HBPA SOLUTION RAISED IN CONGRESS

Both Foreclosure Crisis and Financial Crash Are Worsening

by Paul Gallagher

The more the devastating home foreclosure wave becomes the leading economic policy problem for Americans and their elected officials, the more White House spokesmen, Fed chairman Ben Bernanke, and some leading Members of Congress try to deny, that the foreclosure crisis is tied to a breakdown of the financial system. Yet, in the halls of government, including the Congress, the crisis is creating increased momentum toward Lyndon LaRouche's unique "firewall" solution to both the housing and banking crisis.

The Banking Crisis

In the world's credit markets, and even in the worried pages of the leading financial press, the truth of the "systemic" crisis pokes out. The U.S. mortgage-securities bubble, which exploded to $20 trillion in size in just five years, is in irreversible collapse. Mortgage-based assets were 49% of the U.S. banking system six months ago; they are still 48% after sharp write-downs by all the big commercial and investment banks; the mortgage debt meltdown will take many of those banks down which are not put under Federal protection to stop it. And it is clear that both the mortgage/foreclosures crisis, and the systemic financial crack, are not "behind us," but rather getting worse.

To take one example: on Nov. 1—as the Fed made another "urgent" rate cut, and the U.S. dollar had sunk by one-third of its value in five years—the *Financial Times* headlined, "ABX Slump Fuels Crisis Fears: Analysts Fear Further Large Write-Downs," meaning further large losses by major international banks. This ABX Index of AAA-rated corporate debt around the world (banks' debt included) had fallen to 79 cents on the dollar. Only two months ago, when the credit crisis had first hit hard and the so-called ITrax Index of BBB- (or "junk") corporate debt had plunged to 40 cents on the dollar, the ABX Index of Triple-A debt was still trading at full face value. What changed that, fast, was the shocking series of huge write-downs of real-estate-based assets revealed in October, causing substantial losses by virtually all the biggest international banks; and the signs that "losses on mortgage securities inventory are likely to be larger in the fourth quarter than in the third," as Barclays Bank economists acknowledged to the *Financial Times*. And this, when mortgage bubble collapses in Britain and Spain are just beginning to add their force to the immense mortgage bubble meltdown based in the United States.

That same day, it was revealed that the Federal Reserve, through three separate interventions, was pumping $41 billion in Federal funds short-term liquidity into the U.S. banking system, the largest one-day amount since the credit crisis hit in early August. Nearly all the $41 billion was issued against the security of housing- and mortgage-related paper, part of the Fed's three-month siege to liquefy the mortgage market—and set off commodity hyperinflation and a dollar collapse in the process. Banks that day *asked* the Fed for $262 billion, six times as much new liquidity as they got.

'Take All the Little Banks Down'

To this continuing money-printing binge (kicking U.S. M3 money supply to a reported 15% annual expansion), add the $163 billion that the Federal Home Loan Bank (FHLB) system (FHLB) was compelled to lend, during August and September, to deeply troubled banks. Some $50 billion of this bailout lending went to Countrywide Financial alone, the biggest U.S. mortgage lender, which has been held from bankruptcy also by $22 billion in credit lines from banks. As an end-run from borrowing from the Federal Reserve, which happens under the public glare, the banks are pillaging the lending authority of the little-known FHLB, a New Deal-era government-sponsored enterprise (GSE) like Fannie Mae. Had the banks borrowed one- to three-month money in the

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The housing crisis in Loudoun County, Va., is aptly represented in this photo, from the town of Round Hill, where, to entice the virtually non-existent buyers, a free SUV is offered with purchase of the house. Will the next round see free homes offered with the sale of a vehicle?

amount of $163 billion from the Federal Reserve's discount window, there would have been a public alarm.

