



Give Me Shelter: The Foreclosure Crisis and Its Effect on America's Animals

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This article surveys the legislative response to the effect of the current foreclosure crisis on animals in American society. The foreclosure crisis has created widespread animal shelter overload, an increase in pet relinquishment and animal abandonment cases, and an uptick in "economic euthanasia" – euthanizing - pets rather than paying for veterinary care. Fortunately, lawmakers have begun to recognize these issues by creating legislation that addresses animal abandonment in foreclosed properties. Legislation making individual and corporate owners

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of property responsible for animals abandoned on the property, expansions of state animal abandonment laws, and even federal tax incentives have been proposed. Though not every bill has been successful, some states are making progress in helping animals in need.

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Introduction

Riley's house went into foreclosure.¹ Max also lost his home.² Priscilla and Presley suddenly found themselves living in a shelter.³ These stories sound familiar, as people across the country are faced with payments they cannot afford. But Riley, Max, Priscilla, and Presley were never responsible for a mortgage. They are pets. America's animals have become the innocent victims of the modern mortgage crisis.

Home ownership is an American ideal.⁴ Owning one's home reaps tangible benefits, such as tax breaks and freedom from a landlord's rules.⁵ Home ownership also increases one's social status and benefits society through improved property values.⁶ But today's housing market has turned the American dream upside down. From 2007 to 2009, banks foreclosed on between five to six million homes.⁷ Many homeowners owe more on their homes than they are worth, which prevents them from refinancing.⁸ Some of the more unfortunate must leave their homes behind and give up their animals as well; people dealing with foreclosure often turn to rental housing, relatives, or homeless shelters that do not allow pets.⁹

¹ Gerri Hirshey, *In Animal Shelters, Reminders of the Economy*, N.Y. TIMES, May 11, 2008, at 1.

² *Profile: Populations in Animal Shelters Exploding as More People Turn in Pets They Can't Afford* (NBC Nightly News Television Broadcast, Mar. 21, 2009).

³ Jeff Truesdell, *Pets Left Behind*, 71 PEOPLE 81 (2009), available at <http://www.people.com/people/archive/article/0,,20271045,00.html>.

⁴ Kristen D. Adams, *Homeownership: American Dream or Illusion of Empowerment?*, 60 S.C. L. REV. 573-74 (2009).

⁵ *Id.* at 589-90.

⁶ *Id.* at 591-94.

⁷ *The Worsening Foreclosure Crisis: Is It Time to Reconsider Bankruptcy Reform?*: Hearing Before Subcomm. on Admin. Oversight and the Courts of the S. Comm. on the Judiciary, 111th Cong. 3 (2009) (written testimony of Adam Levitin, Associate Professor of Law, Georgetown University Law Center), available at <http://judiciary.senate.gov/pdf/07-22-09LevitinTestimony.pdf>.

⁸ Kathryn E. Johnson & Carolyn E. Waldrep, *The North Carolina Banking Institute Symposium on the Foreclosure Crisis: An Overview*, 14 N.C. BANKING INST. 191, 197-98 (2010).

⁹ See Evelyn Nieves, *"Foreclosure Pets" Unfortunate Phenomenon*, SEATTLE TIMES, Feb. 3, 2008, at A6, available at http://seattletimes.nwsourc.com/html/nationworld/2004161152_petsmort03.html.

This article focuses on the effect of the current foreclosure crisis on animals in American society. Part I deals with the effect of the mortgage crisis on family pets and large animals, including relinquishment, abandonment, and euthanasia. Part II considers legislation passed and pending in the wake of the foreclosure crisis, and Part III outlines help available for American families and their animals.

I. America's Animals in the Mortgage Crisis

For several years, pet owners have cited moving and housing limitations as significant reasons for relinquishing cats and dogs to animal shelters. A 1999 National Council on Pet Population study of twelve animal shelters throughout the United States shows that moving is the most common reason for relinquishing dogs and the third most common reason for relinquishing cats.¹⁰ Since 2007 the foreclosure crisis seems to have exacerbated this issue.¹¹ Newspapers and news websites have been filled with firsthand accounts of families forced to move out of their homes and give up their pets.¹² Even real estate websites and websites dealing with foreclosures include postings

¹⁰ John C. New et al., *Moving: Characteristics of Dogs and Cats and Those Relinquishing Them to 12 U.S. Animal Shelters*, 2 J. APPLIED ANIMAL WELFARE SCI. 83, 85 (1999), available at <http://www.petpopulation.org/Movingcharacteristics.pdf>.

¹¹ *Hunters Hit Foreclosed Pets*, ANIMAL PEOPLE NEWS, May 2008, <http://www.animalpeoplenews.org/08/5/huntershitforeclosedpets0508.htm>; Gerald A. Rogovin, *Pets Becoming Mortgage Foreclosure Victims*, SUN-HERALD.COM (Charlotte, N.C.), Oct. 23, 2007 (on file with the Internet Archive Wayback Machine, <http://web.archive.org/web/20071111074055/http://www.sun-herald.com/Newsstory.cfm?pubdate=102307&story=tp6np9.htm&folder=NewsArchive2>).

¹² See, e.g., Brenda Goodman, *Homeless Pets Crowd Shelters as Families Hit Hard Times*, N.Y. TIMES, June 26, 2008, at A14, available at <http://www.nytimes.com/2008/06/26/us/26pets.html>; Hirshey, *supra* note 1; Chad Smith & Christina Boyle, *More Abandoned Pets as Economy Goes to the Dogs*, NYDAILYNEWS.COM, Oct. 3, 2008, http://www.nydailynews.com/ny_local/2008/10/03/2008-10-03_more_abandoned_pets_as_economy_goes_to_t.html; Paul Knight, *Foreclosure Pets: Dogs, Cats Get Left Behind When Owners are Pushed Out*, HOUSTON PRESS, Apr. 24, 2008, available at <http://www.houstonpress.com/2008-04-24/news/foreclosure-pets/>; Jennifer Lawinski, *Left Behind: The Economy's Toll on Man's Best Friend*, FOXNEWS.COM, Dec. 11, 2008, <http://www.foxnews.com/story/0,2933,464824,00.html>.

acknowledging this problem.¹³ CNN revealed the “Sad Puppy Indicator,” a guide that joins the “Starbucks Indicator” and the “McDonalds Indicator” as an illustration of a struggling economy.¹⁴ The problem is so pervasive that No Paws Left Behind—a nonprofit group dedicated to rescuing pets displaced by foreclosure—recently rescued its 1,000th animal,¹⁵ and a number of other nonprofits now focus on helping pets and their owners affected by foreclosure.¹⁶

Many foreclosed homeowners find themselves moving to a smaller home, rental, or relative’s house that cannot accommodate pets.¹⁷ These pet owners tend to deal with their animals in one of three ways. Some relinquish their pets to shelters, others abandon their pets in their foreclosed homes, and a few owners decide to euthanize their animals because they cannot afford to care for them.

