

Mr. SPECTER. Mr. President, I seek recognition to introduce the Homeowners' Mortgage and Equity Savings Act of 2007. In recent years, low interest rates and easily available credit have significantly increased home ownership in this country. The U.S. home ownership rate increased from 64 percent in 1994 to over 69 percent in 2004. The increase has been particularly dramatic among minority groups. During that same period, the home ownership rate among Hispanics and Latinos rose by around 20 percent, to nearly 50 percent. For African Americans, the rate rose by 14 percent, also nearing 50 percent.

However, with interest rates at all-time lows, lenders increasingly offered mortgages to those who previously either would not have qualified for a mortgage or could not have afforded the payments on a mortgage. To do this, lenders offered new types of mortgages designed to keep monthly payments low, at least in the short term. In particular, lenders issued large numbers of adjustable rate mortgages, "ARMS", loans that often feature low introductory interest rates that later adjust to significantly higher rates. Lenders also issued no-down-payment or interest-only mortgages, which also often featured low introductory interest rates that later increase significantly.

With the era of easy money and low interest rates over, a crisis looms. Many borrowers with adjustable rate, interest-only or no-down-payment mortgages have been unable to keep up with their monthly mortgage payments that have reset to higher rates. In many cases, resetting interest rates means monthly payments increase by \$250 to \$300 on a typical \$1,200 monthly mortgage. Moreover, many ARMS featured early repayment penalties, making it difficult for homeowners to fix the situation by refinancing and obtaining less risky mortgages.

As a result of resetting interest rates, delinquencies and foreclosures involving ARMs have risen dramatically. Delinquencies and foreclosures have been particularly high among borrowers with weak credit who were issued loans at subprime rates. According to the Mortgage Bankers Association, between the second quarter of 2006 and the second quarter of this year, the percentage of homeowners with subprime ARMs who are seriously delinquent, those who are either more than 90 days past due or in foreclosure, has nearly doubled, from 6.52 to 12.40 percent. The number rose by over 20 percent during the second quarter of this year alone. The Center for Responsible Lending projects that 2.2 million Americans with subprime loans originated between 1998 and 2006 have lost or will lose their home to foreclosure.

While the situation has been most severe for homeowners with subprime loans, the problem now is spreading to those with prime rate loans. In the past year, the percentage of home-

owners with prime rate ARMs that were seriously delinquent on their mortgage payments more than doubled from 0.92 to 2.02 percent. According to the Mortgage Bankers Association, in the second quarter of this year, the number of homeowners who got foreclosure notices reached an all time high of 0.65 percent, largely because of increases among homeowners with ARMs, delinquencies and foreclosures for fixed rates mortgages have increased only moderately. The situation will only get worse in coming months as an estimated 2 million homeowners with adjustable rate mortgages see their interest rates reset to much higher rates. According to some sources, a quarter of those homeowners face losing their homes.

In my home State of Pennsylvania, the number of homeowners with subprime ARMs who are seriously delinquent has risen to 13.82 percent, an increase of over 40 percent since this time last year. Among homeowners who qualified for prime rate ARMs, the number who are seriously delinquent has increased to 2.43 percent, an increase of over 50 percent since last year. Especially hard hit is the Allentown-Bethlehem-Easton area, where the foreclosure rate for subprime loans originated in 2006 is 20 percent.

In some cases, borrowers made bad decisions by ignoring the risk and taking on mortgages they knew someday they might not be able to afford. In other cases, it appears that borrowers were steered to riskier mortgages when they qualified for safer options. There is also evidence that lenders failed to fully disclose the risks involved with certain mortgages and instead emphasized low monthly payments. The push to issue subprime and adjustable rate mortgages was aggravated by Wall Street investors chasing high rates of return on the secondary market.

Many homeowners facing foreclosure will seek relief in bankruptcy. Bankruptcy has traditionally provided a second chance for borrowers by giving them relief from their creditors. Chapter 13 in particular has enabled homeowners facing foreclosure to keep their homes. Chapter 13 gives debtors breathing space by imposing a stay on collection of debts, including mortgages, which prevents lenders from foreclosing for a period of time. During that time, debtors are given an opportunity to get caught up on their mortgage payments. Finally, Chapter 13 makes it more likely that debtors will be able to make their mortgage payments over the long term by giving them a discharge from many of their other debts.

However, the drafters of the bankruptcy code never anticipated the current crisis where so many face possible bankruptcy, not because of consumer debts, but because of their mortgages. When the current bankruptcy code was drafted in the late 1970s, most homeowners had traditional 30-year fixed rate mortgages with substantial down

payments. As a result, few homeowners faced bankruptcy because of their mortgage. As such, the drafters did not see a need for bankruptcy judges to have the power to alter the terms of mortgages on primary residences.

Given the fact that so many homeowners now face foreclosure and possible bankruptcy because of their mortgages, I believe Congress should take action. I am therefore introducing a targeted bill which will allow bankruptcy courts to provide relief to homeowners caught up in the current crisis. The bill will provide relief for low-income homeowners who, because of changed circumstances, can no longer afford their mortgages. Easily available credit made homeownership a reality for many lower income Americans. It is these same homeowners who are the ones now caught up in the credit crunch and facing the loss of their homes.

The bill will allow bankruptcy judges to provide relief by restructuring the mortgage terms that have created the biggest problems for homeowners. Most importantly, the bill will allow bankruptcy judges to prevent or delay interest rate increases as well as to roll back interest rates that have already reset. This will make it possible for many more debtors to hold onto their homes in the long run.

The bill also will allow bankruptcy judges to waive early repayment or prepayment penalties. Many lenders impose large penalties on homeowners that repay their mortgages early, penalties that prevent many homeowners from refinancing and switching to a sounder mortgage. These penalties are particularly egregious since they don't reflect any increased risk taken on by the lender. They are merely intended to discourage borrowers from making a better choice for themselves by switching to another loan.

This bill is not a bailout and it is not aimed at those who knew the risk and proceeded anyway. When housing prices were rising, speculators bid up the prices of homes hoping to quickly sell them for an easy profit. With prices falling, many of those speculators find themselves with properties worth less than what they paid. These speculators took the risk that housing prices would fall and now must live with the downside of that risk.

The bill will allow judges to write down the principal value of the loan, but only if both the debtor and creditor agree. Giving judges discretion to write down the principal value of loans could provide a significant windfall to those who gambled that housing prices would never fall, including speculators. That is a gamble lenders and future homeowners should not be forced to finance.

Taking too broad an approach to this problem will only hurt future borrowers. Allowing bankruptcy judges free rein to rewrite mortgage loans will only increase the risk that lenders take on when they issue mortgages. Investors respond to increased risk by insisting on higher rates of return and