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TG-252

Making Home Affordable Program on Pace to Offer Help to Millions of Homeowners
Public Release of Data Provides Transparency on Servicer Performance

WASHINGTON – Today, the Obama Administration released its first monthly Servicer Performance Report detailing the progress to date of the Making Home Affordable (MHA) loan modification program. The purpose of the report is to document the number of struggling homeowners already helped under the program, provide information on servicer performance and expand transparency around the initiative.

On February 18, the Obama Administration announced its comprehensive plan to stabilize the U.S. housing market. Two weeks later on March 4, the Administration published detailed program guidelines and authorized servicers to begin modifications immediately. MHA provides $75 billion for sustainable mortgage modifications through the Home Affordable Modification Program (HAMP).

MHA has made rapid progress in a few short months. Servicers covering more than 85 percent of loans in the country are already modifying loans under the program. More than 400,000 modification offers have been extended and more than 230,000 trial modifications have begun. This pace of modifications puts the program on track to offer assistance to up to 3 to 4 million homeowners over the next three years, our target on February 18.

Today's report discloses performance on a servicer-by-servicer basis in order to increase transparency for participating institutions. The data show that servicer performance has been uneven. The Administration has asked servicers to ramp up implementation to a cumulative 500,000 trial modifications started by November 1, 2009. This would more than double in three months the number of trial modifications started in the first five months of the program.

The Administration is taking additional steps to improve performance. On July 9, Treasury Secretary Tim Geithner and Housing and Urban Development Secretary Shaun Donovan wrote the CEOs of participating servicers calling upon them to redouble their efforts to increase staffing, improve borrower response times and streamline the application process. Senior Administration officials discussed the importance of these steps in a face-to-face meeting with servicer executives on July 28. The Administration will develop more exacting metrics to measure the quality of borrower experience, such as average borrower wait time for inbound inquiries, completeness and accuracy of information provided applicants, and response time for completed applications. As an additional protection for borrowers, the Administration has asked the program compliance agent, Freddie Mac, to develop a "second look" process to audit MHA modification applications that have been declined on an ongoing basis.

Making Home Affordable

MHA On Pace to Offer Help to Millions of Homeowners

1. Program On Pace to Help up to 3-4 Million Homeowners Over the Next Three Years


9/4/2009
2. Performance Metrics Aimed at Improving Consistency of Servicer Performance

- Description of Metrics Used to Measure Servicer Performance
- Servicer Performance Metrics Show Uneven Progress in Implementation
- Target of 500,000 Cumulative Trial Modifications Started by November 1, 2009

3. Public Report Increases MHA Program Transparency

1. Program On Pace to Help up to 3-4 Million Homeowners Over the Next Three Years

- More Than 230,000 Trial Modifications Started

No program has previously attempted to modify so many mortgages at such affordable terms for borrowers. The Administration is seeing real results – modifications that provide long-term solutions for borrowers.

- In 2008, 42 percent of modifications by the largest servicers lowered monthly payments. Under the MHA modification program, 100 percent of borrowers starting trial modifications have had their payments reduced.

- More Than 85 Percent of Mortgage Market Covered by Participating Servicers

- Thirty-eight servicers have signed Servicer Participation Agreements (SPAs) to participate in the program. These 38 servicers service many types of loans, including Fannie Mae and Freddie Mac loans, private label loans and loans in portfolio.

- Approximately 2300 servicers that service Fannie Mae and Freddie Mac loans are automatically participating in HAMP.

2. Performance Metrics Aimed at Improving Consistency of Servicer Performance

- Description of Metrics Used to Measure Servicer Performance

The Administration has established a servicer-by-servicer performance metric to enhance overall program performance.

- The report includes the absolute number of trial modifications begun by each servicer.
- The report also includes a simple performance metric which measures each servicer’s performance relative to an estimate of the servicer’s HAMP eligible loans.
  - The performance metric used in the report is trial modification starts as a share of estimated HAMP eligible loans.
  - Many loans are eligible for HAMP that are not included in the estimated HAMP eligible loans in the public report, including current borrowers in imminent default.
• This measure of estimated HAMP eligible loans was developed solely to provide a common denominator across which to compare performance of servicers.

• Servicer Performance Metrics Show Uneven Progress in Implementation

The metric measuring comparative servicer performance shows uneven ramp-up, and substantial variation in the pace of modifications. To improve performance, the Administration has asked servicers to commit to starting 500,000 trial modifications by November 1, 2009 and to establishing exacting metrics to monitor servicer specific program performance.

3. Public Report Increases HAMP Program Transparency

Today's report will provide transparency into program results on a servicer specific basis.

• Reports Will Be Issued on a Monthly Basis

The Administration expects to issue reports detailing the progress of modifications under the HAMP program each month. This report will be updated to include additional metrics and results as the program progresses and more data becomes available.

The Servicer Performance Report is available here:

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Exhibit A-3


9/4/2009
AMENDMENT TO SENATE AMENDMENTS TO H.R.

1424

OFFERED BY MS. JACKSON-LEE OF TEXAS

In section 109(a) of division A of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, strike "encourage" and insert "require".
AMENDMENT TO THE Senate AMENDMENTS TO
H.R. 1424
OFFERED BY Ms. JACKSON-Lee OF Texas

At the end of section 119 of division A of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, add the following new subsection:

1. (c) JUDICIAL REVIEW.—A court should exercise rigorous judicial review of the bailout program under this title. In conducting its judicial review, a court should be afforded the discretion to grant injunctive or equitable relief if it determines that the grant of such relief would not destabilize financial markets.

X
CHAPTER 130—S.F.No. 1302

An act relating to real property; modifying provisions governing eviction of tenants in property subject to mortgage foreclosure or termination of contract for deed; specifying requirements for vendors under contracts for deed; modifying mortgage foreclosure notices and information requirements; modifying provisions for sheriff's sale postponement and perpetuating evidence of sale; amending Minnesota Statutes 2008, sections 504B.285, subdivision 1; 507.235, by adding a subdivision; 580.021, subdivisions 1, 2; 580.025; 580.04; 580.041, subdivision 1a; 580.042, subdivision 1; 580.07; 580.15.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 504B.285, subdivision 1, is amended to read:

Subdivision 1. Grounds. The person entitled to the premises may recover possession by eviction when:

(1) any person holds over real property:

(i) after a sale of the property on an execution or judgment; or

(ii) after the expiration of the time for redemption on foreclosure of a mortgage, or after termination of contract to convey the property, provided that if the person holding the real property after the expiration of the time for redemption or termination was a tenant during the redemption or termination period, the person entered into the under a lease of any duration and the lease began after the date of the notice of the mortgage foreclosure or contract for deed cancellation and was executed but prior to the expiration of the time for redemption or termination, and the person has received:

(A) at least two months' written notice to vacate no sooner than one month after the expiration of the time for redemption or termination, provided that the tenant pays the rent and abides by all terms of the lease; or

(B) at least two months' written notice to vacate no later than the date of the expiration of the time for redemption or termination, which notice shall also state that the sender will hold the tenant harmless for breaching the lease by vacating the premises if the mortgage is redeemed or the contract is reinstated;

(2) any person holds over real property after termination of the time for which it is demised or leased to that person or to the persons under whom that person holds possession, contrary to the conditions or covenants of the lease or agreement under which that person holds, or after any rent becomes due according to the terms of such lease or agreement; or

(3) any tenant at will holds over after the termination of the tenancy by notice to quit.
Sec. 2. Minnesota Statutes 2008, section 507.235, is amended by adding a subdivision to read:

Subd. 1a. **Requirements of vendor.** (a) A vendor entering into a contract for deed involving residential real property must, contemporaneously with the execution of the contract for deed:

(1) deliver to the vendee a copy of the contract for deed containing original signatures in recordable form; and

(2) pay, or reimburse the vendee for payment of, any delinquent taxes necessary for recordation of the contract for deed, unless the contract for deed provides for the vendee to pay the delinquent taxes.

(b) For purposes of this subdivision:

(1) "contract for deed" has the meaning given in section 559.202, subdivision 2; and

(2) "residential real property" has the meaning given in section 559.202, subdivision 2.

**EFFECTIVE DATE.** This section is effective for contracts for deed acknowledged on or after August 1, 2009.

Sec. 3. Minnesota Statutes 2008, section 580.021, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** This section applies to foreclosure of mortgages by advertisement under this chapter and foreclosure of mortgages by action under chapter 581 on property consisting of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residency on the date of service of the notice of sale of the owner when the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded.

**EFFECTIVE DATE.** This section is effective for foreclosures in which the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded on or after August 1, 2009.

Sec. 4. Minnesota Statutes 2008, section 580.021, subdivision 2, is amended to read:

Subd. 2. **Requirement to provide notice of opportunity for counseling.** When the written notice required under section 47.20, subdivision 8, is provided and before the notice of pendency under section 580.032, subdivision 3, or the lis pendens for a foreclosure under chapter 581 is filed and recorded, a party foreclosing on a mortgage must provide to the mortgagor information contained in a form prescribed in section 580.022, subdivision 1, that:

(1) foreclosure prevention counseling services provided by an authorized foreclosure prevention counseling agency are available; and

(2) notice that the party will transmit the homeowner's name, address, and telephone number to an approved foreclosure prevention agency.

Nothing in this subdivision prohibits the notices required by this subdivision from being may be provided concurrently with the written notice required under section 47.20, subdivision 8 of default.
For the purposes of this section, an "authorized foreclosure prevention counseling agency" or "counseling agency" is a government agency or a nonprofit agency approved funded, all or in part, for foreclosure prevention services, by the Minnesota Housing Finance Agency or the United States Department of Housing and Urban Development, or otherwise approved by the United States Department of Housing and Urban Development to provide foreclosure prevention counseling services.

**EFFECTIVE DATE.** This section is effective for foreclosures in which the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded on or after August 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 580.025, is amended to read:

**580.025 FORECLOSURE DATA.**

Subdivision 1. **Applicability.** This section applies to foreclosure of mortgages under this chapter on property consisting of one to four family dwelling units.

Subd. 2. **Data required.** The notice of pendency required by section 580.032, subdivision 3; the notice of sale required by section 580.04; and the certificate of sale required by section 580.12 shall include the following information to the best of the knowledge of the party foreclosing the mortgage:

1. the physical street address, city, and zip code of the mortgaged premises;
2. the name of the transaction agent, residential mortgage servicer, and the lender or broker, as defined in section 58.02, if the person holding the mortgage is a transaction agent as defined in section 58.02, subdivision 30, or the name of the residential mortgage servicer and the lender or broker, as defined in section 58.02, if the person holding the mortgage is not a transaction agent as defined in section 58.02, subdivision 30;
3. the tax parcel identification number of the mortgaged premises;
4. if stated on the mortgage, the transaction agent’s mortgage identification number; and
5. if stated on the mortgage, the name of the residential mortgage originator as defined in section 58.02.

No liability shall accrue to the party foreclosing the mortgage or the party’s attorney for de minimis, good faith, or commercially reasonable errors in this information. The omission of all or some of the information required by this section from the notice shall not invalidate the foreclosure of the mortgage.

**EFFECTIVE DATE.** This section is effective for foreclosures in which the notice of pendency under section 580.032 is recorded on or after August 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 580.04, is amended to read:

**580.04 REQUISITES OF NOTICE.**

(a) Each notice shall specify:

1. the name of the mortgagor, the mortgagee, each assignee of the mortgage, if any, and the original or maximum principal amount secured by the mortgage;
(2) the date of the mortgage, and when and where recorded, except where the mortgage is upon registered land, in which case the notice shall state that fact, and when and where registered;

(3) the amount claimed to be due on the mortgage on the date of the notice;

(4) a description of the mortgaged premises, conforming substantially to that contained in the mortgage;

(5) the time and place of sale; and

(6) the time allowed by law for redemption by the mortgagor, the mortgagor’s personal representatives or assigns; and

(b) if the real estate is an owner-occupied, single-family dwelling, the notice must also specify the date on or before which the mortgagor must vacate the property if the mortgage is not reinstated under section 580.30 or the property redeemed under section 580.23. The notice must state that the time to vacate the property is 11:59 p.m. on the specified date.

(7) (e) If the party foreclosing the mortgage desires to preserve the right to reduce the redemption period under section 582.032 after the first publication of the notice, the notice must also state in capital letters: "THE TIME ALLOWED BY LAW FOR REDEMPTION BY THE MORTGAGOR, THE MORTGAGOR’S PERSONAL REPRESENTATIVES OR ASSIGNS, MAY BE REDUCED TO FIVE WEEKS IF A JUDICIAL ORDER IS ENTERED UNDER MINNESOTA STATUTES, SECTION 582.032, DETERMINING, AMONG OTHER THINGS, THAT THE MORTGAGED PREMISES ARE IMPROVED WITH A RESIDENTIAL DWELLING OF LESS THAN FIVE UNITS, ARE NOT PROPERTY USED IN AGRICULTURAL PRODUCTION, AND ARE ABANDONED."

EFFECTIVE DATE. This section is effective for foreclosures in which the notice of pendency under section 580.032 is recorded on or after August 1, 2009.

Sec. 7. Minnesota Statutes 2008, section 580.041, subdivision 1a, is amended to read:

Subd. 1a. Applicability. This section applies to foreclosure of mortgages by advertisement under this chapter and foreclosure of mortgages by action under chapter 581 on property consisting of one to four family dwelling units, one of which the owner occupies as the owner’s principal place of residency on the date of service of the notice of sale on the owner when the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded.

EFFECTIVE DATE. This section is effective for foreclosures in which the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded on or after August 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 580.042, subdivision 1, is amended to read:

Subdivision 1. Applicability. This section applies to foreclosure of mortgages by advertisement under this chapter and foreclosure of mortgages by action under chapter 581 on property consisting of one to four family dwelling units, one or more of which are occupied by a tenant as a residence.
EFFECTIVE DATE. This section is effective for foreclosures in which the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded on or after August 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 580.07, is amended to read:

580.07 POSTPONEMENT.

(a) The sale may be postponed, from time to time, by the party conducting the foreclosure. The party requesting the postponement must, at the party's expense:

by inserting (1) publish, only once, a notice of the postponement and the rescheduled date of the sale, if known, as soon as practicable, in the newspaper in which the original advertisement notice under section 580.03 was published, at the expense of the party requesting the postponement. The notice shall be published only once, and

(2) send by first class mail to the occupant, postmarked within three business days of the postponed sale, notice:

(i) of the postponement; and

(ii) if known, the rescheduled date of the sale and the date on or before which the mortgagor must vacate the property if the sheriff's sale is not further postponed, the mortgage is not reinstated under section 580.30, the property is not redeemed under section 580.23, or the redemption period is not reduced under section 582.032. The notice must state that the time to vacate the property is 11:59 p.m. on the specified date.

(b) If the rescheduled date of the sale is not known at the time of the initial publication and notice to the occupant of postponement, the foreclosing party must, at its expense if and when a new date of sale is scheduled:

(1) publish, only once, notice of the rescheduled date of the sale, as soon as practicable, in the newspaper in which the notice under section 580.03 and the notice of postponement under paragraph (a) was published; and

(2) send by first class mail to the occupant, postmarked within ten days of the rescheduled sale, notice:

(i) of the date of the rescheduled sale; and

(ii) the date on or before which the mortgagor must vacate the property if the mortgage is not reinstated under section 580.30 or the property redeemed under section 580.23. The notice must state that the time to vacate the property is 11:59 p.m. on the specified date.

EFFECTIVE DATE. This section is effective for notices of postponement published or served on or after August 1, 2009.

Sec. 10. Minnesota Statutes 2008, section 580.15, is amended to read:

580.15 PERPETUATING EVIDENCE OF SALE.

Any party desiring to perpetuate the evidence of any sale made in pursuance of this chapter may procure:

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(1) an affidavit of the publication of the notice of sale and of any notice of postponement to be made by the printer of the newspaper in which the same was inserted or by some person in the printer’s employ knowing the facts;

(2) an affidavit or return of service of such notice upon the occupant of the mortgaged premises to be made by the officer or person making such service or, in case the premises were vacant or unoccupied at the time the service must be made, an affidavit or return showing that fact, to be made by the officer or person attempting to make such service;

(3) an affidavit by the person foreclosing the mortgage, or that person’s attorney, or someone knowing the facts, setting forth the facts relating to the military service status of the owner of the mortgaged premises at the time of sale;

(4) an affidavit by the person foreclosing the mortgage, or that person’s attorney, or someone having knowledge of the facts, setting forth the fact of service of notice of sale upon the secretary of the Treasury of the United States or the secretary’s delegate in accordance with the provisions of Section 7425 of the Internal Revenue Code of 1954 as amended by Section 109 of the Federal Tax Lien Act of 1966, and also setting forth the fact of service of notice of sale upon the commissioner of revenue of the state of Minnesota in accordance with the provisions of section 270C.63, subdivision 11. Any such affidavit recorded prior to May 16, 1967 shall be effective as prima facie evidence of the facts therein contained as though recorded subsequent to May 16, 1967;

(5) an affidavit by the person foreclosing the mortgage, or that person’s attorney, or someone having knowledge of the facts, setting forth the names of the persons to whom a notice of sale was mailed as provided by section 580.032; and

(6) one or more affidavits by the person foreclosing the mortgage, or that person’s attorney or a person having knowledge of the facts, stating:

(i) whether section 580.021, 580.04, 580.041, 580.042, 582.039, 582.041, or 582.042 apply to the foreclosure proceedings; and

(ii) if any or all of those sections apply, that all notices required under those sections have been provided.

Such affidavits and returns shall be recorded by the county recorder and they and the records thereof, and certified copies of such records, shall be prima facie evidence of the facts therein contained.

The affidavit provided for in clause (3) hereof may be made and recorded for the purpose of complying with the provisions of the Servicemembers Civil Relief Act, and may be made and recorded at any time subsequent to the date of the mortgage foreclosure sale.

**EFFECTIVE DATE.** This section is effective for sales conducted before, on, or after August 1, 2009.

Presented to the governor May 18, 2009

Signed by the governor May 20, 2009, 2:09 p.m.
2009-05-22-01

The Supreme Court of South Carolina

RE: Mortgage Foreclosures and the Home Affordable Modification Program (HMP)

ADMINISTRATIVE ORDER

On March 4, 2009, the United States Treasury Department (Treasury) issued Guidelines on mortgage loan modifications under the Home Affordable Modification Program (HMP) for residential loans owned, securitized or guaranteed by the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac).[1] The HMP is part of the Making Home Affordable Program (MHAP).

Subsequently on April 6, 2009, Treasury issued Supplemental Directive 09-01.[2] which provided additional guidance to servicers for adoption and implementation of the HMP for residential mortgage loans that are not owned, securitized or guaranteed by Fannie Mae or Freddie Mac. For this latter category, the HMP is only applicable if the servicer has agreed to participate in the HMP.[3]

If applicable, the HMP requires the temporary suspension of foreclosure actions.[4] The HMP is scheduled to expire on December 31, 2012, and has no application to a mortgage originated after January 1, 2009.

On May 4, 2009, I issued a temporary restraining order (TRO) based on a motion filed by Fannie Mae.[5] This TRO had to be issued on an ex parte basis, and it was anticipated that it would be replaced by a subsequent order.

To insure that eligible homeowners have been afforded the benefits available under the HMP, the procedures for handling issues relating to the HMP are handled uniformly throughout the State, and mortgage foreclosure actions are not unnecessarily dismissed or delayed while HMP issues are resolved, I direct the following:

(1) Actions Filed After May 4, 2009. In all mortgage foreclosure actions filed after May 4, 2009, the complaint (or amended complaint) seeking foreclosure shall contain "a short and plain statement of the facts"[6] regarding the applicability of the HMP to the matter. For mortgages involving commercial property, the complaint may simply allege that the property is commercial and that the HMP is inapplicable.[7]

For mortgages involving residential property, the complaint shall state if the mortgage loan is owned, securitized or guaranteed by Fannie Mae or Freddie Mac, or if the servicer is participating in the HMP. If so as to either, the complaint shall state the facts showing that the loan is not subject to modification under the HMP[8] or state the facts showing that the HMP modification process specified by the Guidelines or Supplemental Directive has been completed without resulting in a modification.[9] If these allegations are contested by the
answer or the judge allows the issue to become contested at some later stage of the proceeding, any dispute regarding the eligibility of the mortgage loan for modification under the HMP or the satisfaction of the requirements of the HMP if it applies, shall be resolved like any other contested issue in a mortgage foreclosure case. Sections (3) and (4) of this order relate to the effect of the HMP determinations made by the judge.

(2) Actions Pending on May 4, 2009. In all mortgage foreclosure actions pending on May 4, 2009, the party seeking foreclosure should have served the affidavit required by the TRO by May 15, 2009. If the affidavit was timely served under the TRO, any counter affidavit asserting that the loan is subject to modification under the HMP or that the requirements of the HMP have not been meet, should be served by May 22, 2009.

If the party seeking a foreclosure did not serve the affidavit by May 15, 2009, as required by the TRO, the matter will be stayed until the party seeking foreclosure serves and files an affidavit regarding the applicability of the HMP to the matter. For mortgages involving commercial property, the affidavit may simply allege that the property is commercial and that the HMP is inapplicable.

For residential mortgages, the affidavit shall state if the mortgage loan is owned, securitized or guaranteed by Fannie Mae or Freddie Mac, or if the servicer is participating in the HMP. If so as to either, the affidavit shall state the facts showing that the mortgage loan is not subject to modification under the HMP, or state the facts showing that the HMP modification process specified by the Guidelines or Supplemental Directive has been completed without resulting in a modification. In the alternative, the affidavit may concede that the matter should be stayed until the HMP modification process is completed. If the affidavit is not served within ninety (90) days of the date of this order, the foreclosure action may be dismissed. If the affidavit is served, any other party to the action shall have ten (10) days to serve a counter affidavit.

A copy of any affidavit or any counter affidavit (whether served before or after this order), along with proof of service, shall immediately be filed with the court where the action is pending.

The judge shall consider the affidavit and any counter affidavit that may be filed to determine if there is any contested issue that must be resolved regarding the eligibility of the loan for modification under the HMP or satisfaction of the requirements of the HMP if it applies. If so as to either, the judge shall resolve this issue like any other contested issue in a mortgage foreclosure action. If a counter affidavit is not timely served, the determination of whether there are HMP issues which need to be resolved before foreclosure is ordered or the sale is commenced shall be based on the affidavit alone unless the judge allows the late service and filing of the counter affidavit or allows the issue to become contested at some later stage of the proceeding. Sections (3) and (4) of this order relate to the effect of the HMP determinations made by the judge.