This article attempts to develop a model for how legislative reform on behalf of powerless groups, such as animals, may be achieved, primarily through an examination of the history of child labor reform. It will be helpful, therefore, to view this historical evidence through the lens (or lenses) of political science theories concerning how legislatures behave. This inquiry does not require us

¹³ Leslie Pandey, *Foreclosures Hurt Pets, Too*, ZILLOW.COM, June 4, 2008, <http://www.zillow.com/blog/foreclosures-hurt-pets-too/2008/06/04/>; Jennifer Waters, *Foreclosing on Fido*, MARKETWATCH.COM, Mar. 27, 2008, <http://www.marketwatch.com/story/fido-foreclosed-overwhelmed-owners-abandon-homes-pets-and-all>; BankForeclosuresSale.com, *Abandoned Foreclosure Pets*, <http://www.bankforeclosuresale.com/abandoned-foreclosure-pets.php> (last visited Aug. 30, 2010).

¹⁴ Nathan Burchfiel, *CNN Unveils Sad Puppy Indicator*, BUS. & MEDIA INST., Mar. 5, 2008, <http://www.businessandmedia.org/articles/2008/20080305104820.aspx>.

¹⁵ *National Non-Profit Committed to Helping the Silent Victims of America’s Foreclosure Crisis Hits Major Milestone*, PRNEWswire.COM, Jan. 10, 2011, <http://www.prnewswire.com/news-releases/national-non-profit-committed-to-helping-the-silent-victims-of-americas-foreclosure-crisis-hits-major-milestone-113221569.html>.

¹⁶ See Foreclosure Cats Project, <http://foreclosurecats.org> (last visited Aug. 30, 2010) (on file with the Internet Archive Wayback Machine, <http://web.archive.org/web/20080601014900/http://www.foreclosurecats.org/>); Lost Our Home Pet Foundation, <http://www.lostourhome.org/> (last visited Aug. 30, 2010).

¹⁷ Nieves, *supra* note 9; Jennifer Pittman, *Santa Cruz County Animal Shelter Overflows with Economic Slowdown*, SANTA CRUZ SENTINEL, Mar. 22, 2008, <http://www.scsextra.com/story.php?sid=75378>.

to adopt a universally descriptive theory of political economy; instead, each theory may add something to our understanding of the historical data and our ability to construct a predictive model. Because both animal welfare reform and child labor reform spring from moral grounds, we must first confront the debate within social science theory as to the role of altruistic motivations in political behavior.

A. *Animal Relinquishment*

There are no national statistics dealing with pet relinquishments at animal shelters.¹⁸ Consequently, it is also impossible to tell how many owner relinquishments resulted from foreclosures. Further, shelters may not be aware of the reasons owners relinquish their animals. Pet owners are not always honest when relinquishing an animal to a shelter, or only indicate that they are moving without suggesting that the economy is to blame.¹⁹

Despite the lack of statistics, many animal shelters report that the number of intakes rose proportionally to the number of foreclosures. For example, the Sacramento Society for the Prevention of Cruelty to Animals in California saw an increase in the number of pets in the shelter in December 2007: 176 pets compared to 78 in 2006.²⁰ In Kent County, Michigan, the Kent County Animal Shelter saw a 9% increase in abandoned dogs and a 20% increase in abandoned cats in 2009.²¹

¹⁸ Janet Scarlett, *Pet Population Dynamics and Animal Shelter Issues*, in *SHELTER MEDICINE FOR VETERINARIANS & STAFF* 12-13 (Lila Miller & Stephen Zawistowski, eds., 2004).

¹⁹ Sharon L. Peters, *Foreclosures Slam Doors on Pets, Too*, USA TODAY, Mar. 25, 2008, at 4D, available at http://www.usatoday.com/news/nation/environment/2008-03-24-foreclosures-pets_N.htm; Scarlett, *supra* note 18, at 13; Betsy Reason, *Pets Pay a Heavy Price*, INDIANAPOLIS STAR, Feb. 21, 2009, at A1, available at <http://www.indy.com/articles/marion-county-2/thread/indianapolis-animal-shelters-report-more-pets-being-abandoned-in-recession>; *Number of Abandoned Pets Rises Amid Recession*, INDIANAPOLIS STAR, Feb. 23, 2009, <http://www.wsbt.com/news/regional/40029702.html>; Scott Martelle, *Family Pets Also Victimized by Foreclosure Crisis*, AOLNEWS.COM, Jul. 18, 2010, <http://www.aolnews.com/nation/article/family-pets-also-victimized-by-foreclosure-crisis/19557083>.

²⁰ Waters, *supra* note 13.

²¹ Marc Thompson, *Pets Abandoned in Foreclosed Homes: Leaving Animals Behind is Becoming a Trend*, WOODTV8.COM, Mar. 11, 2010,

The Massachusetts Society for the Prevention of Cruelty to Animals in Boston took in 900 animals in 2008, an increase of about 300 animals since the previous year, and also reported an increase in the number of people citing financial difficulties as the reason for giving up their animals.²² The Cleveland Animal Protective League also reported an increase in abandoned pets due to foreclosures.²³ Chicago-area animal shelters reported a spike in pet intakes during 2007,²⁴ and Florida animal shelters also reported an increase in the number of relinquished pets in 2007 and 2008.²⁵

This increase in intakes has caused some animal shelters to overflow. Stephen L. Zawistowski, Executive Vice President for National Programs and science advisor for the American Society for the Prevention of Cruelty to Animals, contends that animal rescues and shelters suffer most in the states where the real estate crisis hit the hardest, such as California, Florida, Nevada and Arizona.²⁶ This assertion is certainly borne out in California. In Santa Cruz County, California, shelters were packed in 2008 and saw fewer adoptions.²⁷ At San Joaquin Animal Shelter in Stockton, California, in 2008, there was a 50% chance a relinquished pet would be euthanized because of space needs.²⁸ In Fresno, California, owners gave up 50% more dogs in 2009 than in 2008.²⁹ And in Michigan, the state with the nation's highest unemployment rate in 2009, metropolitan Detroit shelters also

http://www.woodtv.com/dpp/news/local/kent_county/Pets-abandoned-in-foreclosed-homes.

²² Elaine Cushman Carroll, *Abandoned Pets on Rise in Hard Times*, BOSTON GLOBE, June 11, 2009, at 1, *available at* http://www.boston.com/news/local/articles/2009/06/11/shelters_south_of_boston_filling_with_pets_left_by_roads_in_woods.

²³ *Foreclosures Lead to Rise in Abandoned Pets in Cleveland*, WKYC.COM, Oct. 24, 2007, http://webcache.googleusercontent.com/search?q=cache:mE7ARkonX6gJ:www.wkyc.com/news/news_article.aspx.

²⁴ Mary Umberger, *Dogs, Cats Latest Victims of Subprime Mortgage Mess*, CHICAGO TRIBUNE.COM, Jan. 22, 2008, http://articles.chicagotribune.com/2008-01-22/news/0801210864_1_animal-cruelty-animal-welfare-league-cats.

