



Failure By Mortgage Companies To Modify Mortgages May Reawaken Bankruptcy Cramdown Legislation

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According to an article in the Journal of the American Bankruptcy Institute, the failure by mortgage companies to pursue voluntary modifications of mortgages may renew the push to allow judges to modify mortgages within bankruptcy cases. Since the “Home Affordable Mortgage Program” (HAMP) went into effect in March 2009, only about 360,000 homeowners have seen their mortgage payments lowered by their mortgage companies. The goal set by the Obama administration was to have 500,000 mortgages modified by November 1st, and it is estimated that 2.7 million homeowners are eligible for modifications under the program.

In June, HAMP officials began conducting rigorous reviews of mortgage servicers, and have now started a “second look” program, under which servicers’ decisions to approve or deny HAMP modifications will be scrutinized. Compliance officers are also analyzing HAMP-modified loans to track error rates with servicers.

Government officials have tried to stimulate the rate of modifications several times. The Treasury Department has set a goal of 4 million mortgage modifications by 2012, but estimates indicate that only about half that number will actually be modified.

Barney Frank (D-Mass.), chairman of the House Financial Services Committee, said, “The best lobbyists we have for getting bankruptcy legislation passed are the servicers who are not doing a very good job of getting mortgages modified.” He may insert a cramdown provision into legislation that would overhaul the

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financial system, which would allow bankruptcy judges to lower the balances on mortgages to the market value of the property and set new interest rates. That bill will become a top priority in early 2010.