elmendorf, Senior Fellow, Brookings Institution⁹

George Soros, chairman, Soros Fund Management

EDITORIALS

New York Times:

April 16, 2010: Fighting Foreclosures “We have long called for using bankruptcy court to help resolve the foreclosure crisis. A big advantage of bankruptcy over government-subsidized modifications is that bankruptcy is a difficult process that does not entice anyone to purposely default in order to get better repayment terms.

August 10, 2009: \$75 Billion Carrot, but Few Nibbles “If the Obama plan does not produce enough successful modifications, Congress must give homeowners an alternative route to relief. The best way to that is by changing the law to allow bankruptcy judges to modify bad

⁶*Hearing on the Growing Mortgage Foreclosure Crisis: Identifying Solutions and Dispelling Myths: Hearing Before the Subcomm. on Commercial and Administrative Law of the H. Comm. on the Judiciary*, 110th Cong. (2008) (testimony of Mark Zandi, Chief Economist, Moody's Economy.com).

⁷Letter from Robert J. Shiller, Stanley B. Resor Professor of Economics and Professor of Finance, Yale University, to Senator Patrick Leahy (D-VT), Chair, Senate Committee on the Judiciary, et al. (Oct. 29, 2007).

⁸Lewis S. Ranieri, Remarks at the Ninth Annual John T. Dunlop Lecture at the Harvard Graduate School of Design (Oct. 1, 2008), at http://jchs.harvard.edu/events/dunlop_lecture_ranieri_2008.mov.

⁹*Turmoil in U.S. Credit Markets: Examining Proposals to Mitigate Foreclosures and Restore Liquidity to the Mortgage Markets: Hearing Before the S. Comm. on Banking, Housing, and Urban Affairs*, 110th Cong. (2008) (testimony of Douglas W. Elmendorf, Senior Fellow, Brookings Institution).

mortgages. The prospect of having to live by a judge's ruling would be the biggest incentive of all for lenders to modify bad loans, and it would not cost the taxpayers anything."

June 1, 2009: *Foreclosures: No End in Sight* "This page has long argued that a robust anti-foreclosure plan should directly address the plight of underwater homeowners by reducing the loans' principal balance."

May 4, 2009: *As Foreclosures Surge . . .* "We hope the president's plan can break the loop, but without bankruptcy reform it is going to be a lot harder."

April 24, 2009: *Holding Up the Housing Recovery* "Without the bankruptcy fix, foreclosures will likely outstrip lenders' efforts to prevent them."

February 19, 2009: *Mr. Obama's Foreclosure Plan* "Mr. Obama must fight for bankruptcy reform legislation that is expansive enough to accommodate borrowers who cannot make payments for reasons beyond their control."

February 11, 2009: *The Bailout's Next Chapter* "The disconnected foreclosure aid is all the more disappointing coming a day after President Obama spoke at a town-hall meeting in Indiana and said that he supported allowing bankrupt homeowners to work out their mortgages under court protection, but at some later date."

January 20, 2009: *Government's Promise* "The bankruptcy amendment cannot stop all foreclosures. But it is the starting point. And it would be a prime example of government doing for individuals what they cannot do for themselves — opening a courthouse door that is closed to them by law."

September 26, 2008: *What About the Rest of Us* "It is simply outrageous that every type of secured debt — except the mortgage on a primary home — can be reworked in bankruptcy court."

July 14, 2008: *No Protection for Homeowners* "The 2005 bankruptcy reform should have recognized the riskiness of today's mortgages by eliminating the outdated lender protection. But during the reform effort, fairness took a back seat to a baser aim — simply, to make it more difficult for consumers to gain a fresh start through bankruptcy. The result is that lenders who abandoned caution during the housing boom are protected while the law gives no aid to borrowers who were enticed, and at times deceived, into risky mortgages.

"The law's perverse nature is even more evident if you read the fine print: The prohibition on modifying mortgage debt applies only to primary homes. Borrowers wealthy enough to own more than one home can restructure the debt on second or even third homes.

"Before foreclosures climb any higher, Congress must reform the bankruptcy law. Legislators should reject the special protection for mortgage lenders by putting mortgages on the same footing as other secured debt. Doing so would help restore consumer bankruptcy to its

purpose — to provide a safety net for borrowers who can't repay their debts for reasons beyond their control.”

July 1, 2008: *As Foreclosures Escalate* “The foreclosure prevention bill is not a cure-all, by any means, but is a way to try to break the cycle. . . . It is questionable whether lenders would be willing to take the loss, and there's nothing in the law to prod them to do so.”

April 14, 2008: *Foreclosure Politics* “Volunteerism is not working. What's needed is a stick like the bankruptcy amendment. Lenders will be more likely to modify a loan if they know the alternative is having a judge do it.”

