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**April 16, 2010****EDITORIAL**

## **Fighting Foreclosures**

From the start, the central concern about President Obama's ant foreclosure effort has been that it would postpone foreclosures but ultimately not prevent enough to ease the economic strain from mass defaults. That concern seems increasingly justified.

In the first quarter of 2010, there were 930,000 foreclosure filings — an increase of 7 percent from the previous quarter and 16 percent from the first three months of 2009, according to recent data from RealtyTrac, an online marketer of foreclosed properties. The surge seems to indicate that homes that were in the foreclosure pipeline are now being lost for good.

The administration's figures are not encouraging either. The Treasury reported recently that as of March, nearly 228,000 troubled loans qualified under the Obama plan for long-term payment reductions; another 108,000 long-term modifications were pending. That's up from February, but still far behind the need. Currently, some six million borrowers are more than 60 days delinquent.

Three oversight groups have issued reports in the past month criticizing the administration's effort and predicting that it would fall far short of its goal of helping four million borrowers by the end of 2012.

And on Tuesday, officials from JPMorgan Chase and Wells Fargo told a Congressional panel that they were not inclined to fully embrace the administration's latest foreclosure-prevention plan. Announced in late March, it calls for lenders to modify troubled mortgages by cutting the loan principal, which restores some equity to borrowers while lowering the payment. The bankers were unpersuasive. They generally objected to large-scale principal reductions, even though the administration's plan applies relatively narrowly to borrowers who are deeply indebted and meet various other criteria.

The testimony was more proof that relying on lenders to voluntarily rework troubled loans is not working.

The hearing investigated a specific obstacle to widespread modifications: Investors, including pension funds and mutual funds, often hold the first mortgages. Banks often hold home-equity loans and other second mortgages. Investors reasonably believe that second liens should be reduced before the primary mortgage is modified, but banks balk at that because it would prompt write-offs they don't want.

Some investors, notably the powerhouse group BlackRock, have called for a special bankruptcy process to resolve the standoff. The court would seek to reduce bankrupt borrowers' total debt to affordable levels, starting with unsecured debt like credit cards, then undersecured debt, like second mortgages, and then, if necessary, the primary mortgage debt.

We have long called for using bankruptcy court to help resolve the foreclosure crisis. A big advantage of bankruptcy over government-subsidized modifications is that bankruptcy is a difficult process that does not entice anyone to purposely default in order to get better repayment terms.

Banks have argued for the status quo, in which bankruptcy judges are not allowed to modify the terms of primary mortgages, and they have prevailed in Congress and, apparently, within the administration. The result is an ongoing foreclosure crisis. It is time to revive the fight to open the courthouse door to bankrupt homeowners.

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