ILC INTERACTIVE LAW CENTER

FORECLOSURE PREVENTION ACT
How the Mortgage Industry has Responded

The "American Housing Rescue and Foreclosure Prevention Act of 2008", passed in July, was intended to help families facing foreclosure stay in their homes and stabilize the housing market.

The Federal Housing Administration (FHA) was enabled to insure up to **$300 billion** in new 30 year fixed mortgages IF current lenders would write existing loans down to **90%** of the current appraised value of the home.

Qualified borrowers must live in their homes and have loans issued between **January, 2005** and **June, 2007** (i.e. during the height of the housing bubble).

The debt to income ratio on the existing loan cannot be greater than **31%**

Borrowers can be up to date or in default on their mortgage payments, but if behind they must **prove they're unable to pay** and attest that they aren't failing to pay just to get better mortgage terms.

The borrower must be in a position to **pay off any subordinate debts** on the home before he/she can qualify for a new FHA loan.

Lender participation is **voluntary**. In order to get started, the lender must be willing to work out the existing loan with the borrower. This boils down to whether it makes more sense for the lender to foreclose.

In addition to writing down the loan to 90% of the current value of the property, the **lender must pay the FHA an up front fee of 3%** of the principal amount of the new loan.

Should borrower and lender meet all the foregoing requirements, **borrower must** still be prepared to **pay a 1.5% annual fee** on the outstanding principal balance of the loan for FHA insurance, AND

There's an **exit fee**. If the home is sold or refinanced, the borrower must pay another 3% of the loan balance plus a percentage of the gain on sale on a sliding scale – 100% in the first year, 90% in the second year and 10% in each successive year until year five, when the profit participation for the government stabilizes at 50% for the duration of the 30 year mortgage.

The program went into effect on October 1, 2008. As the financial crisis overwhelmed the economy shortly after its passage, this legislation quickly became even more inadequate than initially appeared.