Reform bankruptcy law so Americans can keep their homes

by The St. Louis Post-Dispatch

Sen. Dick Durbin's much-discussed (and much-cussed) mortgage "cram down" legislation may come to a vote in the U.S. Senate this week, possibly as early as Tuesday. It deserves to pass. Thanks to the stranglehold that the banking industry has on Republican lawmakers, it probably won't.

As of Friday, the Illinois Democrat's "Helping Families Save Their Home in Bankruptcy Act," was a vote or two short of the 60 it needs to close off Senate debate. Negotiations were scheduled over the weekend with some smaller banks and credit unions whose support could sway some senators.

The bill would allow federal bankruptcy judges to reduce â€" or "cram down," as it's called in bankruptcy court â€" mortgage principle and interest rates for homeowners in Chapter 13 bankruptcy negotiations. Judges already cram down most other types of debt, but banks long ago carved out an exemption for mortgage loans.

Under Durbin's proposal, homeowners in bankruptcy could remain in their homes as long as they continued making the lower payments. In most cases, the mortgage holders also would come out ahead. They wouldn't have to maintain the properties and try to resell them in today's glutted market.

But the financial industry wants federal assistance to flow only one way. It's one thing for banks to get hundreds of billions of dollars in taxpayer money, but it's quite another for banks to cut their customers any slack.

The financial industry says Durbin's legislation would encourage more Americans to file for bankruptcy and add to mortgage costs for customers who pay their mortgages on time.

But nobody files for bankruptcy if he doesn't have to; the costs to one's credit rating are too high. And banks already are passing the costs of foreclosure onto their other customers.

It may well turn out they save money by allowing people to remain in their homes. In that case, will they pass the savings onto other homeowners? Somehow we doubt it.

Meanwhile, the banking industry also is waging a battle to preserve its hegemony over consumers on another front: credit cards.

A House committee last week advanced legislation that would prohibit banks and credit card companies from imposing "arbitrary" interest rate increases, prohibit excessive fees and order more disclosure. The Federal Reserve has tightened rules on credit card companies, but the proposed legislation has far tougher requirements and deadlines. It could go to the full House for a vote as soon as this week.

President Barack Obama summoned leaders of the credit card industry to the White House for a jawboning session. Why not issue a "plain-vanilla, easy-to-understand, simplest-terms-possible credit card?" the president asked.

Obama should do the same sort of jawboning on the bankruptcy cram-down measure. So far, the Obama administration, in the person of Treasury Secretary Tim Geithner, has expressed only cautious support for "carefully designed changes."

"It's difficult to get the balance right," Geithner said last week.

Right now the balance between banks and consumers is so far out of whack that it would be hard to make it any worse. Durbin should ask his old Senate colleague from Illinois to jump in with both feet.