²⁵ Susan R. Miller, *Pets Become Victims of Foreclosure*, PALM BEACH POST, Mar. 3, 2008, at 1B.

²⁶ Marc Benjamin, *Valley Animal Shelters Overwhelmed*, FRESNO BEE, Nov. 28, 2009, <http://www.fresnobee.com/2009/11/28/1728661/valley-animal-shelters-overwhelmed.html>.

²⁷ Pittman, *supra* note 17.

²⁸ Nieves, *supra* note 9.

²⁹ Benjamin, *supra* note 26.

overflowed with animals relinquished because their owners had lost their jobs and houses.³⁰ Though some shelters have made progress in reducing euthanasia rates in recent years, that progress may be slowed or reversed due to the number of animals shelters now see.³¹

This all comes at a time when many shelters and animal control agencies are forced to cut their budgets as costs rise.³² Some animal shelters succumbed to the financial pressure themselves. After losing about a quarter of its endowment in a declining stock market, the Massachusetts Society for the Prevention of Cruelty to Animals closed three of its shelters: Springfield, Brockton, and Martha's Vineyard.³³ Ultimately, other animal rescue organizations moved in to revive operations.³⁴ And farms that are large animal sanctuaries are also facing foreclosure issues, creating an uncertain future for the animals they once rescued. For instance, Haley Hills Farm in White Lake, Michigan, cared for 31 injured and abandoned horses through its Equine State Foundation horse sanctuary.³⁵ The sanctuary took in horses from other farms that went through foreclosure, then faced foreclosure itself in 2009.³⁶ Though demand for horse rescues was high—the sanctuary received requests to take in 260 horses between 2008 and 2009—the farm itself faced declining donations and rising

³⁰ See Kimberly Hayes Taylor, *Desperate Days, Deserted Dogs*, DETROIT NEWS, Apr. 18, 2009, at A1, available at <http://detnews.com/article/20090418/METRO/904180365/Abandoned-pets-overwhelm-Metro-Detroit-shelters>.

³¹ Benjamin, *supra* note 26.

³² *Id.*

³³ Brian R. Ballou, Fewer Havens for Abandoned Pets, BOSTON GLOBE, Feb. 7, 2009, http://www.boston.com/news/local/massachusetts/articles/2009/02/07/three_mspca_shelters_scheduled_to_close/; Matt Carroll, With Shelter Closing, Some Animals Face a Precarious Future, BOSTON GLOBE, Mar. 22, 2009, at 6, available at http://www.boston.com/news/local/articles/2009/03/22/with_shelter_closing_some_animals_face_a_precarious_future/.

³⁴ *MSPCA Leases Its Brockton Shelter to New Regional Animal Protection Group*, PATRIOT LEDGER (Quincy, Mass.), Sep. 15, 2009, <http://www.patriotledger.com/business/x2070393831/MSPCA-leases-its-Brockton-shelter-to-new-regional-animal-protection-group>; *Donations Save Animal Shelter Abandoned by MSPCA*, METROWEST DAILY NEWS (Farmingham, Mass.), Oct. 27, 2009, <http://www.metrowestdailynews.com/state/x665151640/Donations-save-animal-shelter-abandoned-by-MSPCA>.

³⁵ *Horse Sanctuary Facing Foreclosure*, CLICKONDETROIT.COM, Sept. 23, 2009, <http://www.clickondetroit.com/news/21091565/detail.html>.

³⁶ *Id.*

costs.³⁷ Similarly, in Rhode Island, Dan MacKenzie lost the animal sanctuary Bonniedale Farm to foreclosure in 2008.³⁸ The 136 animals left behind (including dogs, cats, horses, pigs, goats, sheep, and chickens) did not receive food or water from American Home Mortgage Services, the company that foreclosed upon the property, or Wells Fargo, the bank that owned it.³⁹ MacKenzie filed a lawsuit to force the bank to feed and water his animals.⁴⁰ Ultimately, the Rhode Island Society for the Prevention of Cruelty to Animals and veterinary students from the University of Rhode Island are caring for the animals while the matter is pending in court.⁴¹ Wells Fargo donated \$25,000 for their care.⁴²

Animal shelters across the country are reporting a rise in relinquishments at the same time owners face unemployment and foreclosure.⁴³ Even if the mortgage crisis is not a direct cause, it is at least intensifying the problem.⁴⁴

B. *Animal Abandonment*

The first animal abandonment law in the United States appeared over 150 years ago, and abandoning pets or livestock remains illegal in

³⁷ *Id.*

³⁸ Talia Buford, Bank Gives \$25,000 for Farm Animals, PROVIDENCE J.-BULL. (Providence, R.I.), Dec. 12, 2009, at A1.

³⁹ Richard C. Dujardin, Gloucester Farmer, Evicted in Foreclosure, Seeks to Compel Care for Animals, PROVIDENCE J. BULL. (Providence, R.I.), Dec. 9, 2009, at A1, available at http://www.projo.com/news/content/farm_foreclosure_12-09_09_M5GNVO2_v14.3a66533.html.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Buford, *supra* note 38.

⁴³ Carla Baranauckas, A Patchwork of Food Assistance for Pets, N.Y. TIMES, Nov. 12, 2009, at F12, available at http://www.nytimes.com/2009/11/12/giving/12PETS.html?_r=1.

⁴⁴ See Nieves, *supra* note 9; Umberger, *supra* note 24; Benjamin, *supra* note 26; Cf. Merry MacKinnon, *Animal Abandonment on the Upswing in County*, THEOUTLOOKONLINE.COM, May 16, 2008, http://www.theoutlookonline.com/news/story.php?story_id=121099987056950400 ("In cases where the pet is left in an empty home, animal control doesn't track whether the animal was retrieved from a foreclosed house or an apartment, so it's difficult to say . . . if foreclosures are affecting pet abandonment rates.").

most states.⁴⁵ However, some homeowners do not take their pets to shelters and instead choose to abandon them in their foreclosed homes.⁴⁶ This often has dire consequences for the animals, which were once beloved pets.

Even though the euthanasia rates at many shelters are high, most sheltered animals are cared for at the end of their lives with food, water, and a humane euthanization.⁴⁷ In contrast, abandoned animals are left with little or no resources and spend the last days of their lives alone, some eating carpet and wallboard to stay alive.⁴⁸ Some animals abandoned in colder climates freeze to death, others starve.⁴⁹ Many abandoned pets are found in filthy rooms filled with feces and urine.⁵⁰ Some animals end up on the streets only to die from disease or hunger.⁵¹ Property inspectors and real estate brokers are often the first people to enter an abandoned house, and therefore are often the first to encounter these animals either dead or alive.⁵²

There are several theories why homeowners leave their animals to fend for themselves. These pets could be part of the “revenge process,” where homeowners deliberately try to destroy their foreclosed home, making it difficult for the mortgage company to clean up the property.⁵³ Others may be abandoned in foreclosed homes

⁴⁵ Lior J. Strahilevitz, *The Right to Abandon*, 158 UNIV. PA. L. REV. 355, 398 (2010). See also Nieves, *supra* note 9. The first animal abandonment law was passed in New York in 1866. David Favre & Vivien Tsang, *The Development of Anti-Cruelty Laws During the 1800's*, 1993 DET. C.L. REV. 1, 15 (1993).

