Statement of John Conyers, Jr.
Markup of Bankruptcy Foreclosure Legislation (H.R. 200)
Tuesday, January 27, 2009, 1:00 P.M., 2141 Rayburn H.O.B.

The legislation before us today would grant bankruptcy courts the ability to modify the terms of a home mortgage in a chapter 13 bankruptcy to bring them closer in line with the value of the home in a depressed real estate market.

For families in dire distress, this is a much-needed reform. And considering the realistic alternatives, it is fair – to all concerned.

I have been working on this legislation – on a bipartisan, bicameral basis – for nearly two years, because I believe it represents one of the most tangible steps we can take to limit the fallout from the real estate depression sweeping the nation.

While bankruptcy reform may not provide all of the answers to this crisis, surely it provides a common-sense and practical approach to helping stop the spiral of home foreclosures – which are not helping anyone.

To those who say we should continue to hold up this legislation while we seek to encourage voluntary mortgage loan modifications, outside of bankruptcy, I would point out that the evidence has shown that such modifications don't work.

For one thing, most of the servicers who control the mortgage loans are not even legally permitted to agree to voluntary modifications.

And even when they can agree, their financial incentives are stacked in the direction of foreclosure.

As a result, the much-vaunted "Hope for Homeowners" program, which went into effect last October with the goal of helping hundreds of thousands of distressed homeowners, has processed less than 400 applications to date.

To those who claim that this legislation will only end up harming consumers by increasing the cost of credit, I would respectfully suggest that they are not taking account of the track record of the modern-day Bankruptcy Code, and have perhaps not kept up with the latest changes we will be making to the bill today.

For more than three decades, the Bankruptcy Code has permitted the very kind of court modification we are considering today, for every other form of secured debt, including loans secured by second homes, investment properties, luxury yachts, and jets.

And for over 20 years, this very same kind of modification has been available even for home mortgages – if the home was a family farm. There is no indication that this has in any way increased the cost of credit for any of these kinds of loans.

Even leaving aside the strong evidence of experience, the manager's amendment we will shortly be considering will limit the new authority to existing mortgages, ensuring that it cannot possibly impact the price of new mortgages.

This is one reason why Citigroup, among many others, supports this proposal. So does the Obama administration.

Finally, to those who argue that this legislation constitutes some form of "moral hazard" that will encourage reckless borrowing in the future, I would simply ask them to come to Detroit.

Detroit has had more than 100,000 foreclosures over the last three years. And they are continuing at the rate of 126 each day. We have block after block of "for sale" and foreclosure signs – feeding off each other, driving down home values, uprooting families, decimating communities – and causing local tax revenue that pays for police and firefighters to plummet.

We don't have the luxury of worrying about theoretical future moral lessons; we need to stop the actual bleeding today. And the same is true in Ohio. And in California, and Florida, and Nevada, and Massachusetts, and Arizona – and in countless communities all across the country.

If we can spend 700 billion dollars to bail out the brokers on Wall Street, it seems the very least we can do is allow working families, willing to repay their debts as best they can, under court supervision, the dignity of being able to stay in their home.

I have been open to constructive proposals to improve this legislation. Today, we are including a significant set of compromises in the manager's amendment that will be offered shortly. And I continue to be open to further good-faith proposals, either today or after the markup.

What I am not open to is any proposal that sidesteps bankruptcy reform or that delays it. With one in ten homeowners behind on their mortgages as we meet today, and ten million foreclosures expected over the next several years, the time for meaningful action is now.