H.R. 1106, "Helping Families Save Their Homes Act of 2009"
SUMMARY

Title I – Prevention of Mortgage Foreclosures

- Helps veterans and other homeowners to avoid foreclosure by allowing the Department of Veterans Affairs, the Federal Housing Administration, and U.S. Department of Agriculture to guarantee and/or insure mortgage loans modified either out of court or in a bankruptcy case. This will provide financial incentives for lenders to voluntarily modify mortgage loans in lieu of foreclosure.

- Expands the FHA's mortgage loan modification abilities to keep more people in their homes and thereby reduce foreclosures by allowing a reduction of interest payments up to 30% of the outstanding loan balance.

- Allows judicial modifications of certain mortgage loans on a homeowner's principal residence if the homeowner meets specified criteria. Under current law, virtually every other secured claim may be judicially modified, including claims secured by vacation homes, family farms, and investment properties. This relief is extended only to mortgages that originated prior to the Act's date of enactment.

- Permits the mortgage's repayment period to be extended reduced so that the mortgage is more affordable.

- Authorizes an exorbitant mortgage interest rate to be reduced to a level that will keep the mortgage affordable over the long-term while also compensating creditors appropriately for risk.

- Requires the homeowner facing foreclosure to attempt to notify the lender *before* he or she can apply for judicial modification.

- Waives the bankruptcy counseling requirement for families for whom foreclosure will soon commence, so that precious time is not lost as families fight to save their homes.

- Ensures lenders provide proper notice when assessing fees and allow judges to waive prepayment penalties.

- Maintains debtors' legal claims against predatory lenders while in bankruptcy.

- Prohibits a borrower convicted of fraud in obtaining the mortgage from being allowed to modify his or her mortgage under this legislation.

Title 2 – Foreclosure Mitigation and Credit Availability Provisions

Servicer Safe Harbor: The bill provides a safe harbor from liability to mortgage servicers who engage in loan modifications, regardless of any provisions in a servicing agreement, so long as the servicer acts in a manner consistent with the duty established in Homeowner Emergency Relief Act (maximize the net present value (NPV) of pooled mortgages to all investors as a whole; engage in loan modifications for mortgages that are in default or for which default is reasonably foreseeable; the property is owner-occupied; the anticipated recovery on the modification would exceed, on an NPV basis, the anticipated recovery through foreclosure). The bill also requires mortgage servicers who modify loans under the safe harbor to regularly report to Treasury on the extent, scope and results of the servicer's modification activities.

HOPE for Homeowners: The bill amends the HOPE for Homeowners Program provisions of the National Housing Act to encourage more lenders to participate by reducing the fees and writedowns, provide incentives for mortgage servicers to engage in modifications under the Program, and reduce administrative burdens to loan underwriters by making the requirements more consistent with standard FHA practices.

FHA Approval: Contains numerous provisions to better ensure that predatory lending entities and individuals are not allowed to participate in the FHA home mortgage insurance program.

Deposit Insurance: The bill amends the Federal Deposit Insurance Act and the Federal Credit Union Act to enhance the liquidity and stability of insured depository institutions to ensure availability of credit and reduction of foreclosures.

What the Bill Does NOT Do:

- It does not rewrite the 2005 Bankruptcy Code amendments as the prohibition on modifying primary mortgages dates back to 1978 when most mortgages were 30-year fixed rate loans owned by the local bank rather than rapidly adjusting ARMs that have been sold to investors in slices around the world.

- The bill would not leave financial institutions with losses by letting families completely escape from their financial obligations, because the bill is structured to encourage families to pay their mortgages to the greatest extent that they are able.

- Finally, the bill would not increase the cost of borrowing for other homeowners, because compared to the sole alternative of foreclosure this measure would maximize, not lessen, the value of troubled mortgages for the lender and no result in additional costs to recoup. And, the bill is limited to *existing* mortgages, i.e., mortgages that originated prior to the date of enactment of the Act.