(3) Determination that the HMP is Applicable But the HMP Process Has Not Been Completed. If a judge determines that the HMP is applicable but that the process to determine if a modification will be made under the HMP has not been completed, the foreclosure action shall not be dismissed but shall be stayed until the HMP process is completed (including any trial period before a modification becomes effective). If the action is stayed, the party seeking foreclosure will advise the court of the status of the matter every thirty (30) days; the failure to do so may result in dismissal of the action. If the loan is modified under the HMP, the parties shall immediately notify the judge so that the mortgage foreclosure action can be dismissed. Nothing in this order shall be construed as preventing the party seeking foreclosure from voluntarily dismissing the foreclosure action.[10]
(4) **Determination that Mortgage Loan is Not Subject to Modification under the HMP.** If a judge determines that the HMP is either inapplicable to the mortgage loan or that the HMP requirements have been satisfied without resulting in a modification, the foreclosure action may continue. This includes the consummation of any sales conducted on or prior to May 4, 2009.

(5) **TRO Rescinded.** The TRO previously issued by me on May 4, 2009, is hereby rescinded. Instead, the provisions of this Administrative Order shall govern foreclosure actions potentially affected by the HMP.\[1\]

(6) **Judicial Sales in Mortgage Foreclosure Cases.** Nothing in this order shall be construed as preventing a judge from setting additional sales days under S.C. Code Ann. §15-39-680 (2005). Further, where an order of foreclosure was issued on or before May 4, 2009, nothing in this order shall be construed as preventing the judge from directing the advertising of the property for sale so long as any issue regarding the HMP is resolved before the sale occurs.

For the purpose of this order, the term “judge” shall include a circuit court judge, master-in-equity and special referee. If this order requires service of an affidavit or counter affidavit upon a party, service shall be accomplished as provided by Rule 5(b)(1), SCRCP, and service shall be made on all parties to the action.

**IT IS SO ORDERED.**

/s/Jean Hoefer Toal  
Jean H. Toal  
Chief Justice

Columbia, South Carolina  
May 22, 2009

\[1\] The guidelines are available at www.ustreas.gov/press/releases/reports/modification_program_guidelines.pdf. In addition to contacting the servicer to determine if the loan is owned or guaranteed by Fannie Mae and Freddie Mac, homeowners can also use the links on the following website to determine if their loans are owned or guaranteed by Fannie Mae or Freddie Mac: http://makinghomeaffordable.gov/loan_lookup.html.


\[3\] A list of those servicers who have agreed to participate may be found at http://makinghomeaffordable.gov/contact_servicer.html.

\[4\] The Guidelines state:

Any foreclosure action will be temporarily suspended during the trial period, or while borrowers are considered for alternative foreclosure prevention options. In the event that the Home Affordable Modification or alternative foreclosure prevention options fail, the foreclosure action may be resumed.

In relevant part, the Supplemental Directive states:
To ensure that a borrower currently at risk of foreclosure has the opportunity to apply for the HMP, servicers should not proceed with a foreclosure sale until the borrower has been evaluated for the program and, if eligible, an offer to participate in the HMP has been made. Servicers must use reasonable efforts to contact borrowers facing foreclosure to determine their eligibility for the HMP, including in-person contacts at the servicer's discretion. Servicers must not conduct foreclosure sales on loans previously referred to foreclosure or refer new loans to foreclosure during the 30-day period that the borrower has to submit documents evidencing an intent to accept the Trial Period Plan offer. Except as noted herein, any foreclosure sale will be suspended for the duration of the Trial Period Plan, including any period of time between the borrower's execution of the Trial Period Plan and the Trial Period Plan effective date.


[6] Rule 8(a), SCRCP.

[7] For example, the complaint could simply state: “Since this foreclosure action involves a mortgage on a commercial office building, the Home Affordable Modification Program is inapplicable.”

[8] Despite the fact that the loan is owned, securitized or guaranteed by Fannie Mae or Freddie Mac, or the servicer is participating in the HMP, there are numerous other requirements that may prevent the loan from being eligible for modification under HMP. For example, modification under HMP is not available if the property is not a single family 1 - 4 unit property, the property is not the primary residence of the homeowner, the mortgage originated after January 1, 2009, the unpaid principal balance exceeds certain specified amounts, the property is vacant or condemned, or the loan has been previously modified under the HMP. For specifics on these and other requirements, the Guidelines and Supplemental Directive should be consulted. For homeowners, there is an interactive website to assist them in determining if the mortgage loan is potentially subject to modification under the HMP: http://makinghomeaffordable.gov/modification_eligibility.html.

[9] If the HMP is applicable and the modification process has not been completed, the action should not be filed.

[10] I am concerned that there may be a significant number of actions that may be stayed while the HMP process is completed. I expect the party seeking foreclosure to complete the process and make a determination if the mortgage loan will be modified in a prompt and diligent manner. If this is not done and the number of cases stayed reaches an unacceptable level, this order may be modified to allow for the dismissal of actions which are stayed and not resolved in a reasonable period of time.

[11] In response to the TRO, six law firms (the Scott Law Firm, P.A.; Rogers, Townsend, Thomas, P.C.; the Finkle Law Firm, L.L.C.; Fleming & Whitt, P.A.; the Korn Law Firm, P.A.; and the Weston Adams Law Firm) have filed a motion seeking a state-wide scheduling order. The South Carolina Department of Consumer Affairs, South Carolina Legal Services, the law firm of Harrison & Radeker, P.A., and the South Carolina Appleseed Legal Justice Center have filed returns to the motion. In addition, the six law firms have filed a reply and an amended reply. These filings have been considered in issuing this order.

In its return, Consumer Affairs points out that, in addition to HMP, other parts of the MHAP may

Exhibit D-15

provide relief to homeowners. This includes Fannie Mae and Freddie Mac allowing refinancing
of mortgage loans that they own or that they placed in mortgage backed securities where
homeowners are current on their loans, Short Sales/Deeds-in-Lieu Program and the Home
Price Decline Protection Incentives. While these programs are beyond the scope of this order,
the following links provide information about those programs:
www.freddiemac.com/sell/factsheets/relief_refi.html;
http://makinghomeaffordable.gov/refinance_eligibility.html;
Foreclosure's Price-Depressing Spillover Effects on Local Properties: A Literature Review

Kai-yen Lee

FEDERAL RESERVE BANK OF BOSTON

September 2008 No. 2008-01

Exhibit E-17
Foreclosure’s Price-Depressing Spillover Effects on Local Properties: A Literature Review

Kai-yan Lee
Federal Reserve Bank of Boston

September 2008

ABSTRACT:
The costs of foreclosure often spill over from foreclosed properties to other nearby properties. This short paper reviews some of the research on foreclosure’s price-depressing impact on sales of nearby properties, only one of several forms of spillover effects. The studies reviewed here focus on various cities, use different datasets and methodologies, employ different assumptions, and cover different time periods. Their conclusions about foreclosure effects range from reducing nearby properties’ sales value by as little as 0.9% to as much as 8.7%. Research also shows that negative spillover effects tend to diminish with distance and time, as does the marginal impact of each additional foreclosure. This paper also presents two studies with rough estimates on New England communities’ possible losses from foreclosures’ spillover effects on nearby property values.

The views expressed in this publication do not necessarily reflect official positions of the Federal Reserve Bank of Boston or the Federal Reserve System.
Foreclosure's Price-Depressing Spillover Effects on Local Properties: A Literature Review

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Foreclosure Spillover Effects: What They Mean for New England Communities .......... 6
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Foreclosure’s Price-Depressing Spillover Effects on Local Properties: A Literature Review

Discussions on foreclosure prevention and intervention often focus on the occupants of the foreclosed properties. Nonetheless, research has shown that the harm caused by foreclosures frequently goes beyond the physical walls of foreclosed homes, devastating the local communities as well. Foreclosure’s spillover effects, often referred to as (negative) externalities, vary in form: lowering nearby property values, reducing the local property tax base, increasing blight and crime, disrupting social ties, etc. An early survey of major U.S. cities’ leaders shows that destruction of housing/neighborhood vitality, rising crime rates, and reduced commercial activity are the top concerns for foreclosed/vacant properties’ spillover effects. (Accordino and G. Johnson, 2000) Despite this variety of spillover effects, this review focuses on foreclosures’ price-depressing spillover effects on nearby properties.

Economic Reasoning and Early Research
Foreclosures could negatively impact nearby housing values via three primary channels: blight, valuation, and supply. Prior to entering foreclosure on their properties, owners with delinquent mortgages usually have limited financial means to properly maintain and/or upgrade their houses. This in turn frequently leads to physical blight because of the declining housing conditions. After the delinquent owners foreclose, such properties may be vacant for some time, which attracts vandalism and crime, further exacerbating the blight, making the neighborhood undesirable for potential homebuyers. Secondly, foreclosed properties are usually sold at a significant discount. Property is appraised partially on the basis of sales of nearby comparable properties, and the discounted sales of foreclosed properties could therefore lower such valuation benchmarks. Lastly, a high concentration of foreclosures could potentially increase the local supply of available properties and lower the values of nearby homes, especially in areas with a stable housing demand.

Early surveys of Minneapolis area foreclosure prevention programs estimate that a foreclosed home could cost neighborhoods as much as $10,000, mostly in the form of lower housing values. (Moreno, 1995) Another early study uses 1992-1994 property tax delinquency data in Cleveland as a proxy for foreclosure and concludes that, on average, a
residential property's sale price decreases by $788 when the "nearby area" has one percentage point increase in property tax delinquency—while holding other conditions constant. (Simons and et al, 1998) Nonetheless, "nearby property" in this study is defined as being on the same page of the county auditor's map book as the foreclosed property. This definition is rather problematic because of the lack of spatial consistency. Adjacent properties could be on two separate pages by arbitrary page division. That being said, this is one of the early studies using mathematical models to quantify the spillover effects of foreclosures.

**Recent Improved Research and Findings**

As the risk of foreclosure began to increase, two 2006 studies signaled a new approach to understanding foreclosures' spillover effects and used more sophisticated mathematical models. Shlay and Whitman find that the presence of abandoned properties in Philadelphia depresses the prices of properties located within 150 feet by $7,627, but this negative effect diminishes with distance. (Shlay and Whitman, 2006) Using a similar regression model, a widely cited study by Immergluck and Smith examines foreclosures' spillover impacts on Chicago home sales in 1999. It estimates that, on average, a foreclosure within one-eighth mile of a single-family home could lower its sale price by 0.9%—holding other conditions constant. (Immergluck and Smith, 2006)

Despite these two studies' pioneering roles in refining the mathematical models to quantify spillover effects, they are subject to some methodological limitations. For instance, possible multicollinearity (i.e., independent variables highly correlated among one another) and reverse causation are either unaddressed or weakly controlled. Discussion on foreclosures' longitudinal and spatial aspects, as well as the nonlinearity of their marginal effects, is very limited or absent. Three recent studies improve on some of these limitations.

Been's research on New York City indicates that additional pre-foreclosures (i.e., properties with pending foreclosure petitions) have diminishing marginal spillover effects. (Been, 2008) This study does not directly quantify the marginal impact of additional pre-foreclosures, but
rather it aggregates its spillover effects by a neighborhood's foreclosure exposure¹ and the number of foreclosure petitions in the area. The diminishing spillover effects could therefore be indirectly illustrated by the declining average effect of each pre-foreclosure on a nearby property's sale price as the number of foreclosures increases in the area (see table and chart below).

<table>
<thead>
<tr>
<th>Neighborhood’s exposure to foreclosures ¹</th>
<th>Number of nearby pre-foreclosures</th>
<th>Total effects of these pre-foreclosures on a nearby property's sale price</th>
<th>Average effect of each pre-foreclosure on a nearby property's sale price ²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Exposure ¹</td>
<td>1 to 2</td>
<td>-1.8%</td>
<td>-1.8% to -0.9%</td>
</tr>
<tr>
<td></td>
<td>3 to 5</td>
<td>-2.8%</td>
<td>-0.93% to -0.56%</td>
</tr>
<tr>
<td>High Exposure ¹</td>
<td>9 to 19</td>
<td>-2.5%</td>
<td>-0.27% to -0.13%</td>
</tr>
<tr>
<td></td>
<td>≥ 20</td>
<td>-3.7%</td>
<td>≤-0.185%</td>
</tr>
</tbody>
</table>

Source: Been (2008) and author's calculation

¹ “Low exposure” here means that the neighborhood's median home sale is within 1,000 feet of only one property with foreclosure petitions; while “high exposure” means more than 15 properties have foreclosure petitions.

² Calculated by dividing the “total effects of these pre-foreclosures on a nearby property's sale price” by the “number of pre-foreclosures.” Although this method is imperfect, it helps approximate the rough marginal effect of each additional pre-foreclosure.
Been's findings suggest the importance of preventing early foreclosures from happening in the first place since they tend to have bigger price-depressing effects.

Although it is not explicit in its intent, Been's study is one of the few that attempt to assess the nonlinearity of foreclosures' marginal effects when the number of pre-foreclosures increases. Its findings suggest the importance of preventing early foreclosures from happening in the first place since they tend to have bigger price-depressing effects on nearby properties.

Foreclosures' Price-Depressing Impact on Nearby Properties Diminishes with Time and Distance

With an improved model and newer data from Chicago, Lin et al. analyze foreclosure spillover effects with special attention to their longitudinal and spatial aspects. (Lin et al., 2009) Their research shows that such spillover effects tend to be significant within ~0.6 miles and 5 years of foreclosure. The price-depressing effect is most severe (-8.7%) on adjacent properties within 2 years of foreclosure, and it diminishes to as low as -1.7% at about 0.6 miles (0.9km) away (see chart above).
Similarly, the price-depressing effect diminishes with time: it lowers nearby homes’ sales price by as much as -8.7% within the first 2 years of foreclosure, and this effect weakens to -5.5% within 3-5 years, and -4.4% after 6 years. Foreclosures have virtually no negative effect beyond ~0.25 miles (0.4km) if the foreclosure is six or more years in the past. Furthermore, this study also shows that the intensity of the spillover effects is closely tied to housing cycles and could be reduced by about half during housing market boom years.

Using 2006 Columbus, Ohio, data, Mikelbank separates the spillover effect of pre-foreclosures from that of vacant/abandoned properties and corrects spatial errors in regression models. Mikelbank concludes that pre-foreclosures’ negative impact on nearby homes’ sales prices is less than that of vacant/abandoned properties, but it is more spatially persistent (see chart above). For instance, a pre-foreclosure within 250

---

3 Spatial errors exist when a regression model does not control for, or controls but with significant deficiency, unmeasured neighborhood influences common to houses in physical proximity.
feet of a property, on average, could impact its sale price by -2.1%—holding other conditions constant—but such impact intensifies to -3.6% for a vacant/abandoned property. Nonetheless, pre-foreclosure's negative impact diminishes to -1.6% (i.e., a reduction of half a percentage point in intensity) as the distance increases to 250-500 feet; while a vacant/abandoned property's negative impact drastically decreases to merely -0.6% at the same distance (i.e., a reduction of three percentage-points in intensity).

Foreclosure Spillover Effects: What They Mean for New England Communities

Despite the fact that these studies focus on different cities, use different methodologies and data sets, employ different assumptions, and cover different time periods, they all confirm that foreclosures not only hurt those individuals losing their homes, but also could depress nearby properties' sales prices. These studies also suggest that foreclosures often tend to have more far-reaching negative spillover impacts spatially and longitudinally compared with other undesirable conditions such as abandoned properties. To combat such negative externalities, it is probably more effective to prevent initial foreclosures from happening since they tend to have more severe price-depressing effects than later foreclosures.

The studies all focus on a specific city, so their findings, especially the quantitative conclusions, cannot be generalized for New England, as local housing market conditions and spatial features could critically alter these spillover effects. Nevertheless, two other reports do provide back-of-the-envelope estimates of spillover effects in the region. Both reports use generic multipliers, such as the price-depressing coefficient of -0.9% seen in Immergluck and Smith's Chicago study, which may not fit many local conditions in New England. Therefore, these two reports' estimates are coarse and in these two reports are coarse and require cautious interpretation.

A report by the Center for Responsible Lending (CRL) provides estimates of the price-depressing spillover effects on nearby properties.
associated with foreclosures of subprime mortgages originated in 2005 and 2006. CRL’s projection is based on 2005-2006 owner-occupied first-lien subprime mortgages—a subset of the subprime loan pool. Because CRL’s estimates rely on Home Mortgage Disclosure Act (HMDA) data, it uses high-cost loans as an indicator of subprime, and only includes reported loans required by HMDA regulations (e.g., mostly in metropolitan statistical areas). Lastly, it uses the price-depressing coefficient of -0.9% concluded in Immergluck and Smith’s Chicago study to model for all geographies in the United States.

Because of these various limitations, CRL’s projections should be interpreted with caution. For instance, instead of using Immergluck and Smith’s -0.9% price-depressing coefficient uniformly to approximate every foreclosure’s impact, one might take into account Been’s findings that each additional foreclosure has a diminishing negative impact. At the higher extreme, the price-depressing impact would be twice as severe (a 1.8% drop in property value) as what CRL’s estimate suggests if all of the impacted properties have no more than two foreclosed homes within 1,000 feet. Nonetheless, at the lower extreme, this price-depressing impact would be only one-fifth as severe (a 0.185% drop) compared with CRL’s estimate if all of the impacted properties have 20 or more foreclosed homes within 1,000 feet. Because foreclosures have tended to be spatially concentrated, the price-depressing impacts of each additional foreclosure would be in the direction of the lower extreme. For instance, about 50% of the Massachusetts properties with foreclosure petitions and/or foreclosure auctions in 2007 clustered in 50-60 ZIP code areas (i.e., 10%) out of Massachusetts’ roughly 500 ZIP code areas. Of course both of these two assumptions are extreme scenarios, but they help demonstrate that an accurate estimate is based on local real estate market and its spatial patterns.

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4 There are more than 500 ZIP codes in Massachusetts, but we excluded the ones that are reserved for P.O. Boxes/institutions (e.g., universities) and those without residential properties. Granted that ZIP code areas vary in size and housing density, our calculation at least shows that foreclosures are highly concentrated spatially. The raw data are from the Warren Group.
### Estimates of 2005-2006 Subprime Foreclosures’ Spillover Effects on New England Communities