Nowhere in the FHLB's charter is it provided that it should be used to bail out banks and big "non-depository" (i.e., speculative) mortgage lenders like Countrywide and Washington Mutual. Mortgage-backed speculators and banks couldn't sell their paper anywhere else but to the GSEs. The Federal Home Loan Banks reported that they issued so much short-term debt in those two months, that they've pushed their outstanding bond debt up 21%, to a record $1.15 trillion, half of which comes due before 2009—a potential U.S. taxpayer problem. It is just this kind of ill-advised government-backed bailout of speculators that LaRouche and LaRouche PAC's proposed Homeowners and Bank Protection Act is designed to prevent.

LaRouche noted that Financial Services Committee chairman Barney Frank (D-Mass.), while holding frequent hearings on the foreclosures crisis, could have stopped this. "While he's not paying attention, the store has been stolen; the entire GSE store is being stolen by subprime lending predators," LaRouche said.

As a senior aide to one Congressman said Nov. 1, his boss fears that "some big banks are now going to go down, and they're going to take a lot of little banks down with them." The list of big financial institutions on very thin ice—Citicorp, Merrill Lynch, Countrywide, Bear Stearns, Deutsche Bank—is getting longer with each new report or revelation.

'Freeze All Foreclosures Now'

On the ground in cities, towns, and neighborhoods nationwide, the foreclosures crisis is also getting rapidly worse. The tracking firm RealtyTrac on Nov. 1 said about 477,000 separate homes—were hit with a foreclosure action or actions in the third quarter of the year—a jump of another 30% from the second quarter, and again, double the devastation of the comparable period of 2006. It was a rate, which, if continued for a year, would put one in every 45 owned homes in the country in foreclosure.

But every sign is that the foreclosure locomotive will not just keep rolling, but will speed up in coming months—unless Congress acts to stop it. Some $180 billion in subprime adjustable rate mortgages (ARMs) will reset to higher monthly payments in the fourth quarter, compared to $155 billion in the third quarter; in the first quarter of 2008, it will be nearly $300 billion of ARMs resetting to payment levels unpayable by large numbers of households. Already, foreclosure auctions and job losses are leading to social chaos and abandonment in some up-till-now stable city neighborhoods and suburbs in the "Rust Belt," and building up big tax revenue/budget holes in states all over the country.

The Oct. 25 report on the U.S. mortgage blowout, of the Congressional Joint Economic Committee (JEC), said that American households will lose $100 billion in their housing "wealth" by the end of 2008, and that 2 million more could lose their homes to foreclosure. But the JEC, headed by Sen. Charles Schumer (D-N.Y.), is being way too optimistic about the wreckage from the mortgage bubble collapse, say economists like Jon Haveman, former senior economist of the President's Council of Economic Advisors. "Things are getting exponentially worse. Home prices have only now started to drop. They have a ways to go," Haveman told the *San Francisco Chronicle*.

The national drop in American home prices, as the $20 trillion 2000-2007 housing bubble implodes, is the main driving force behind the mass foreclosure wave, and is accelerating. The Case-Shiller Home Price Index for August, released by Standard and Poor's Oct. 30, showed that average home prices had fallen 5% from August 2006 to August 2007, in the 10 major metropolitan areas which that Index has been surveying for 20 years. The drop from June to July was 0.5%, and from July to August, 0.8%, indicating a faster rate of fall, in the range of 7-9% per year. The broader, 20-metro-area Case-Shiller index was down 4.4% this year to August, with an 0.7% drop from July to August. Goldman Sachs Analytics, in a separate report released the same day, forecast that average home prices will be down an unprecedented 7% from December 2006 to December 2007.

This price collapse makes unworkable any policy of "refinancing" mortgages to stop foreclosures, because it puts more millions of households "under water"—with more mortgages debt than their homes are worth on the market—and this, with delinquency on payments and shifts to lower-wage jobs, knocks them out of refinancings.

