

# NAR Issue Summary

## Conventional Residential Lending / Bankruptcy

### **NAR Committee:**

Conventional Financing and Policy Committee

### **What is the fundamental issue?**

The most effective remedy available to homeowners facing foreclosure to stay the foreclosure is to file for bankruptcy under Chapter 13 of the Bankruptcy Code. Today, due to the financial strain placed on families because of the current economic crisis, an increasing number of borrowers, even those filing for bankruptcy under Chapter 13, are losing their homes to foreclosure because they can't keep up with the financial demands of problematic mortgages. Bankruptcy judges do not have the authority to modify mortgages for principal residences (unlike mortgages for second homes, vacation homes, farms, etc.).

In order to assist those saddled with abusive loans and minimize the turmoil created for families, neighborhoods, communities and housing markets by the economic crisis, bankruptcy reform advocates propose giving bankruptcy judges the authority to modify mortgages for principal residences. The concept is to allow these mortgages to be bifurcated into a secured and unsecured loan and mortgage interest rates and terms to be modified by bankruptcy judges. The secured mortgage would be written down to the current value of the property.

### **I am a real estate professional. What does this mean for my business?**

Bankruptcy reform could affect REALTORS® in a number of ways. Proposed reforms would provide homeowners and REALTORS® with additional leverage to negotiate short sales with mortgage lenders. In addition, the proposed changes could give REALTORS® attempting to help homeowners keep their houses another tool to negotiate a loan modification and avoid foreclosure.

Conversely, the housing mortgage market could be hurt by higher interest rates and potentially less liquidity in the mortgage market, making it tougher and more expensive for buyers to secure a mortgage. This could result if lender confidence is shaken by the risk of a future involuntary loan restructuring (such as rate reduction, principal reduction (also called "cram-down"), and term extension) in the course of a borrower's bankruptcy proceeding.

### **NAR Policy:**

NAR currently has no policy applicable to the current mortgage market or the reform measures being debated.



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NAR's policy from the early 1990's that opposes "cram-downs" was adopted when loans were predominantly fixed rate mortgages; 2/28s (teaser rate mortgages) and option ARMs were not a significant part of the market until early 2004. The housing market and types of mortgages products have evolved dramatically since the last time this issue was considered by REALTORS®.

### **Opposition Arguments:**

N/A.

### **Legislative/Regulatory Status/Outlook**

Congress has taken no action on bankruptcy legislation so far in the 112th Congress.

### **Current Legislation/Regulation (bill number or regulation)**

No actions at this time.

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