<table>
<thead>
<tr>
<th>County/State</th>
<th>Number of Subprime Loans 2005-2006</th>
<th>Proportion of All Loans that are Subprime, 2005-2006</th>
<th>Projected Cumulative Foreclosure Rate on 2005-2006 Subprime Loans</th>
<th>Projected Number of Total Homes Lost to Foreclosure</th>
<th>Number of Neighboring Homes Experiencing Devaluation</th>
<th>Decrease in House Value/Tax Base from Foreclosure Effect ($)</th>
<th>Average Decrease per Housing Unit Affected ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fairfield CT</td>
<td>12,552</td>
<td>19.5%</td>
<td>10.5%</td>
<td>1,318</td>
<td>118,494</td>
<td>424,638,223</td>
<td>3,584</td>
</tr>
<tr>
<td>Hartford CT</td>
<td>13,234</td>
<td>24.8%</td>
<td>14.2%</td>
<td>1,879</td>
<td>128,713</td>
<td>260,004,353</td>
<td>2,020</td>
</tr>
<tr>
<td>Middlesex CT</td>
<td>1,943</td>
<td>16.8%</td>
<td>14.2%</td>
<td>276</td>
<td>8,872</td>
<td>16,529,626</td>
<td>1,863</td>
</tr>
<tr>
<td>New Haven CT</td>
<td>15,299</td>
<td>27.4%</td>
<td>16.0%</td>
<td>4,448</td>
<td>159,366</td>
<td>399,428,512</td>
<td>2,506</td>
</tr>
<tr>
<td>New London CT</td>
<td>4,045</td>
<td>22.9%</td>
<td>15.1%</td>
<td>611</td>
<td>20,585</td>
<td>43,140,252</td>
<td>2,096</td>
</tr>
<tr>
<td>Tolland CT</td>
<td>1,555</td>
<td>17.7%</td>
<td>14.2%</td>
<td>221</td>
<td>4,988</td>
<td>9,614,145</td>
<td>1,927</td>
</tr>
<tr>
<td><strong>Total for CT</strong></td>
<td>38,827</td>
<td></td>
<td></td>
<td>6,809</td>
<td>435,117</td>
<td>1,272,855,012</td>
<td>2,575</td>
</tr>
<tr>
<td>Androscoggin ME</td>
<td>1,881</td>
<td>29.1%</td>
<td>13.5%</td>
<td>254</td>
<td>6,840</td>
<td>7,039,989</td>
<td>1,272</td>
</tr>
<tr>
<td>Cumberland ME</td>
<td>3,635</td>
<td>17.7%</td>
<td>17.8%</td>
<td>647</td>
<td>20,018</td>
<td>42,929,761</td>
<td>2,145</td>
</tr>
<tr>
<td>Penobscot ME</td>
<td>2,526</td>
<td>30.7%</td>
<td>13.3%</td>
<td>336</td>
<td>5,253</td>
<td>6,459,539</td>
<td>1,225</td>
</tr>
<tr>
<td>Sagadahoc ME</td>
<td>445</td>
<td>14.8%</td>
<td>17.8%</td>
<td>79</td>
<td>734</td>
<td>1,207,311</td>
<td>1,646</td>
</tr>
<tr>
<td>York ME</td>
<td>3,353</td>
<td>15.2%</td>
<td>17.8%</td>
<td>597</td>
<td>9,105</td>
<td>16,497,187</td>
<td>1,812</td>
</tr>
<tr>
<td><strong>Total for ME</strong></td>
<td>9,010</td>
<td></td>
<td></td>
<td>1,447</td>
<td>20,445</td>
<td>90,750,753</td>
<td>3,681</td>
</tr>
<tr>
<td>Barnstable MA</td>
<td>3,629</td>
<td>18.5%</td>
<td>19.9%</td>
<td>722</td>
<td>20,445</td>
<td>60,950,517</td>
<td>2,981</td>
</tr>
<tr>
<td>Berkshire MA</td>
<td>1,166</td>
<td>16.2%</td>
<td>12.0%</td>
<td>140</td>
<td>5,972</td>
<td>8,437,301</td>
<td>1,835</td>
</tr>
<tr>
<td>Bristol MA</td>
<td>7,818</td>
<td>20.8%</td>
<td>19.5%</td>
<td>1,525</td>
<td>99,946</td>
<td>321,218,252</td>
<td>3,214</td>
</tr>
<tr>
<td>Essex MA</td>
<td>10,505</td>
<td>19.7%</td>
<td>16.9%</td>
<td>1,755</td>
<td>129,065</td>
<td>549,401,455</td>
<td>4,256</td>
</tr>
<tr>
<td>Franklin MA</td>
<td>812</td>
<td>20.6%</td>
<td>13.4%</td>
<td>152</td>
<td>2,365</td>
<td>3,643,952</td>
<td>1,521</td>
</tr>
<tr>
<td>Hampden MA</td>
<td>8,636</td>
<td>30.8%</td>
<td>15.4%</td>
<td>1,330</td>
<td>80,836</td>
<td>166,360,190</td>
<td>2,058</td>
</tr>
<tr>
<td>Hampshire MA</td>
<td>1,094</td>
<td>13.9%</td>
<td>15.4%</td>
<td>168</td>
<td>3,177</td>
<td>7,149,109</td>
<td>2,250</td>
</tr>
<tr>
<td>Middlesex MA</td>
<td>13,210</td>
<td>14.5%</td>
<td>18.5%</td>
<td>2,180</td>
<td>201,932</td>
<td>816,181,260</td>
<td>4,042</td>
</tr>
<tr>
<td>Norfolk MA</td>
<td>6,544</td>
<td>14.4%</td>
<td>18.5%</td>
<td>1,211</td>
<td>79,181</td>
<td>299,335,942</td>
<td>3,780</td>
</tr>
<tr>
<td>Plymouth MA</td>
<td>9,327</td>
<td>23.3%</td>
<td>18.5%</td>
<td>1,725</td>
<td>55,214</td>
<td>210,177,059</td>
<td>2,850</td>
</tr>
<tr>
<td>Suffolk MA</td>
<td>8,938</td>
<td>23.1%</td>
<td>18.5%</td>
<td>1,654</td>
<td>231,447</td>
<td>1,831,459,276</td>
<td>7,913</td>
</tr>
<tr>
<td>Worcester MA</td>
<td>13,446</td>
<td>23.0%</td>
<td>17.3%</td>
<td>2,309</td>
<td>103,907</td>
<td>246,010,806</td>
<td>2,368</td>
</tr>
<tr>
<td><strong>Total for MA</strong></td>
<td>90,345</td>
<td></td>
<td></td>
<td>1,426</td>
<td>20,445</td>
<td>90,750,753</td>
<td>3,681</td>
</tr>
<tr>
<td>Hillsborough NH</td>
<td>5,524</td>
<td>18.8%</td>
<td>14.3%</td>
<td>719</td>
<td>41,269</td>
<td>78,763,927</td>
<td>1,906</td>
</tr>
<tr>
<td>Rockingham NH</td>
<td>4,088</td>
<td>17.3%</td>
<td>15.6%</td>
<td>638</td>
<td>10,619</td>
<td>26,152,162</td>
<td>2,463</td>
</tr>
<tr>
<td>Strafford NH</td>
<td>1,792</td>
<td>21.9%</td>
<td>15.6%</td>
<td>280</td>
<td>5,720</td>
<td>9,944,156</td>
<td>1,739</td>
</tr>
<tr>
<td><strong>Total for NH</strong></td>
<td>21,574</td>
<td></td>
<td></td>
<td>1,419</td>
<td>20,445</td>
<td>90,750,753</td>
<td>3,681</td>
</tr>
<tr>
<td>Bristol RI</td>
<td>483</td>
<td>14.4%</td>
<td>19.5%</td>
<td>94</td>
<td>5,065</td>
<td>14,010,066</td>
<td>2,766</td>
</tr>
<tr>
<td>Kent RI</td>
<td>4,199</td>
<td>26.4%</td>
<td>19.5%</td>
<td>819</td>
<td>42,040</td>
<td>110,666,338</td>
<td>2,632</td>
</tr>
<tr>
<td>Newport RI</td>
<td>764</td>
<td>13.9%</td>
<td>19.5%</td>
<td>149</td>
<td>8,746</td>
<td>27,591,890</td>
<td>3,155</td>
</tr>
<tr>
<td>Providence RI</td>
<td>14,642</td>
<td>32.7%</td>
<td>19.5%</td>
<td>2,855</td>
<td>183,453</td>
<td>802,320,325</td>
<td>4,373</td>
</tr>
<tr>
<td>Washington RI</td>
<td>1,528</td>
<td>16.7%</td>
<td>19.5%</td>
<td>298</td>
<td>5,119</td>
<td>14,226,120</td>
<td>2,779</td>
</tr>
<tr>
<td><strong>Total for RI</strong></td>
<td>25,173</td>
<td></td>
<td></td>
<td>1,439</td>
<td>20,445</td>
<td>90,750,753</td>
<td>3,681</td>
</tr>
<tr>
<td>Chittenden VT</td>
<td>1,016</td>
<td>10.5%</td>
<td>15.1%</td>
<td>153</td>
<td>5,001</td>
<td>9,989,651</td>
<td>1,997</td>
</tr>
<tr>
<td>Franklin VT</td>
<td>671</td>
<td>20.9%</td>
<td>15.1%</td>
<td>101</td>
<td>1,419</td>
<td>2,230,472</td>
<td>1,572</td>
</tr>
<tr>
<td>Grand Isle VT</td>
<td>99</td>
<td>20.8%</td>
<td>15.1%</td>
<td>15</td>
<td>40</td>
<td>73,150</td>
<td>1,836</td>
</tr>
<tr>
<td><strong>Total for VT</strong></td>
<td>2,795</td>
<td></td>
<td></td>
<td>1,422</td>
<td>20,445</td>
<td>90,750,753</td>
<td>3,681</td>
</tr>
<tr>
<td><strong>Total for all</strong></td>
<td>301,638</td>
<td></td>
<td></td>
<td>21,415</td>
<td>20,445</td>
<td>90,750,753</td>
<td>3,681</td>
</tr>
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Source: Center for Responsible Lending (2008)
Another report, released by the Majority Staff of the Joint Economic Committee (MSJEC) of the U.S. Congress, takes a different approach from the CRL study. It forecasts the cumulative effects covering the period from the second quarter of 2007 to the end of 2009. It assumes that all foreclosures during this period are entirely a result of subprime loans that were still active as of March 2007—a very coarse assumption. For instance, Mortgage Bankers Association data show that only about 55% to 66% of the foreclosures in New England between Q1 2006 and Q2 2008 are related to subprime mortgages, and subprime mortgages' share in foreclosures has been on the decline since Q2 2007. This means that about one-third to one-half (and possibly more if the current trend continues) of the foreclosures in New England are from prime loans, which MSJEC’s estimate does not include. MSJEC’s report therefore may have underestimated the number of potential foreclosures. However, in using the price-depressing coefficient of -0.9% from Immergluck and Smith’s Chicago study, MSJEC’s report may have overestimated because of the limitations of using the -0.9% coefficient as discussed earlier. MSJEC’s estimates for the New England region are listed below:

### Estimated Impact of Subprime Foreclosures on Property Values and Property Taxes (Q3 2007 – Q4 2009)

<table>
<thead>
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<tbody>
<tr>
<td></td>
<td>Total</td>
<td>Direct</td>
<td>Neighborhood</td>
<td>Total</td>
<td>Direct</td>
</tr>
<tr>
<td>CT</td>
<td>83,575</td>
<td>$292,815</td>
<td>$14,079</td>
<td>$1,405,560,135</td>
<td>$874,646,011</td>
</tr>
<tr>
<td>ME</td>
<td>24,460</td>
<td>$185,475</td>
<td>5,583</td>
<td>$296,733,417</td>
<td>$224,333,232</td>
</tr>
<tr>
<td>MA</td>
<td>115,780</td>
<td>$323,303</td>
<td>22,292</td>
<td>$3,009,182,395</td>
<td>$1,557,268,422</td>
</tr>
<tr>
<td>NH</td>
<td>30,544</td>
<td>$250,101</td>
<td>4,302</td>
<td>$461,256,428</td>
<td>$231,094,893</td>
</tr>
<tr>
<td>RI</td>
<td>26,033</td>
<td>$269,181</td>
<td>5,833</td>
<td>$662,456,460</td>
<td>$328,832,356</td>
</tr>
<tr>
<td>VT</td>
<td>6,286</td>
<td>$202,856</td>
<td>1,316</td>
<td>$733,322,809</td>
<td>$56,894,221</td>
</tr>
</tbody>
</table>

Source: The Majority Staff of the Joint Economic Committee. (2007)

The differences in these two reports’ projections result partly from their different objectives, data sets, assumptions, and methodologies. Clearly, it is a challenge to accurately gauge the spillover effects at the local level, given the uniqueness of each real estate market. Furthermore,
lower house values in turn also reduce the net worth of the homeowners and their communities, often limiting their economic mobility and prospects. Such induced effects are not included in the discussion, and it would be difficult to quantify them.

Although the actual extent of foreclosures' spillover effects on New England communities needs further research, all studies examined agree that foreclosures' detrimental impacts are communal. That is why foreclosure prevention and mitigation efforts need to go beyond the physical constraints of individual foreclosed houses and instead embrace a more comprehensive approach aimed at protecting local communities' vitality.
Foreclosure’s Price-Depressing Spillover Effects on Local Properties: A Literature Review

References:


Mikelbank, B. (forthcoming) "Spatial Analysis of the Impact of Vacant, Abandoned and Foreclosed Properties." Spatial errors exist when a regression model does not capture, or captures but with significant deficiency, unmeasured neighborhood influences common to houses in physical proximity.


The Majority Staff of the Joint Economic Committee. (October 2007) . The Subprime Lending Crisis: The Economic Impact on Wealth, Property Values and Tax Revenues, and How We Got Here.
The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable SHELDON WHITEHOUSE, a Senator from the State of Rhode Island.

PRAYER
The Chaplain, Dr. Barry G. Black, offered the following prayer:

Let us pray.

Immortal, invisible, God only wise. In light inaccessible hid from our eyes. You have promised in Your Word that "In all labor there is profit." Give our lawmakers today the profit of wise decisions that will bless our land. Deliver them from the paralysis which fails to see that, with many advisers, there is safety. Give our Senators the wisdom to understand Your will and the courage to do Your bidding. If today, Lord, You want them to avoid certain pitfalls, make Your way plain to them. Infuse them with inspired ideas that will transform a turbulent today into a tranquil tomorrow. May our Senators stretch out their hands toward You, depending upon You to lead them to a safe harbor.

Hear our prayer, in the Redeemer’s Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SHELDON WHITEHOUSE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 1, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHELDON WHITEHOUSE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WHITEHOUSE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will consider H.R. 7081, the United States-India nuclear agreement. This is an issue that has been worked on long and hard for months and months. Finally, we are having the opportunity to get to it. Senators DORGAN and BINGAMAN have amendments to the bill that will be debated this morning. Under an agreement reached yesterday, there will be up to 60 minutes for debate on the bill and 60 minutes on each amendment.

Following the debate on the United States-India nuclear legislation, the Senate will proceed to consider H.R. 1424, the legislative vehicle used for the economic rescue legislation. The only amendments in order are a Sanders amendment regarding high-income individuals and a Dodd amendment regarding economic stabilization. The Sanders amendment has 60 minutes for debate, and the Dodd amendment has 90 minutes for debate.

The Senate will recess from 12:30 until 2:15 for the caucus luncheons. At 7 p.m., the Senate will resume consideration of the House measure with respect to the rail safety-Amtrak legislation, H.R. 2005.

At approximately 7:30 p.m., the Senate will proceed to a series of up to seven rollovers votes in relation to Amtrak-rail safety, the United States-India nuclear agreement, and the economic rescue package. The Sanders amendment will be determined by voice vote. Votes will be in relation to the following items: motion to concur with respect to H.R. 2005, Amtrak; the Dorgan amendment regarding clarifying the policy in the event of an Indian nuclear test; the Dorgan amendment reporting requirement in the event of an Indian nuclear test; passage of H.R. 7081, the India-United States nuclear agreement, which has a 60-vote threshold—as do the two amendments, the Sanders amendment
no because I do not think we face very serious economic challenges. We do. Credit is drying up, and that presents a real threat to all Americans. I will not vote for this because I do not think the Federal Government needs to act. It does, as soon as responsible action is possible. I will vote no because we do not need to use $700 billion of hard-earned taxpayer money in this way, cross this line, set this precedent.

We need to stabilize the market and increase liquidity, not replace the market with unprecedented Government intervention. Let's open a new chapter and expunge the experience. We need to minimize the pain on average Americans who did nothing wrong, not wipe it away from politicians, lenders, and, yes, some borrowers who did plenty wrong who were plainly reckless.

My fundamental concerns with this plan are only heightened by the fact that to implement it, tens of thousands of shares will have just been made as to what to buy and for how much. Those judgment calls will be made by whom? Teams of new bureaucrats who came from Wall Street and who want to make back some. That ensures bias and even corruption.

My deep general unease is only fueled by the fact that there has been no real discussion of the fundamental, long-term reforms that are needed—breaking up Fannie Mae and Freddie Mac, demanding real money down for all home purchases, and establishing aggressive, pro-growth tax and economic policy. What is worse, there has probably been no real discussion of this because neither this Congress nor the one about to be elected will pass any of it.

A week ago, I may have voted in anger. Although that is still there, I act now with a profound sense of sadness and disappointment because this unprecedented expansion of Government intervention at taxpayer expense is an appalling example of political leadership—first, crying fire in a crowded movie theater, then demanding that the only escape is to take dangerous action like tearing down the walls; even though there are plenty of exit doors in sight.

I truly pray that much of what I have said is proven wrong. I will try very hard to do just that myself, particularly in the terms of the next step, by working tirelessly to pass the fundamental reforms we need so that a repeat of this mess—however much a repeat is actually encouraged by this bailout—never happens again. However, we vote on this first step, I hope we can come together on the next step in terms of meeting that challenge: passing the fundamental reforms we need. In that spirit, I ask the leaders of this Congress to call this Congress back this year immediately following the election to do just that.

Now is the time to enact real solutions to our economy, develop small businesses, and increase opportunities for all Americans. Now is the time to reform the misguided Government policies that caused this mess in the first place. And now is the time to stop knee-jerk political reactions and focus on real solutions to secure our Nation's future, not just for next week but for ever.

Madam President, I yield back the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, for how long would the Senator from Illinois like to be recognized?

Mr. OBAMA. Madam President, 6, 7 minutes.

Mr. DODD. I am in control of the time. How much time?

Mr. OBAMA. Madam President, 10 minutes.

Mr. DODD. Madam President, I yield the Senator from Illinois 10 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes.

Mr. OBAMA. Thank you very much, Madam President. I thank the distinguished Senator from Connecticut not only for yielding time, but also for the extraordinarily hard work he has put in over the last several days and, in fact, over a week. And I want to thank his counterparts on the other side, including Senator GEARING, for their hard work.

The fact that we are even here voting on a plan to rescue our economy from the greed and irresponsibility of Wall Street and some in Washington is an outrage. It is an outrage to every American who works hard, pays their taxes, and is doing their best every day to make a better life for themselves and their families. Understandably, people are frustrated. They are angry that Wall Street's mistakes have put their tax dollars at risk, and they should be. I am frustrated and angry too.

But while there is plenty of blame to go around and many in Washington and Wall Street, let us reserve it, all of us—all of us have—a responsibility to solve this crisis because it affects the financial well-being of every single American. There will be time to punish those who set this fire, but now is not the time to argue about how it got set, or whether the neighbor smoked in his bed or left the stove on. Now is the time for us to come together and to put out that fire.

When the House of Representatives failed to act on Monday, we saw the single largest decline in the stock market in two decades. Over $1 trillion of wealth was lost by the time the market closed. It wasn't just the wealth of a few CEOs or Wall Street executives; the 401(k)s and retirement accounts that millions count on for their family's future became smaller. The State pension fund of teachers and government employees lost billions upon billions of dollars. Hard-working Americans who invested their nest egg to watch it grow saw it diminish and, in some cases, disappear.

But while that decline was devastating, the consequences of the cred-
Now, let's acknowledge, even with all these taxpayer protections, this plan is not perfect. Democrats and Republicans in Congress have legitimate concerns and some of my colleagues—people I have the greatest respect for—still have problems with it and may choose to vote against this bill, and I think we can respectfully disagree. I understand their frustrations. I also know many Americans share their concerns. But it is clear, from my perspective, that this is what we need to do right now to prevent a crisis that is turning into a catastrophe.

It is conceivable, it is possible, that if we did nothing, everything would turn out OK. There is a possibility that is true. And there is no doubt there may be other plans out there that, had we had 2 or 3 or 5 months to develop, might be even more refined and might serve our purposes better. But we don't have that kind of time and we can't afford the risk that the economy of the United States of America—and, as a consequence, the worldwide economy—could be plunged into a very deep hole.

So I urge Democrats and Republicans who have opposed this plan, I say: Step up to the plate. Let's do what is right for the country at this time because the time to act is now.

I know many Americans are wondering what happens next. Passing this bill can't be the end of our work to strengthen our economy; it must be the beginning. Because one thing I think all of us who may end up supporting this bill understand is that even if we get this in place, we could still have enormous problems—and probably will have big problems—in the economy over the next several months and potentially longer. Because the fact is, we have had mismanagement of the fundamentals of the economy for a very long time, and we are not going to dig ourselves out of this hole immediately. So this is not the end; this is the beginning.

As soon as we pass this rescue plan, we must move aggressively with the same sense of urgency to rescue charities on Main Street who are struggling to pay their bills and keep their jobs. They have been in crisis a lot longer than Wall Street. I have said it before and I say it again: We need to pass an economic stimulus package that will help ordinary Americans cope with rising food and gas prices, that can save 1 million jobs by rebuilding our schools and roads and our infrastructure, and help States and cities avoid budget cuts and tax increases. A plan that would extend expiring unemployment benefits for those Americans who lost their jobs and cannot find new ones. That is the right thing to do at a time when consumer confidence is down and we are in great danger of slipping into a big recession.

We can do more than this rescue package in order to help homeowners stay in their homes. I will continue to advocate bankruptcy reforms.

I know my colleague from Illinois, Dick Durbin, has been a strong champion of this, as have many others. It is the right thing to do, to change our bankruptcy laws so people may have a better chance of staying in their homes, and so we don't see communities devastated by foreclosures across the country. We should encourage Treasury to pursue the option of buying individual mortgages as we did successfully in the 1990s. Finally, while we all hope this rescue package succeeds, we should be prepared to take more vigorous actions in the months ahead to rebuild capital if necessary.

Just as families are planning for their future in tough times, Washington is going to have to do the same. Runaway spending and record deficits are not how a healthy run their budgets; it can't be how Washington handles people's tax dollars. So we are going to have to return to the fiscal responsibility we had in the 1990s. The next White House and Congress are going to have to work together to make sure we go through our budget, we get rid of programs that don't work and make the ones we do need work better and cost less.

With less money flowing into the Treasury, some useful programs or policies might need to be delayed. Some relief needs to be spread out over a longer period of time. But there are certain investments in our future we cannot afford to delay. Precisely because our economy is in turmoil.

Mr. President, I have exceeded the time a little bit. I ask unanimous consent for a couple more minutes.

Mr. DODD. I ask unanimous consent that the Senator have as much time as he would like to finish his remarks.

The PRESIDING OFFICER (Mr. Pryor). Without objection, it is so ordered.

Mr. OBAMA. Mr. President, there are certain investments in our future that we can't delay precisely because the economy is in turmoil. We can't wait to help Americans keep up with rising costs and shrinking paychecks, and we are going to have to do that by making sure we are giving our workers a middle-class tax cut. We can't wait to relieve the burden of crushing health care costs. We can't wait to create millions of new jobs by rebuilding our roads and our bridges, by investing in broadband lines in rural communities, and by fixing our electricity grid so we can get renewable energy to population centers that need them. We need to develop an energy policy that prevents us from sending $700 billion a year to tyrants and dictators for their oil. We can't wait to educate the next generation of Americans with the skills and knowledge they need to compete with any workers, anywhere in the world. These are the priorities we cannot delay.

Let me close by saying this: I do not think this bill will end all our problems. It is not going to come without costs. We are all going to need to sacrifice. We are all going to need to pull our weight because, now more than ever, we are all in this together. That is part of what this crisis has taught us, that at the end of the day, there is no real separation among American Wall Street and Main Street. There is only us, we are traveling on as Americans. We will rise or fall on that journey as one Nation and as one people.

I know many Americans are feeling anxious about their jobs, about their homes, about their life savings. But I also know this: I know we can steer ourselves out of this crisis. We always have. During the great financial crisis of the last century, in his first fireside chat, FDR told his fellow Americans that:

"There is an element in the readjustment of our financial system more important than money, more important than gold, and that is the confidence of the people themselves. Confidence and courage are the essential differences in carrying out our plan. Let us unite in banning fear. Together, we cannot fail."

We cannot fail. Not now, not tomorrow, not next year. This is a nation that has faced down war and depression, great challenges that threaten, and at each and every moment, we have risen to meet these challenges—not as Democrats, not as Republicans, but as Americans, with resolve and with confidence; with that fundamental belief that here in America, our destiny is not written for us, it is written by us. That is who we are, and that is the country I know we can be right now.

So I wish to thank again the extraordinary leadership of Chairman Dodd and the Banking Committee, as well as Chairman Baucus and the Senate Finance Committee. They have worked tirelessly. I also wish to thank the leadership in the House of Representatives. I urge my colleagues to join me in supporting this important legislation, which is essential to solving that have all our problems. It is a necessary but not sufficient step to make sure this economy, once again, works on behalf all Americans in their pursuit of the American dream.

Thank you. I yield the floor.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DE MINT. Mr. President, I have friends and colleagues whom I respect deeply who are on all sides of this bailout issue. One of them just spoke. We all want to do what is right for America, I believe those who have crafted this plan had pure and noble motives. They want this country to succeed. They want prosperity. I just do not believe that this bill gets the job done. In fact, in the long term, I am
Mr. BAUCUS. To my good friend from Indiana, the answer is yes. The new tax credit for plug-in electric drive motor vehicles was intended to be, with its weight and emission limits, vehicle design neutral. Vans are mainly a subset of light trucks and would be eligible if they meet the weight, energy, and emission criteria under the provision.

