

WHY WE NEED A NATIONAL HOMEOWNERS BILL OF RIGHTS NOW

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The housing industry is in its worst slump in over 50 years, and home ownership is on a downward trend. Our home used to be our best investment, but for many Americans this is no longer true. Millions of Americans have lost their homes, their investments and their jobs. The housing collapse led to the stock market meltdown, huge losses in our retirement plans, and the most serious global recession in decades.

The root causes for this financial calamity lie in misguided government policies that enabled grossly irresponsible behavior to continue unabated for many years. As a result of federal financial deregulation and minimal risk of litigation and accountability by the financial services, homebuilding and real estate industries, millions of American homes were under-built, over-appraised and over-financed, resulting in massive numbers of foreclosures.

Unfortunately, the government policies that created the housing bubble and caused it to burst haven't changed. After the Lehman Brothers collapse in September 2008, the Federal Reserve became a major purchaser of mortgage-backed securities, with a portfolio of \$685 billion today compared to zero a year ago. The Federal Housing Authority has seen its percentage of all home mortgages rise from 9% in the spring of 2006 to 40% in August 2009. In the Second Quarter of 2009 about 14.4% of the FHA's loans were at least one month past due, and since the FHA's cash reserves are small and dwindling rapidly, it may soon need its own bailout¹.

Thus, only one year after the financial meltdown, it is apparent that the root causes of the housing bubble have been neither fixed nor eliminated. In order to avoid a second housing bubble with disastrous consequences, we need to **FIX HOUSING FIRST** – not by extending tax credits but by acting NOW to adopt a sensible Homeowners Bill of Rights. This action will achieve seven major policy objectives and will require the following federal legislation:

¹ The Wall Street Journal, 09/29/2009,
<http://online.wsj.com/article/SB10001424052970204488304574428970233151130.html>

- 1) Allow the wasteful and abusive **homebuyer's tax credit** for purchasing homes to end.

LEGISLATIVE ACTION:

Defeat federal legislation proposed by Senator Johnny Isakson (R-GA). Isakson's legislation² would extend the homebuyer's tax credit through 2010, increase the maximum amount of the credit from \$8,000 to \$15,000, remove the income caps of \$75,000 for an individual or \$150,000 for a couple, and expand the tax credit to any home purchaser from the current limitation to first-time homebuyers. At least 80% of homebuyers in 2009 would have purchased their homes anyway without the program.³ Therefore, expanding and extending this program for one year will effectively make it a permanent program, significantly increase deficit spending, encourage homeowner over-borrowing, vastly increase the potential for fraud and abuse, lead to an increasing number of loan defaults, and provide special interest benefits to a select few Americans with taxpayers footing the bill. Passage of this legislation would lead to a second housing bubble with disastrous consequences.

- 2) American homeowners deserve homes that are **safe, secure and structurally sound**.

LEGISLATIVE ACTION:

Establish state licensing standards as preconditions for FHA and VA loans through congressional legislation. Such new legislation would improve the construction quality of new homes and help protect homeowners from unscrupulous homebuilders and the devastating consequences of major construction defects. It would also help protect the FHA from loan defaults on home loans the agency insures.

- 3) American homeowners deserve a **fair way to resolve disputes with homebuilders**.

LEGISLATIVE ACTION:

Pass the Arbitration Fairness Act⁴, currently before Congress. This legislation, proposed by Sen. Russ Feingold (D-WI) and Rep. Hank Johnson (D-GA), would restore Americans' right to a trial by jury. Today virtually every American is forced into compulsory arbitration by contracts signed at the point of sale, whether purchasing a cell-phone or a new home. The Act would enable consumers to choose judicial resolution of disputes after they occur

² <http://isakson.senate.gov/press/2009/061009housing.htm>

³ Martha C. White, TheBigMoney.com, 09/27/2009, <http://www.thebigmoney.com/articles/hey-wait-minute/2009/09/27/home-where-tax-credit>

⁴ HOT summarizes key points about Forced Arbitration, using information from Public Citizen, Wikipedia and other articles below. <http://www.homeownersoftexas.org/ARBITRATION-mandatory-binding-unfair-and-everywhere.html>

instead of mandating compulsory arbitration of disputes before they occur, which “stacks the deck” against the consumer.