⁴⁶ Thompson, *supra* note 21; Peters, *supra* note 19. Just as there are no national statistics on pets relinquished to shelters, there are no national statistics for abandoned pets or the number of pets found in foreclosed or vacant houses. Waters, *supra* note 13; Martelle, *supra* note 19; see also Nieves, *supra* note 9. The website PetAbuse.com includes a database in which one can search for cases of abandoned animals, including those reportedly abandoned in foreclosed homes. PetAbuse.com, <http://www.pet-abuse.com/> (last visited Feb. 25, 2011).

⁴⁷ Nieves, *supra* note 9.

⁴⁸ Nieves, *supra* note 9; Umberger, *supra* note 24.

⁴⁹ Thompson, *supra* note 21.

⁵⁰ *Foreclosures Lead to Rise in Abandoned Pets in Cleveland*, *supra* note 23.

⁵¹ Joseph Smith, *Abandoned Foreclosure Animals Create Health Problems*, FORECLOSUREDEALS.COM, Apr. 12, 2010, <http://www.foreclosuredeals.com/wp/abandoned-foreclosure-animals-create-health-problems/>.

⁵² Nieves, *supra* note 9.

⁵³ *Foreclosures Lead to Rise in Abandoned Pets in Cleveland*, *supra* note 23; Michael M. Phillips, *Buyer's Revenge: Trash the House After Foreclosure*, WALL ST. J.,

because their owners were too embarrassed by the foreclosure to take them to a shelter,⁵⁴ or feel too guilty that their pet could face euthanasia in a shelter.⁵⁵ Some owners may believe that their abandoned pets will eventually be discovered and cared for,⁵⁶ which they feel is a better option than a shelter where adoption rates are low and euthanasia rates are high.⁵⁷

Additionally, and more ironically, pet owners may choose to abandon their pets because they encounter a lack of compassion from the shelters themselves. Some shelter officials blame overcrowding and high shelter euthanasia rates on negligent and uncaring pet owners.⁵⁸ Instead of being offered help, some pet owners turning to shelters are told that their pets will be euthanized or lectured on their irresponsibility.⁵⁹ This does little to encourage pet owners to relinquish their pets.⁶⁰ In the context of the foreclosure crisis, some shelter workers point out that the same people who do not plan ahead for rehoming their pets did not plan ahead when they signed the mortgage on their now-foreclosed house.⁶¹ This philosophy from some animal shelters, coupled with animals being turned away from overcrowded

Mar. 28, 2008, at A1, *available at*

http://online.wsj.com/article/NA_WSJ_PUB:SB120665586676569881.html.

⁵⁴ Umberger, *supra* note 24; Martelle, *supra* note 19.

⁵⁵ See Stephanie S. Frommer & Arnold Arluke, *Loving Them to Death: Blame-Displacing Strategies of Animal Shelter Workers and Surrenderers*, 7 *SOC'Y & ANIMALS* 1, 13-14 (1999) (discussing "blame-management strategies" employed by surrenders and shelter workers), *available at*

http://www.animalsandsociety.org/assets/library/386_s711.pdf.

⁵⁶ See Umberger, *supra* note 24; Ginger Christ, *Family Pets Often Victims of Tough Economic Times*, *TIMES-GAZETTE.COM* (Ashland, Ohio), Aug 15, 2008, <http://www.times-gazette.com/news/article/4243451> (noting that pets abandoned in foreclosed homes are not typically discovered quickly).

⁵⁷ See generally DALLAS ANIMAL SERVICES AND ADOPTION CENTER OPERATIONS, ANIMAL CONTROL STRATEGIES 6 (2007), http://www.dallascityhall.com/committee_briefings/briefings0907/QOL_092407_AnimalServices.pdf (reporting that the shelter's "euthanasia rate is high and adoption rate is low" in 2007); Nieves, *supra* note 9, at A6 (stating that at California's San Joaquin Animal Shelter there is a "50-50 chance the animals might be put down").

⁵⁸ Christie Keith, *Foreclosure Pets in the Crossfire: How Shelter Philosophies Affect their Lives*, *SFGATE.COM*, Sept. 4, 2008, http://articles.sfgate.com/2008-09-04/living/17120087_1_pet-owners-peninsula-humane-society-mandatory-spay.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*; Nieves, *supra* note 9.

animal rescue organizations, may be discouraging pet owners from contacting shelters in the first place.

Further, some shelters impose another barrier to owner relinquishment: fees imposed on owners giving up their pets for adoption.⁶² The Central California Society for the Prevention of Cruelty to Animals, for example, recently imposed a \$10 fee for each pet and \$25 fee for each litter brought to the shelter by their owners.⁶³ Drops in donations and funding from Fresno City and Fresno County created financial difficulties that prompted the fees.⁶⁴ Some people bringing pets to the shelter may try to avoid the fees by claiming their pet is actually a stray, for which the shelter does not charge.⁶⁵ But the fees may have a more chilling effect: people may simply abandon their pets instead of taking them to the shelter.⁶⁶

Horses are particularly vulnerable to abandonment.⁶⁷ Unlike animals raised for slaughter or breeding that can be sold at auction and generate capital—such as pigs and cattle—horses have less utility to banks that foreclose on farms.⁶⁸ And, though society considers horses to be a kind of livestock,⁶⁹ some recognize that horses occupy a middle ground between cattle and domestic animals.⁷⁰ Nowhere has this been

⁶² *Pet Shelters in Central Valley Increase Euthanasia Rates*, FORECLOSUREDEALS.COM, Nov. 30, 2009, <http://www.foreclosuredeals.com/wp/pet-shelters-in-central-valley-increase-euthanasia-rates/>.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ See generally Katie Zezima, *Surge in Abandoned Horses Renews Debate Over Slaughterhouses*, N.Y. TIMES, Apr. 7, 2009, at A16, available at <http://www.nytimes.com/2009/04/07/us/07horses.html>.

⁶⁸ See Jeff Bahr, *Bank Repossesses 1,075 Cattle: Taken from Farm, Feedlot near Roscoe*, AMERICAN NEWS (Aberdeen, S.D.), Mar. 5, 2010, available at <http://www.allbusiness.com/agriculture-forestry/agriculture-animal-farming/14052215-1.html>.

⁶⁹ “[L]ivestock such as cows, horses, and pigs are of substantial economic value, while pets such as dogs and cats provide essential companionship for households and families.” Restatement (Third) of Torts: Liab. for Physical Harm § 23 cmt. b (Proposed Final Draft No. 1, 2005).