March 27, 2008: *How Not to Prevent Foreclosures* “[T]he best idea currently on the table to prevent foreclosure [is]: amending the law so that troubled borrowers can have their mortgages modified in bankruptcy court. That would give lenders a big incentive to work with borrowers — reducing interest or lowering principal balances — before they opted for bankruptcy protection.”

March 9, 2008: *When Ben Bernanke Speaks* “What is needed is a prod for lenders to reduce the principal balances of underwater homeowners who cannot pay. That prod is to amend the bankruptcy law so that borrowers can have their mortgages modified by the court.”

January 14, 2008: *The Candidates Discover the Economy* “Congress should also pass a measure that would allow bankrupt homeowners to modify their mortgages under bankruptcy court protection. That would help more homeowners keep the roof over their heads, as well as be an incentive to lenders to work more diligently to modify loans before they wind up in bankruptcy court.”

December 5, 2007: *Where's the Stick* “More than anything, the mortgage industry fears new rules that would let borrowers modify their mortgages under bankruptcy court protection. If investors balk at broad-based loan modifications, Mr. Paulson, who has opposed bankruptcy reform in the past, should support it for defaulting homeowners. If investors won't cooperate, they can be compelled.”

November 19, 2007: *Keeping Americans in Their Homes* “Under current law, mortgages on primary homes are the only type of secured debt that is ineligible for bankruptcy protection. Owners of vacation homes, farms and commercial property can modify those debts in bankruptcy court. But not your everyday homeowner. Under any circumstances, that double standard should not be allowed. With a foreclosure debacle unfolding, it must be rectified.”

October 8, 2007: *The American Dream in Reverse* “Congress should move forward on other remedies. The most important is to mend an egregious flaw in the current bankruptcy law that prohibits the courts from modifying repayment terms of most mortgages on a primary home.”

September 15, 2007: *Wall Street Casualties* “It will require political will, but is not too late to try to decrease foreclosures by allowing homeowners to restructure their unaffordable mortgages in bankruptcy court.”

Los Angeles Times:

January 26, 2009: *Real Estate Reality – Government and the Financial Sector Must Do More To Stem the Rising Tide of Foreclosures* “Congress could also encourage modifications by letting bankruptcy judges rework home mortgages, rather than forcing bankrupt homeowners to sell.”

USA Today:

February 20, 2009: *Our View on the Economy: Can Obama’s Housing Plan Stabilize Plunging Values – Preventing Foreclosures Might Be Distasteful, But Everyone Could Gain* “The final piece of Obama's plan — the only part that needs congressional approval — would alter bankruptcy law to allow judges to modify troubled mortgages just the way they do virtually all other debts. This common-sense change would give lenders an added incentive to modify troubled mortgages themselves, rather than losing control to a bankruptcy judge.”

Saint Louis Post-Dispatch:

April 27, 2009: *Reform Bankruptcy Law So Americans Can Keep Their Homes* “Sen. Dick Durbin's much-discussed (and much-cussed) mortgage "cram down" legislation may come to a vote in the U.S. Senate this week, possibly as early as tomorrow. It deserves to pass. Thanks to the stranglehold that the banking industry has on Republican lawmakers, it probably won't.”

February 20, 2009: *Keep the Hammer* “Lenders will fight a change in the bankruptcy law tooth and nail. If Congress kowtows, it would doom thousands of deserving homeowners to foreclosures that could have been prevented.”

San Jose Mercury News:

December 4, 2009: *Government Needs To Abandon ‘Carrot’ Approach To Foreclosure Crisis* “And the Obama administration’s ‘carrot’ approach to solving the problem has not worked, either. It’s time for the stick: Congress should bring back legislation to allow the practice known as mortgage ‘cramdown’ – letting bankruptcy judges adjust mortgage terms.”

Iowa City Press-Citizen:

February 13, 2009: *Our View: Give Homeowners Options Other Than Just Walking Away*

Orlando Sentinel:

March 1, 2009: *Mortgage Relief, We Think: The Spillover From Foreclosures Argues for An Aggressive Effort To Reduce Them*

Anchorage Daily News:

January 27, 2009: *Troubled Homeowners Should Get Help in Bankruptcy Court*

FINANCIAL INSTITUTIONS

Citibank¹⁰

¹⁰Letter from Vikram S. Pandit to Rep. John Conyers, Jr., Chair, Committee on the Judiciary, U.S. House of Representatives (Jan. 8, 2009) (on file with the Committee).