ADMINISTRATIVE PROCEDURES ACT REVIEW

Mr. LEAHY. As the Senate considers extraordinary legislation to address the current economic crisis, I believe it is imperative for the RECORD to reflect the intent behind the provisions I worked with Senator DODD to include in this legislation. In an effort to ensure that there is no doubt about what we intended, I would ask the Banking Committee chairman, Senator DODD, whether it is his understanding that our efforts to ensure that any actions taken by the Treasury Secretary, under the authority of this legislation, be consistent with the Administrative Procedures Act.

Mr. DODD. I would say to the distinguished chairman of the Judiciary Committee that is what we intend. We have provided the provision we have included in section 119 of the Senate's legislation, to ensure that this review is available, the word "law," as it is used, means any State or Federal law interpreting such State and Federal laws.

Mr. DODD. Yes. The Senator from Vermont is correct. My understanding and intent is that this section would allow for review in the event any action by the Treasury Secretary was in violation of any State or Federal statute, or common law interpreting a statute.

Mr. LEAHY: I thank the Senator. It is not our intent to permit the Treasury Secretary to quash or alter any private right of action on the part of shareholders of entities from which the Secretary may purchase assets, nor to force the Secretary to confer immunity from suit any participating financial institution.

Mr. DODD. I would say to the Senator from Vermont that is correct as well.

Mr. LEAHY. And with the savings clause we have added to the legislation, we also intend to prohibit the Treasury Secretary from interfering with or impairing in any way the claims or defenses available to any other person. For example, no person's claims in relation to assets purchased by the Treasury Secretary under the Truth in Lending Act should be impaired, and no person who has been harmed by the conduct of a financial institution should have their claims affected in any way. Is this the understanding of the Senator from Connecticut as well?

Mr. DODD. It is. That is what we intend.

Mr. LEAHY. And by agreeing with the administration's request to automatically stay on appeal injunctions issued against the Treasury Secretary for actions taken under the authority of this legislation, we have assured that existing waivers of sovereign immunity under the Tucker Act, the Contract Disputes Act, the Little Tucker Act, the Federal Tort Claims Act, and any relevant civil rights laws would apply to the Treasury Department's new responsibilities, just as these laws have applied to the Treasury Department's actions prior to the bailout measure. Is that correct?

Mr. DODD. I say to the chairman of the Judiciary Committee that is what we intend with the savings clause.

Mr. LEAHY. We also included a provision to make sure that mortgagees whose mortgages are purchased by the Treasury maintain all of the claims and defenses they have in relation to those mortgages, including under their contracts, or under State or Federal consumer protection law. It is not our intent to deprive homeowners any recourse they may have against lenders who committed or who violated laws in inducing any homeowner into taking a mortgage. Does the Chairman of the Banking Committee agree with me on this point?

Mr. DODD. I do.

Mr. LEAHY. And finally, I ask as a general matter whether the Senator from Connecticut agrees with me that civil litigation brought by shareholders, or by or on behalf of financial institutions that purchased troubled assets, against officers, directors, and in some cases counterparties whose alleged misconduct contributed to their losses, are matters for the justice system to resolve?

Mr. DODD. I agree with the chairman of the Judiciary Committee.

Mr. LEAHY. And the people the distinguished, chairman of the Banking Committee, Senator DODD, for engaging in this colloquy. And I thank him for consulting me early in this process to ensure that the Senate's bill contains appropriate safeguards to ensure that the extraordinary authority given to the Treasury Secretary is reviewable, and that the rights of American citizens are preserved.

AUTO FINANCING COMPANY LOANS

Mr. LEVIN. As Treasury implements this new program, it is clear to me from reading the definition of financial institution that auto financing companies would be among the many financial institutions that would be eligible sellers to the government. Do you agree?

Mr. DODD. Yes, for purposes of this act, I agree that financial institution may encompass auto financing companies.

Mr. LEVIN. I thank the Senator. It also seems clear from the definition of troubled assets that, should the Treasury Secretary, after consulting with the Chairman of the Federal Reserve, determine that auto loans would promote financial market stability by opening up the market for car sales, that Treasury has the authority to make such purchases, so long as it transmits that determination to Congress.

Mr. DODD. Yes. Should, the Treasury Secretary, after consulting with the Chairman of the Federal Reserve System, determine that purchasing auto loans is necessary to promote financial market stability and transmits such determination in writing to the Committee, then the Secretary could engage in such purchases.

I am keenly aware of these issues as Chairman of the Banking Committee, which has jurisdiction over financial aid to troubled assets is something which wrote the Chrysler Corporation Loan Guarantee Act of 1979.

Ms. STABENOW. First, I want to commend Chairman DODD for his leadership on this bill. The credit crisis is having a significant impact on the hard-working men and women at GM in Michigan and throughout the country who proudly build American-made cars and trucks; the men and women who sell and finance Chrysler vehicles; and the individuals who service Ford vehicles in dealerships throughout the country.

With the credit markets having largely frozen up, domestic automobile manufacturers and finance companies face the most difficult conditions they have faced in decades. They have been hit with a double whammy: high gasoline and diesel prices, coupled with evaporating credit.

Considering the importance of the auto industry to our economy and the need to reiterate the points raised by my colleague, by clarifying that the Treasury has the authority to purchase auto loans and that auto financing companies could participate in the program if determined necessary by the Treasury, after consulting with the Chairman of the Federal Reserve System, to promote market stability.

Mr. DODD. This is correct. As previously stated, an auto financing company could be included in the definition of financial institution and auto debt could be included in the definition of troubled assets after the appropriate steps are taken.

Ms. STABENOW. I thank the Chairman. By getting credit back into the hands of our motor vehicle industry, we can help Main Street survive the credit crunch. We can get people back to work. And we can get cars and trucks moving again throughout the country.

DEFINITION OF A FINANCIAL INSTITUTION

Mr. REED. Mr. President, I would like to ask of the Committee on Banking, Housing, and Urban Development a question.

Is it Chairman DODD's understanding that the definition of a financial institution in section 3(6) of the Emergency Economic Stabilization Act includes the holding companies of such institutions described as 'auto sales association, credit union, security broker or dealer or insurance company'?
Mr. DODD. Yes, I completely agree that this would include holding companies of such companies listed and other companies that the Secretary may determine would be eligible for this provision.

Mr. REED. Section 113(d) of the Emergency Economic Stabilization Act states that warrants should be issued for companies that sell their assets to the Secretary under the requirements of the section. Is it Chairman Dodd’s understanding that if a company selling such assets is a subsidiary that is not traded on an exchange but has a parent or parent that is traded on an exchange, that the stock of such holding or parent company would be referenced in the warrant?

Mr. DODD. Yes, it is the intent of the committee and of the Congress that this section intends that the securities of the parent or holding company of such a subsidiary would be used in the warrant. Nothing in this language is intended to hold the holding companies of subsidiaries and warrants should be exercised to the greatest extent possible for the benefit of the taxpayer.

Mr. REED. If I could ask one more question, Mr. Chairman, certain sub-account balance sheet entities or affiliates may sell troubled assets to the Government, to include but not limited to structured investment vehicles, qualified special purpose entities, special purpose entities, conduits, shell companies, and other legal entities. Is it the case that such entities or their holding or parent company would be required to enter into warrants with the Government?

Mr. DODD. Yes, I agree that this is the case and that it was the original intent of the committee and of the Congress to ensure that warrants are exercised to the greatest extent for the benefit of the taxpayer, to include recovery of losses and administrative expenses along with a premium set by Treasury.

TAX CREDIT INVESTMENTS

Mr. CARDIN. Mr. President, I want to commend the senior Senator from Connecticut, who chairs the Committee on Banking, Housing and Urban Affairs, for the extraordinary effort he and his staff have put in over the past several days to bring us to the point where we are preparing to vote on an economic stabilization package. While we all regret being in this situation, I think there is widespread recognition that we need to act to get our financial and credit markets operating again.

I have one particular concern I would like to address to the chairman, if I may. One of the problems created by the turmoil in the financial and credit markets is that many of the institutions needing liquidity, or those which normally would provide liquidity to the marketplace, hold illiquid low-income housing tax credit investments, many of which require further funding. These credit investments come with the expense of the Federal Government since the holders of these investments achieve their return by taking credits against their taxes in the form of the section 42 low-income housing tax credit, LIHTC. Among the institutions with substantial holdings and which have historically provided liquidity to this market, but which cannot go on longer to provide liquidity, are Fannie Mae and Freddie Mac, as well as several of the banking institutions which have been most adversely affected by the crisis in the markets. The ability of these institutions to use the credits has been severely impaired, and I am deeply concerned that, with so many other financial assets, the holders will dump them into the market at distressed prices. The buyers at these distressed prices will be the very institutions that would have bought new credits at non-distressed prices. The result will be that instead of investing new money in new affordable housing, these buyers will instead use that money to buy existing credits at distressed prices and much less money will flow into the production of new housing in the next few years. In fact, the turmoil in the capital markets has already severely restricted the flow of new funds into new affordable housing and this market has seen downturn at a time when adding to the stock of affordable housing is critically important.

I would like to ask Chairman Dodd if he believes that his amendment to H.R. 1242—specifically, section 3(9)(A) of division A—gives the Federal Government authority under the Troubled Asset Relief Program, TARP, to purchase existing low-income housing tax credit investments from the holders of those investments. Unlike many of the other assets the Government may purchase in other sectors, these investments can be purchased at little or no cost to the Treasury because the Government is already paying for them in the form of tax credits.

Mr. DODD. Mr. President, I want to assure my colleague from Maryland that I read that language as allowing such purchases, if necessary, to maintain liquidity in this particular market. I would recommend him for bringing this important matter to my attention as soon as we received the original Treasury proposal. My staff informed Senator Cardin’s staff that Treasury officials believed the proposal they sent to Congress authorized the purchase of such credits, and we concurred.

Mr. CARDIN. I thank the chairman for replying to me. I think new warrants would bolster the market tremendously if it purchases such credits where necessary to: (1) create liquidity for those financial institutions currently in distress, and (2) stimulate the production of affordable housing in a market which has deteriorated substantially—all at little cost to the Government.

Mr. DODD. Mr. President, my colleague from Maryland has made an excellent suggestion for how Treasury ought to maintain liquidity with respect to the LIHTC. I thank him for his concern. The housing crisis in this country affects nearly everyone in some respect, including lower income individuals and families who cannot afford to own homes and depend on the steady supply of affordable rental housing. My amendment to H.R. 1242 gives Treasury the authority, flexibility, and resources it needs to address this critical need that EPA, in consultation with the Secretary of the Treasury regarding the carbon sequestration tax credit under this provision, will establish the...
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specific substantive environmental criteria and requirements for security and other measures for the geologic storage of carbon dioxide such that it does not emit into the atmosphere or affect underground sources of drinking water, and that the Secretary of the Treasury will then apply such criteria and requirements in establishing the requirements to qualify for the tax credit under this section?

Mr. BAUCUS. Mr. President, the distinguished chairman of the Committee on Environment and Public Works is considering legislation is intended to leave the substantive environmental criteria and requirements for carbon sequestration to EPA, including security-related issues, and as was done with respect to carbon sequestration in section 706 of the Energy Independence and Security Act of 2007, this provision is not intended to limit the legal requirements and authorities of EPA. EPA's detailed requirements for carbon sequestration will be applied by the Secretary of the Treasury after consultation.

FORECLOSURE PREVENTION PROVISIONS

Mr. REID. I would like to ask the chairman of the Committee, Senator DODD, a question about the elements of this bill that deal with foreclosure prevention. I know this has been a priority for the Senator from Connecticut. I wonder if he could review the provisions of the legislation that will help more Americans keep their homes.

Senator DODD. I thank the leader for his question and for his leadership in helping guide us through this crisis. He is exactly right. I have been saying throughout this process that foreclosure prevention has been one of the key reasons we need to move forward with the Emergency Economic Stabilization Act.

The legislation has a number of key provisions dealing with foreclosure prevention:

First, it requires that the Secretary of the Treasury "implement a plan that seeks to maximize assistance for homeowner's" in keeping their homes. This means Congress has rejected an ad hoc approach by the Treasury in favor of a programwide system to keep families in homes.

In the case where the Secretary owns whole loans, we expect him to modify those loans to ensure long-term affordability for American families. The legislation outlines that this should be done by a reduction in principal, a reduction in the interest rate, a refinance through the HOPE for Homeowners Program, or any equivalent method that ensures that these hard working Americans are restored to sustainable home ownership.

I want to remind my colleagues that millions of Americans were sold loans that the mortgage brokers and lenders knowingly sold, having known the borrowers could never afford. These "exploding" adjustable rate mortgages, ARMs, interest-only loans, and pay-option ARMs were designed to entice borrowers with low initial payments. Yet, after a couple of years, the payments would explode, increasing by 20 percent, or more. This is driving delinquency and foreclosure rates to historically high levels and driving home prices down, creating the economic downturn we are now facing.

Second, under the authority of the Federal Housing Finance Agency, FHFA, and the Federal Reserve Board, must also implement plans to help mortgagees and homeowners. The FDIC, under the leadership of Chairman Sheila Bair, has already started down this road with the assets it has taken from IndyMac Bank, and we expect the other agencies to work with the FDIC in developing their own programs. The FHFA, which is the conservator for Fannie Mae and Freddie Mac, now oversees hundreds of billions of dollars in mortgage-backed securities (MBS) and is difficult to get the various investors in the numerous MBS backed by a particular pool of mortgages to all agree to a modification. This legislation, however, mandates that the Treasury and other Federal agencies that own or control MBS must aggressively pursue loan modifications with other investors and must consent to all requests from servicers for reasonable modifications. In fact, it is our hope that the Federal Government will gain control of sufficient percentages of these pools that their ongoing purchasing activities and reasonableness in their willingness to accept offers that ensure families can keep their homes will tip the balance and lead to more modifications. Finally, there are three new provisions for the HOPE for Homeowners that should expand its reach and allow us to help many more homeowners avoid foreclosure and get into affordable, stable, FHA-insured mortgages.

As I have been saying for well over a year, the epicenter of the current financial and economic crisis is the housing crisis and the heart of the housing crisis is the foreclosure crisis. I understand the need to move to stabilize the financial system as a whole—I am one of those counting countless hours over the past few weeks to negotiate this final package. But I would not support this bill, nor ask my colleagues to do so, if I was not convinced that the most important new tools to address the core problem—rising delinquencies and foreclosures. Obviously, this bill does not include everything I would want but it is an important step forward.

Mr. REID. I want to thank my colleagues for laying out these important points. The Senator has been one of the earliest and strongest voices raising the alarm about the danger of increased foreclosures. I thank him for his leadership.

Mr. BAUCUS. Mr. President, I ask unanimous consent to have printed in the Record the attached technical explanation of the tax provisions of the Economic Emergency Stabilization Act of 2008.

There being no objection, the material was ordered to be printed in the RECORD, AS FOLLOWS:

TECHNICAL EXPLANATION OF TITLE III (TAX PROVISIONS) OF DIVISION A OF H.R. 1249, THE "EMERGENCY ECONOMIC STABILIZATION ACT OF 2008"

INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, provides a technical explanation of Title III (Tax Provisions) of Division A of H.R. 1249, the "Emergency Economic Stabilization Act of 2008," that was enacted into law on October 3, 2008.

A. TAX GAIN OR LOSS FROM SALE OR EXCHANGE OF CERTAIN PREFERRED STOCK BY APPLICABLE FINANCIAL INSTITUTIONS AS ORDINARY INCOME OR LOSS (SEC. 301 OF THE BILL)

PRESENT LAW

Under section 563(c)(1), the sale or exchange of a bond, debt obligation, note, certificate or other evidence of indebtedness by a financial institution described in section 563(c)(2) is not considered a gain from the sale of a capital asset. The financial institutions described in section 563(c)(2) are (i) any bank (including any corporation which would be a bank except for the fact that it is a foreign corporation), (ii) any financial institution referred to in section 561, which includes mutual savings banks, cooperative banks, domestic building and loan associations, and other savings institutions chartered and supervised by State authorities, and (iii) any small business investment company operating under the Small Business Investment Act of 1958, unless the corporation is a development corporation, defined as a corporation which was created by or pursuant to an act of the State legislature for the purpose of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to small businesses, and which generally would not be made by or within such state or region or State in the ordinary course of its business (except on the basis of a partial participation) and which is operated primarily for such purposes. In the case of a foreign corporation, section 563(c)(1) applies only with respect to gains or losses which are effectively connected with the conduct of a banking business in the United States.

Preferred stock issued by either the Federal National Mortgage Corporation ("Fannie Mae") or the Federal Home Loan Mortgage Corporation ("Freddie Mac") is not treated as indebtedness for Federal income tax purposes, and therefore is not treated as an asset to which section 563(c)(1) applies. Accordingly, a financial institution described in section 563(c)(2) that holds Fannie Mae or Freddie Mac preferred stock as a capital asset generally will recognize capital gain or loss on the sale or exchange of that stock. Section 1221 provides that, in the case of a corporation, losses from sales or exchanges of capital assets are allowed only to the extent of gains from such sales or exchanges. Thus, in taxable years in which a
rescue fund for many of America’s biggest financial institutions while still leaving in place unregulated financial markets that allowed this financial crisis to happen.

Despite my best efforts there is nothing in this legislation that will require the regulation of the very financial markets that have, in recent years, helped create a moral hazard atmosphere with large financial institutions exhibiting unprecedented greed in search of short-term profits and big bonuses that knew no bounds.

The plan I am proposing for a plan that I believe fails to address the central cause of this crisis: unregulated financial markets that hide the unbelievable speculation and reckless investments by some major financial institutions whose losses are now being loaded on the backs of the American taxpayers. These financial markets must be regulated now!

When Congress debated a large deregulation bill titled the Financial Modernization Act, I was one of only eight Senators who voted no and I warned then in Senate debate that “this bill will also raise the likelihood of taxpayer bailout.” I wish I had been wrong.

Nine years later we are considering a “massive taxpayer bailout” plan that provides no regulation of the hedge funds and derivative trading that has caused much of the financial wreckage in our economy.

The plan also fails to restore the protections that were removed in the Financial Modernization Act to separate FDIC insured bank operations from the risky speculative investments in real estate and securities. Under this plan the creation of exotic securities that are traded in financial darkness by unregulated hedge funds and other institutions can continue. It is estimated that there is a notional value of $600 trillion dollars in default swaps in our economy. No one knows where they are, whose balance sheets they may threaten, or how much additional risk they pose to financial firms. Yet, it was told this plan could not require regulation and transparency of these financial markets because there was opposition in Congress and the White House. That is not a satisfactory answer for me. And I don’t believe it is satisfactory to the taxpayers.

The legislation contains some provisions that I strongly support. I believe we should increase the FDIC insurance to $250,000 per account. I also strongly support the tax extenders and the tax incentives for renewable energy.

But in the end, if this plan is about restoring confidence, the failure to include reform and regulatory measures along with the money is a fatal flaw that I believe will end up hurting our country.

The following are the six steps I called for including in the financial rescue plan. While there was some improvement in the plan along the way, it fails to do what I think is necessary to protect both the economy and taxpayers.

1. Restoring the stability and safety of the banking system by putting in place the protections of the Glass-Steagall Act, which prohibited the merging of banking businesses with riskier investments. That post-Depression Era protection system was in place for seven decades before its repeal.

2. Addressing the wildly excessive compensation on Wall Street, which has incentivized reckless behavior. In 2008 alone, banks, companies, and firms doled out more than $100 billion in bonuses to the very people who steered us into this mess, including more than $33 billion in each of 2007 and 2006.

3. Developing a system of regulation that would require accountability for the speculative investment activities of hedge funds and investment banks that create and sell complex securities. This would include a requirement of forbearance on mortgages where homeowners could continue to pay mortgages at a set rate.

4. Creating a Taxpayer Protection Task Force to investigate and claw back ill-gotten gains. This would be targeted at individuals and firms that profited from creating and selling worthless securities and toxic products. Despite the fact that this practice caused the current economic crisis, many of these individuals and firms now seek to benefit from a Government bailout.

5. Making sure that U.S. taxpayers get a share in the increased values, not just the burden of risk, of the firms they are bailing out.

6. Mr. LEVIN. Mr. President, our Nation’s economy is in crisis, the likes of which we have not seen since the 1930s. For years, we have traveled a disturbing path: foreclosures and unemployment are up while median income and production are down. CEO pay has skyrocketed while regular Americans are suffering. Economic growth has slowed because tight credit has forced businesses large and small to put investments for the future on hold while they focus on making sure they have capital to buy inventory or even make payroll.

But in just the last few weeks, we have seen something even more startling appear on the horizon: our current path ends at a cliff, and if we do not take quick action to change the course of our economy, it could go over the edge. The reasons we are at this cliff are many. The path we have traveled has been marked by an appalling lack of oversight by the regulators of the marketplace. Wall Street has run amok with greed while the Bush administration and others urged them on in the name of deregulation. As in the runup to the Great Depression, our free markets are running wild. We have reduced capital requirements, removed the authority of the Securities and Exchange Commission to regulate swaps, and speculators took over the majority of some commodity trading, like oil. Still, echoing Roosevelt’s opponents in the 1930s, some opponents of government stabilization actions argue that the kind of rescue in play today—and regulation of the practices that brought us here—threatens the freedom of our markets and our people.

The opposite is true. In a free country, we need to have stoplights and cops to maintain order, keep everyone safe, and give everyone fair treatment and fair opportunity. The same is true of a free economy: when stoplights and cops are replaced by a drive to leave total deregulation, the country is left with an absolute mess—and that is what we face today. Cops have been taken off the beat in our financial markets; stoplights to prevent housing and free markets running wild have been dismantled; and now, regular Americans are suffering, and face even more dire consequences.

There is plenty of blame to go around, and the excesses that continue to surface as this unfolds will no doubt be shocking. In the immediate term, however, the most pressing issue is stabilizing the economy situation around to avoid an even more dire result.

If we fail to take action, pensions and savings could quickly be decimated, and a wrecked stock market would mean Americans could suffer with significant job losses and less ability to buy everything from groceries to a new car or house. Small businesses and even large ones are likely to see their access to capital further reduced, home mortgages could become even more difficult to acquire or refinance, foreclosures could further skyrocket, and auto and student loans could be much more difficult to get. Construction jobs would likely disappear, automakers would cut back even further on production and lay off workers, and retail and service jobs could be lost. The economy could be counting on a 401(k) or other type of pension would see their nest eggs shattered. If the stock market crashes, investments—even those made years or decades ago—in supposedly “safe” assets—would be drowned.

