

Statement of

The Honorable Russ Feingold

United States Senator

Wisconsin

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Opening Statement of U.S. Senator Russ Feingold

Hearing on "Helping Families Save Their Homes: The Role of Bankruptcy Law" Senate Judiciary Committee

As Prepared For Delivery

"Mr. Chairman, thank you for holding this hearing. I want to start by noting that you sounded the alarm on this problem almost a year ago. Your hearing in December 2007 was entitled, 'The Looming Foreclosure Crisis.' And as we have seen the severe economic downturn take shape over the past several months, a significant cause of which has been the huge numbers of foreclosures on subprime mortgages, you have every reason to say: 'I told you so.' You tried to reduce the number of foreclosures, which might have had an effect on falling real estate prices. You tried to protect more Americans from losing their homes. But the lending industry said 'absolutely not' to letting these bad mortgages be modified in a bankruptcy proceeding. And the nation is now reaping what that self-centered and short-sighted position has sown.

"Even as late as October when the bailout package was being considered, this one simple and eminently reasonable change in the law, which is perhaps the only proposal out there that is guaranteed to have a significant effect on the number of foreclosures, was off the table. No, we were told, that would be going too far. No, it was said, the banking industry simply would not stand for that change. And from what we have heard today, it still won't.

"And what was the result? The voluntary loan modification efforts to date have completely failed to slow the rising number of homes going into foreclosure. Just last month, foreclosures increased in Milwaukee County by 41 percent compared to the previous month, and foreclosure rates across Wisconsin have increased by over 20 percent compared to last year. About a million home loans nationwide had gone into foreclosure at the end of 2007. By the end of this year, two million more may meet the same fate. One estimate is that over 10 percent of all residential borrowers could be in foreclosure by 2012. These are frightening numbers.

"There simply is no more time to waste. The next Congress must act very quickly to take your advice, Mr. Chairman. The ripple effects of rising foreclosures are enormous. Foreclosures lead to falling real estate prices which lead to more foreclosures. Local businesses are deeply affected as well, and empty houses lead to crime and greater costs for social services offered by local governments.

"I want to make one final point and then ask our witnesses a few questions. One thing that I think is not well understood is that because of the complex structure of these securitized mortgages that are at the root of the financial calamity the nation finds itself in, voluntary programs to readjust mortgages may simply be doomed to failure. The securities themselves in many cases prohibit reducing the principal owed or otherwise changing the terms of the mortgage. It's not just a matter of a single lender deciding to take a little bit of a loss to save a homeowner from foreclosure. Many of these mortgages have long since been sliced and diced and sold and resold. So a voluntary program just won't help. Only a bankruptcy court has the power, if Congress would only grant it, to rewrite these mortgages to prevent them from losing even more value.

"So I thank you, Mr. Chairman, for sticking with this issue. And I offer you my full support with the hope that we can finally prevail early next year."