



## ISSUE UPDATE

**DATE:** May 11, 2009  
**TO:** Concerned Parties  
**FROM:** Hilary O. Shelton, Director, Washington Bureau

### **NAACP-Supported Mortgage Loan Restructuring Legislation to Help Rescue from Foreclosure Defeated by U.S. Senate**

***JUDICIAL SUPERVISION RESTRUCTURING OPTION COULD SAVE MILLIONS OF HOMES***

#### THE ISSUE:

In the United States today one home is foreclosed upon every thirteen seconds. Home foreclosures have hit the African American community especially hard: for decades predatory, sub-prime loans (which have led to many of the foreclosures) were targeted at African Americans and other racial and ethnic minorities. In 2006 and 2007, at least half of all the home loans sold to African-Americans and at least 40% of all the home loans that Latinos received were subprime. These disparities occurred even when people of color had similar qualifications to white applicants. It has been reported that communities of color will lose an estimated \$213 billion of wealth as the result of foreclosures due to abusive subprime lending. For this reason predatory lending and home foreclosures have been and continue to be a major civil rights issue in America today.

We clearly need a multi-pronged approach to solving our Nation's foreclosure crisis and getting many of these homeowners into sustainable, long-term mortgages that accurately reflect the true market price of the home. One way to do this, at no cost to U.S. taxpayers, is to enact a minor reform of our nation's bankruptcy laws. Currently, if an individual files for bankruptcy, a judge cannot require a financial institution which is foreclosing on that person's home to renegotiate the loan to attempt to make it more reasonable and sustainable so that the person, and their family, can stay in their home. The subprime lenders who created this foreclosure crisis are able to seek relief through bankruptcy as well as investors, but homeowners trying to save their primary residence cannot.

**Senator Richard Durbin (IL), who has been a long-time champion of this issue, offered an amendment to allow judges to require loan modifications. His proposal was defeated by a margin of 45 yeas to 51 nays on Thursday, April 30 2009.** (This provision has already passed the US House in early March 2009). Specifically, it would have closed the loophole and allowed impartial judges to require lenders to enter into loan modification negotiations with a person facing bankruptcy. Court supervised loan modifications are a major solution to help families avoid foreclosure while still paying a market-rate mortgage for their home. It is estimated that if enacted this legislation could reduce coming foreclosures by 20% -- amounting to 1.8 million homes at no additional cost to taxpayers or investors.

Many foreclosures today could be avoided, although this is not happening because we are currently relying on lenders to voluntarily enter into modification negotiations. As a result, only 3.5 percent of delinquent subprime loans received modifications in August 2008. Clearly, current voluntary efforts to avoid foreclosures are insufficient, and we need to give judges who are dealing with homeowners facing foreclosure more power.

Many of the impending foreclosures are unnecessary because the homeowner could afford to pay a market rate mortgage, for the full current value of the house – an outcome that is far preferable to foreclosure for homeowner and mortgage lender alike. All the lender would have to do is to modify the loan to make it economically rational, and sustainable. The Durbin amendment would result in more mortgage modifications and fewer foreclosures, and could be a key tool in stemming the foreclosure crisis.

**SEE HOW EACH ELECTED REPRESENTATIVE VOTED ON THE FOLLOWING PAGES**

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**ALLOWING IMPARTIAL JUDGES TO HELP HOMEOWNERS AVOID FORECLOSURE***S. 896 / Helping Families Save their Homes Act of 2009 / Durbin Amendment*

Amendment to allow impartial bankruptcy judges to require lenders to enter into loan modification negotiations with a person facing bankruptcy and foreclosure.

*The amendment failed on April 30, 2009, 45 ayes to 51 nays.***The NAACP supported the Durbin Amendment.****ALABAMA**Shelby ▽  
Sessions ?**ALASKA**Begich ▲  
Murkowski, L. ▽**ARIZONA**McCain ▽  
Kyl ▽**ARKANSAS**Lincoln ▽  
Pryor ▽**CALIFORNIA**Feinstein ▲  
Boxer ▲**COLORADO**Udall, Mark ▲  
Bennett, Mark ▽**CONNECTICUT**Dodd ▲  
Lieberman ▲**DELAWARE**Kaufman ▲  
Carper ▽**FLORIDA**Nelson, Bill ▲  
Martinez ▽**GEORGIA**Chambliss ▽  
Isakson ▽**HAWAII**Inouye ▲  
Akaka ▲**IDAHO**Risch ▽  
Crapo ▽**ILLINOIS**Durbin ▲  
Burris ▲**INDIANA**Lugar ▽  
Bayh ▲**IOWA**Grassley ▽  
Harkin ▲**KANSAS**Brownback ▽  
Roberts ▽**KENTUCKY**McConnell ▽  
Bunning ▽**LOUISIANA**Landrieu ▽  
Vitter ▽**MAINE**Snowe ▽  
Collins ▽**MARYLAND**Mikulski ▲  
Cardin ▲**MASSACHUSETTS**Kennedy ?  
Kerry, John ▲**MICHIGAN**Levin, Carl ▲  
Stabenow ▲**MINNESOTA**Klobuchar ▲  
Cochran ▽**MISSISSIPPI**

Wicker ▽

**MISSOURI**Bond ▽  
McCaskill ▲**MONTANA**Baucus ▽  
Tester ▽**NEBRASKA**Johanns ▽  
Nelson, Ben ▽**NEVADA**Reid, Harry ▲  
Ensign ▽**NEW HAMPSHIRE**Gregg ▽  
Shaheen ▲**NEW JERSEY**Lautenberg ▲  
Menendez ▲**NEW MEXICO**Udall, Tom ▲  
Bingaman ▲**NEW YORK**Schumer ▲  
Gillibrand ▲**NORTH CAROLINA**Burr ▽  
Hagan ▽**NORTH DAKOTA**Conrad ▲  
Dorgan ▽**OHIO**Voinovich ▽  
Brown ▲**OKLAHOMA**Inhofe ▽  
Coburn ▽**OREGON**Wyden ▲  
Merkley ▲**PENNSYLVANIA**Specter ▽  
Casey ▲**RHODE ISLAND**Reed, Jack ▲  
Whitehouse ▲**SOUTH CAROLINA**Graham ▽  
DeMint ▽**SOUTH DAKOTA**Johnson ▽  
Thune ▽**TENNESSEE**Alexander ▽  
Corker ▽**TEXAS**Hutchison ▽  
Cornyn ▽**UTAH**Hatch ▽  
Bennett ▽**VERMONT**Leahy ▲  
Sanders ▲**VIRGINIA**Warner, Mark ▲  
Webb ▲**WASHINGTON**Murray ▲  
Cantwell ▲**WEST VIRGINIA**Byrd ▽  
Rockefeller ?**WISCONSIN**Kohl ▲  
Feingold ▲**WYOMING**Enzi ▽  
Barrasso ▽**VOTE KEY**

▲ = Voted in support of the NAACP position and in support of the Durbin (IL) amendment

▽ = Voted against the NAACP position and against the Durbin (IL) amendment

? = Did not vote