It is clear to me that we cannot allow our Nation’s economy to fall off this cliff. We need to take action before it is too late. Doing nothing is not an option. But it is with reluctance that I will vote for this rescue plan because it is not entirely clear that it will unlock enough credit and stop foreclosures to turn things around. It is also evident that this plan only includes the first steps towards getting regulatory cops back on the beat to make sure our markets are regulated and continue running wild. But there is also no better alternative at this time, so I will vote for this plan with the hope that allowing the Government to buy up a significant portion of the toxic assets that are weighing down banks and other financial institutions will unlock enough capital to restore flexibility and credit to businesses and
consumers, before Americans suffer even greater consequences of our current course. In addition, if done right, the Government can use this plan to purchase, manage, re finance, and resell mortgages that are based on vacant or under valued homes, have fair, longer-term re payment terms that homeowners can meet, and will return mortgage re payment rates to their historic high levels of dependability and profitability, and that is how this program is carried out, it can avert a disaster. Unlocking credit and restructuring mortgages will also help soothe the investor concerns and, therefore, protect pensions, savings and investments.

I could not have supported the original plan sent to Congress by the Bush administration. It did nothing to protect taxpayers, like other provisions, the effectiveness of these provisions will depend upon how well they are implemented. The bill also imposes needed internal controls and oversight provisions, but this unprecedented level of power and amount of money is used responsibly. These controls include immediate public reporting of the assets purchased, including the price paid; GAO audits of those financial reports; and Inspector General oversight to prevent fraud, favoritism, waste of taxpayer dollars, and abuse of power. In addition, a special House-Senate oversight panel will be established to monitor this program and ensure that taxpayer interests are protected. These protections are important. Still more important is that Congress revamp oversight and regulation of our financial markets to prevent future financial disasters like this one.

There are other provisions in the bill that are particularly important that I want to mention. I am pleased that this bill, in sections 109 and 110, requires the Treasury Department to maximize assistance for homeowners and encourage mortgage servicers to use the needed temporarily foreclosures so as to keep families in their homes. Rampant foreclosures are at the core of this economic crisis, and a recovery can only come when the housing market turns around. This effort to limit foreclosures will be bolstered when the Federal government holds, owns or controls mortgages or mortgage re payments and is the owner of the loans that are at risk to be foreclosed upon, the government can consent to modifications, and can rework mortgages so that borrowers can continue to make payments. Homeowners, communities and taxpayers generally will be better off than if these mortgages go into foreclosure.

It should also be noted that foreclosure mitigation measures will become much more difficult to enforce when the government buys mortgages that have been securitized and divided up into smaller parts. In these cases, section 109 requires Treasury to coordinate with the Federal Deposit Insurance Corporation, the Federal Reserve, Fannie Mae, Freddie Mac, the Department of Housing and Urban Development and other Federal entities that hold troubled assets to attempt to identify opportunities for the acquisition of classes of troubled assets. This will enable Treasury to improve the loan modification and restructuring process.

All of the homeowner assistance and foreclosure mitigation programs included in this bill set worthy goals, but they could be stronger. Rather than encouraging servicers to modify unaffordable loans, the United States should undertake a systematic effort to minimize foreclosures, and the Treasury's efforts should be built around that principle. I would also like to have seen a similar requirement in any mortgage-related asset that the United States resold to the private sector. Unfortunately, such a carry-forward provision is not included in the final bill.

I also support the bill provisions in section 108 that require Treasury to issue regulations or guidelines to "manage or prohibit" conflicts of interest. One conflict of interest that deserves special attention involves companies that service residential mortgages. These companies make a stream of revenue from servicing the loans. They may not specialize in loan modifications or refinancing. If a mortgage loan is refinanced through FHA or otherwise, the loan servicer may lose the business. For that reason, some loan servicers may have a conflict of interest when it comes to implementing the bill's policies promoting loan modifications and the HOPE for Homeowners Program. Therefore, in addition to companies that service loans, the Treasury Department should consider hiring companies who have the experience and technology to modify and re finance loans with and without FHA insurance. These companies need to be committed to working with borrowers and to minimizing taxes paid, and the companies need not be worried about servicing the modified or re structured loan. I am assured that the Treasury Department has the authority to accomplish this.

Another important bill provision limits purchases of troubled assets to "financial institutions" which are "established and regulated under the laws of the United States." We cannot afford to bail out offshore hedge funds, foreign banks, and sovereign wealth funds that purchased high risk mortgage-backed securities and invested in high risk investments to obtain high returns. I am relieved that we are focusing our efforts on U.S. institutions subject to U.S. regulation.

I also pleased that many state and regional banks, auto finance companies and other off-Wall Street entities will be eligible for participation in the troubled asset relief program. That is important for example, because their financial stability has a direct impact on American consumers; they should have access to this new market for otherwise illiquid assets. Furthermore, rather than this bill, the Treasury Department has the authority to purchase troubled assets that are not mortgage-related, so long as, after consulting with the Chairman of the Federal Reserve, he or she determines that it would promote financial market stability.

While this final bill is miles ahead of the Bush administration proposal sent to Congress, I am disappointed that it does not contain a number of additional taxpayer protections I advocated. Those missing protections included limits on the types of assets that could be purchased, requirements for contract competition, policies to minimize foreclosures, and regulation of credit default swaps.

One of the taxpayer safeguards I advocated is to limit the Treasury to buying into a waiting pool of millions of homes, that the Treasury should not be able to buy out purchasing troubled mortgage on "real estate located in the United States." That limitation was not, however, included in the final bill. In its written version of the bill, the Treasury Department includes a provision that says that the Treasury is able to purchase troubled mortgages on real estate located in Germany, Japan, China, anywhere in the world where U.S. financial institutions hold the mortgages. That doesn't make sense, and I don't know why this basic limitation was left out of the bill. We can't afford to bail out mortgage-backed securities on real estate in other countries, and I hope we won't.

Another problem is that the bill does not require that competition be used to select the contractors who will manage the hundreds of billions of dollars in troubled assets that will be purchased under this act. A prior draft version of the bill stated that the Secretary "shall solicit proposals from a broad range of qualified vendors interested in performing the work." That language disappeared from the final bill. The American taxpayer is left hoping that the Bush administration or the next administration will have the Bush administration's prior record of awarding huge, no-bid contracts to a favored few.

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Finally, I am disappointed that the bailout bill does not restore the authority of the United States to regulate one of the prime culprits responsible for the financial disaster, credit default swaps.

Credit default swaps are a type of financial derivative typically used to insure payment of a debt obligation. Speculators, such as AIG, bet on them to the debt holder in place of insurance policies to assure payment, while others used them like short sales. The question on whether an unrelated company will pay its debts. These bets, called credit default swaps, are primarily responsible for the Federal bailout of AIG; they are the focus of our investigation into market manipulation, and they continue to threaten U.S. financial market stability because so many financial firms have credit default swaps on their books.

Eight years ago, the Commodity Futures Modernization Act of 2000 prohibited the Securities and Exchange Commission from regulating all types of swaps, including credit default swaps. As a result, a completely unregulated $60 trillion credit default swap market has developed with no capital requirements like insurance companies, no disclosures, no safeguards, and no oversight by any federal agency.

The statutory bar against regulating swaps is an example of the deregulatory policies that landed American taxpayers in this $700 billion mess. It is a prime reason why financial institutions are afraid to lend to each other—no one knows how many credit default swaps are outstanding, with which counterparties, involving how much money. Yet this bill fails to address this problem.

At a Senate hearing on September 23, SEC Chairman Christopher Cox testified that the credit default swap market is "completely lacking in transparency or regulation, let alone disclosure." And "it is ripe for fraud and manipulation." He stated that the SEC's lack of regulatory authority over swaps is a "regulatory hole that must be immediately addressed," warning that otherwise "we will have another crisis on our hands." Chairman Cox stated: "I urge you to provide in statute the authority to regulate credit default swaps to enhance investor protection and ensure the operation of fair and orderly markets."

Three days later, on Friday, September 26, SEC Chairman Cox repeated his warning and the need for SEC regulation: "[T]he critical that Congress ensure there are no similar major gaps in our regulatory framework. Unfortunately, as I reported to Congress this week, a massive hole remains: the approximately $60 trillion credit default swap market, which is regulated by no agency of government. Neither the SEC nor any regulator has authority even to require minimum disclosure. I urge Congress to take swift action to address this." Congress should have heeded that call and addressed the problem in this bill. This bill should have repealed the existing statutory prohibition and given the SEC general authority to regulate swaps. Such a provision would have closed the swaps regulatory loophole, while giving regulators and Congress additional time to determine what specific regulation might be any other provision to regulate credit default swaps, or swaps in general, was included. It is a missed opportunity that we can only hope does not come back to haunt us. I hope the next Congress will address this issue as part of an effort to strengthen regulation.

A final provision in the bill that was added at the last minute may also help protect the American public. Section 132 authorizes the SEC to suspend the generally accepted accounting rule that requires publicly traded corporations to report the fair value of their assets in their financial statements.

If it were to suspend this accounting rule, the SEC would strike a blow against honest accounting. Such suspension would allow corporations to inflate their asset values by reporting something other than their fair market value—presumably allowing them to use instead historical data, not current, best estimates—who knows? In a blink of an eye, corporations would have stronger balance sheets than they do now, essentially cooking their books with the approval of the SEC. It is an approach that echoes the excesses of the Enron debacle.

The bill seems to prompt the SEC to allay these fears accounting at the very time that financial institutions are leery of lending money to each other, under the mistaken impression that artificially inflated balance sheets will encourage lenders, allowing inaccurate reporting, with inflated asset values, will not increase confidence in the markets and it will not unlock credit.

As far as I am concerned, the SEC has never received into the generally accepted accounting principles to suspend a particular rule, and I hope it doesn't start now. It would be a terrible precedent. And to the extent that including this provision in this economic stabilization bill was an effort to convey Congressional approval of that approach, I would like to make it clear that I oppose such action. Please consider, Board Chairman, the inclusion of a new tax credit for plug-in hybrid and all-electric vehicles, which is essential not only to the development of these technologies but also to consumer acceptance and widespread use of these vehicles. In addition to the energy tax provisions, tax extenders, and the adjustment to the alternative minimum tax, the legislation before us now also includes the important provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act. Mental health parity is about basic fairness and equity. Individuals suffering from mental health illnesses deserve access to adequate and appropriate health care. I have spoken previously about the significance of addressing this issue, and I am glad that Congress is righting this wrong. I hope the House will accept this package.

In conclusion, I will vote for this rescue package with many qualms but with the hope that it will do less harm to our economy and hard working American families. It is clear that a financial regulatory overhaul
should be one of the first priorities of the next President and the new Congress.

Mr. WARNER. Mr. President, I rise today to share my views on the economic situation that we now find ourselves in, the precarious state of our economy.

The instability in the housing market, the soaring energy prices, and, more recently, the institutional failures within our credit and financial markets have all been serious blows to our economy.

We must decide between the risks of doing nothing, thereby subjecting the free market to the extraordinary level of unknowns of this critical situation, or the value of seeking legislation in the hopes to reduce the severity of serious consequences to almost every single aspect of our economy.

The bill before us contains several improvements to the House bill, improvements that have strengthened the measure. And, in my view, without some form of Congressional action now, the credit markets could freeze up. Without money flowing through our economy, car loans, student loans, mortgages, a loss of credit, could become inadequate. Job losses could follow and with it an increase in the number of Americans without health insurance. I could go on and on.

The careful deliberations on this legislation and my understanding of the economic problems facing our Nation lead me to believe that the consequences of not taking this action poses an ever greater threat to our economy and to all Americans.

For this reason, Mr. President, I intend to vote aye in support of the bill, as amended.

Mr. FEINGOLD. Mr. President, I will oppose the Wall Street bailout bill. Though well intentioned, and certainly much improved over the original Troubled Assets Relief Program, it is deeply flawed and in effect asks the taxpayer to bear the burden of serious lapses of judgment by private financial institutions, their regulators, and the enablers in Washington who paved the way for this catastrophe by enacting measures removing the safeguards that had protected consumers and the economy since the Great Depression.

I regret Senate leadership has opted to add a number of unrelated measures to this package. Whether this was done as a sweetener to make the bailout pill go down a bit more easily or as a way to pay for unpopular legislation in one giant package, the end result is a package that is less straightforward and much more likely to spur doubts among voters about the bailout portion of the package. The bailout package was already a glaring enough question mark in the public's mind before this dubious maneuver was concocted.

I strongly support some of the unrelated measures being added to the bailout but the mental health parity package, the disaster tax relief, and mental health parity package when it was considered by the Senate just a few days ago. But that legislation could have proceeded on its own, without being attached to the emergency bail out plan.

There is one new provision being added to the bailout proposal that is not only relevant but makes good sense, and that is the language raising the cap on what FDIC can insure that can be insured by the FDIC. I have supported raising FDIC insurance limits for many years. It should go a long way toward helping our community banks continue to attract and retain the deposits so critical to their ability to provide credit to consumers and Main Street businesses.

That brings me to the rest of the bailout measure. Though it is lacking in several areas, I will focus my attention on three critical defects in the legislation. First, it places the financial burden squarely on the average taxpayer. In fact, if the bill is paid for through increased debt, the burden is actually placed on future taxpayers. Regrettably, no offset was seriously considered, and as a result, our debt is now at risk of reaching $700 billion. That is $700 billion more that must be paid off by our children and grandchildren in the form of increased taxes or fewer government services. A second defect of the bailout bill is its failure to adequately address the housing crisis which underlies much of the financial market collapse. It does not include meaningful provisions to help individual homeowners stay in their homes. As foreclosures continue to increase throughout the country, including in Wisconsin, we need to ensure that any legislation actually helps actual homeowners, not just Wall Street banks and investment firms. This is not just a matter of fairness, though it is surely that. It is also common sense. It is the housing crisis that underlies the loss of confidence in our financial markets. Without addressing those root causes, any bailout is less likely to succeed.

This does not mean that we should reward homeowners who took out bigger mortgages than they could afford to repay or who sought to flip homes for investments. But for the homeowners who were misled or who fell prey to predatory lending, Congress should do something to ensure that those homeowners have the ability to work with their servicers to modify their home loans. Unfortunately, this bailout bill has been filled with provisions that protect the individual homeowner.

I am also disappointed that this bill does not include language that would allow bankruptcy judges to alter the mortgage lien on a homeowner’s primary residence when that homeowner has declared bankruptcy. These sorts of loan modifications already can take place for vacation homes and other types of personal debt. It is troubling to see provisions that would allow these modifications to take place on different types of debt but not a family’s primary residence. Congress should address this issue and pass legislation to reform the Bankruptcy Code to permit loan modifications to owner-occupied primary residences.

It is true this bailout bill contains provisions directing the Secretary of the Treasury to implement a plan to ‘encourage’ servicers to take advantage of various programs to minimize foreclosures. But unfortunately, the legislation that is put in place to ensure that these servicers actually modify the terms of nonfederally owned mortgages in order to prevent foreclosures. As we have seen with the Bush Administration’s Hope Now Alliance, voluntary encouragement of loan modifications is not enough. While there are a number of factors contributing to the high rates of home foreclosures around this country, I am worried that unless Congress passes stronger legislation to do more than encourage servicers to modify the terms of these mortgages, we will continue to see high foreclosure rates plague our communities.

Finally, and perhaps most importantly, this legislation fails to include steps to reform the financial markets to ensure that we will not need another bailout in the future.

If the taxpayers are being asked to bail out Wall Street, the least we can do, the very least, is to ensure it will not happen again. Nothing in this legislation does that. Indeed, the administration has pushed hard to keep the bill free of the kinds of regulatory reforms we need to prevent this kind of financial crisis from occurring again.

We are told that such reforms should be the focus of future legislation. This is an old tactic. In my days in the Wisconsin State senate, we used to call the “trailer bill” promise. Of course, after promises are made, it’s not always well in some future “trailer bill,” that mythical legislation never materialized, or if it did, it failed to accomplish what it was promised to do.

If anyone fell for the “trailer bill” maneuver once, I can tell you that they didn’t fall for it a second time, and no one should fall for it now.

The bottom line is this, Mr. President. Any regulatory reform legislation considered separately will almost certainly be inadequate, and it might even do further damage, because of the influence of the financial industry. The last two decades have seen a string of almost uninterrupted regulatory failures in this industry in these halls. We have seen sound laws and regulations that protected consumers and the stability of the financial system repealed or weakened over the last 15 years. This is not a new phenomenon, but what we have seen is that deregulatory cake with the enactment of the Gramm-Leach-Bliley Act, a law which tore down what was left of the protective firewall in our financial system.

Little surprise, then, that the effects of this financial crisis has indeed spread across the financial landscape.

October 1, 2008

Exhibit F-40
October 1, 2008

CONGRESSIONAL RECORD—SENATE

S10279

The legislation contains authority for the Treasury Secretary to compensate foreign central banks under specified circumstances. It provides that troubled assets held by foreign central banks and authorities are eligible for the TARP program if the banks hold such assets as a result of having extended financing to financial institutions that have failed or defaulted. Had there been an opportunity for floor debate, that provision might have been sufficiently unpopular to be rejected or at least sharply circumscribed with conditions.

As a step to help keep borrowers in their homes, I proposed language found in Section 119(b) of the bill to address the concern that some loan servicers have been reluctant to modify home mortgage loan terms because they fear litigation from investors who hold securities or other vehicles backed by the mortgage in question. In an attempt to persuade loan servicers to have a legal duty to the investors to maximize the return on their investments. In testimony on December 6, 2007, before the House Committee on Financial Services, Mark Pearce, speaking on behalf of the Conference of State Bank Supervisors, discussed a meeting with the top 20 subprime servicers. He explained that “many of them brought up fear of investor lawsuit” as a hurdle to voluntary loan modification efforts. Because the rescue legislation encourages the government to seek voluntary loan modifications, it is important to remove any impediments to such modifications. To that end, the language provides a legal safe harbor for mortgage servicers making loan modifications, if the loan servicers take reasonable mitigation steps, including accepting partial payments from homeowners.

On reforms to prevent a recurrence of the financial crisis, I asked the question of whether the rating agencies adequately assessed and disclosed the risks of structured mortgage-backed securities before issuing investment-grade ratings. They appear to have failed, in July of 2007, to identify the risks of subprime-related securities and failed in many cases to assess the risks. The ratings agencies—Moody’s, S&P and Fitch—were not relied upon, I urged the relevant committees to look into the ratings that those agencies issued in recent years regarding mortgage-backed securities.

Financial institutions that issue asset-backed securities obtain ratings for such securities. The failure to issue reliable ratings misrepresented the facts and led the financial institutions to tout the value of securities even though their value was declining. I urged the regulators to take up the rating agencies issue, and consider whether ratings agencies that have utterly failed to detect and reflect the risks associated with them should be rated should be accorded any reliance on their ratings in our financial system. Some have suggested they should be regulated and we may need to consider that.

In addition, Congress and the regulators should review “off-balance sheet” transactions and leveraging. There should be a close examination on whether the regulators and parent and providing accurate accounting that truly reflects risk and leveraging. Similarly there should be a review on credit default swaps, CDS, which are privately traded derivatives contracts that have ballooned to make up what is a $2 trillion market according to the Bank of International Settlements. They are a major type of financial derivative. Many experts assert that they have played a critical role in this financial crisis as various financial players believed that they were safe because they thought CDS fully insured or protected them, but the CDS market is unregulated and no one really knows what exposure every one else has from the CDS contracts. Consideration be given to subjecting all over-the-counter derivatives onto a regulated exchange similar to that used by listed options in the equity markets.

Excessive overleveraging has been a contributing factor in the turmoil that now threatens our financial institutions. We have seen a massive expansion of the practice of leveraged financial institutions—banks, investment banks, and hedge funds—making investments with borrowed money. In turn, they borrow more money by using the assets they just purchased as collateral. This sequence is continued again and again. The financial system, in its efforts to deleverage, is contracting credit. They must guard against future losses by holding more capital. Deleveraging is leading to difficulty on Main Street for individuals seeking to get a mortgage or buy a car. If a financial institution is able to unload toxic assets onto the government, it is likely to resume its lending activities that are crucial for economic growth in the United States. Unfortunately, much of the financial crisis has arisen from miscalculations of the risks involved with purchasing large amounts of securities backed by subprime mortgages and other toxic assets. The government should be given authority by law to address this problem and solve it with new and forward-looking regulations and risk management.

In addition, the package crafted by Senate leaders includes two notable changes from the version that was rejected by the House on Monday. It will include a tax package that was previously passed in the Senate by a vote of 93-2 on September 23, 2008, but has since been rejected by the House in a dispute over revenue offsets. It includes tax incentives for wind, solar, biomass, and hydrogen fuel technologies. It also includes critically important relief from the alternative minimum tax, which threatens to raise the tax liability of over 22 million unintended filers in 2008 if no action is taken. Finally, the package includes a host of provisions that either expired in 2007 or are set to expire in 2008, including the research and development tax credit, rail line improvement incentives, and quicker restaurant and retail depreciation schedules. I supported the Senate-passed tax extenders because it stilts the annual balance on the issue of revenue raising offsets.

The package also includes a provision to temporarily increase the Federal Deposit Insurance Corporation, FDIC, insurance limit to $250,000. Currently, the FDIC provides deposit insurance which guarantees the safety of checking and savings deposits in member banks, up to $100,000 per bank. Member banks pay for insurance, which is currently $1,900 per bank.

Congress is now called upon to make the best of a very bad situation. We must pledge to our constituent taxpayers that we will learn from the mistakes which led to the brink and take corrective, vigilant, action to prevent a recurrence.

EHRLICH, Mr. President, responding to the national economic crisis has been the focus of our efforts here in the Senate for over a week. I have been consulted by Senator CHRISTOPHER DODD, chairman of the Banking, Housing, and Urban Affairs Committee, on the financial bailout proposal. I thank him for all of his hard work to address this complex problem. As chairman of the Senate Judiciary Committee, I wish to inform all fellow Senators about the intent with which the judicial review provisions were drafted. I believe it is especially important for Senators to have this understanding in advance of the Senate vote on this legislation.

From the very moment I received the administration’s proposal, I have objected to any measure that strips the courts of their role as a check on executive power. I have insisted at every stage in the negotiations that the traditional Administrative Procedures Act review apply to the Secretariat of Treasury’s actions, as well as any constitutional review that our courts are charged with in our democracy.
It was of utmost importance to me to see that judicial review has been maintained in the version that we will be consuming the rights of the citizens. This legislation will give to the Treasury Secretary. This review is primarily based on traditional court review under the Administrative Procedures Act. In that section, the word "law" means any State or Federal law or common law interpreting such State and Federal laws. This is a crucial distinction, and it is the intent of the drafter of this legislation to allow the Secretary of the Treasury to vitiate any private right of action on behalf of shareholders based on Federal statute or judicial interpretation of a Federal statute. With this legislation, Congress does not intend to allow any financial institution that participates in this plan to gain immunity from suit, nor permit the Secretary to confer such immunity on any participant.

