

December 8, 2009

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable John Boehner
Republican Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Representative Boehner:

The undersigned organizations oppose the broad bankruptcy provisions included in the Conyers Amendment to HR 4173, which will be considered by the House later this week. This amendment would allow bankruptcy judges to rewrite arbitrarily the terms of a mortgage contract, including reducing ("cram down") the amount owed on a mortgage, changing the interest rate, or stretching out the term of the mortgage.

The housing market continues to be unstable and enacting cram down legislation would make things worse by adding even more risk to the mortgage market, effectively undermining efforts by Congress and the Administration to stabilize the housing market, including HOPE NOW and HAMP programs. The amendment also threatens to impose a direct hit on taxpayers as well as the overall financial system. The massive potential losses generated by judicial modification will directly impact Fannie Mae, Freddie Mac and the government mortgage guarantee agencies, and could well reverse recent gains in credit sector strength. Insurers, pension funds, and other institutional investors in top tranche mortgage securities may also be badly hurt by the resulting losses in these otherwise sound instruments.

The Conyers Amendment also includes an extraneous provision that provides that even minor violations of the Truth-in-Lending Act (TILA) could result in a home equity loan or even a mortgage being disallowed in bankruptcy. The amendment also dramatically weakens language adopted earlier this Congress by the Judiciary Committee that would have prevented applicants who committed fraud in their mortgage application from taking advantage of the cram down. In addition, the Conyers Amendment waives the current debt limit for Chapter 13 filings, thereby allowing millionaires to file for cram down on multi-million dollar homes.

These provisions will harm the housing market, increase bankruptcy filings and abuse of the bankruptcy system, and increase the cost and availability of credit for new home buyers and those that want to refinance their mortgages.

Therefore, we strongly urge you to oppose the Conyers bankruptcy cram down amendment. to H.R. 4173.

Sincerely,

American Bankers Association
American Financial Services Association
Consumer Bankers Association
Consumer Mortgage Coalition
The Financial Services Roundtable
The Housing Policy Council
Independent Community Bankers Association
Mortgage Bankers Association

Securities Industry and Financial Markets Association
U.S. Chamber of Commerce

Cc: Members of the House of Representatives