Statement of Senator Daniel K. Akaka

Problems in Mortgage Servicing From Modification to Foreclosure, Part II

Hearing
Senate Committee on Banking, Housing, and Urban Affairs
December 1, 2010

Thank you, Mr. Chairman. During our first hearing to examine shortcomings in the mortgage servicing industry, we heard directly from the servicers about the steps that they were taking to address recent servicing issues. It was helpful to hear our panel's recommendations to remedy the situation and provide long overdue relief to homeowners. I left concerned with the extent of the problem, but hopeful that the servicers would continue to work with federal and state regulators toward a swift resolution.

Unfortunately, in the short time between our last hearing and today, I continue to hear from homeowners in Hawaii that are facing foreclosure and having difficulty working with servicers. Borrowers are still faced with unresponsive and obstructive mortgage servicers, and they continue to receive conflicting and inaccurate information when they contact their lenders and servicers for information about loan modifications and other loss mitigation options.

Borrowers rightly expect their mortgage lenders and servicers to work in good faith to help them keep their homes. Instead, servicers have flaunted their protocols and ignored contractual agreements in favor of foreclosures. It is our responsibility and that of our witnesses today to correct these problems in order to preserve homeownership and provide much needed relief to distressed borrowers.

This begins with ensuring that servicers are properly adhering to modification, refinance, and foreclosure procedures. Borrowers should expect servicers to be accessible, cooperative, and helpful through loss mitigation and foreclosure. Mortgage modifications and refinances must be significant and meaningful so that homeowners do not re-default or find themselves delinquent again several months later. When foreclosure is unavoidable, it should proceed in accordance with the law in order to avoid documentation defects and proof of title uncertainties that have become too common.

These failures among mortgage service providers also highlight the need for greater financial literacy in our country. A lack of financial literacy is problematic even before foreclosure. Many borrowers fell behind on their mortgage payments because they did not understand the terms and features of their loans and they failed to anticipate increases in their monthly payments. Others are facing foreclosure because they did not plan for unforeseen financial hardships and were unable to make their monthly payments when they lost their jobs. Homeowners that are delinquent on their mortgages are often unaware of the counseling and education resources that are available to assist them throughout the loss mitigation and foreclosure processes. Even after foreclosure, individuals need a better understanding of how to manage their other debt obligations, rebuild their credit once it has been damaged, and access alternative housing opportunities.

Mortgage lenders and servicers must be held accountable for their poor business practices, but we should also provide individuals with the skills and tools they need to protect themselves. I worked to establish and secure funding for a pilot program that provides access to pre-homeownership counseling services for prospective homebuyers. The program is one example of what must be done to prepare individuals for the financial responsibilities that come with homeownership. We must continue to invest in financial education and counseling services that can develop individuals into more empowered and responsible consumers, borrowers, and homeowners.

It is clear that more must be done to improve mortgage servicing practices and the effectiveness of federal homeowner assistance initiatives. I thank the witnesses for joining us today and look forward to continuing to work together to improve homeowner protection and financial literacy. Thank, Mr. Chairman.