North Carolina State Employees' Credit Union, a credit union with real estate loans in excess of \$10 billion, secured by more than 120,000 single family homes¹¹

ORGANIZATIONS

Commercial Law League of America, North America's oldest creditors' rights organization¹²

National Conference of Bankruptcy Judges

National Association of Consumer Bankruptcy Attorneys

National Bankruptcy Conference

National Association of Chapter 13 Trustees

AARP

American-Arab Anti-Discrimination Committee

American Association of People with Disabilities

American Association of University Women

American Federation of Labor – Congress of Industrial Organizations (AFL-CIO)

American Friends Service Committee

Americans for Democratic Action

Arc Advisers

As You Sow Foundation

Asian American Justice Center

Black Leadership Forum

Blue Summit Financial Group

Calvert Mutual Funds

CDFI Coalition

Center for American Progress

Center on Budget and Policy Priorities

Center for Responsible Lending

Clean Yield Asset Management

Coastal Enterprise Institute

Common Cause

Community Action Partnership

Consumer Action

Consumer Federation of America

Consumers Union

Co-op America

DEMOS

Disability Rights Education and Defense Fund

Harrington Investments

Hmong National Development

¹¹Press Release, North Carolina State Employees' Credit Union, North Carolina State Employees' Credit Union Board of Directors Votes To Support "Helping Families Save Their Homes in Bankruptcy Act of 2009" (Feb. 20, 2009).

¹²Letter from David R. Gamrche *et al.* to Sen. Chris Dodd, Chair, Committee on Banking, U.S. Senate (Oct. 31, 2008).

International Brotherhood of Teamsters
International Union, United Auto Workers
Japanese American Citizens League
Jewish Council for Public Affairs
Kirwan Institute for the Study of Race and Ethnicity
KLD Research & Analytics
Laborer's International Union of North America
Lawyers' Committee for Civil Rights Under Law
Leadership Conference on Civil Rights
Legal Momentum
Low Income Investment Fund
National Alliance of Postal and Federal Employees
National Association for the Advancement of Colored People (NAACP)
NAACP Legal Defense & Educational Fund, Inc.
National Association of Chapter 13 Trustees
National Association of Consumer Advocates
National Bar Association
National Coalition for Asian Pacific American Community Development
National Community Reinvestment Coalition
National Consumer Law Center (on behalf of its low income clients)
National Council of La Raza
National Education Association
National Fair Housing Alliance
National Federation of Community Development Credit Unions
National Federation of Filipino American Associations
National Housing Law Project
National Housing Trust Community Development Fund
National Korean American Service & Education Consortium
National Low Income Housing Coalition
National NeighborWorks Association
National Organization for Women
National Policy and Advocacy Council on Homelessness
National Training and Information Center
National Urban League
National Women's Law Center
New Jersey Community Capital
North Star Asset Management
Opportunity Finance Network
Organization of Chinese Americans
Pax World Mutual Funds
Rainbow Push Coalition
Service Employees International Union
Social Investment Forum
Trillium Asset Management
Underdog Ventures
Unitarian Universalist Association of Congregations
United Food and Commercial Workers International Union

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**Appalachian Community Enterprises, Cleveland GA
Arise Citizens' Policy Project, AL
Association for Enterprise Opportunity, Arlington VA
Boston Community Capital, Boston MA
Capital District Community Loan Fund, Albany NY
CEDA Community Development Fund, Chicago IL
Central Alabama Fair Housing Center, Montgomery AL
Chattanooga Neighborhood Enterprise, Inc., Chattanooga TN
Citizen Potawatomi CDC, Shawnee OK
Coastal Enterprises, Inc., Wiscasset ME
Community Capital Works, Philadelphia PA
Community Capital of Maryland, Baltimore MD
Community Concepts, Inc., South Paris ME
Community Development Venture Capital Alliance, New York NY
Community Housing Fund, Beaverton OR
Credit Builders Alliance, St. Louis MO
Delta Foundation, Inc., Greenville MS
Federation of Appalachian Housing Enterprises, Inc., Berea KY
Fitness and Praise Youth Development, Inc.,
Forward Community Investments, Madison WI
Greater New Orleans Fair Housing Center, New Orleans LA
HSHCRC Homes CDC, Houston TX
Idaho Nevada CDFI, Pocatello ID
IFF, Chicago IL
Impact Seven, Inc., Almena WI
Iowa Citizens for Community Improvement. Des Moines IA
Legal Assistance Resource Center of Connecticut, Inc., Hartford CT
Michigan Legal Services, Detroit MI
MaineStream Finance, Bangor ME
Mile High Community Loan Fund, Denver CO
New Jersey Community Capital, Trenton NJ
North Carolina NAACP Housing Committee, Durham NC
Northside Community Development Fund, Pittsburgh PA
Ohio Capital Corporation for Housing, Columbus OH
PeopleFund, Austin TX
Raven Associates, LLC, Bellingham WA
Rural Community Assistance Corporation, West Sacramento CA
San Luis Obispo County Housing Trust Fund, San Luis Obispo CA
Seattle Economic Development Fund, Seattle WA
SJF Ventures, Durham NC
Southern Coalition for Social Justice, Durham NC
Southern Poverty Law Center, Montgomery AL
The Housing Fund, Nashville TN
United Community Housing Council, Detroit MI**

Warm Springs Community Action Team, Warm Springs OR
Women's Opportunities Resource Center, Philadelphia PA