⁷⁰ Mary Battiata, *How Much Is a Pet’s Life Worth*, SEATTLE TIMES, Sept. 6, 2004, at A3, available at http://seattletimes.nwsourc.com/html/nationworld/2002027448_petmeds06.html (noting that “horses have gone from being farm workers to people’s companions”); Sheila J. Bryant, *Saving Flicka and Her Friends*, 11 J. AGRIC. & FOOD INFORMATION 262, 264 (2010). At least one court contemplated that “a clear line

clearer than in the debate over the federal ban that closed the last of the horse slaughterhouses in the United States in 2007.⁷¹ Further, while some state anti-cruelty statutes regard horses as livestock, others protect them as pets.⁷² Living in limbo between pet and livestock means that horses, as large expensive animals,⁷³ enjoy neither the utility of cattle nor the more affordable cost of smaller companion animals.

This may be why horse rescue organizations around the country report an increase in horse abandonment.⁷⁴ According to a recent study

cannot always be drawn between animals kept for economic reasons and those kept as pets. Many people who keep livestock become emotionally attached to individual animals. Conversely, dogs may be owned primarily or solely for their economic value as work dogs or breeding stock. And there are animals that fall somewhere in between, such as pleasure horses--livestock that are not kept for their economic value, but are, in effect, large pets." *Morgan v. Kroupa*, 702 A.2d 630, 636 (Vt. 1997) (Gibson, J., dissenting). See also Darian M. Ibrahim, *The Anticruelty Statute: A Study in Animal Welfare*, 1 J. ANIMAL L. & ETHICS 175, 186, 187 (2006) (discussing the "slippery slope" critique of efforts to ban the slaughter of horses for human consumption), available at <http://www.law.arizona.edu/faculty/FacultyPubs/Documents/Ibrahim/ALS0606.pdf>. In differentiating between horses and other livestock, the Equine Species Working Group pointed out that horses are the most long-lived of any livestock species, are generally more individually valuable, participate in internationally recognized competitions such as the Olympics, and are transported more often and for greater distances. EQUINE SPECIES WORKING GROUP, NAIS RECOMMENDATIONS TO USDA AUGUST 1, 2006, 2 (2006), http://www.equinespeciesworkinggroup.com/images/ESWG_Recommendations_-_August_1,_2006.doc (last visited Feb. 25, 2011).

⁷¹ See Mary Jacoby, *Why Belgians Shoot Horses in Texas for Dining in Europe*, WALL ST. J., Sept. 21, 2005, at A1, A8; K. E. Holcomb, C. L. Stull and P. H. Kass, *Unwanted Horses: The Role of Non-Profit Equine Rescue and Sanctuary Organizations*, J. ANIMAL SCI., 1, 15 (2010).

⁷² Mary W. Craig, *Just Say Neigh: A Call for Federal Regulation of By-Product Disposal by the Equine Industry*, 12 ANIMAL L. 193, 194 (2006). See Pamela D. Frasch, Stephan K. Otto, Kristen M. Olsen, & Paul A. Ernest, *Animal Anti-Cruelty Statutes: An Overview*, 5 ANIMAL L. 69 (1999) (providing an overview of anti-cruelty statutes as of 1999).

⁷³ See Bryant, *supra* note 70, at 263 (noting that horses require 15 to 30 pounds of food and 5 to 16 liters of water per day).

⁷⁴ See UNWANTED HORSE COALITION, AMERICAN HORSE COUNCIL, 2009 UNWANTED HORSES SURVEY: CREATING ADVOCATES FOR RESPONSIBLE OWNERSHIP 8, 282-86 (2009), http://www.unwantedhorsecoalition.org/resources/UHC_Survey_07Jul09b.pdf (noting that "[m]ore than 90% of [thousands of survey respondents] believe the number of unwanted horses, as well as those neglected and abused, is increasing"); Sonya Colberg, *A Nightmare Scenario for Abandoned Horses in Oklahoma*, THE DAILY OKLAHOMAN, Apr. 18, 2009, available at <http://newsok.com/a-nightmare-scenario-for-abandoned-horses-in-oklahoma/article/3362583> (providing a

from the University of California at Davis, 83.9% of horse rescue organizations reported an increase in requests to accept horses since January 2008.⁷⁵ Newspapers report horses wandering the Florida Everglades, Kentucky coal mines, and central Minnesota fields because their owners set them free to survive on their own.⁷⁶ Some horse owners erroneously believe that their tame horses will be adopted by wild herds.⁷⁷

The economy is certainly a large factor in the increase of horse abandonment and relinquishment. Many owners give up their horses due to the sluggish economy and increasing costs of hay.⁷⁸ Another major reason seems to be the federal horse slaughterhouse ban.⁷⁹ These slaughterhouses were once an option for horse owners with few alternatives and paid owners per horse.⁸⁰ The ban has resulted in some unwanted horses being sold to slaughterhouses in other countries that

state-by-state comparison of animal cruelty laws as of 1999); *Economic Downturn Sees Increase in Neglect, Abandonment of Horses*, NEBRASKASTATEPAPER.COM, May 7, 2009, http://nebraska.statepaper.com/vnews/display.v/ART/2009/05/07/4a01eda81f553?in_archive=1; Nancy Hicks, *Horse Rescue Operations Stretched to Limit*, LINCOLN JOURNAL STAR, July 21, 2008, http://journalstar.com/news/local/article_7f41acef-f4ed-57c9-b99c-abfb92cd287d.html; John Anastasi, *Horses Hurt by Economy*, BUCKS COUNTY COURIER TIMES (Levittown, Pa.), Sept. 13, 2009, at 8; Kevin Giles, *Reining in Abuse, Neglect*, STAR TRIB. (Minneapolis, Minn.), Dec. 16, 2008, at 1B; Scott Waldman, *Loan Crisis Leaving Pets Homeless: Owners Who Lose Houses to Foreclosure Giving Up Larger Animals*, TIMES UNION (Albany, N.Y.), Jan. 14, 2008, at B1.

⁷⁵ Holcomb et al., *supra* note 71, at 15. According to this study, the most common reasons for owner relinquishment were financial hardship and the owner's physical inability to care for the horse. *Id.* at 11.

⁷⁶ Matt McKinney, *Mortgage Meltdown: As More Minnesotans Lose their Homes to Foreclosure, Many are Finding They're Also Forced to Give Up their Pets and Livestock*, STAR TRIBUNE (Minneapolis, Minn.), Jan. 30, 2008, at 1A, available at <http://www.startribune.com/business/14873851.html>.

⁷⁷ Bryant, *supra* note 70, at 264.

⁷⁸ UNWANTED HORSE COALITION, *supra* note 74, at 2; *Economic Downturn Sees Increase in Neglect, Abandonment of Horses*, *supra* note 74; Anastasi, *supra* note 74; Giles, *supra* note 74.

