



# Home Retention and Economic Stabilization Act:

*H.R. 6076*

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CRL Policy Analysis

June 27, 2008

## ***Why is H.R. 6076 needed?***

Approximately 20,000 subprime foreclosures are starting every week, and the situation is projected to get worse. The rate of foreclosures continues to accelerate, despite the efforts of programs like HOPE NOW, which encourage lenders and servicers to avoid unnecessary foreclosures by voluntarily modifying loan terms to make them commercially reasonable and sustainable. Housing counselors and loan servicers are overwhelmed by the numbers of families needing assistance and have not had time to staff-up to meet the need. Moreover, the common presence of “piggy back” second mortgages makes it virtually impossible for servicers to modify loans even when they want to.

Making matters worse, credit markets are jammed, which makes refinancing into more affordable loans especially difficult – even for those families who, in normal times, would qualify for reasonable loans. Similarly, the current backlog of homes for sale has created an impossible bind for families who, but for the current market crisis, could repay their loans and avoid foreclosure by selling.

Foreclosures pose serious problems that go well beyond the families immediately at risk of losing their homes because the negative spillover effects of these foreclosures are substantial: property values are dropping by billions of dollars, crime is up in high-foreclosure communities, cities are losing their tax bases, and millions of Americans who depend on a robust housing market are losing jobs and income. School districts, police departments, and local neighborhoods do not have the capacity to deal with the burdens associated with rising foreclosures. Therefore, avoiding *unnecessary* foreclosures is urgently needed, not only for the sake of the families immediately impacted, but for the good of their neighbors, communities, state and local governments, and the housing market and the economy nationwide.

A short-term delay in processing foreclosures, as proposed by H.R. 6076, is necessary to allow time for lenders and servicers to increase their capacities to match the scale of the current need, for the credit markets to stabilize, and for legislative solutions, such as the FHA refinancing program under consideration in Congress, to take effect. This short-term delay would ensure that those families facing avoidable foreclosure do not fall through the cracks.

## ***What does H.R. 6076 do?***

H.R. 6076 allows struggling homeowners who meet certain criteria to delay a foreclosure sale by up to nine months, so long as they comply with the statutory obligation to make reasonable monthly mortgage payments to their lender, and provided that they maintain the property

responsibly. This “timeout” is needed to give homeowners time to enter into loan modification arrangements with their current lender, to refinance into new, sustainable loans, or, in some cases, to sell their home and move to a more affordable home.

***Does H.R. 6076 permanently stop any foreclosures?***

No. The bill only provides a nine-month deferment period to allow time for an alternative solution to be reached.

***Does H.R. 6076 provide a windfall for wealthy Americans?***

No. Only consumers who live in their home and intend to remain there are eligible. Investors and speculators are not eligible. In addition, only homeowners with income below 200% of area median income are eligible.

***Does H.R. 6076 help consumers in traditional prime mortgages?***

No. Only subprime and negative amortization mortgages are eligible. Subprime mortgages are higher-cost mortgages (for first liens, loans with APR more than 3% above Treasury or more than 175 basis points above conventional mortgage rate; for loans that aren’t first lien, more than 5% and 375 basis points above the same benchmarks, respectively).

Negative amortization mortgages are those with the potential for the principal balance to increase over time because monthly payments are not enough to cover interest costs and whose terms provide that the monthly payment increase after origination.

***Does H.R. 6076 help consumers who don’t really need help?***

No. Consumers with subprime mortgages are only eligible once the interest rate on their mortgage has reset or after they have fallen 60 days delinquent on their mortgage payments. Consumers with negative amortization mortgages are only eligible after the first increase in the minimum monthly payment.

***Does H.R. 6076 allow consumers to stop making monthly payments?***

No. The consumer must continue to make payments during the deferment period, equal to the lower of (i) the original minimum monthly payment, i.e., at the “teaser” rate; or (ii) a payment based on a market interest rate plus a 1% risk premium applied to the principal owed.

***Will the deferment period continue if the consumer falls behind on monthly payments?***

No. If the consumer falls behind by more than 30 days, the deferment period ends.

***Does H.R. 6076 forgive debt?***

No. Any deferred amounts will be amortized and paid over the life of the loan at the end of the deferment period.

***When does the deferment period start and end?***

The deferment period starts when the consumer sends notice to the creditor or servicer that he/she is exercising his/her deferral right. It ends 270 days later. It will end sooner, however, if the consumer falls behind more than 30 days on its monthly payment, if the consumer enters into a qualified loan modification plan, or by court order.

***Will the deferment period continue if a qualified loan modification plan is entered into?***

No. The deferment period ends if the creditor/servicer and consumer enter into a qualified loan modification plan. To be a qualified loan modification plan, the plan must be scheduled to remain in place until the consumer sells or refinances the property. The plan may not result in negative amortization or include a balloon payment or additional points and fees, and it must be reasonably affordable for the homeowner over the life of the loan.

***Does the homeowner have other obligations during the deferment period?***

Yes. The homeowner must maintain the property and respond to all reasonable inquiries from a creditor or servicer. If the consumer doesn't comply, the deferment period ends.

***Will H.R. 6076 interfere with state efforts to prevent foreclosures?***

No. H.R. 6076 preserves the ability of states to provide additional foreclosure protections to their residents.

**About the Center for Responsible Lending**

The Center for Responsible Lending (CRL) is a national nonprofit, nonpartisan research and policy organization dedicated to protecting home ownership and family wealth by working to eliminate abusive financial practices. CRL is affiliated with Self-Help, one of the nation's largest community development financial institutions.

For additional information, please visit our website at [www.responsiblelending.org](http://www.responsiblelending.org).