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The Honorable Harry Reid
Majority Leader
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The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

Honorable Members of the Senate
United States Congress
Russell, Hart, Dirksen Senate Office Buildings
Washington, DC 20510

February 25, 2008

Re: Support for the Foreclosure Prevention Act of 2008, S. 2636.

Dear Honorable Members of the United States Senate:

I write in favor of passage of S. 2636, The Foreclosure Prevention Act of 2008. In particular, I write in support of Section 411 of the proposed legislation. That provision would give bankruptcy judges authority to reduce the allowed secured claim to the value of a principal residence. Moreover, the interest rate could be modified to a fixed rate indexed to a Federal Reserve database.

The proposal in question is very similar to the most important provision in Chapter 12 Bankruptcy enacted in 1986, which permitted court modification of loans to family farmers, including those secured by a principal residence. I was deeply involved in efforts to deal with the farm debt crisis of the 1980s and wrote a book on the proposals and their consequences (The Farm Debt Crisis of the 1980s, Iowa State University Press, 1990). In addition, I was the principal investigator for two research studies on Chapter 12 Bankruptcy.

The first study, published in 1988, was Faiferlick and Harl, The Chapter 12 Bankruptcy Experience in Iowa, 9 J. of Agr. Tax'n & Law 302-336 (1988). It surveyed in detail the first 150 plus filers under Chapter 12 Bankruptcy in Iowa in 1986 and 1987. The research was the first study of Chapter 12 in the United States. The second study, in 1994, involved a resurvey of the Chapter 12 filers in the 1986-87 study to determine the impact of Chapter 12 on the filers, seven

years later. The results of that survey were widely publicized by the Committee on Judiciary of the United States Senate in the late 1990s. One of the more significant findings of that study was that some 84 percent of the original filers were still farming or owning agricultural land seven years later. That was a substantially greater positive impact of Chapter 12 than even the most ardent supporters of Chapter 12 had posited for the landmark legislation. The second study was published as Hippen and Harl, The Experience of Chapter Bankruptcy Filers in Iowa, Iowa Agriculture and Home Economics Experiment Station, Iowa State University, Nov., 1995, 53 pp.

It should be noted that S. 2636 puts much greater constraints on how courts are permitted to modify loans, through authorizing Bankruptcy Court judges to order an adjustment in interest rates just to the current conventional rate plus a risk premium, in approving a write-down of the principal obligation to fair market value and, in general, leaving loan terms alone, than the Chapter 12 provision.

In my opinion, the Chapter 12 provisions did not have a significant effect on interest rates (contrary to the arguments by lenders at the time) and did not have a significant negative effect otherwise. It is critically important to recognize that both in the 1980s in the agricultural sector, and in 2007-2008 in the housing sector, *the losses have already occurred because the borrowers who receive relief would otherwise have been unable to pay their loans*. I am of the belief that the provisions in S. 2636 would be a positive, reasonable and measured response to a serious problem that clearly needs attention.

I would be pleased to respond further if desired by individual members of the Senate or by the committees. I represent no one in this matter and am speaking only as a concerned citizen with some experience in a similar period of financial travail.

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