Moneywise

THE FLOYDS ARE FIGHTING FORECLOSURE.

[PERSONAL FINANCE]

CONGRESS PASSES HOUSING BILL

Is it too little, too late?

THE HOUSING AND ECONOMIC RECOVERY ACT OF 2008, which was signed into law by President George W. Bush on July 30, is intended to rescue homeowners unable to cope with their mortgage payments. Whether it will be enough to stem the rising tide of foreclosures in the wake of the subprime mess and banking crisis remains to be seen. But for Sherrie and Kevin Floyd, it would have been a case of too little, too late.

The couple was in danger of losing their northern California home of 13 years. "The legislation won't help us because we are already in foreclosure. I asked our lender if we qualify for help under this new law and was told no," says 44-year-old Sherrie, who works as an indexer at Kaiser Permanente.

The Floyds filed for bankruptcy last December as a temporary means to save their four-bedroom, 2,100-square-foot home from going on the public auction block. Although the Floyds initially financed their home with a conventional, 30-year, fixed-rate, $170,000 loan, they refinanced more than once with an adjustable-rate mortgage when 45-year-old Kevin, a truck driver, was injured at work and bills began to mount. The couple, who have five children ages 3 to 25, also accumulated more debt after borrowing $505,000 against their home (which had a peak appraisal of more than $600,000) to pay off their prior loan plus other outstanding debts and fees, and to make home repairs.

Although the Floyds didn't qualify for assistance, at press time, they were fortunate that their home has been removed from auction. Their original lender was bought out by a new lender which has decided to work with them on a loan modification.

The Floyds are among the hundreds of thousands of homeowners struggling to cope with mortgage payments who won't benefit from the new housing legislation. The couple say they wish the act had included a change in the bankruptcy law to allow homeowners with bad home loans on their primary residences to get help from the bankruptcy court. In April, the U.S. Senate defeated a bankruptcy amendment that would have given the courts limited authority to help borrowers avoid foreclosure and stay in their homes.

Kathleen Day, a spokeswoman for the Center for Responsible Lending, a nonprofit research and advocacy group, says **that while this law is a step in the right direction, it is by no means a complete solution. The new housing law offers a $300 billion program to avert foreclosures and an increase in lines of credit for Fannie Mae and Freddie Mac with the U.S. Department of Treasury. In addition, it will modernize the Federal Housing Authority (FHA) and increase its loan limits, as well as provide nearly $4 billion in grants to cities and states to buy and rehabilitate foreclosed homes.**

Although 1.5 million homes are expected to go into foreclosure by the end of this year, the actual number of homeowners

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directly affected by this new legislation is estimated to be between 400,000 and 500,000, says Celia Chen, director of housing economics at Moody's Economy.com. Over the next four years, Economy.com forecasts, 4.5 million homes will go into foreclosure.

The new law also contains specific guidelines for qualifying homeowners and leaves housing assistance up to the willful approval of the lender. For instance, the FHA portion produces a temporary, voluntary program to back FHA-insured mortgages to borrowers in need. The program begins Oct. 1, 2008 and ends Sept. 30, 2011.

"In order to qualify for the FHA rescue plan, a borrower must be 'underwater,' which means that their home must be worth less than the amount of their mortgage," says John Mechem, a spokesman for the Mortgage Bankers Association, which tracks mortgage delinquencies and foreclosures. The borrower must also be unable to afford their current mortgage— more than 31% of their monthly income is dedicated to paying their mortgage. The lender must be willing to write down the value of the mortgage to at least 90% of the current appraised value of the home, he adds.

So if a borrower has a $300,000 mortgage, the home's value has dropped to $280,000, and that borrower can no longer afford the monthly payment, he or she is eligible for this program, Mechem explains. If the lender and borrower agree to use this new FHA program, the borrower would get a new mortgage loan for $252,000, or 90% of the current value of $280,000, guaranteed by the FHA.

Each lender will have to look at each loan and "make a business decision to determine whether the lender is better off letting the home go to foreclosure or writing down the value of the loan," Mechem says. —Aisha Jefferson

HOW THE NEW LAW BENEFITS YOU

FIRST-TIME HOME BUYERS

- You are eligible for a federal tax credit of $7,500 or 10% of the purchase price if your adjusted gross income is less than $95,000 or $170,000 (for married couples).
- You have to pay the tax credit back over the next 15 years in equal amounts each year when you pay federal taxes.
- You can take advantage of loan limits raised to $625,000 for FHA, Fannie Mae, and Freddie Mac.

EXISTING HOMEOWNERS

- You can renegotiate your mortgage on your primary residence if your loan originated on or before Jan. 1, 2008.
- Once you get a new loan, you can't take out a home equity loan for at least five years.
- If you sell your home, you must give the government 50% of any appreciation.
- You can take an additional federal tax deduction of $500 or $1,000 (for married couples) if you do not itemize on your income taxes.