As chairman of the Senate Judiciary Committee, my other top priority for this legislation has been that the Secretary not be able to interfere with or impede any proceedings or defenses available to any other person. Americans harmed by corruption on Wall Street should not have their causes of action affected by the Secretary in any way. Truth in Legislation Act should be allowed to proceed in due course. Shareholders who have been injured by the misconduct of corporate board members or executives should be able to file and continue claims against those corporations. It is my understanding and intention that none of these causes of action should be harmed or otherwise affected by our bailout legislation. This is why we included a savings clause to make this explicit.

We heard repeatedly from the administration that they were concerned that rogue judges would award injunctions in the emergency actions needed for the Secretary to cal the financial crisis. By agreeing to the administration's request on injunctions, we intend for damages actions to be due to relief for any misconduct, should it occur, on the part of the Secretary. We were assured that existing waivers of sovereign immunity under the Tucker Act, the Contracts Dispute Act, the Little Tucker Act, the Federal Tort Claims Act and relevant civil rights laws would apply to the Treasury Department's new responsibilities, just as these laws have applied to the Treasury Department's actions prior to the bailout measure.

We have also insisted on protection for consumers who are parties to mortgage agreements by including a provision to make sure that any rights or claims held by a consumer in relation to those loans, whether under the terms of the mortgage or Federal or State law, are preserved in the event the mortgage is transferred to the Federal Government. It is not the intent of Congress to deprive homeowners of recourse against those lenders who, through greed, irresponsible lending, or outright fraud, led people into taking out unadvisable loan products and who were responsible for contributing to those homeowners' current mortgage struggles. The world as this legislation that the extraordinary authority Congress has given to the Treasury Secretary not be at the expense of the rights of American citizens to enforce the terms of their contracts or to rely upon State and Federal laws that protect against fraudulent lending practices or other deceptive behavior.

Even in emergencies, it is important that the government exercise its authority consistent with the rule of law. Congressional negotiators were aware of the administration's call for immediate reaction, but I believe we acted responsibly by taking the time to ensure that adequate legal protections were provided in the legislation. The courts play a fundamental role in our democratic system of government and will be especially important in ensuring that these new authorities are used responsibly.

Americans must have the confidence that those harmed by the conduct of any financial institution can access their courts for redress, despite this legislation. The Congress is aware of civil litigation brought by shareholders or by or on behalf of financial institutions that purchased illiquid assets against officers, directors, and in some cases counterparties whose alleged misconduct caused or contributed to their losses. The Congress is also aware of media reports of criminal investigations. These matters are for the justice system to resolve on an individual basis, but the Secretary and the executive branch should generally cooperate with public and private efforts to recover losses from wrongdoers in the financial markets, whether brought by a governmental entity, securities purchasers, the corporation itself, or asserted on any other basis. This cooperation does not necessarily mean that there will be a financial settlement. Nothing in this act is meant to detract from any rights or recovery against private parties to redress wrongdoing that exist under Federal or State law.

I thank the leadership for consulting me during the drafting and redrafting process and for incorporating my language into the provisions providing for judicial review.

Mr. ENZI. Mr. President, I rise today to speak about the historic vote that will occur today on the Emergency Economic Stabilization Act of 2008. Members of Congress and the U.S. Treasury Department have spent the last two weeks debating a response to the declining U.S. credit markets and a plan to get America's economic machine running again. The final product is a far cry from the Treasury's initial 3-page proposal. However, I am still not convinced that this is the best solution for our country.

Throughout this debate, I have listened to arguments from both sides. I studied this legislative proposal line by line, and tried to measure the benefit this legislation would bring to our financial markets against its enormous cost to our taxpayers. Ultimately, I do not believe this is the best solution for our economy or the taxpayer. Has Congress been rushed into doing something, anything, even if it's wrong because of the dire warnings of an economic apocalypse? Yes, but in this case the wrong proposal is just too costly for our economy in terms of dollars and in terms of our economic future. Something does need to be done to save our economy, but this package is just a very costly band-aid for big banks that will do very little to help patients who need major surgery.

Had Congress been able to use the regular committee process to craft a bipartisan and comprehensive legislation, the resulting bill may have gained my support. Unfortunately, Congress has been pressured into passing this bill in two weeks by Treasury and Wall Street. A rescue plan of this sort requires a careful plan of action with a substantial chance of success. This plan has neither.

When Treasury Secretary Paulson and Chairman Bernanke first came to the Hill to talk to my colleagues on the Senate Banking Committee and I told him that even his dire warnings of a global economic meltdown would not allow us to give him a blank check. Since that time, the markets have soared and plunged on each new development out of Washington. But the warnings about global collapse have not been realized yet, and I pray that they won't. By passing this legislation are we vastly underestimating the resilience of our markets and overestimating the need for this legislation? This does not provide us with any measurable goals for success.

This plan inadequately addresses the root cause of our market crisis, home foreclosures. Without addressing the root of our economic problem, I have little confidence that it will be successful. I cannot vote for a bill to authorize $700 billion in taxpayer money without a substantial chance of success.

What I was hoping for was a solution that would get closer to the real problem and to the people. The housing crisis accelerated the financial problem. The response was to bailout banks and investment firms and forget the hurting homeowner. That is still what we are doing while claiming to make the credit market more liquid using taxpayer money. Even the public still sees it as a big bank bailout.

In addition, this plan offers no clear plan to solve our market crisis. I questioned Secretary Paulson and Chairman Bernanke about the asset purchase program last Sunday, and again during the Senate Banking Committee hearing last Tuesday. I did not receive satisfactory answers, and many doubts about this program still exist. The primary purpose of this program is to find the true value of these mortgage assets through a Treasury purchase.
The Senate was not in session today. Its next meeting will be held on Monday, October 6, 2008, at 3 p.m.

House of Representatives

FRIDAY, OCTOBER 3, 2008

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The Chair will entertain up to five requests for 1-minute speeches on each side of the aisle.

SAME DEEPLY FLAWED PLAN

(Mr. DeFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DeFAZIO. This is, at its core, the same deeply flawed Bush-Paulson plan. Borrow $700 billion in the name of the American taxpayer, give Paulson unimpeded, unprecedented authority to buy anything he deems a troubled asset from anyone at any price.

What if there’s a credible, low cost, low-risk alternative? I heard such a plan again last night from the head of the bank regulatory office under the Reagan administration, William Isaac: Use the emergency powers of the FDIC. Extend the same insurance given to Wachovia to the depositors and creditors of all banks. That would immediately free up interbank lending and credit. Granted, it doesn’t solve the problem of the Wall Street speculators, but it does solve the problem of loans for business and Main Street.

Six years ago this month, Congress was stampeded by this President into an unnecessary and unprecedented authorization of force for war in Iraq under the threat of weapons of mass destruction. Do not repeat that mistake by authorizing George Bush an unprecedented use of financial force under the threat of financial weapons of mass destruction.

OUR JOB IS NOT DONE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, today we vote on a piece of legislation that is an imperfect option and a terrible situation. But I hope Congress does not fail the American people by saying that this bill has solved the whole problem, because it has not.

The bad lending practices, mismanagement by financial firms and failed oversight by the Federal Government over decades are not addressed today. But we better step forward and address them as soon as possible.

As a former real estate attorney for 25 years, I know firsthand that making home loans to individuals less than creditworthy can be destructive for those individuals and for this country. Government should not be telling banks that it is possible for them to make bad loans because the government will back them up.

Our job is not done today. Going forward, Congress has an obligation to face and fix the roots of this crisis, reducing government control.

In conclusion, God bless our troops, and we will never forget September
turnmoil, I ask my counymen, at what price? The decision to give the Federal Government the ability to nationalize almost every bad mortgage in America is a basic truth of our economy. When the government chooses winners and losers in the marketplace, every American loses.

Some say this crisis is too acute to rely on anticipated notions about the role of government in the private sector, but I disagree. I believe the principles of limited government, free enterprise and representative government are as relevant today as they were in 1776.

In another October—1964—Ronald Reagan addressed another time for choosing. He said their choice was "whether we believe in our capacity for self-government or whether we abandon the American Revolution and confess that a little intellectual elite in a far-distant capital can plan our lives for us better than we can plan them ourselves."

There are no easy answers, but the American people deserve to know there were alternatives. House Republicans offered an alternative that would have made Wall Street, instead of Main Street, pay the cost of this recovery and would have injected liquidity into our markets through fast-acting tax strategies.

Should this current legislation pass and our economy continue to struggle, I hope Congress will turn to these proven remedies based on American ideals. Teddy Roosevelt said, "An American must face life with resolute courage, win victory if he can and accept defeat if he must, without seeking to place on his fellow man a responsibility which is not theirs."

With this bill we place upon the American public a responsibility which is not theirs: bailing out financial institutions after they made irrespon-
sible decisions. This we should not do. Instead we should confront this crisis with resolute courage, with faith in God and faith in the principles of freedom and free enterprise. I respectfully urge my colleagues to oppose the Emergency Economic Stabilization Act of 2008.

Ms. SLAUGHTER. Madam Speaker, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I sincerely thank the gentlelady.

According to the Akron Beacon Journal, Addie Polk took out a 30-year, 6.75% mortgage just 4 years ago for $45,620 with a Centry home loan office. She took out a line of credit that same day for $11,380. Her home was appraised in 2004 at $51,250. At the age of 90, Addie Polk found herself in foreclosure this week, about to be forced from the home she has lived in for nearly 40 years. So with a gun in her hand, the Akron widow apparently shot herself in the chest as deputies were knocking on her door with eviction papers in hand. This bill does nothing for the Addie Polks of the world. This bill fails to address the fact that millions of homeowners are facing foreclosure, are facing the loss of their home. This bill will take care of Wall Street and the market may go up for a few days, but democracy is going down here.

Mr. DREIER. Madam Speaker, may I inquire of the Chair how much time is remaining on each side?

Ms. MATSU. The Chair recognizes the gentleman from California (Ms. Matsui).

Ms. MATSU. I thank the gentleman from California for yielding time and I rise today in support of the rule and the underlying legislation.

I listen to my constituents' concerns about this rescue plan and throughout this debate it has become clear that Congress must act to restore our credit markets. If we don't, we risk further putting jobs and the financial security of our families at risk. Small businesses will have a difficult time making payroll to pay their employees. Hardworking Americans will see their savings and retirement funds diminish. Americans will have a difficult time buying a home, sending their children to college or just making ends meet. This plan is a revised plan. It's not the same three-page plan the Secretary of the Treasury brought to us. It is not simply a blank check to Wall Street.

I am glad that this plan includes many safeguards that are important to my constituents:

Independent oversight board to ensure transparency and accountability of taxpayer money.

A plan to end foreclosures that are devastating our families, neighbors and communities. And we will also do more beyond this, too. Limits on excessive compensation for CEOs and executives.

And allow taxpayers to share in any profits resulting from the government's help.

Madam Speaker, this is not a perfect plan and I know it's going to be a hard vote, but the risk of inaction is too great.

Mr. DREIER. I continue to reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HARE).

Mr. HARE. Madam Speaker, I rise today in support of the rule and the underlying bill. I would like to just put on the record that I could not on this piece of legislation. One is a woman who worked at a grocery store in my district for 34 years. Her 401(k) has gone down $120,000 because of this crisis. The other is a man who came into my district office, the victim of a predatory lender, a 20 percent interest rate. He will be losing his home very shortly.

And lastly, the face of a freshman Member of Congress.

When I was growing up, my parents lost their home. On the day my oldest sister was married, we came home from the reception to find a process server with an eviction notice for my family because my father had been too ill to make the payments. Prior to his death, he asked me to do two things—take care of this girl and keep the police out of the house. Whatever you do, make sure that no other family ever has to go through what this family has gone through.

Today, Madam Speaker, I will keep that promise to my father and to the 2 million other people who are about to be in foreclosure. I ask all my colleagues to please vote for this important legislation.

Mr. DREIER. Madam Speaker, I will continue to reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 1 minute to the gentleman from Oregon (Mr. DeFazio).

Mr. DeFazio. Horrible unemployment numbers today, and not a penny of this $700 billion going to do anything to put anybody back to work, to keep anybody in their home, to put underpinnings on the crumbling values of housing in this country. No, it will give unprecedented, unbelievable authority to Henry Paulson, a Wall Street speculator who created the financial weapons of mass destruction and now says he knows how to disarm them. He can buy any assets, appropriate from anybody at any price.

I heard a much more sensible plan from William Isaac, head of the FDIC under the Reagan administration. Designate a banking emergency, use the same insurance provisions they used for the Wachovia general creditors. Insure all general creditors and depositors in all banks in America. That would free up the economy by saving $700 billion, and then we could begin to invest that money in putting America back to work.

Mr. DREIER. I will continue to reserve the balance of my time, Madam Speaker.

Ms. SLAUGHTER. Madam Speaker, I yield 1 minute to the gentlelady from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE. Ms. SLAUGHTER. Madam Speaker, I yield 1 minute to the gentlelady from Texas (Ms. JACKSON-LEE).
for people who want to restructure. We talked about bankruptcy language that should have been put in that I offered; we talked about making it stronger and allowing people to restructure the mortgage, rather than encourage them to restructure the mortgage, requiring them to do it, and I had language that would address the question of making sure that banks were stronger, that courts had the ability to render equitable injunctive relief. I also had an amendment to give us a B/L-type commission, criminal liability. We tried to make the bill better, but we are going to work through this process.

I am going to watch this process, and determine whether or not we can do the people’s business. That is what I think is important.

Madam Speaker, thank you for the opportunity to speak before you today on H. Res. 1525, providing for consideration of the rule on the H. Res. 1525, the Financial Stabilization, 2008. I want to begin by stating that I worked very hard. I worked hard to make this bill better. I will be listening intently to the debate throughout the day to establish the perspective and legislative history we need for my constituents, the State of Texas, and for all of America.

I offered several amendments to make the Act better.

The first amendment that I would like to offer sets aside $10 billion as a firm allotment to address the question of individual American homeowners facing foreclosure in light of the above provision in the Act. This provision, I believe, amounts to a billion in bills, which I believe is the amount in reality should be higher; however, $10 billion is a good starting point.

This provision is important because the American people that are currently in mortgage foreclosures are facing a real and present crisis. Indeed, these are tough economic times. This money can be given to them by the Secretary of Treasury. This is a modest attempt at addressing the present crisis and it ensures that those on Main Street get the relief that they deserve.

The second amendment that I would like to offer is the one that allows judges to allow persons in default of their mortgage on their primary residence to alter the terms of their mortgage. As Senator Barack Obama has recently stated, he is committed to altering the Bankruptcy Code in the future to assist homeowners on the question of restructuring their mortgages. Therefore, I believe that there should be a provision of Congress that provides that the Bankruptcy Code should be reviewed and amended in the future to permit bankruptcy judges to address the question of individual home mortgages. This would send a clear message that Congress is interested in helping Americans pay off their debt despite its not changing the Bankruptcy Code at this time.

The third amendment that I would like to offer makes an addition to Section 109 of the bill, a foreclosure mitigation efforts. The present language of 109 provides that the Secretary of the Treasury should be encouraged to allow individual homeowners who face mortgage foreclosures to modify the homeowners’ loans to prevent mortgage foreclosure. My amendment would change the words from "shall encourage" to "shall require" to provide stronger relief for Americans.

In listening to the discussions that have been coming out of the mouths of voters across America, there is confusion as to what the monies will be used for. It would be very helpful in the legislative history or report language to designate how the monies will be utilized.

My fourth amendment addresses enforcement. There needs to be greater enforcement. In the section on a special review there should be language that specifies whether that the courts should be able to exercise their discretion to grant injunctive and/or equitable relief if the court determines that such relief would not destabilize financial markets. These remedies are available at law and in equity that inure to the litigants benefit. There has been no compelling reason put forth to vitiate or limit these remedies insofar as their implementation does not unduly affect or destabilize the financial markets.

My fifth amendment would create a new independent, commission to exercise oversight over what happened and the commission should regularly provide reports to Congress. This Commission, DREIER, the one presently in the bill would be backward looking.

My sixth amendment would provide for narrowly crafted enforcement language. It provides that corporate executives who have been convicted of criminal wrongdoing not be allowed to continue in the conduct of business with the government for a period of seven (7) years.

This is important because those corporate executives who have been convicted of criminal wrongdoing should not be allowed to continue in the conduct of business with the government. They should be barred for a period to attenuate the faith of their wrongdoing.

My seventh amendment would permanently lift the present insurance cap of $100,000 that FDIC has established to insure funds stored in FDIC-backed banking institutions. This is different from the Senate bill because it makes the increase to $250,000 permanent.

My eighth amendment, and final amendment concerns Section 109 of the bill. Specifically, in Section 109, which addresses "foreclosure mitigation efforts," the language should be changed from "shall encourage" to "shall require" to provide stronger relief for Americans.

Specifically, current section 109(a) states in pertinent part that "the Secretary shall implement a plan that seeks to maximize assistance for homeowners and use the authority of the Secretary to encourage the providers of the underlying mortgages . . . to minimize foreclosures." I believe that the real purpose is to bailout "Main Street," the Secretary should be "required" to minimize foreclosures.

Mr. DREIER, Madam Speaker, I continue to reserve the balance of my time.

Ms. SLAUGHTER, Madam Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. McCARTHY).

Mrs. McCARTHY of New York. I thank my colleague from New York, LOUISE SLAUGHTER, for the time, Madam Speaker.

I am listening to all my colleagues and their arguments on both sides. This is not about Wall Street anymore; this is about my constituents. This is about the small stores on Main Street in every town that I represent. This is about the people that have put away money, small amounts of money every single month to try to have a pension. This is about stopping the bleeding that is going through this economy. This is about taking care of our people. And I ask you, Mr. Speaker, to be here to answer this vote. But do you know what? Everything that has been mentioned here today on the floor, we can still take care of that. We can still do that. We are going to make sure that those CEOs don’t get those large golden parachutes. We are going to make sure that those people who are going through foreclosures are going to be protected. These are the things we are going to be working on.

Today is not the end of all days. Today is the beginning of getting legislation passed so that we can protect the American people even more, so this does not happen again.

My colleagues, none of us like to have this vote today. None of us. It is our job to protect our people.

Mr. DREIER, Madam Speaker, at this time I am happy to yield 1 minute to my friend from Ohio, in his newly established home in Bainbridge, Ohio.

Mr. LAFOURETTE. I thank the gentlewoman for yielding, Madam Speaker. I can’t address other Members, so I am going to make these comments to you.

I have heard a number of speakers on the other side say they wish they could have had other things like the cram-down on the bankruptcy, money for ACORN and a lot of other things. The only way you are ever going to have that opportunity is to make our amendment in order and turn the negative vote in November into a positive vote. And any Member that thinks that if you vote for 700 and you go home and say, well, we really only gave them 550, no, you didn’t. You gave them the full 700, because we have to say no to the additional 350. And if we say no, the President vetoes it, then it takes 590 Members to deny that $550 billion.

The democrats, the democrats, Madam Speaker, I would say to you that make our amendment in order, come back on November 17, see how this program is working. And there is your opportunity, there is your leverage to go to your friends that want cram-down in bankruptcy and all the other things that their speakers are talking about. Give us the amendment; stop this over-spending. The Secretary can only spend $50 billion a month. If we give him $250 billion, he still should have about $300 billion rolling around in this pot when it’s come back.

Ms. SLAUGHTER, Madam Speaker, may I inquire of my colleague if he has further speakers?

Mr. DREIER. Has the gentleman with the floor?

Ms. SLAUGHTER. I have.

Mr. DREIER. Then I will just take a couple of minutes to close if I might. The SPEAKER pro tempore. The gentleman from California has 10 minutes remaining.

Mr. DREIER. I yield myself the balance of my time.
could come back in a month and reassess the need for the remainder of the $700 billion.

Over the last few years we've made mistakes. The FDIC is raising its insurance limit to protect people's savings. The SEC is revising its mark-to-market accounting guidelines, and we have included middle class tax relief. But the truth is shaky - change I would like to see. Unfortunately, the volatility in the market is threatening the financial security of my constituents and millions of American families, small businesses, and retirees.

Make no mistake: the latest compromise is not the best package. It's the package that can move through Congress in time to protect the economy from lasting damage. With the clock ticking, credit markets setting up, and the market swinging wildly, it is clear that the time for seeing better options has run out. I'm glad we held out for the taxpayer protections that are in the bill, but if we don't act now those who are least to blame for this mess will suffer the most.

So it is with reluctance that I support this bill today and urge my colleagues to vote yes on this compromise. Our work is by no means complete. I look forward to revisiting the issue as Congress monitors the program to ensure that we minimize risks and that the taxpayers see a return on their investment.

Mr. FRANK of Massachusetts. Madam Speaker, I yield for a unanimous consent request to a gentleman from Ohio who has been very seriously engaged on this issue.

Mr. KUCINICH asked and was given permission to revise and extend his remarks.

Mr. KUCINICH. I rise in opposition to this bill.

The public is being led to believe that Congress has reconsidered its position because we have before us a better bill than we had a few days ago. The same bill plus hundreds of new pages for hundreds of millions of tax breaks. What does this have to do with the troubles of Wall Street?

Driven by fear we are moving quickly to pass a bill, when at the same time our economy needs a recovery upturn for the market but nothing for millions of homeowners whose misfortunes are at the center of our economic woes. People do not have money to pay their mortgages. After this passage, they still will not have money to pay their mortgages. People will still lose their homes while Wall Street is bailed out.

The central flaw of this bill is that there are no stronger protections for homeowners and no stronger measures to ensure that the secretary has the authority to compel mortgage servicers to modify the terms of mortgages. And there are no stronger regulatory changes to fix the circumstances that allowed this to happen.

We should have created a mechanism for our Government to take a controlling interest in mortgage-backed securitites and use our power to work out a new deal for the homeowners who could have done this. We should have done this. But we didn't.

Now millions of Americans will face the threat of foreclosure without any help. And the numbers will soon rise for a number of reasons. Not only because of the Alt-A, jumbo mortgages which will soon be reset at higher interest rates, but because the London Interbank Offered Rate (LIBOR) is pushing up rates on adjustable mortgages and more than half of the U.S. adjustable mortgage rates are tied to LIBOR. Homeowner defaults will grow in significant numbers. Let's see if Congress will be as quick to help homeowners on Main Street as they were to help speculators on Wall Street.

