Let's look at these legislative proposals from the point of view of a typical family facing foreclosure. We will call them the "Jones" family. When the Jones family reads the current proposals before Congress, the most exciting provision is in the House bill, which says that as part of the FHA refinancing, their loan will get written down to 90 percent of appraised value, which might be affordable. The Senate bill does not even give this kind of glimmer of hope.

But even if the Housing Retention Bill passes, the Jones family has at least three big questions that these current bills do not adequately address: (1) Since it is voluntary, will their lender be willing to write down their loan? (2) At the time of refinancing, will the interest rate still be 6 percent? (3) Will they meet the criteria and be eligible for this refinancing? And the Jones family must make a decision now.

Creating More Incentives

If Congress, banks, neighbors and the rest of us want the Jones family and hundreds of thousands of others caught up in the subprime mortgage mess to stay in their homes and continue to make at least partial mortgage payments, we need to give them stronger incentives. We need to convince them that if the current legislation passes, it will provide a real and lasting solution to their housing problems. In that regard, the Senate's "Foreclosure Prevention" Bill sends a strange message to homeowners by including billions of dollars as a tax credit for the people who buy homes, like the Jones', after the bank forecloses.

My proposal builds on some of the current legislation, including the write-down of mortgages. But that write-down should be compulsory if the homeowners qualify, and not up to the discretion of the lending institutions. We also need to go beyond simply adding an FHA guarantee, by actually subsidizing the mortgage down to a 3 percent interest rate. These measures would keep the Jones' in their home. They and their lender would have a strong incentive to work out an interim agreement.

Moral Hazard

In proposing a solution to the subprime mortgage mess, most commentators start by assigning blame. If greedy lenders and poor underwriting caused the problem, then the solution is to punish the lenders. If the problem was reckless borrowers, then the solution is to punish the borrowers. The reality is that both the borrowers and the lenders, as a group, did things that were reckless and foolish. They also responded to an unusual housing market, where prices escalated at an unprecedented rate, meaning that most families had no choice but to stretch if they wanted to purchase a home in a decent neighborhood before the prices were completely out of reach.

For their poor judgment and bad decisions, there should be consequences for the lenders. The provision in the Housing Retention Act that requires lenders to write down their loans as part of the FHA-facilitated refinancing seems a reasonable and appropriate consequence. And if homeowners walk away from their homes, the losses will be much worse.

What about the homeowners? Some borrowers may have been talked into taking on mortgages that they did not understand. But at the end of the day, they signed the loan documents. While we would like them to stay in their homes, many people and politicians are reluctant to see them get bailed out. What I propose is that in return for receiving a subsidized loan, these homeowners lose the rights to any future appreciation in the value of their house. When these homeowners sell their house, they would receive a set price that is fixed the day they get their new mortgage.

The legal mechanics of eliminating the opportunity for housing appreciation and what happens when the house has gone up in value is complicated and would require a separate article. But in communities across the country, community development corporations have found ways to cap or eliminate appreciation in housing values, so that the homes they produce remain permanently affordable. Families who live in these permanently affordable homes enjoy the stability of home ownership. The children get to go to nearby public schools. And at some point when the family decides to move out, another family, with limited income, gets the opportunity to live in a house that they can afford.

Out of the current housing crisis, we could create a million units of decent, permanently affordable housing, which could be a step on the ladder as our children move from rental housing to fee-simple home ownership. We could obtain that housing at a great price, as well as make the words "housing retention" and "foreclosure prevention" a reality.

John H. Vogel, Jr. is an adjunct professor at the Tuck School of Business at Dartmouth.

***

What's your opinion? Leave your comments below or send a letter to the editor. To contact the writer, click the byline at the top of the story.

Add A Comment

You must login or register to post a comment.

Submitted by Ron Taylor on April 29, 2008 - 4:48am.

Can anybody tell me where our Constitution allows our government to subsidize a homeowner's loan?

Pandora's box was opened when the Feds made a loan to Chrysler many years ago to "save" the auto industry. Are we to be the mother of all governments?

