



## Accountability to stem housing slide, foreclosures

By Nomi Prins

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The late, great comedian George Carlin famously said, "A house is just a pile of stuff with a cover on it." By that token, a loan document is just a pile of words with a glossy promise to own the American dream. But the devil is in the fine print - particularly if lenders aren't obligated to alter their behavior. Unfortunately, that's the case with the foreclosure bill that's atop the Senate's to-do list, before it heads off to the House for further debate.

The bill centers on a \$300 billion program to expand mortgage insurance under the Federal Housing Administration, and to enhance regulation over the types of loans that the two ailing government loan agencies, Fannie Mae and Freddie Mac, can buy.

The government would essentially use that \$300 billion to back the FHA guarantee for modified loans, which would help homeowners facing foreclosure negotiate new mortgages they could afford. The catch is, it only works if lenders agree to take some losses on the original loans.

Still, as a temporary measure and on the surface, it's a win-win. Qualifying borrowers would keep their homes and credit scores. Lenders would get the benefit of a government guarantee, instead of winging the resale of foreclosed homes in this weakened housing market.

There's been some back and forth on what cap is appropriate per borrower, with current maximum loan limits set earlier in the year at \$729,750, versus a revised cap of \$625,000 that the Senate is considering. But, those are the smaller details.

In Suffolk County, for instance, the average home price of approximately \$430,000 is well below the cap anyway. And Suffolk has had its share of foreclosure problems. It's ranked highest of the New York counties for foreclosures, with a rate up 48 percent over last year, and has seen home prices decline 12 percent on average since last summer.

But extending FHA loans for homeowners in a bind won't actually fix the root causes of foreclosures. The larger problem is lending and loan-trading practices. Countering a lending system that would prefer to operate with fewer constraints, and establishing a hedge fund and trading environment that takes responsibility for packaging and churning questionable loans, will take considerable legislative might.

There are three main initiatives that would make a difference. First, Congress needs to strengthen and modernize the intent of the original Truth in Lending Act of 1968, which not only required greater loan transparency but made lenders legally liable for deviating from the rules.

Second, lawmakers must ensure that all players in the mortgage arena - including traders - are equally responsible for loan integrity and quality. If Wall Street firms and hedge funds had some form of legal accountability for packaging and trading loans that were questionable to begin with, it would dry up the strong demand lending institutions had for extending these loans from the get-go.

Third, Congress should adjust the part of the 2005 bankruptcy act that made it impossible for people facing bankruptcy to negotiate to keep their primary homes. If lenders were required to negotiate revised terms for homeowners - either because initial terms were unduly egregious or market conditions changed drastically - it would help ensure future housing-market stability.

According to Josh Zinner, co-director of New York's Neighborhood Economic Development Advocacy Project, individual states are initiating more effective long-term action than the federal government: "This new law that Governor Paterson is about to sign will prohibit abusive practice going forward, unlike the federal law." Other states - including North Carolina, Maine and Minnesota - have been taking matters into their own hands, too.

That doesn't mean there haven't been attempts on the Hill. Senate banking chair Christopher Dodd (D-Conn.) introduced a bill designed to prohibit abusive lending, but it's lacked political traction. There've also been bills proposed in both houses - and killed by the lending industry - that would have given bankruptcy judges the ability to restructure loan terms to make them affordable. They would have saved more than half a million homes from foreclosure.

Meanwhile, says Zinner, "This Senate bill is a great start. There are people in this situation because of abusive loans they were stuck with at the beginning. Still, it's a carrot-without-a-stick approach, since it's voluntary on the part of lenders."

But if the housing market continues in its current direction, Congress is going to need to consider bringing in that stick: forcing less abusive terms and the necessary restructuring at the lender level, and accountability at the trading one. Fixing the long-term problems, rather than merely putting out fires, is what's needed to help shield the greater general economy from future lending debacles.