HBPA Raised in Congress

LaRouchePAC's principles of a Homeowners and Bank Protection Act (HBPA) would, if enacted by Congress now, stop foreclosures cold, nationally, and protect chartered banks suffering major losses in the mortgage meltdown. But despite demands from a hundred state legislators around the country, no Member of Congress has introduced the HBPA.

But, under pressure from his constituents, Rep. John Conyers (D-Mich.), on Oct. 30, did read a key section of the HBPA into the Congressional Record, during the hearing of a subcommittee of the Judiciary Committee on "How We Can Protect Homeownership and Provide Relief to Consumers in Financial Distress." Witnesses were discussing Rep. Brad Miller's (D-N.C.) HR 3609, which would seek to protect homeowners by tweaking U.S. personal bankruptcy laws. Conyers said to witness Mark Zandi, chief economist of Moody's, "Some of my friends [Michigan state legislators] are asking me to do the following: 'Whereas, During the transitional period, all foreclosures should be frozen, allowing American families to retain their homes. Monthly payments, the equivalent of rental payments, should be made to designated banks, which can use the funds as collateral for normal lending practices, thus recapitalizing the banking system. These payments will be factored into new mortgages, reflecting the deflating of the housing bubble and the establishment of appropriate property valuations and reduced interest rates. . . .'" Conyers read more of the HPBA resolution from Michigan, and asked Zandi his opinion of it.

Three days later, at a Nov. 2 hearing of the Financial Services Committee—marked by chairman Frank's exasperated shouting at a Federal Housing Administration official over the lack of progress on refinancings—Rep. Al Green (D-Tex.) also brought up "those urging that we should freeze all foreclosures now," and questioned witnesses on it; his question was re-emphasized by Rep. Gwen Moore (D-Wisc.).

These reflect the earnest behind-the-scenes discussion of the really bold move—LaRouchePAC's HBPA—among many Members of Congress at this crisis point. The only way to stop the foreclosure wave, is to stop it by law, as LaRouchePAC proposes.

Supreme Court Approved Banning All Foreclosures

Minneapolis attorney Marshall H. Tanick on Oct. 31 published the legal precedent, approved by the U.S. Supreme Court in 1934, for a legislative ban on home foreclosures. Writing in the *Minneapolis Star-Tribune* about the demand for a City Council foreclosure moratorium in that city, Tanick compared the situation there—340 foreclosed homes in the seven counties surrounding the Twin Cities, among the nearly 9,000 foreclosed properties in the metro area—to the Great Depression. "The Minnesota Legislature, a month after the inauguration of President Franklin D. Roosevelt, enacted a measure known as the Minnesota Mortgage Moratorium Law," he writes. "The measure was widely hailed as the type of bold legislation necessary to help overcome the throes of the country's economic catastrophe."

Article I, Section 10 of the U.S. Constitution forbids states from enacting laws "impairing the Obligation of Contracts." Mortgage holders asserted that the moratorium statute violated the provision by retroactively altering their rights under mortgage arrangements voluntarily entered into by homeowners.

> The case reached the U.S. Supreme Court in 1934. . . . The high court at that time was no friend of intervention in the economic forces of the free marketplace. . . . But by a 5-4 vote, the Justices in Washington upheld the moratorium law. Writing for the majority, Chief Justice Charles Evans Hughes reasoned, as did the state Supreme Court, that the law was constitutionally valid and did not infringe the contract 'impairment' clause. . . . He declared that it was permissible because it was 'clearly so reasonable as to be within the Legislative competency.'
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> "The court deemed the law to be a 'rational compromise' that did not impair the 'integrity' of the mortgage industry because homeowners were required to maintain payments during the freeze, and because the mortgagees could exercise their rights after the two-year period.

Does this sound like the Homeowners and Bank Protection Act in local miniature?

"Forget about voluntary foreclosure freezes," attorney Tanick concludes. "Lawmakers should heed the edict of the Supreme Court in the Blaisdell case: 'While emergency does not create power, emergency may furnish the occasion for the exercise of power.'"