Everytime there is a national catastrophe, the media starts its mantra of "what's the government going to do?" Was it really the Feds responsibility to provide housing after Katrina? Was it the Feds responsibilty to subsidize the tobacco industry? Is it the Feds responsibility to pay farmers not to grow certain crops? And we can go on and on...

The free market and personal responsibility will take care of itself with regards to the foreclosure crises we are in today. We do not need more government but less government.

Ron Taylor
President/Broker/Auctioneer
The Restorer, Inc.
D/B/A Ron Taylor and Sons Real Estate and Auctioneers
www.canSellnow.com
POB 1083 Louisburg, North Carolina 27549
O-252-257-4822 Fax 252-257-1302

- *Login or register to post comments*

Submitted by Bradley Inman on April 29, 2008 - 6:38am.

John,
Insightful article. Has anyone heard about foreclosure investors getting Section 8 certificates? If so, we may be accidentally turning our vacant stock into affordable housing, without any real plan to do so. In this current market mess, not so deliberate consequences will arise as homeowners, the industry and policy makers scramble against formidable odds. Innovation will likely come from the bottom, not the top.
Brad Inman

- *Login or register to post comments*

Submitted by Maxine Golden on April 29, 2008 - 7:34am.

John,

Big problems can only be solved with new ideas.
Renters don't benefit from appreciation on their homes. Your idea gives a homeowner some of the benefits of homeownership while retaining some of the responsibility of tenants.
I discussed including unions, business groups, in an equity participation with their members to finance the type of ownership you suggest in this article
http://www.momtalksrealestate.com/?s=modest+proposal
A combination of both of our ideas could accomplish long term solutions.
We all need to work together. Communities can't wait for Congress to make decisions for them.

Maxine Golden

- *Login or register to post comments*

Submitted by Rosio Vogueras on April 29, 2008 - 9:25am.

John;

in regards to your comment "" greedy lenders and poor underwriting "". Underwriters must be better trained; they are the window of all these lenders, they allow that loan to fund. But i also strongly believe that origination fees and upfront fees should be disclosed and should not exceed more than 1 front and back total. Agents (Real Estates and Loan Officers) are responsible for the best interest and transaction to their borrowers/buyers and also have a Fiduciary Obligation to their clients. There are tons of greedy REAL ESTATE AGENTS doing loans (conflict of interest), so not that they are getting paid on the real estate side but also charge them 2+ points on the loan side, the majority of those foreclosures had high interest and long term prepays for the purpose of the extra cash?? My question for all those agents, why do they not get a loan with the a high interest and 3 yr prepay as you sell them and make your borrowers sing loan docs for it???? LACK OF INTERGRITY IN THE REAL ESTATE BUSINESS.

- *Login or register to post comments*

Submitted by Sean OToole on April 29, 2008 - 4:00pm.

Brad,

In the 90's quite a few foreclosure investors optimized purchases for renters with section 8 certs. When I was buying in Fresno I found I had to be careful of previously foreclosed homes because many tiny homes were shoddily "remodeled" to maximize bedrooms at the minimal section 8 requirements. These things were like mazes but maximized section 8 rents (which are based on bedroom counts).

With prices off 40-50% in CA's Central Valley and no likelihood of appreciation soon, I expect we will see this happen again as landlords move to maximize cash flow rather than appreciation.

Best,
Sean

- *Login or register to post comments*

Submitted by Richard Dale-Mesaros on April 29, 2008 - 7:36pm.

Dear All,

Having worked with a ton of people losing their houses to foreclosure, I saw first hand how the appraisers had been under pressure from both the unscrupulous Realtors and the lenders, who needed to see these deals go ahead - all three were in a vicious circle and beholdent to one another for fear of losing repeat business. I believe all of this was instigated by the Feds encouraging the crazy lending early on.

Now I've heard the Feds are working on a bill to prevent investors from working with people in foreclosure, much like the new bills that have been popping up across the country, beginning with Maryland. I understand this is to protect the homeowners from unscrupulous investors, but this also bars the honest folks, who can actually create a truly win-win situation out of these dire situations and help people avoid foreclosure, plus get housing stock turned around. The fewer investors who are able to assist people, the more foreclosures we'll see going forward - UGH!

