

January 27, 2009

VIA FACSIMILE

The Honorable John Conyers, Jr.
Chairman
Committee on the Judiciary
US House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515
Facsimile: 202-225-7610

Dear Chairman Conyers:

I am writing to express concern regarding Section 4 of H.R. 200, the “Helping Families Save Their Homes in Bankruptcy Act of 2009.” I have learned from small community banks that this particular provision would place a hardship on the industry.

Congress established the Office of Advocacy under Pub. L. 94-305 to represent the views of small businesses before federal agencies and Congress. The Office of Advocacy is an independent office within the U.S. Small Business Administration. Thus, the views expressed in this letter do not necessarily reflect the views of the U.S. Small Business Administration (SBA) or official administration policy.

Section 4 of the legislation contains a provision that would provide bankruptcy judges broad authority to modify unilaterally the terms of mortgages. The Office of Advocacy applauds the Committee’s effort to address the needs of homeowners who may be undergoing financial hardship. However, Advocacy is concerned that this provision could be potentially harmful to small community banks that are already having a difficult time during the current economic downturn. It may also bring additional risk and uncertainty to an already volatile mortgage market and would make home loans more expensive and less available for consumers.

Community banks support their local communities. In some instances, community banks are the only source of mortgages and other lending instruments in small communities. If community banks lose too much money as a result of this legislation, capital will be less available to small businesses and individuals to enhance economic growth. Advocacy urges the Committee not to allow bankruptcy judges to modify the terms of mortgages.

Advocacy looks forward to working with you and your staff on this important legislation before it receives full House consideration. Please feel free to have your staff contact Jennifer Smith, Assistant Chief Counsel for Economic Regulation and Banking, at 202-205-6943 about this matter. Thank you.

Sincerely,

/s/

Shawne C. McGibbon
Acting Chief Counsel for Advocacy