Now the Government will have to borrow $700 billion from banks, with interest, to give banks a $700 billion bailout, and in return the taxpayers get $700 billion in toxic debt. The Senate "improved" the bailout by giving tax breaks to people in foreclosure. People in foreclosure need help paying their mortgage, they do not seek tax breaks.

And while rights to the homes are preserved, a repossessed property continues to devastate our communities, people are losing their jobs, and the prices of necessities are skyrocketing. This legislation, just like the one we defeated last week, will do nothing to solve the problems plaguing American families. We should help them to get out from underneath the oppressive debt they have been forced to take on.

Unfortunately, there has been no discussion of the underlying debt-based economy and the role of our monetary system in facilitating the redistribution of wealth upwards.

It is not as though we had no choice but to pass the bill before us. We could have done this differently. We could have demanded language in the legislation that would have empowered the Treasury to compel mortgage servicers to rework the terms of mortgage loans so homeowners could avoid foreclosure. We could have put regulatory structures in place to protect investors. We could have stopped the speculators.

This bill represents an utter failure of the democratic process. It represents the triumph of special interest over the triumph of the public interest. It represents the inability of Government to defend the public interest in the face of great pressure from financial interests.

The FDIC has a letter from the Office of the Comptroller of the Currency saying that the FDIC is not going to use the power of the FDIC to force Wall Street to come forward with banks to help homeowners.

And we have asked the FDIC toprime the economy and to get money flowing through our banks and in return we have no control over the future.

Years ago, in a Cleveland neighborhood, I saw a hand-scratched sign above a cash register in a delicatessen. The sign said: "In God We Trust, All Others Pay Cash." The sign above the Speaker's rostrum reads "In God We Trust," but today we are paying the cash to Wall Street.

It is not as if we had no other choice but to pass this bill.

[From Ohio.com, Oct. 3, 2008]

FORECLOSURE VICTIM, 90, APPARENTLY SHOT HERSELF

Madeleine Trelfa

By Phil Trexler

At the age of 90, Addie Polk found herself in foreclosure this week, about to be forced from the home she's lived in for nearly 40 years.

So, with a gun in her hand, the Akron widow apparently shot herself in the chest Wednesday afternoon as deputies were knocking on her door with eviction papers in hand.

While a nation reels in financial crisis from years of mortgage abuse, Polk is recovering at Akron General Medical Center, sitting in bed on where she will live when she's released.

Meanwhile, city leaders say Polk has become Akron's "poster child" for victims of predatory lenders. "It is a very sad story. We need to help her if she is so desperate to shoot herself that she can't pay her mortgage," Akron Councilman Marco Sommervillle said.

Court records show Polk took out a 30-year, 6.375 percent mortgage just four years ago for $45,000 with a Countrywide Home Loan office in Cuyahoga Falls. She took out a line of credit that same day for $11,380.

Her La Croix Avenue home was appraised by Summit County in 2004 at $31,230. The Countrywide branch did not return a call for comment Thursday.

Polk essentially owed the same $49,000 when with the Federal National Mortgage Association (Fannie Mae) filed for foreclosure on her home in 2007. Fannie Mae assumed the mortgage from Countrywide.

Following foreclosure last year, Polk's six-room, 101-year-old home was bought by Fannie Mae at foreclosures auction for $28,000. Her house now belongs to Summit County. Foreclosure deeds show Polk ignored multiple notes and letters leading up to Wednesday's eviction.

It wasn't until Tuesday that she called the sheriff's office in disbelief. The next day was eviction day.

"I'm positive she believed the deputies were going to come in, clean out the house and get her and her things because they did that decades ago. But that's not what happens nowadays," sheriff's Lt. Kendal Fatheree said.

"I'm sure she had to be thinking back to the Great Depression when people were set out on the streets. She had to be scared to death."

Deputies Dave Bailey, Jason Beam and Don Fatheree went to the home about 1 p.m. Wednesday to meet with Fannie Mae representative and escort Polk from the house. They said they had no idea the woman was 90 years old.

The deputies' knocks were unanswered, and they were about to leave because the Fannie Mae representative failed to show. Then, they heard a banging noise coming from the home's second floor.

Next-door neighbor Robert Dillon heard it, too. More bangs followed.

Dillon borrowed a neighbor's ladder and climbed through Polk's second-floor bathroom window and walked into her bedroom. She was lying on her side, a gun next to her on the bed. "I'm thinking to myself, "Why does Mrs. Polk got a gun?" " Dillon said. "After looking around, I touched her shoulder and saw the blood and I said, 'Shucks, she done shot herself.'"

Dillon, 62, shouted to the deputies, who alerted Akron EMS. Polk apparently shot herself more than once with a small-caliber handgun, police said.

Polk and her late husband, Robert, a Goodrich supervisor, moved into the home in 1970. He died in 1995, but Polk continued to live independently, but alone, still driving her late model Chevrolet to the grocery store and church.

She appeared to be struggling financially, Dillon said, but he said she never spoke of the foreclosure action looking for more than a year.

She had no children of her own and few visitors, he said.

"She didn't need any help. She got along good," he said.
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It is unclear how Polk used the loan money. Dillon said he didn’t notice any work being done on the house, and deputies said her front porch was soft from years of neglect.

"Where the money go?" Dillon asked.

Somervelle said he is working with the city and the county to assist Polk with housing, once she is released from the hospital. He said the city has been awarded more than $38 million in federal grants in the wake of the mortgage crisis to help cope with the crisis.

Somervelle said Polk’s fate humanizes the problem for the rich and poor. And he urged those facing foreclosure to seek assistance through various local and county agencies.

"It’s a sad situation," he said. "She’s the poster child for this foreclosure crisis we are facing."

Mr. FRANK of Massachusetts. I yield 2 minutes to a member of the Committee on Financial Services, who has been very much concerned with the question of foreclosure, the gentleman from Georgia (Mr. SCOTT). MR. SCOTT of Georgia. Let me first say, Chairman FRANK, how much we all appreciate the outstanding job you have done on this issue.

Chairman FRANK, it’s very important that as we consider this financial package, we make sure we do everything we possibly can to reduce the number of foreclosures and keep families in their homes. We are losing 6,300 foreclosures every single day. In this regard, I have been working on, and I presented to you a four-point package to reach this goal. I certainly want to thank my collaborator, Dr. James Galbraith from the University of Texas, for his advice on this.

Essentially, what we want to do is really, quite honestly, in the spirit of our great Treasury Secretary, Alexander Hamilton, for I believe we need to give the Treasury Secretary efficient tools so that he will be able to also help people to use a package such as our HOPE for Homeowners program to make sure that we are doing everything we do as he purchases those assets to put the ingredients in place that are going down the line to keep foreclosures and keep individuals in their homes, and I have presented this four-point plan to you.

Mr. FRANK of Massachusetts. If the gentleman yielded back to me briefly, I thank him very much. He has been working on this hard, and has also not just professed this in general, but has made some specific suggestions.

Of the four points, two will take separate legislation, and I will work with the gentleman because I am in agreement with him on them, in concept. Two of them, however, are, I believe, able to be accomplished in this bill. I have spoken to the Secretary of the Treasury and, I believe, working together with the gentleman, we can make sure.

I will just say specifically. Asset managers to support loan modifications will be very important for this success. The bill encourages the Treasury to consider the FDIC, which has been superlative in this regard, to play this role. Also, Treasury, under this bill, can buy virtually any mortgage asset, and we direct them to coordinate with the other agencies, like Fannie Mae and Freddie Mac and the Federal Home Loan Banks, and to maximize programs through the jurisdiction we just adopted.

The S&P/KBW pro tempore. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield the gentleman 30 additional seconds.

We will expect the Secretary to use both direct loan modification—providing special considerations for assets where HOPE for Homeowners or other programs have been used. In other words, we are directing the Treasurer to use his authority to maximize, exactly as the gentleman has proposed. We will continue to press the Secretary, and I believe we don’t have to press too hard. He is ready to do this. And we will work with the gentleman on the other issues.

Mr. SCOTT of Georgia. Let me thank you, Mr. Chairman, for including certainly two of those. I deeply appreciate that. Homeowners who are struggling across this country appreciate that. We thank you for that. I want you to know that I will support the bill and I will encourage my colleagues to do the same.

Mr. FRANK of Massachusetts. I will yield myself 15 seconds to say that the gentleman can tell his brother-in-law, Hank Aaron, he hit 500 today, and that’s pretty good in any league.

Mr. SCOTT of Georgia. I certainly will. Thank you, Mr. Chairman.

Mr. BACHUS. Madam Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Madam Speaker, I rise on floor remarks realizing that there is a problem on Wall Street that will affect Main Street, and I also come here today hopeful, but also realistic.

I will Publicly be supporting this bill today, but I know the bill will pass later on because so much has been added to it to get the votes. But I am hopeful then that all the promises that have been made that the contents of this bill will come true, after we give $700 billion to Secretary Paulson and whoever follows him 2 or 3 months from now. The promise is that the markets will open up and the markets will go up and credit will be free-flowing soon.

But I come here also realistic, realistic to know that if you don’t tackle the underlying problem, you will be right back in this House again on this floor seeking more money and more reform. Realistic also to know if you don’t allow for alternatives, you will not get the best bill. And we know that Speaker PELOSI and the White House were not open to listening to any alternatives, and there were alternatives out there. And realistic also in knowing that if you fail to investigate earlier enough, these problems will come up, as they have.

Back in the spring of this year, we, my Republican colleagues, asked for investigations on this matter, and we were rebuffed, being told by the chairman, "I do not think it is necessary that we have hearings on the soonest possible date."

Madam Speaker, I come here not in support of this bill, but in support of doing something, in light of the remarks of economist Robert Shimer, who said, "The U.S. has long been a beacon of free markets. When economic conditions turn sour in other countries, we give very clear instructions on what to do; balance the budget, maintain free trade, the rule of law, and not prop up our enterprises."

He said it. I agree with him. That has always been the U.S. approach, and I believe it is the correct approach.

When the House ignores its own advice in this situation, we reduce our credibility of this stance. Re-writing the rules of the game at this stage will therefore have serious ramifications not only for the people of this country, but for the global and the world as well. You see, Madam Speaker, the social costs of this are far, far greater than the $700 billion that we are about to do.

Mr. FRANK of Massachusetts. Madam Speaker, I yield to the gentleman from Illinois (Mr. DAVIS) for the purpose of making a unanimous consent request.

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Madam Speaker, I rise in favor of the Senate amendments.

I rise in support of the bailout proposal before us, and I do not voice my support without reservation. However, I feel that the health of our state of our economy is such that we have no logical and prudent choice except to act and to do so now.

Like many people across America, I am not happy about using public money to bail out the robber barons on Wall Street. Therefore, I am pleased to see the high level of independent oversight contained in this package. I know that many people are saying that there is no way that the government can help for home owners, for people facing foreclosures, and for those who have already lost their homes and/or their life savings.

Therefore, I am pleased to note that this package provides for loan modifications which stand separately that states:

1. The government owns the entire loan.
2. The Treasury of the Secretary and other agencies (FDIC, Federal Reserve, FHFA, GSE’s) must:
   - Coordinate efforts to gain ownership and control.
   - Create a Government-wide plan to maximize loan modifications.
   - Government has a partial interest.
   - The Secretary must:
     1. Work with services to modify loans under Hope for Homeowners programs now strengthened: (a) Allow homeowners to refinance before reset, (b) provide flexibility on

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checking and savings accounts which protect savers, small businesses and community banks across America.

First, I am pleased that the plan benefits middle income families with an extension of the $1,000 per couple State and local property tax deduction: $1,000 for those who do not itemize deduction on their property taxes. And I thank Jim Costello for his leadership in this regard.

I am also pleased that the bill includes an extension of tax cuts for clean and renewable energy that will create and sustain half a million good-paying jobs in America immediately. This was a part of our energy bill last year. It did not survive the Senate, it now has become part of this legislation, and it is paid for. We fought hard to include these critical tax cuts, again, as I said, in last year’s landmark legislation because they are essential to job creation.

And isn’t it all pleased across America’s cause for celebration that the legislation includes the Mental Health Parity and Addiction Equity Act? Patrick Kennedy and Mr. Ratcliffe, it’s here so they can convey to him the gratitude of the American people to both of them for their leadership, without which we would not have had this important legislation today. It has turned out to be the vehicle for which the whole package is moving.

By requiring that illness in the brain be treated just like illness elsewhere in the body for insurance purposes, we’re helping to end discrimination against those who seek treatment for mental illness. This legislation will also save lives.

So there are some things in here that have been added since the other day that are very important, legislation that has passed the House over and over never could make it through the Senate, and so it’s here today. That doesn’t take away from the fact that we’ve been dealt a mighty bad hand with the core part of this legislation, but it has been improved. It is a compromise.

Passing this legislation is only the beginning of our work to protect the economic future of the American people. We have two weeks to work in these past 2 weeks, we’ve seen things we never thought we would see before in terms of the economic insecurity of our own country. With this legislation, $700 billion, we have broken new ground in how we deal with this crisis, but we will not leave it broken. Chairman Waxman, Chairman Peterson, Chairman Frank will hold a series of hearings to determine the origin of the crisis, how regulators and business leaders failed to protect the public interest, and the commonsense, reasonable regulations needed to provide security and stability in the future.

We must look ahead to protect Americans from unsavory lending practices and to bring a better balance to our bankruptcy laws.

but today we must begin by passing this bill. And as we do so, we must keep in mind our commitment to fiscal discipline, to not increasing the deficit. That’s the bigger issue, I think, that I have from people, well, among others—why so much? Will it work? We’ll see. What does it do to our opportunities to invest in the American people? Well, we hope it will pay for itself. And if it doesn’t, then the fees will be there to cover it.

But apart from that, we cannot get into the thinking that we can just put out all this money without the thought that it will be in front of mountains of debt on our children unless we have recoupment. And so it is a problem for us as we go into a new presidency and a new Congress. But under the leadership of Mr. Geithner, and working with others in the House and in the Senate and with a new President of the United States, “no new deficit spending” must be our mantra.

This is a vote with real consequences, a vote that will shape or begin to shape the financial stability of our country and the economic security of our people. It is an important vote, it’s a difficult vote, but I think that we must win for the American people. We must win it for Mr. and Mrs. Jones on Main Street.

Ms. HOPENGO. Madam Speaker, the emergency financial rescue package I am supporting today, while far from perfect, contains noticeable improvements on the Paulson Plan we considered on Monday. This package is much more balanced in funding every day people, middle-class families, and small businesses. The bailout package we consid-

ered on Monday was simply too geared to ward Wall Street and the corporations whose irresponsible practices helped create this crisis in the first place.

This new financial rescue package raises the cap on FDIC-insured bank accounts from $100,000 to $250,000, which will assist families and small businesses, and restore Americans’ confidence that their savings are secure.

The new package provides tax relief for middle-class families and tax incentives designed to create new jobs and economic opportunities in Hawaii, where people have been hit hard by the economic downturn that preceded this financial crisis. The majority of the tax relief, tax credits, and tax extenders added to the package will provide direct relief and economic assistance to middle-class families and working people—such as the Alternative Minimum Tax, AMT, relief provision and tax credits to speed research, development, and use of renewable energy sources like wind and solar.

The AMT fix, for example, will prevent some 40,000 beneficiaries in our second county of Hawaii from having to pay higher taxes that were originally intended only to affect wealthy taxpayers.

The renewable energy tax credits are critical to encourage investment in the alternative energy projects Hawaii needs to reduce our de

pendence on foreign oil.

In addition, the bill reauthorizes for 2 years the Qualified Zone Academy Bonds, QZAB, program, which helps school districts with low-income populations save on interest costs associated with financing school renovations and repairs. Hawaii received about $1.3 million in QZAB allocations in 2005, 2006, and 2007.

The emergency financial rescue package reauthorizes the Small Business Administration to make disaster loans available to help small businesses struggling with mental illness do not have that challenge compounded by inadequate coverage of mental health care costs.

The economic downturn we are facing, resulting in loss of jobs, foreclosures, and families having difficulty paying for life’s necessities, will not be fixed by this relief bill. The economic provisions added to the bill will help.

But we need a broader economic stimulus package to get our economy going in the right direction again.

I am disappointed that it appears the Senate is not taking up the economic stimulus package (H.R. 7110) recently passed in the House, which will create jobs, extend unemployment benefits, help States with Medicaid reimbursements, and support our Food Stamp program.

This bill represented some $222 million for Hawaii.

I did talk to Senator Obama about his perspective and my concerns about this bill. We both know that much more work remains to be done to address the economic and regulatory problems that won’t be fixed with this bill. We agree that new Federal investments are needed in transportation and clean water infrastructure as well as in education to enhance our Nation’s economic stimulate and put people to work. Senator Obama also shares my concern that the cost of this rescue plan will not ultimately fall on the taxpayers, and he reassured me of his commitment to impose financial service fees to make tax-

payers whole. With the right leadership in the White House, I am confident that we can make the changes needed in future legislation to protect homeowners and taxpayers and to reform our financial markets.

Ms. JACKSON-LEE of Texas. Madam Speaker, I would like to thank the chairman of Financial Services BARNEY FRANK for bringing this important piece of legislation to the floor. I rise today with the confidence that our sys-
tem of government is strong and the constitutional protections of the full faith and credit of our government must protect Main Street America while we reform America’s Wall Street.

Many have claimed that this is a historic vote. Historic votes are not ubiquitous. Historic votes come about through necessity and not through the failures of people. This problem has existed for a while and Congress must rush before the recess to a vote. While I would have liked more time, time has seem-

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I would begin by saying that I had concerns about the bill that was presented to the Congress on Monday. After much deliberation and a return visit to my district, I voted “yes” for this bill. Given these dire economic times, it is the responsible thing to do to vote “yes” when the mass of Americans are suffering.

Let me give you a picture of the tough economic times we face Americans. The economy is shedding jobs. The U.S. economy has lost jobs in every single month of 2008. In September, the economy suffered its biggest 1-month job loss, 159,000, in over 5 years. In the last 11 months, the economy has shed 760,000 jobs since the beginning of the year.

Poor labor markets are significantly increasing unemployment. Within the last year, the number of unemployed Americans has increased by 2.2 million. In September, there were 9.5 million unemployed workers, keeping the unemployment rate at a 5-year high of 6.1 percent. Thus, it has become harder for Americans to find jobs.

The economy is faced with credit crunches. Individuals have found it difficult to get first or second mortgages, credit, credit cards, and loans, including student loans. Because of the condition of the economic, concerns coupled with the drying up of the credit market, I have changed my vote from a few days ago from a “no” to a “yes.” I changed my vote because of my concern for the well-being of the American family.

The first three articles of the United States Constitution address the three branches of Government and their enumerated powers. Throughout history, the legislature, the executive, and the judicial branches. Because there is no specific grant of constitutional authority for the actions that will be taking place here today, we the Members of Congress need to exercise extreme care in exercising the powers and actions of the executive. Should the executive or its agencies exceed the powers granted to it in the Constitution, the judicial can review the determinations made by the executive and the legislative branches. These concepts are fundamental to our Constitution and our system of constitutional checks and balances. These checks and balances were established by the Founding Fathers to reign in the power of the executive. Today we are engaged in a fundamental exercise of the constitutional powers extended to the Congress. Today’s vote is critically important.

Several questions come to mind when I consider the present financial crisis: Where was the FDIC? Where was the SEC? Where was the Federal Reserve? I have worked with leadership to offer consistent amendments, not once but twice unsuccessfully, that would have strengthened the enforcement measures over the past week to change the administration’s proposal to make it more encompassing, effective, and better for the American people.

While the present legislation is imperfect, it is also impressive regarding what needs clarification is needed. For example, the legislation needs clarification on its bankruptcy restructuring, enforcement, and judicial review. These are all issues that I have been very concerned about. But I am determined and desire that the maximum number of Americans get relief from this bill, I offered amendments yesterday. To ensure that this bill provides relief for Americans, I offered the following amendments:

First, many are concerned about the dollar amount that will be set aside for those individuals facing mortgage foreclosure. Therefore, I asked that the language be inserted into the bill so that $10 billion be utilized for the Secretary of the Treasury to restructure mortgages.

Second, as Senator Barack Obama has recently stated, he is committed to altering the bankruptcy code in the future to address the concern owners on the question of restructuring their mortgages. Therefore, I believe that there should have been Sense of Congress language that the Congress should review and amend the bankruptcy code to permit bankruptcy judges to address the question of individual home mortgage restructuring. This would have sent a clear message that Congress is interested in helping Americans pay off their debt despite its not changing the bankruptcy code at this time.

Third, there needs to be greater enforcement. In the section on judicial review, Section 119, there should have been language that specifically states should be able to exercise their discretion to grant injunctions and/or equitable relief if the court determines that such relief would not destabilize financial markets.

Fourth, the legislation should have created a new, independent commission to exercise oversight over what happened and the commission should regularly provide reports to Congress. This commission would be back-looking.

Fifth, the legislation should have been narrowly crafted so that corporate executives who may be convicted of criminal malfeasance in the financial sector and from conducting financial business with the Government for a period of 7 years.

Sixth, the legislation should have permanently lifted the present insurance cap of $100,000 that the FDIC has established to insure funds stored in FDIC-backed banking institutions to $250,000. I believe that this has already been included in the Senate bill; but, my amendment would have made the change permanent.

Seventh, in section 109, which addresses “foreclosure mitigation efforts,” the language should be changed from “shall encourage” to “shall require” to provide stronger relief for Americans.

Specifically, current section 109(a) states in pertinent part that “the Secretary shall implement a plan that seeks to maximize assistance for homeowners and use the authority of the Secretary to encourage the servicers of the underlying mortgages . . . to minimize foreclosures.” I believe if the true intent is to bail out “Main Street,” the Secretary should be required to minimize foreclosures.

There are several redeeming qualities to the bill. I understand that H.R. 1424 establishes a Financial Stability Oversight Board in section 104; Oversight and Audits in section 116; and a Congressional Oversight Panel in section 125. Therefore, these sections provide some oversight of the financial crisis and help to add one piece to the economic puzzle.

Without bankruptcy I offered an amendment that $10 billion should be set aside so that the Department of Treasury could use those funds to address the concerns of individuals facing home mortgage foreclosure. I considered it important to set aside money because I wanted to ensure that Main Street received something from this bailout and not just Wall Street.