⁷⁹ Holcomb et al., *supra* note 71, at 15; Beth Quimby, *No More Room at the Stable*, PORTLAND PRESS HERALD (Portland, Me.), May 8, 2009, at A1. Groups like the Humane Society of the United States and People for the Ethical Treatment of Animals disagree that the slaughterhouse ban has had an impact on horse abandonment in the United States. Bryant, *supra* note 70, at 265.

⁸⁰ McKinney, *supra* note 76.

use inhumane slaughtering methods,⁸¹ an outcome predicted in a 2006 study prepared for the Animal Welfare Council.⁸² The increase in horse abandonment has also prompted legislators in some states, such as Missouri, Montana, and South Dakota, to reconsider reviving the horse slaughter industry in the United States.⁸³

Further, horse rescue organizations face different challenges than dog and cat shelters,⁸⁴ which may impact the current high number of unwanted horses. Horses are more expensive to keep than cats or dogs, and they live longer, an average of 30 years.⁸⁵ This limits the number of animals for which each sanctuary can provide. These are also fewer suitable adopters for these large animals because not every household can afford an expensive animal for several decades. And there are fewer horse sanctuaries than companion animal rescues—a recent study estimated that in 2009 there were approximately 408 equine rescue and sanctuary nonprofits in the United States, while the American Humane Society estimates 3500 private and government-sponsored shelters for cats and dogs.⁸⁶ These issues create a difficult climate for horse owners and may shape their behavior when they find themselves with horses for whom they can no longer provide care.

Whatever the reason, there are a great number of animals abandoned in foreclosed homes or turned loose to fend for themselves.⁸⁷ Some of these pets have been saved and adopted, but others have not been so lucky. Though not a new problem, the pet

⁸¹ Pat Dawson, *An Epidemic of Abandoned Horses*, TIME.COM (May 28, 2008), <http://www.time.com/time/nation/article/0,8599,1809950,00.html?imw=Y>.

⁸² JAMES J. AHERN, ET AL, ANIMAL WELFARE COUNCIL, INC., THE UNINTENDED CONSEQUENCES OF A BAN ON THE HUMANE SLAUGHTER (PROCESSING) OF HORSES IN THE UNITED STATES 11 (2006), <http://www.ca.uky.edu/anr/agent%20resources/ppt/etown/Camargo%20-%20HANDOUT%20%20Consequences%20of%20Ban%20on%20Horse%20Slaughter.pdf> (last visited Feb. 15, 2011).

⁸³ Katie Zezima, *Surge in Abandoned Horses Renews Debate Over Slaughterhouses*, N.Y. TIMES, Apr. 7, 2009, at A16. These were three of 27 states considering laws and resolutions to bring horse slaughter back to the United States as a response to the federal ban. See Chad Livengood, *Legislative Vignettes*, SPRINGFIELD NEWS-LEADER (Springfield, Mo.), May 16, 2010, at A3.

⁸⁴ Quimby, *supra* note 79.

⁸⁵ *Id.*; Bryant, *supra* note 70, at 263.

⁸⁶ Holcomb et al., *supra* note 71, at 5; American Humane Society, Animal Shelter Euthanasia, <http://www.americanhumane.org/about-us/newsroom/factsheets/animal-shelter-euthanasia.html> (last visited Mar. 14, 2011).

⁸⁷ Thompson, *supra* note 21; Peters, *supra* note 19; Waters, *supra* note 13.

abandonment issue has certainly become worse with the rise in foreclosures across the country.⁸⁸

C. *Economic Euthanasia*

When a financial crisis hits and shelters are not an option, some people who would otherwise treat their animals for an injury or illness can no longer afford to do so and are choosing to euthanize their pets instead of incur the cost of veterinary care.⁸⁹ This phenomenon is termed “economic euthanasia.”⁹⁰ There are no national statistics, but reports by media outlets, humane organizations, and veterinarians show a rise in economic euthanasia since the recent foreclosure crisis.⁹¹ And when PurinaCare Pet Health Insurance compiled the biggest news stories of 2009 in relation to pets, the country’s hard financial times and economic euthanasia topped the list.⁹²

Though economic euthanasia rates seemed to decline between 1997 and 2003,⁹³ they now appears to be on the rise.⁹⁴ For example, Mark Kumpf, president of the National Animal Control Association and director of an animal shelter in Ohio, described a 20% rise in owner requests to euthanize their pets during 2009.⁹⁵ Some veterinarians report that many of their clients do not provide preventative treatment or in-need care for their pets, which is likely to result in economic

⁸⁸ Jennifer Harmon, *Group Rescues Pets Left Behind in Foreclosed Homes*, 175 AM. BANKER 7 (2010).

⁸⁹ JoNel Aleccia, *Steep Vet Bills, Sour Economy Doom More Pets*, MSNBC.COM (Mar. 26, 2009), <http://www.msnbc.msn.com/id/29795942>.

⁹⁰ Susan J. Hankin, *Making Decisions About Out Animals’ Health Care: Does It Matter Whether We Are Owners or Guardians?* 2 STAN. J. ANIMAL L. & POL’Y 1, 32 (2009).

⁹¹ Aleccia, *supra* note 89; Jessica Tremayne, *Economic Euthanasia on the Rise*, VETERINARY PRAC. NEWS, <http://www.veterinarypracticenews.com/vet-cover-stories/economic-euthanasia-on-the-rise.aspx> (last visited Feb. 15, 2011).

⁹² Pet News Parallels the Biggest Stories of 2009, MED. LETTER ON CDC & FDA 101, Jan. 10, 2010.

⁹³ Christopher Green, Comment, *The Future of Veterinary Malpractice Liability in the Care of Companion Animals*, 10 ANIMAL L. 163, 208 (2004), available at http://www.animallaw.info/journals/jo_pdf/vol10_p163.pdf.

⁹⁴ Tremayne, *supra* note 91; Lorie Huston, *Pet Euthanasia, Unwanted Pets Increasing as Economic Downturn Affects Pet Owners*, EXAMINER.COM, June 14, 2009, <http://www.examiner.com/pet-health-in-national/pet-euthanasia-unwanted-pets-increasing-as-economic-downturn-affects-pet-owners>.

⁹⁵ Aleccia, *supra* note 89.

euthanasia.⁹⁶ Other owners choose to take their pets home to die instead of incurring euthanasia and other veterinary costs.⁹⁷

Horses are also suffering from the consequences of economic euthanasia, as some owners are even choosing to euthanize otherwise healthy horses. In Minnesota, a horse owner euthanized over eighty of her horses due to the rising costs of hay and her own failing health.⁹⁸ The owner of the horses, mostly Shetland ponies, could no longer afford to spend \$2000 per month on feed, and did not trust anyone else to take care of them properly.⁹⁹

Some pet owners even choose to euthanize their animals themselves. In Colorado, Paula Harding first poisoned and then shot her sick fifteen-year-old terrier/poodle mix because she could not afford to take it to the veterinarian.¹⁰⁰ The dog did not survive.¹⁰¹ Though officials arrested her for felony animal cruelty, the district attorney did not press charges because he could not prove that Harding tortured, mutilated, or knowingly and needlessly killed her dog.¹⁰² The district attorney reasoned that in rural areas it was common and lawful for owners to euthanize their animals through shooting them, and that the ill dog would have been euthanized in any case, so its killing was not "needless."¹⁰³

These cases show that the economic crisis is affecting animals just as much as it is affecting humans. For animals, not only does the current economy mean the difference between having a home and being homeless, but it might also mean the difference between life and death. Fortunately for animals large and small, laws are now emerging that directly address animal welfare in the foreclosure crisis.