- 4) American homeowners deserve to purchase homes **free from conflicts of interest.**

LEGISLATIVE ACTION:

Restore checks and balances to the home buying process with The Housing Fairness Act, congressional legislation to prohibit sellers from using in-house mortgage, title, insurance and appraisal companies – practices that led to financial abuses and contributed to the collapse of the housing market. Homebuyers would also have a 10-day right of rescission, which is necessary for their protection since a home is the largest purchase most of them will ever make.

- 5) American homeowners deserve **full disclosure of dangerous soil conditions.**

LEGISLATIVE ACTION:

Repeal of the “Brownfields Law” (The Small Business Liability Relief and Brownfields Revitalization Act, enacted by Congress in 2001), which allows homes to be built on contaminated soil without disclosure to homebuyers.⁵ Full disclosure of all dangerous soil conditions, including contaminated and expansive soil, should be required in writing to buyers, banks and title companies at least 21 days prior to the date of sale to protect the structural and financial integrity of the homes as well as the homeowners’ health, safety and welfare.

- 6) American homeowners deserve new laws to **prevent a second housing bubble.**

LEGISLATIVE ACTION:

Regulate subprime lending by federal housing agencies and prevent a second housing bubble. Reckless subprime lending by big financial institutions occurred as a direct result of the 1999 repeal of the Glass-Steagall Act, which separated commercial banks from Wall Street.⁶

Unfortunately, with the collapse of the private subprime loan market, during the past year the Federal Government has intervened and is now making the same types of risky subprime loans with little or no money down that caused the financial collapse in the first place.⁷ The Government has compounded the problem by giving tax credits to first-time homebuyers who, in many cases, will end up either paying nothing down or possibly receiving a net payment to buy a home as a result of the tax credit. FHA Loan defaults are already increasing at an alarming rate. Today the FHA has a leverage ratio of 50 to 1, which

⁵ HOT analysis of Brownfields Law with useful links, <http://www.homeownersoftexas.org/Brownfields-Law.html>

⁶ HOT compilation of TIME Magazine articles, <http://www.homeownersoftexas.org/blame.pdf>

⁷ Texas Homebuilding and the Global Financial Collapse, <http://www.homeownersoftexas.org/collapse.pdf>

is far worse than the 33 to 1 leverage ratio that the Wall Street brokerage firm Bear Stearns had when it collapsed in March 2008.⁸

Between the FHA, VA, Fannie Mae and Freddie Mac, taxpayers now guarantee some 80% of all U.S. home mortgages, many made with nothing down and no accountability.⁹ This extraordinary risk seems to make the government complicit in encouraging risky loans and bad business practices. Consequently, we must ask the following question:

Has the U.S. Government become the new AIG? Who will regulate it... or bail it out?

Congress must act now to regulate subprime lending by federal housing agencies before it's too late. Otherwise, we will read the headlines warning of soaring loan defaults, massive failures of government agencies, and plummeting stocks on Wall Street.

7) Americans deserve regulatory oversight to **prevent abuses by big financial institutions.**

LEGISLATIVE ACTION:

Re-enact the Glass-Steagall Act and amend the 2000 Commodity Futures Modernization Act to re-establish regulatory oversight of big financial institutions and restore public trust in them. These legislative actions will implement federal regulation to regulate subprime lending and credit default swaps and end the reckless behaviors by large financial institutions that led to the financial meltdown. Previous legislative changes exempted over-the-counter derivatives like credit-default swaps from regulation by the Commodity Futures Trading Commission.¹⁰ Those credit default swaps brought down AIG and cost the U.S. Government \$150 billion to date. Unless this action is taken, once an economic recovery occurs, there is nothing to prevent large financial institutions from resurrecting subprime lending and credit default swaps, thus creating a second housing bubble and a financial meltdown. The U.S. cannot afford to continue the policy of bailing out financial institutions that are "too big to fail."

The Glass-Steagall Act prevented the financial abuses that caused the financial collapse. It served us well for over 60 years, and it's time to re-enact it. Americans have all learned a painful lesson of why the Glass-Steagall Act was necessary to prevent another Great Depression. It's time we learn from our mistakes before it's too late.

Ultimately campaign finance reform is necessary to prevent special interest legislation such as repeal of Glass-Steagall from being adopted in the future.

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⁸ The Wall Street Journal, 09/29/2009

⁹ The Wall Street Journal, 09/29/2009

¹⁰ HOT compilation of TIME Magazine articles (Phil Gramm)