



Bankruptcy is a last-ditch resort not a first-rate remedy

Bankruptcy is an expensive, invasive and devastating process with a very low success rate:

Bankruptcy is:

- **Expensive:** The consumer will accrue thousands of dollars in legal costs;
- **Invasive:** A trustee will scrutinize the consumer's every expenditure;
- **Severe:** A bankruptcy stays on the borrower's credit report for ten years, reducing the consumer's credit score and making it even harder to refinance troubled loans or purchase a new home, a car, insurance or even get a job.
- **And has a low success rate:** two thirds of bankruptcy repayment plans fail.

According to Wade Henderson, the President and CEO of the Leadership Conference on Civil Rights and a board member of the Center for Responsible Lending: bankruptcy "comes at a heavy cost, monetary and otherwise."ⁱ

Bankruptcy cram-down will increase down payment requirements:

- History indicates that a bankruptcy cram-down would force mortgage lenders to limit lending to borrowers who can put down 20 percent of the value of the home.
- This means a family would have to come up with \$59,420 to purchase the average U.S. home at \$297,100 and much more in states where the average home purchase price is much higher, such as California. Since few first-time homeowners have traditionally been able to put down 20 percent, this limitation will severely limit the ability of many Americans to achieve the dream of homeownership.
- LCCR's Wade Henderson also notedⁱⁱ in his recent Congressional testimony that it was indisputable that downpayments will go up.

Bankruptcy cram down will increase mortgage interest rates:

- MBA estimates that the proposed bankruptcy law will increase interest rates across the board by at least 1.5 percentage points, holding credit, down payment, origination fees and all else constant.
- *The Effect of Bankruptcy Strip-Down on Mortgage Interest Rates*, a paper supported by the Center for Responsible Lending, acknowledged that permitting bankruptcy judges to cram down mortgage payments will increase mortgage interest rates.ⁱⁱⁱ According to the paper, allowing cram downs “will have a larger impact on interest rates in states where Chapter 13 filing is more common.”
- At a time when low mortgage interest rates allow many borrowers facing resets to refinance into favorable long-term mortgages, any action which risks increasing these rates should be rejected.

Mortgage cram-down will create a bankruptcy stampede:

- This legislation provides a powerful incentive for anyone in default, or just worried about possibly defaulting, to file for bankruptcy. The Congressional Budget Office predicts that there will be an increase in Chapter 13 filings if this bill were to be enacted, dragging hundreds of thousands of families into this expensive, invasive and severe process.^{iv}

ⁱ January 29, 2008 *Hearing on the Growing Mortgage Foreclosure Crisis: Identifying Solutions and Dispelling Myths*, House of Representatives, Subcommittee on Commercial and Administrative Law, Committee on the Judiciary. p. 76

ⁱⁱ *ibid.* p. 77.

ⁱⁱⁱ *The Effect of Bankruptcy Strip-Down on Mortgage Interest Rates*, Adam J. Levitan, Joshua Goodman, Georgetown University Law Center, Business, Economics and Regulatory Policy Working Paper Series Research paper NO. 1087816. January 28, 2008.

^{iv} CBO Testimony, *Options for Responding to Short-Term Economic Weakness*, before the Committee on Finance, United State Senate, January 22, 2008. p. 25.