⁹⁶ Tremayne, *supra* note 91.

⁹⁷ Huston, *supra* note 94; Tremayne, *supra* note 91.

⁹⁸ McKinney, *supra* note 76.

⁹⁹ *Id.*

¹⁰⁰ *Greeley Woman Shoots Sick Dog*, DENVERPOST.COM (Oct. 7, 2008), http://www.denverpost.com/breakingnews/ci_10664270. Harding was arrested on felony animal cruelty charges but the District Attorney dropped the charges because he could not prove that she tortured, mutilated, or needlessly killed the dog. David Young, *No Charges Filed Against Woman Arrested for Shooting Her Dog*, GREELEYTRIBUNE.COM (Oct. 13, 2008), <http://www.greeleytribune.com/article/20081013/NEWS01/810139971/1005>.

¹⁰¹ *Greeley Woman Shoots Sick Dog*, *supra* note 100.

¹⁰² Young, *supra* note 100.

¹⁰³ *Id.*

II. Legislation Related to Animals and the Foreclosure Crisis

In response to the foreclosure crisis, some legislators have acted to help animals in need. Recognizing that animal abandonment has become increasingly prevalent with the recent housing crisis, lawmakers in California, Oregon, and New York introduced bills that address animal abandonment in foreclosed properties.

A. *California*

In 2008, California Assembly Member Mark DeSaulnier, the California Animal Association (CAA), and the American Society for the Prevention of Cruelty to Animals (ASPCA) co-sponsored Assembly Bill 2949.¹⁰⁴ This bill makes abandoning a live animal on vacated or foreclosed property an “involuntary deposit” and requires the property’s owners – including banks, real estate companies, and other corporations – to notify animal control immediately.¹⁰⁵ Proponents of the bill argued that requiring property owners to notify animal control would ensure proper care for more abandoned animals and lead to a decrease in animal neglect and increase in adoptions.¹⁰⁶

Governor Arnold Schwarzenegger signed the bill into law on August 4, 2008.¹⁰⁷ Before this legislation was passed in California, Animal Control officers had to wait twenty-four to seventy-two hours before they could take a dog or cat from property after posting a note on the home.¹⁰⁸ According to the CAA, some banks went a step further

¹⁰⁴ *Animal Protection Groups Introduce Legislation to Protect Pet Victims of Foreclosure*, ASPCA.ORG, Apr. 25, 2008, <http://www.asPCA.org/pressroom/press-releases/042508.html> (on file with the Internet Archive Wayback Machine, http://web.archive.org/web/20080602170935/www.asPCA.org/site/PageServer?pagename=press_042508);

¹⁰⁵ Assem. B. 2949, 2007-2008 Leg., Reg. Sess. (Cal. 2008), available at http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2901-2950/ab_2949_bill_20080804_chaptered.pdf.

¹⁰⁶ Bill Analysis, AB 2949, Jun. 26, 2008, http://info.sen.ca.gov/pub/07-08/bill/asm/ab_2901-2950/ab_2949_cfa_20080626_124021_sen_comm.html.

¹⁰⁷ Bill History, AB 2949, http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2901-2950/ab_2949_bill_20080804_history.html.

¹⁰⁸ Julie Farren, *Law Allows Quick Rescues of Pets Abandoned in Foreclosed Homes*, PRESS-ENTERPRISE.COM (Riverside, Cal.), Jan. 2, 2009,

and prohibited employees from feeding or caring for abandoned animals found on foreclosed property.¹⁰⁹ The California law now makes individuals and corporations that own property responsible for animals abandoned on the property. This helps animal control to more efficiently deal with abandoned pets, and allows pets to receive care more quickly, potentially saving their lives.

B. Oregon

In Oregon, lawmakers introduced Senate Bill 304, legislation similar to the California bill.¹¹⁰ The Oregon Humane Society requested the introduction of this bill, which was backed by Senator Suzanne Bonamici.¹¹¹ The bill required a mortgagor taking possession of real property to provide minimum care for abandoned pets or livestock and to arrange for law enforcement, animal control, or an animal shelter to take custody of the abandoned animal.¹¹² Failure to do so would be a misdemeanor, and escalates to a felony if the animal is injured or dies because it is not treated.¹¹³ The bill also authorized an animal shelter taking custody of an abandoned animal to petition for legal ownership.¹¹⁴ Oregon's Senate Consumer and Public Affairs Committee held a public hearing on the bill, but the bill died in committee.¹¹⁵

But Oregon's legislature did pass a bill that included horses and other equine animals in its animal abandonment law.¹¹⁶ Since 2008, Oregon has seen an increase in horses abandoned by owners who could

http://www.pe.com/localnews/inland/stories/PE_News_Local_W_pets02.40818cc.html.

¹⁰⁹ Bill Analysis, AB 2949, Jul. 14, 2008, http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2901-2950/ab_2949_cfa_20080714_183205_asm_floor.html.

¹¹⁰ S. 304, 75th Leg., Reg. Sess. (Or. 2009), available at <http://www.leg.state.or.us/09reg/measpdf/sb0300.dir/sb0304.intro.pdf>.

¹¹¹ Oregon Humane Society, 2009 Oregon Legislative Session, http://www.oregonhumane.org/advocacy/2009_Legislation.asp (last visited Aug. 30, 2010).

¹¹² Or. S. 304.

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ Oregon Humane Society, *supra* note 111.

