

Point of View:

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## **A new Band-Aid on a deep crisis**

### **Congress and the mortgage crunch**

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RALEIGH - Congress is about to enact a plan to help with the mortgage crisis. It's a joke, a triumph of politics as usual over common sense. Sure it will help a few people. And it will give politicians the ability to say they have done something.

But as The New York Times recently reported, "analysts say it would touch only a small fraction of those in trouble ... and would do little to bolster the housing market."

Let's put things in perspective here.

According to a new study by Harvard University's Joint Center for Housing Studies, "[t]he current housing slump is shaping up to be the worst in 50 years" and "this downturn may have a way to go." And the reason for the housing slump is, purely and simply, the mortgage industry.

Not only is the mortgage industry the culprit, but it long denied the existence of a problem. Two years ago, the Center for Responsible Lending in Durham was engaged in a running battle of studies and press releases. The Mortgage Bankers Association, the trade organization and lobbyist for the mortgage lending industry, rejected CRL's studies showing that default rates were headed through the roof because of the emergence of risky mortgage lending practices.

And now we know CRL was right and MBA was wrong.

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SO WHAT ARE THE SOLUTIONS that the industry and our nation's leaders have reached?

First we had "Hope Now," a voluntary and anemic response by the mortgage industry that appears to use contrived data to justify its efforts. News stories and press releases suggest that some of the lenders participating in Hope Now count "any contact with a borrower about payment reduction or relief as a mitigation in process ..." But the reality is jammed phone lines and limited or ineffectual efforts at assistance. According to a State Foreclosure Working Group report issued in late April, "the collective effort of servicers and government officials to date have not translated into meaningful improvement in foreclosure prevention outcomes."

And now we are about to have a political response that appears to be designed to get our elected officials past the November elections. "Give it time," they will say. But even the Congressional Budget Office estimates that the legislation about to be enacted will benefit only a small fraction of the millions of defaulted mortgage loans.

Meanwhile, an obvious solution, "allowing bankrupt homeowners to have the terms of their mortgages modified under court protection," is said by a recent New York Times editorial to be "arguably the most effective way to stanch foreclosures."

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AMEN TO THAT: Give homeowners the same basic rights in bankruptcy that are available to farmers, owners of yachts and owners of vacation homes. But this is "the proposal most reviled by the mortgage industry and, as a result, has been rejected out of hand by the Bush administration." Sen. Barack Obama supports this measure. Sen. John McCain joins President Bush in opposing it.

Mortgage defaults and foreclosures are killing the housing industry and are crippling the economy. But the mortgage industry continues to oppose meaningful relief.

A problem with being a prophet of doom is there is little pleasure in being right. But when it turns out Chicken Little was correct and the sky really was falling, Chicken Little should at least gain some credibility. Or, to put a point on it, those who dismissed the warnings with imperious condescension should be recognized for the disingenuous spin doctors that they are.

The American public is being hustled. This new legislation continues a dangerous charade.

(Jerry Hartzell is a Raleigh lawyer and a participant in the foreclosure defense project undertaken by Legal Aid of North Carolina.)

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