Thanks for listening.....

Richard :)

Chief Deal Weaver
www.BlackWidowNetwork.com

- *Login or register to post comments*

Headlines

- Most Recent
  - Blog values Zillow at $225 million

  - Rates rise on 30-year mortgages
  - Home construction spending hits five-year low
  - Mortgage bankers find fault with appraisal rules
  - Real estate rates steady overnight
  - Redfin mingles MLS-listed homes with FSBOs, forec...
  - Judges should have say in mortgage modifications
  - New agent review site launches
  - Short-term rate back to 2004 level
  - LendingTree, subsidiaries are money-losers for IAC
- Most Comments
  - NAR considers new short-sale disclosure rules
  - Industry reacts to short-sale rule changes
  - Agents fight back on tough lending conditions
  - If Trump and Buffett can do it, so can you
  - Case-Shiller: Home prices drop in 19 of 20 metros
  - Give homeowners incentive to stay
  - RE/MAX sues First American
  - Judges should have say in mortgage modifications
  - Estately secures $450,000 in funding
  - Courting customers: Who's coming back, who's lon...
- Most Emailed
  - RE/MAX sues First American
  - NAR considers new short-sale disclosure rules
  - Industry reacts to short-sale rule changes
  - Agents fight back on tough lending conditions
  - Quarterly home-price declines seen in 36 states
  - NRT leads in 2007 sales volume, transactions
  - No bottom yet
  - Homes.com shares listings with Zillow
  - California home sales still falling
  - Specialization's the name of the game

Opinion

- Most Recent
  - Judges should have say in mortgage modifications
  - Lenders should be honest about closing costs
  - Realtor wants compensation guarantee

    - Give homeowners incentive to stay
    - Banks fall short in short-sale transactions
    - Short-sale rules should be made with caution
    - Broker wants fairness in short sales
    - Servicer frustrations in Florida
    - Where's mom when you need her?
    - Servicers can serve their own interests
- Most Comments
    - Give homeowners incentive to stay
    - Judges should have say in mortgage modifications
    - Where's mom when you need her?
    - Rebate opponents afraid of competition?
    - Extend home ownership to illegal aliens
    - Short-sale rules should be made with caution
    - Banks fall short in short-sale transactions
    - Realtor wants compensation guarantee
    - Real estate data should be available to all
    - Servicers can serve their own interests
- Most Emailed
    - Give homeowners incentive to stay
    - Where's mom when you need her?
    - Judges should have say in mortgage modifications
    - Short-sale rules should be made with caution
    - Broker wants fairness in short sales
    - Lenders should be honest about closing costs
    - Realtor wants compensation guarantee
    - Banks fall short in short-sale transactions
    - Servicer frustrations in Florida
    - Servicers can serve their own interests

Archive

- May 2008
- April 2008
- March 2008
- February 2008
- January 2008
- December 2007

- November 2007
- October 2007
- September 2007
- August 2007
- July 2007
- June 2007

Categories

- Agent advice
- Buying & Selling
- Home Improvement
- Investing
- Investing & Perso...
- Markets & Economy
- Mortgages
- Real Estate & Per...
- Real estate broke...
- Real estate techn...
- Rentals

New Comments

- Elizabeth Weintraub on Pending foreclosure doesn't mean stop paying rent
- Jim Doak on Judges should have say in mortgage modifications
- FRED CARACH on Judges should have say in mortgage modifications
- chis eliopoulos on Judges should have say in mortgage modifications
- Brecht Palombo on Judges should have say in mortgage modifications
- Roberta Murphy on Judges should have say in mortgage modifications
- David Podgursky on Do mortgage brokers give consumers better deal on loans?
- John Davison on Judges should have say in mortgage modifications
- Doug Osgood on Kitchen lighting tips from the pros
- Jodi Summers on Kitchen lighting tips from the pros

- Home
- Press Releases
- Privacy
- Legal
- Contact Us
- Submit a Tip
- About Us
- Advertise
- Syndication
- Membership