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## Senate Considers Foreclosure Relief Bill Today

**The aid package, which is expected to pass, could help keep owners in their homes at a time when defaulting doesn't have the same stigma it once did.**

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By **John Caulfield**

The U.S. Senate could vote on a major bill today aimed at rescuing troubled homeowners from foreclosure. The Foreclosure Prevention Act of 2008 is being co-sponsored by Senators Frank Lautenberg (D-N.J.), whose state could face between 13,500 and 16,500 foreclosures this year; and Ken Salazar (D-Colo.), representing a state whose foreclosures increased by 40 percent in 2007.

The bill is coming to vote at a time when lenders, lawmakers, and the public are panicking about the long-term impact on the economy if the rising tide of foreclosures doesn't subside. As home prices decline, homeowners cannot refinance loans that are worth more than the current value of their houses, which many either can't or won't sell at significant discounts.

Yesterday, Irvine, Calif.-based RealtyTrac reported that the number of homes facing foreclosure increased by 57 percent in January, over the same period a year ago. That means 233,001 homes received at least one notice from lenders last month that their mortgages were overdue. The foreclosure rate, nationwide, in January was one filing per every 534 homes. Thirty states had increases in the number of homes that received at least one filing, including Nevada, where the foreclosure rate hit 1 per every 167 homes.

The Foreclosure Prevention Act, which the Mortgage Bankers Association supports in principle, is nonetheless controversial because it would give bankruptcy court judges the authority to reduce a homeowner's mortgage payment, a provision that the bill's co-sponsors say could help 600,000 families. The bill would allow Housing Finance Agencies, or HFAs, to issue up to \$10 billion in bonds to raise money they could use to help owners refinance their loans. It would also help communities ravaged by foreclosures and, if foreclosure is the last remaining option, would simplify the forms required in the process.

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With close to 3 million homes having foreclosed over the past three years, and with signs that millions more could follow suit, the situation has become so dire that a growing number of homeowners are choosing to default on their mortgages, abandon their homes, and suffer the consequences to their credit rating. What may have opened this door is the Mortgage Forgiveness Debt Relief Act, which President Bush signed on December 20. The Act allows taxpayers to exclude up to \$2 million of mortgage debt forgiven in 2007, 2008, or 2009 on their principal residence in a short sale. So if a lender repurchases a house from an owner at less than what its mortgage is worth, the difference is no longer taxable.

At least one Web site, HouseBuyerNetwork.com, specializes in arranging short sales. And other services are sprouting up in response to the foreclosure debacle, including YouWalkAway.com, a Carlsbad, Calif.-based Web site that launched on January 1. This site asks, "Is foreclosure right for you?" and offers a kit for \$995 that, it claims, provides distressed homeowners a way to not only live in their homes "payment free" for up to eight months, but to walk away from their mortgages "without owing a penny" while they look for more affordable housing.

YouWalkAway is the brainchild of 34-year-old Jon Maddux, who spent 11 years working in real estate finance in San Diego, where he witnessed how the credit crunch spilled over into the jumbo mortgage market "and essentially halted our business." A Google search he conducted revealed that there weren't any companies or agencies that were helping people whose homes were suddenly under water.

Several states, including California and Arizona, are considered to be "homeowner-friendly" in their laws governing bankruptcies and foreclosures. But Maddux admits he was a neophyte in this area. "Even with my experience I didn't know much about the laws," he tells BUILDER, "so imagine how much less a fireman or schoolteacher knows." That's when he started talking with Chad Ruyle, an attorney specializing in bankruptcy law, who became YouWalkAway's cofounder. (Maddux insists that his program is grounded in existing statutes, and while his site has drawn attention from regulatory agencies, the legitimacy of its offering hasn't been challenged.)

Since its launch, the site has received more than 150,000 hits, and has signed around 180 clients. Several groups, including the Center for Responsible Lending, have criticized YouWalkAway's marketing for making default seem less catastrophic than it is likely to be for a person's credit rating. However, there appears to be a growing consensus among consumers that defaulting on a mortgage would be less damaging than if they continued to miss multiple payments on other credit. CNNMoney recently pointed to a survey conducted by Experian, the consumer credit rating agency, which found that borrowers are choosing to pay off credit cards and car loans before they pay their mortgages. In that article, Craig Watts, a spokesman for the credit reporting firm Fair Isaac, which establishes the credit scoring system mortgage lenders use to assess borrowers' creditworthiness, is quoting as saying that trying to pay a mortgage they can't afford, if it ultimately leads to bankruptcy, would be worse for borrowers than a default that capsizes their credit rating for several years.

Maddux admits that when he started YouWalkAway, he knew it would be "controversial" and "I'd have a hard time explaining what I'm doing to my family." However, he says his goal is not to encourage people to shirk their financial responsibilities, or to bail out investors who made bad decisions. "We don't judge how people got to where they are. They've made a mistake and we are trying to get them through the process without making another." He estimates that 70 percent of the visitors to his site are people who have experienced some kind of problem in their lives, like a divorce or job loss. Maddux concedes that his site is only "scratching the surface" in providing help to the hordes of homeowners on the brink of foreclosure. He's not sure what the solution to the mess is, but he hopes it might produce a change in consumers' psychology "in thinking about their homes as a place to live instead of as an ATM machine."

Maddux thinks YouWalkAway's services could be in demand for anywhere from 18 months to four years. After that, he's not sure what his next venture might be, although he doubts he would return to real estate financing. "I might pick up some property, though, because from where we sit we'll be able to know when the market's hit bottom."

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