The administration has labeled the current economic situation as a crisis that requires emergency measures. Our vote today in favor of the legislation is a first attempt at addressing the dire economic condition of the Secretary of the Treasury to restructure mortgages.

Above all, my concern is to ensure that the American people receive the relief that they deserve. If the American people are facing mortgage foreclosure, it is my desire that money be provided to the lenders to continue to stay in their home and pay their mortgages and their bills. Everyone deserves the economic dream of owning their own home. But the financial institutions were dilatory in this responsibility to assess the borrower’s ability to pay for loans and purchase a home. It was the squandering of this responsibility and preoccupation with greed and avarice that has led us to where we are today. I am not satisfied that this bill is perfect, but this bill does allow Treasury to revalue property and purchase a home. One of the phases is to reinvest in the troubled financial markets to stabilize the markets. Another, reimburses the taxpayer and requires a plan to guarantee that they will be repaid in full. The last is to reform how banks operate on Wall Street. The current legislation provides for fewer golden parachutes and, to its credit, provides sweeping congressional oversight.

There are critical improvements to the rescue plan that yield great benefits for the American taxpayers and even to Main Street. However, with the passage of this bill, it is my hope that H.R. 1424 will help the financial markets and make America secure. I am cautious and hopeful that there is enough in the bill to help Americans struggling with their mortgages.

Although I have certain lingering concerns regarding this bill, I have voted for this bill. After meeting with an Assistant Secretary for the Treasury, some of my concerns were answered; others remain. For example, the Assistant Secretary indicated Treasury’s intention that the markets will afford the opportunity to purchase toxic assets. After Treasury purchases these toxic assets at fair market value, it is expected that the purchase price will set a marker so that other similar classes of assets will be purchased at the same or higher price level. This is a positive development for banks and financial institutions to re-capitalized themselves. By itself this would be a help to commercial banks that desire to sell off their toxic assets.

In my conversation with the Assistant Secretary, he indicated that as time goes on, Treasury will develop guidelines for identifying and helping troubled small and community

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banks. It is intended that small and community banks and small, women, and minority-owned businesses will all be aided by this legislation. These institutions will be aided because it is expected that there will be more liquidity in the market available to these entities and that more credit can be extended to them.

Lastly, the Assistant Secretary indicated that under sections 109 and 110, that Treasury has every incentive to renegotiate the terms of troubled mortgages. Importantly, the Assistant Secretary indicated that not all homeowners who are facing mortgage foreclosure will be helped. The goal, however, is to help as many homeowners as possible.

I have drafted a letter to Chairman Frank of Financial Services, and I have raised several questions to which I would like answers.

First, I have asked Chairman Frank that should something go wrong with this bailout, whether Congress can be called to reconvene at any time before or after the election.

Second, I have asked Chairman Frank to share the constitutional grant of authority that would prevent the Secretary of Treasury from having unfettered power so that there will be a balance between the interests of the banks and individual homeowners.

Third, I have asked Chairman Frank what members of Congress can expect in the 111th Congress regarding follow-up on this bill and the financial situation generally.

Fourth, I have asked Chairman Frank to answer how members can ensure that community and regional banks can take advantage of this bill.

These are critical questions that need to be answered.

I believe that Wall Street is an important and vital part of the Nation's economy. I believe that the people who work there are good. It is a well known fact that financial markets do not always serve small businesses and minorities. I have personally had experiences where good hardworking people and small business owners were denied access to financial markets.

I believe in America and I believe in its Constitution. I believe that this bill would allow constant monitoring and vigilance and would help the American people.

I am reminded of the Preamble to our Constitution, which reads:

"We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

I would like to end with a quote from Alexander Hamilton: "the sacred rights of mankind are not to be compromised, for, among old parchments, or musty records. They are written, as with a sun beam in the whole volume of human nature, by the hand of the divinity itself and can never be erased or obscured by mortal power."

I hope that this legislation will provide the American people with the sun beam. It is my hope that this legislation works and that it serves the American people.

Mr. SOUTHWICK of Virginia, Madam Speaker, we obviously have a crisis in the financial markets. Major firms have failed and others are failing. We are in an economic downturn with people losing their homes, businesses going under, and credit drying up for small businesses and consumers. The current crisis is the predictable consequence of the failed economic policies of the last 8 years. These policies are the reason for the budget deficit, the worst job growth since the Great Depression—including our ninth consecutive month of job losses—and the worst Dow performance in over three decades. Congress should address the crisis with appropriate legislation.

The Senate bill that we considered today is not fundamentally different from the bill we voted on Monday, although some have attempted to criticise all of the package from a "bailout" to a "rescue.” The foundation of the bill remained the outlay of $700 billion for the purchase of worthless assets. On balance, the final version of the bill was still not a good deal for taxpayers.

Whether or not the bailout act we voted on today was a “good” deal rises and falls on the issue of fair value. You cannot rationally determine the worthiness of a purchase, without knowing what the true fair value is, and whether you are paying more or less than that fair value. If the bailout legislation included a provision that would provide that the Federal Government would pay no more than the good faith fair market value for the assets, then it would be a good deal. Some of the assets we will be asked to buy are options, derivatives, and other exotic speculative investments that are in fact worthless. There is no [sic] public policy reasons for giving investors out of speculative securities that did not pay off. Since there is no commitment to calculating a good faith fair value price, and to paying no more than that price, this is a bad deal for the American people, because we will undoubtedly overpay for these assets. Therefore, the worthiness of the deal rises or falls on the commitment to limit payments to a fair value.

I am not suggesting that establishing a fair value of these assets will be easy. But there are established factors in other situations to determine the value of assets when selling prices or bid and asked prices are not available. And it is the responsibility of the power of the U.S. Treasury to require that no funds should be spent without a reasonable assessment of what we are buying.

Furthermore, we should not give unlimited discretion to the president or Congress, of course, obviously higher than fair value to an administration frequently accused of cronyism and favoritism.

We are dealing with three separate but inter-related problems: illiquidity in the credit markets; insolvency of financial institutions; and the hardship of homeowners. Offering fair value prices for assets will address the issue of liquidity. If we limited purchasing prices to fair value, we could purchase assets, reestablish confidence, wait for prices to increase, and reinvigorate the private sector could then buy assets back from the Government. Even if it took more than $700 billion, as long as we were paying fair value, and receiving assets earning more than the financing costs, we could be confident that, in the long run, this solution would at least breakeven, and would likely make money for the taxpayer even if we held the assets to maturity. But since the bill provides no limit on the price we pay for assets, we will undoubtedly overpay, and lose money on the deal. If we paid fair value, we could solve the liquidity crisis without any likely cost to the taxpayers. Unfortunately, there is nothing in the act to restrict payments for assets to their fair value.

The problem with illiquidity what affects credit relates to lending institutions holding various, but temporary illiquid assets on their books. While there is no market for those assets, accounting regulators require the assets to be valued at virtually zero. Since lending assets are directly related to a bank’s capital, this markdown significantly reduces lending authority, which leads to the credit crunch. This problem can be solved either by the government purchasing the assets at fair value, or by a change in accounting rules to allow assets to be booked at “fair economic value” rather than “market value”. This administrative change in the “mark to market” rule would significantly increase lending authority at no cost to the taxpayer. In addition there are a handful of banks that have sufficient capital but not enough deposits to sustain lending authority; in those few cases, simply depositing federal funds in the bank would increase lending capacity.

Another factor affecting credit is the reluctance that banks have to lend money to other banks; for fear that the other bank might go broke and lose the funds. As long as these measures are not done. This problem can be cured by the issuance of “net worth certificates” which would guarantee the net worth of a bank, for a fee which would insure that there would be a limited cost to the taxpayer. This has been done successfully in the past.

There are other ways to instill confidence in financial institutions without spending any of the taxpayer's money. William Isaac, former head of the FDIC, has suggested that FDIC exercise the powers already granted to it by Congress. The FDIC can take emergency action and declare that no general creditor of a failed bank will suffer a loss if the bank fails. That declaration, when coming from the FDIC would, by statute, be backed by the full faith and credit of the United States. This action would be a signal to the worldwide market that the full faith and credit of the United States stands behind our banks, and an influx of capital would soon follow. Another FDIC change would be to increase the limit at which FDIC insures deposits from $100,000 to $250,000. This would limit the demands placed on the FDIC by major withdrawals from banks. This provision is not controversial and is actually in the bill.

Another factor which affects capital and therefore lending authority is the downward pressure on stock prices caused by short selling. Administrative action has already been taken to prohibit “naked short sales” and to restore the “uptick” rules.

After the bill was defeated on Monday, I worked with other members who were skeptical of the bill, to propose cost-effective solutions to the crisis. Representative Peter DeFazio has produced a bill, the NO BAIL- OUT Act, bringing Accountability, Increased Liquidity, Oversight and Upholding Taxpayer Security Act, that outlines administrative changes that could be implemented at no cost to the taxpayer. The bill directs the administration to implement a net worth minimum, adjust mark to market valuation rules, increase FDIC insurance limits, and regulate short sales. These no-cost changes would be more likely to have an impact on the domestic credit crunch than spending $700 billion on purchasing worthless assets from all over the world.

Some argue that overpaying for assets will help solve the second problem of the crisis,
way, voting for this revised legislation by a vote of 74–25. The leadership of both parties and our two presidential candidates support this effort to rescue our faltering economy. In the process, they have included in this relief package necessary emergency lines of credit, a lifeline for our intriguing financial industry. In the long term, it's also an investment in bringing back a strong economy. Our economy does not recover, if we slide toward recession or worse, we won't all suffer. I support this bill because I believe it's the right thing to do for our country.

But enacting this emergency legislation is only the beginning. While we have to act today to save our economy, we must continue fighting for fiscal responsibility, putting an end to runaway deficits and our mounting $9.6 trillion debt. I will work with my Republican and Democratic colleagues on the House Financial Services Committee to aggressively investigate what went wrong in the credit markets, and work in a bipartisan way to improve the regulatory structure so we can have a modern oversight structure that will make sure firms act in a responsible way. We must continue to do whatever it takes to protect the future economic health of the country.

Mr. RAMSTAD. Madam Speaker, it was an amazing turn of events that made the treatment parity legislation of PATRICK KENNEDY and I introduced, H.R. 1424, the vehicle for one of the most far-reaching bills considered in our lifetime.

This legislation is a rescue bill for the U.S. economy and a rescue bill for the millions of Americans suffering from mental illness and addiction. It will also prevent a devastating tax increase on middle-income families and job creators at a time our families and economy cannot afford more blows.

This vote will mean the end of 12 long years of fighting for treatment parity for mental illness and addiction. This is not just another public policy issue: It’s a matter of life or death for 54 million Americans suffering the ravages of mental illness and 26 million suffering from chemical addiction.

Last year alone, more than 30,000 Americans committed suicides from untreated depression. In 2006, 30,000 Americans died as the direct result of chemical addiction. On top of this, the tragic loss of lives, untreated addiction and mental illness cost our economy over $550 billion a year.

I am alive and sober today only because of the access I had to treatment following my last alcoholic blackout on July 31, 1981, when I woke up in a jail cell in Sioux Falls, SD. I’m living proof that treatment works and recovery is possible.

But far too many people in our country don’t have the same access to treatment that I and other Members of Congress have had.

A major barrier for thousands of Americans is insurance discrimination against people in health plans who need treatment for mental illness or chemical addiction.

The legislation we are passing today will end this discrimination by prohibiting health insurers from placing discriminatory restrictions on treatment for people with mental illness or addiction.

No more inflated deductibles or copayments that don't apply to physical diseases.

No more limited treatment stays that don't apply to physical diseases.

No more discrimination against people with mental illness or chemical addiction.
October 3, 2008

CONGRESSIONAL RECORD—HOUSE

H10791

legislation, and bring forward a revised version that would deserve and obtain broad support in Colorado and across the country. We had thought that the Senate acted to repackage the old bail-out bill in its closing. We owe the taxpayers more than to hurry a deeply flawed package out the door at such tremendous cost to them.

I believe we could have added provisions that (1) provided independent oversight of the Treasury's program, (2) strengthened the equity position of taxpayers in purchasing mortgage-backed assets, (3) required the government to help responsible homeowners refinance their mortgages, and (4) insured that taxpayers will not be on the hook for irresponsible compensation packages for CEOs.

This bill claims to address these problems, but the exceptions in this bill swallow the rule. In short, the bill doesn't do what it claims to do.

On Tuesday, stronger provisions were within our reach and we should have worked to secure them.

I hope—for the sake of all those people who have worked hard and played by the rules, only to see their retirement whittled away or their homes' values plummet—that this package does what its supporters promise it will.

But in the end, my responsibility is to Colorado families, and I continue to believe as I did on Monday, that I cannot ask them to foot the bill for a bail-out that costs so much, with so little accountability, so little reform, and so little protection for them.

Mr. HALL of New York. Madam Speaker, I rise today in support of H.R. 1424, The Emergency Economic Stabilization Act of 2008. Since this House rejected an earlier plan to intervene, the bad economic news has kept rolling in and the dangers to Main Street businesses have increased. Only today it was announced that 155,000 American jobs were lost in September alone. This kind of news combined with the tremendous declines we’ve seen in the markets only underscores our need to take action.

I want to address the anger of most Americans about the need to take these unprecedented steps, but I remain more convinced today that we must act decisively to contain this economic contagion before it spreads into the core structures of our economy and leaves lasting damage.

Although this bill added an important provision to increase the insurance guarantees on personal deposits by the FDIC and a number of tax provisions, it remained similar to the package that I reluctantly supported earlier this week. While this bill is far from perfect, I believe it addresses the economic crisis in a responsible way that helps Wall Street while still looking out for Main Street and protecting our tax dollars.

This bill would still institute limits on executive compensation and golden parachutes for the executives of companies that take part in the plan. It puts in place real oversight from the courts, from Congress and from a new Inspector General’s office and finally installs significant Government supervision and regulation of the companies that helped to put us in the position we are in now.

It also puts in place mechanisms to make sure that taxpayer dollars will be protected to the maximum extent possible. To the extent that our investment is not recouped, the President will have to come up with a plan to make sure that the companies taking out this Government loan will have to pay back the American taxpayers.

The financial industry is of great importance to New York State, which relies on our financial institutions for a significant percentage of tax revenue and jobs. The Hudson Valley is particularly vulnerable to difficulties on Wall Street, and I fear that the workers, small business owners, and families in my district will face severe economic ramifications if we do not stem the tide of this financial crisis. That is the primary reason that I feel I must vote yes today.

In fact, the ripple of the credit crisis are already impacting some of the small businesses in my district. Jeff Conston, owner of Dutchess Recreational Vehicles in Poughkeepsie, complained to tell me that his customers are finding it very hard to get financing to purchase the equipment he sells. He has 34 employees who handle sales, parts and service for his dealership. He urged us to get this financial rescue and the financing for his customers and his business can start flowing again.

Another local businessman, William L. Spearman, Chief Executive Officer of the Hudson Valley Credit Union in my district, told me that while his credit union’s balance sheet remains strong, his members are so concerned about our financial system that they are withdrawing money just to put it in their mattresses. In his view, the financial system is frozen and we need to pass this bill to provide confidence to his members and to get the system moving again.

Overall, I am pleased that the legislation sent back from the Senate includes some important tax relief provisions that I believe Congress should pass this year. Chief among this is a one year “patch” that will protect thousands of middle class families from being hit by the AMT this year. Last year over 30,000 families in my district paid AMT, and this bill will ensure that an additional 70,000 families in my district will not also be obliged to pay it.

I wish we had provided support to permanently fix the AMT, and help the middle class families that are still subject to it, however once again the “patch” legislation that we consider today is the best legislation that we can pass at this time and I support it.

I am also grateful that this legislation contains a number of tax breaks to help individuals and small businesses. Given the economic troubles we are in the midst of, tax breaks for research and development and for teachers who use their own money to purchase supplies for the students are desperately needed and could not come at a better time.

This bill also includes some important provisions to help shore up our economy in the long term by moving us away from imported fossil fuels and toward energy independence.

The critical tax incentives in this bill for wind, solar, hydropower, and energy efficiency, and the purchase of advanced plug-in hybrid vehicles will create thousands of green jobs here in America that can’t be outsourced, help cut consumer energy costs, and give individual and corporate investors the power to help fight climate change and end our dependence on foreign oil. Although I am deeply disappointed by the inclusion of incentives for coal to liquids technology and tar sands and oil shale exploration, which will not meet these goals, this package is still critical to our future and worthy of support.

Passage of this plan is only a first step. While this created the crisis was the Bush administration’s and previous Congress’s failure to stem reckless behavior on Wall Street, and we cannot allow that lapse in oversight to be repeated. I am pleased that the Committee on Oversight and Government Reform will begin hearings soon on the causes of this crisis and that there is acknowledgement that we must work to make more fundamental investments in the true engine of our economy, American workers, innovation, and small businesses, in order to more permanently strengthen our prosperity. Congress must remain vigilant, aware of how this tremendous authority is being exercised by the administration and in the markets, and ready to intervene at the first hint of abuse or ineffectiveness.

Ms. SCHWARTZ. Madam Speaker, as the American people have witnessed over the past several days, the instability in the financial markets requires immediate attention.

The longer this instability continues, the harder it will be for employers to make payroll, for retirement plans to meet their obligation to retirees, and for families to access the credit they need to pay for college, for a car, for a home, or for just getting by.

The road has been difficult, but the risk posed to everyday Americans is simply too great not to act.

My constituents and I were appalled when President Bush asked us to hand over $700 billion with no oversight, no accountability, and no reforms to the fundamentally flawed policies that allowed this crisis to occur.

Due to bipartisan cooperation—and now compromise between the Senate and the House of Representatives—this economic recovery proposal is fundamentally different than the proposal first brought to us by President Bush.

Today, we have an economic recovery proposal before us that will protect the interests of hardworking Americans by:

Restoring investor confidence in our economy and the financial markets;

Protecting taxpayers by requiring full transparency of actions taken by the Treasury Secretary, creating a strong ombudsman appointed by Congress, and establishing an independent Inspector General to guarantee compliance;

Ensuring fiscal responsibility by making resources available in installment that require congressional and Presidential approval, and guaranteeing that the financial services industry repays any losses to the U.S. Treasury;

Helping distressed homeowners avoid foreclosure by facilitating loan modifications; and

Limiting the compensation for the corporate executives that created this crisis by eliminating multimillion dollar golden parachutes.

I will vote for the proposal before us today because this urgent economic crisis requires action by Congress.

It is unfortunate that the Senate took this opportunity to add unrelated measures to this bill. These measures include items that I have strongly supported—such as: mental health parity; Alternative Minimum Tax relief; property tax relief; the personal deduction for higher education expenses; incentives for energy

Exhibit G-52
August 5, 2009

U.S. Effort Aids Only 9% of Eligible Homeowners

By ANDREA FULLER

WASHINGTON — The Treasury Department said on Tuesday that only a small number of homeowners — 235,247, or 9 percent of those eligible — had been helped by the latest government program created to modify home loans and prevent foreclosures.

A report released by Treasury officials identified lenders who had made slow progress in offering more affordable mortgages, naming Bank of America and Wells Fargo as among those failing to reach large numbers of eligible borrowers.

While 15 percent of eligible homeowners have been offered help through the mortgage modification program, the low rate of actual mortgage reductions has frustrated administration officials.

Michael S. Barr, the assistant secretary for financial institutions, said in a news conference that there were “significant variations” in performance and that some institutions had made “an infinitesimally small amount” of progress.

“I think it’s safe to say we’re disappointed in the performance of some of the servicers,” Mr. Barr said. “We expect them to do more.”

The release of data showing the progress of individual institutions is part of a Treasury effort to push banks to modify loans faster.

Under the $75 billion program, homeowners whose monthly mortgage payments are more than 31 percent of their gross income are eligible for modified loans, with interest rates as low as 2 percent.

Bank of America has modified only 4 percent of the eligible mortgages, and Wells Fargo has modified 6 percent.

Citimortgage, a unit of Citigroup, fared better at 15 percent, while JPMorgan Chase was among the most successful, modifying loans for 20 percent of eligible borrowers.

All four institutions received federal bailout money.

Since President Obama announced the mortgage modification program in February,
mortgage holders have criticized the slow response by lenders. The Treasury Department hopes to reach as many as four million borrowers through the program in the next three years. Mr. Barr said he expected institutions to modify 500,000 loans through the program by November.

"We’re going to pay specific attention to making sure that the institutions that have been slow out of the block ramp up more quickly and more effectively," he said.

Treasury Secretary Timothy F. Geithner met on July 28 with lenders who had signed agreements to participate and asked them to streamline the application process and improve customer service.

"For us the bottom line is, they need to reach the borrowers," Mr. Barr said. "For some of them that means better training, for some of them that means ramping up capacity, for some of them that means treating people better in their call centers."

The Treasury Department hopes the name-and-shame tactic will encourage banks to improve. In addition, Freddie Mac, the government-controlled mortgage buyer, will audit rejected applications.

Wells Fargo and Bank of America issued statements on Tuesday promising to comply with the program.

"Despite our aggressive efforts to find solutions for homeowners in default, we must improve our processes for reaching those in need," said Barbara J. Desoer, president of Bank of America Home Loans. She said that Bank of America completed 150,000 modifications through its own programs in the first half of 2009.

Mike Heid, a president of Wells Fargo Home Mortgage, said the company would now send eligible customers a trial modification agreement within 48 hours of their initial contact.

"Our company has been accelerating our use of HAMP," said Mr. Heid, referring to what is officially the Home Affordable Modification Program. "We’re confident we can achieve our portion of the government’s goal to reach 500,000 HAMP trial modification starts by Nov. 1."

But John Taylor, president of the National Community Reinvestment Coalition, said the government should not depend on voluntarily compliance from banks.

"There are other modifications that Wells Fargo and Bank of America would argue that they’re making," he said. "But maybe they’re making modifications that are not as deep or consistent with the guidelines."

Michael Calhoun, president of the Center for Responsible Lending, was also skeptical that banks had enough incentive to comply with the program. The Treasury Department offers $1,000 payments to lenders for each modified loan and pays lenders part of the difference between borrowers’ old monthly payments and their new ones.
"For over three years, leaders have insisted they can handle this crisis on their own, but today's report shows that the time for voluntary action is over," Mr. Calhoun said in a statement.

Kathleen Day, a spokeswoman for the center, said: "There's still a lot of market reasons why they wouldn't do it. Some may not have the warm bodies to do it. They may feel overwhelmed."

That would change, she said, if banks knew judges could modify mortgages in bankruptcy courts.