Statement of

The Honorable Richard J. Durbin

United States Senator

Illinois

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Opening Statement of Senator Dick Durbin As Prepared for Delivery

Hearing on

"Helping Families Save Their Homes: The Role of Bankruptcy Law" November 19,2008

This hearing will come to order.

Good morning and welcome to this hearing of the Senate Judiciary Committee on "Helping Families Save Their Homes: The Role of Bankruptcy Law." I thank Chairman Leahy for permitting me to hold this hearing, and I thank my colleagues for attending.

After a few opening remarks, I will recognize Senator Specter, the Committee's Ranking Member, for an opening statement. Then we will turn to our panel of witnesses.

One year ago, I chaired a hearing before this Committee on the looming foreclosure crisis facing our nation.

At that hearing, we heard about how the combination of subprime loans, falling housing prices, and resetting adjustable rate mortgages had put thousands of families out of their homes and threatened millions more with foreclosure.

We heard frightening predictions about how these foreclosures would result in record decreases in home values, instability in the financial services industry, and finally a meltdown in the economy as a whole.

That was the crisis this committee was told we were facing last year. And last year I offered legislation to avert this foreclosure crisis by making a simple change in bankruptcy law.

My proposal was straightforward. Currently, a bankruptcy judge in a Chapter 13 proceeding can modify the structure of any secured debt except for a mortgage on a primary residence. I proposed removing this exception and permitting mortgages on primary residences to be modified in bankruptcy court, just like mortgages on vacation homes.

As we heard at last year's hearing, the benefits of this proposal are clear. We heard testimony that:

?My legislation would significantly reduce the number of foreclosures and help hundreds of thousands of families stay in their homes.

?Mortgage modification in bankruptcy benefits everyone - the homeowner, the lender, the neighboring homeowners and the economy - far more than foreclosure.

?My proposal would give lenders, servicers and investors a real incentive to voluntarily rework mortgages.

?My proposal would not significantly raise the cost of mortgage credit, since the costs associated with Chapter 13 bankruptcy are actually far less for lenders than the costs associated with foreclosure.

And we also discussed how many taxpayer dollars my proposal would cost: zero.

A long list of organizations - from the AARP to the Leadership Council on Civil Rights to the Consumer Federation of America - agree with me that this bankruptcy proposal represents the best way to reduce the devastating effect of foreclosures on American families and communities.

Over the past year, I tried three times to pass this proposal - as part of Majority Leader Reid's housing bill in the spring, as part of the Senate Banking Committee's housing bill in the summer, and as part of the financial rescue bill this fall. Each time, the Mortgage Bankers Association and most of the financial services industry opposed my proposal, and nothing got done.

Here we are again, one year later. Now we are able to see that many of the dire predictions we heard at last year's hearing have not only come true, but in fact the situation has become far, far worse than anyone imagined.

The economic crisis we face today is as severe as any we have faced since the Great Depression. And the heart of this crisis continues to be the record-high foreclosure rate.

Proposal after proposal has been offered to try to fix our economy and to help keep families in their homes.

?We've seen billions go to prop up Bear Steams and AIG.

?We've seen the government take over Fannie Mae and Freddie Mac.

?We've seen the big $700 billion bailout, much of it going to the same banks that oppose my proposal.

?And we've seen a succession of voluntary housing programs like Hope Now and Hope for Homeowners ... and yet nothing has been successful in fighting the foreclosure crisis on the scale that is required.

The question that faces us now is this: after committing over one trillion dollars in taxpayer money to what has largely been an unsuccessful effort to address the foreclosure crisis and save our economy from a devastating recession, why don't we take a step that would indisputably reduce foreclosures and that would cost taxpayers nothing?

Today we will hear from our distinguished panel of witnesses about how bad the foreclosure crisis has become and how much worse it could get unless the Congress acts.

I want to note in particular that my friend Tom Dart, the Sheriff of Cook County, Illinois, is here to talk about the impact that the foreclosure crisis is having on communities like those in Cook County. I want to thank Sheriff Dart and all our witnesses for coming here today.

Make no mistake - the outlook for our economy is grim. But change is coming to Washington. I'm confident that early next year we will be able to take effective steps to address our economic crisis where it started - by helping families save their homes.

Now I will recognize Senator Specter for his opening statement.

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