



Credit Union National Association

cuna.org

DANIEL A. MICA
PRESIDENT & CEO

601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | PHONE: 202-638-5777 | FAX: 202-638-7734

December 11, 2007

The Honorable John Conyers
Chairman
Committee on the Judiciary
United States House of Representatives
2138 Rayburn House Office Building
Washington, DC 20505

Dear Chairman Conyers:

On behalf of the Credit Union National Association (CUNA), I am following up to my letter of November 15, 2007, regarding H.R. 3609, the Emergency Home Ownership and Mortgage Equity Protection Act. CUNA represents nearly 90% of America's 8,400 credit unions and 90 million credit union members.

We have basic concerns with any legislation that would open the Bankruptcy Code to amendment so soon after major revisions were enacted. However, we appreciate the need to be responsive to the current crisis in the subprime mortgage market. We also appreciate opportunities that we have had over the last several weeks to meet with your staff regarding this legislation.

As our November letter indicated, CUNA would support a temporary amendment to Chapter 13 bankruptcy proceedings to address the current mortgage problem in our nation so long as the amendment contains certain limitations.

One of our limitations was that bankruptcy judges should only be able to modify loans made between January 1, 2003 and the date of enactment. We appreciate you including provisions that clearly indicate that the bill would only apply to mortgages made within a defined time period and bankruptcy courts would only be able to use this temporary authority for seven years. During our meetings with your staff, we indicated our flexibility with regard to the time period chosen to define loans subject to modification in bankruptcy. Therefore, we can support the January 1, 2000-to-date-of-enactment period specified in the manager's amendment. These provisions should address concerns about the potential long-term adverse effects of the legislation.



PO Box 431 | Madison, WI 53701-0431 | 5710 Mineral Point Road | Madison, WI 53705-4454 | PHONE: 608-231-4000

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As you may recall, the position we conveyed last month did not relate to a specific type of mortgage loan. We stated at that time that if Congress were to decide to amend the bankruptcy law for *anyone* with *any* type of mortgage loan secured by the principal residence, we felt that a judge should have discretion to (a) lower the interest rate (we believe this is the important provision to address the burden of resetting interest rates), (b) lengthen the maturity of the loan (which would help to reduce monthly payments), and (c) eliminate pre-payment penalties. If *any* mortgage loan secured by the principal residence were subject to modification, we would oppose giving the judge the discretion to lower the principal amount of the loan below the value of the property *at the time the loan was originally made*. Under our proposal, a judge would have the authority to reduce the amount of any loan that has increased above the original home value because of negative amortization and unconscionable fees and penalties, but could not modify the loan below the original home value. This constraint is important so that mortgage lenders would not bear the risk of declining housing prices throughout the country. The manager's amendment, however, would not apply to all mortgage loans but only to "non-traditional mortgages" and "subprime mortgages," as defined by the bill, that are in or near foreclosure.

CUNA has no problem with bankruptcy judges – on a temporary basis to deal with the current subprime mortgage loan crisis -- having broad discretion to modify the terms and conditions of subprime loans and loans with terms resulting in negative amortization.

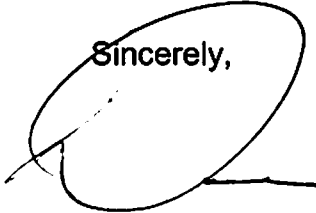
Our only major concern with the manager's amendments is the inclusion of a broad definition of "non-traditional mortgage." This would impact almost 500 credit unions that have made "interest only" loans in good faith and in response to member requests. These are not subprime loans, but rather loans which were rigorously underwritten to members with strong credit histories and who received full and clear disclosures. Members of credit unions in housing markets such as California found these types of loans were necessary to allow them to purchase what, in many cases, would be classified as "starter homes."

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Therefore, if the definition of "non-traditional mortgage," found on page one of the manager's amendments is modified to address only negative amortization loans that are not otherwise covered by the definition of "subprime loan," CUNA would be in a position to support the manager's amendments. However, in the absence of this modification, CUNA is unable to support the amendment due to the potential detrimental impact it would have on a significant number of credit unions.

On behalf of America's credit unions, we thank you very much for consideration of our views on H.R. 3609. We look forward to continuing to work with you on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel A. Mica", enclosed within a large, hand-drawn oval. The signature is written in a cursive style.

Daniel A. Mica
President & CEO