¹¹⁶ S. 398, 75th Leg. (Or. 2009), available at <http://www.leg.state.or.us/09reg/measpdf/sb0300.dir/sb0398.en.pdf>.

no longer care for them.¹¹⁷ Before the law went into effect, horses were defined as “livestock” and their owners could legally abandon them.¹¹⁸ Oregon Senate Bill 398 included equines (horses, ponies, donkeys, mules, hinnies, zebras, or any hybrids of these) in its animal abandonment law, making it a misdemeanor to abandon either a domestic animal or equine without providing for its minimum care.¹¹⁹

C. *New York*

According to New York’s current animal abandonment law, an owner or possessor of an animal is guilty of a misdemeanor if he or she “abandons such animal, or leaves it to die in a street, road or public place, or . . . allows such animal, if it becomes disabled, to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled”¹²⁰ Assembly Bill 2164, introduced in 2009 by Assemblyman John McEneny, is the latest of several New York bills introduced since 1999 to more clearly define this idea of “animal abandonment.”¹²¹ These bills turn the statute’s focus from the abandoned animal lying in the street to the owner’s failure to transfer ownership and intention not to reclaim the animal.¹²² Like the statute it would replace, this bill makes animal abandonment a misdemeanor.¹²³

¹¹⁷ David Steves, *Oregon Seeing More Abandoned Horses*, REGISTER-GUARD (Eugene, Or.), Feb. 14, 2009, at B13, available at <http://special.registerguard.com/csp/cms/sites/web/updates/7582450-55/story.csp>; *Oregon Horse Owners Face Rising Costs, Tough Choices*, HIGH PLAINS/MIDWEST AG. J. (Dodge City, Kan.), Aug. 25, 2008, <http://www.hpj.com/archives/2008/aug08/aug25/Oregonhorseownersfacering.cfm>; *Horse Rescue Organizations See Increase in Abandonments*, HERALDANDNEWS.COM (Klamath Falls, Or.), June 24, 2010, http://www.heraldandnews.com/news/article_2584d1f2-7f59-11df-80bf-001cc4c002e0.html.

¹¹⁸ Steves, *supra* note 117.

¹¹⁹ Or. S. 398.

¹²⁰ N.Y. AGRICULTURE & MARKETS LAW § 355 (McKinney 2004).

¹²¹ Assem. B. 2164, 231st Leg. (N.Y. 2009), available at <http://assembly.state.ny.us/leg/?bn=A02164>. See also Assem. B. 9872, 223d Leg. (N.Y. 2000); Assem. B. 2609, 224th Leg. (N.Y. 2001); Assem. B. 3151, 226th Leg. (N.Y. 2003); Assem. B. 3767, 230th Leg. (N.Y. 2007).

¹²² Assem. B. 2164, 231st Leg. (N.Y. 2009), available at <http://assembly.state.ny.us/leg/?bn=A02164>.

¹²³ *Id.*

Though the New York Legislature has yet to pass any of the bills clarifying the definition of animal abandonment, Assemblywoman Linda Rosenthal introduced a bill specifically dealing with animal abandonment in foreclosed properties.¹²⁴ Assembly Bill 11033 requires anyone encountering an animal found in a property “vacated through lease termination, property foreclosure or abandonment” to notify animal control immediately.¹²⁵ It also adds to the current statute’s definition of an “abandoned animal” to include animals “found in a property that has been vacated through lease termination, property foreclosure, or abandoned by the tenant or owner.”¹²⁶ In May 2010 this bill was referred to the Committee on the Judiciary.¹²⁷

D. *Federal Government*

The Federal government even considered a bill that would give tax breaks to pet owners. The “Humanity and Pets Partnered Through the Years (HAPPY) Act” would amend the federal tax code to allow a deduction for some pet care costs.¹²⁸ Introduced by Representative Thaddeus McCotter, the HAPPY Act would allow pet owners to deduct up to \$3,500 per year in “qualified pet expenses,” including pet food and medical expenses.¹²⁹ This would give American pet owners the opportunity to provide more affordable food and veterinary care for their animals, possibly saving their lives.¹³⁰ On the other hand, critics of the bill point out that it would most likely benefit those who itemize their expenses and have higher incomes.¹³¹ And if financially-strapped

¹²⁴ Assem. B. 11033, 233d Leg. (N.Y. 2010), *available at* <http://assembly.state.ny.us/leg/?bn=A11033>.

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ New York State Assembly, Bills, http://assembly.state.ny.us/leg/?default_fld=&bn=A11033&Summary=Y&Actions=Y (last visited Mar. 30, 2011).

¹²⁸ Humanity and Pets Partnered Through the Years (HAPPY) Act of 2009, H.R. 3501, 111th Cong., (2009), *available at* http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h3501ih.txt.pdf.

¹²⁹ *Id.*

¹³⁰ See Bartholomew Sullivan, Tax Deduction Sought for U.S. Pet Owners, COM. APPEAL (Memphis, Tenn.), Oct. 20, 2009, at B1.

¹³¹ Patty Kuhly, ‘HAPPY Act’ Supports Families Who Support Beloved Animals, USATODAY, Oct. 8, 2009, http://www.usatoday.com/life/lifestyle/pets/2009-10-01-dolittler-happy-act_N.htm.

pet owners do not earn enough to pay taxes, those households would not benefit at all.¹³² The House referred the bill to its Committee on Ways and Means.¹³³

The proposed and passed legislation discussed above demonstrates that legislators are recognizing the animal welfare problem during the current foreclosure crisis. Though not every bill has been successful, some states are making progress in helping animals in need. As the next section shows, private nonprofit groups are also assisting pet owners who are finding it difficult or impossible to keep their animals.

III. Help Available

The rise in foreclosure rates and its effect on animals has spurred several individuals and organizations to take action. Several new nonprofits have emerged to help pet owners facing foreclosure. For example, ForeclosurePets.org is a free online service that helps homeowners find new or temporary homes for their pets.¹³⁴ The Foreclosure Cats Project was a collaboration among several cat-rescue groups that began after 63 cats were abandoned in Cincinnati, Ohio, and local artists began selling portraits of the rescues on eBay to pay for the animals' care.¹³⁵ Now called the Animal Art Rescue Project, this undertaking continues to help homeless animals in the Cincinnati area.¹³⁶ No Paws Left Behind manages a website where financially-strapped pet owners can find pet-friendly housing or a "no-kill"

¹³² *Id.*

¹³³ Derek Harper, *Federal HAPPY Bill Would Help Families Care for Their Pets*, PRESS ATLANTIC CITY, Nov. 27, 2009, at C6.

¹³⁴ ForeclosurePets.org, About Us, <http://www.foreclosurepets.org/about-us/> (last visited Mar. 30, 2011).

¹³⁵ Foreclosure Cats Project, <http://www.foreclosurecats.org> (last visited Aug. 30, 2010) (on file with the Internet Archive Wayback Machine, <http://web.archive.org/web/20080601014900/http://www.foreclosurecats.org/>); Umberger, *supra* note 24.

¹³⁶ Beth Wood, *The Foreclosure Cats Art Project*, CATCHANNEL.COM, Apr. 2009, <http://www.catchannel.com/magazines/catfancy/april-2009/the-foreclosure-cats-art-project-slideshow.aspx>; *see also* Animal Rescue Art Project, <http://animalrescueartproject.org/> (last visited Jan. 28, 2011); *and* The Foreclosure Cats Art Project, http://web.mac.com/robinmoro/Foreclosure_Cats/the_art_project.html (last visited Jan. 28, 2011).

shelter.¹³⁷ The Houston-based organization started a grant program in June 2008 to help animal shelters nationwide run pet food bank programs.¹³⁸ And the Lost Our Home Pet Foundation, based in Arizona, is a “nonprofit group of real estate professionals who rescue pets left behind due to foreclosures or other financial hardship.”¹³⁹ The group has rescued over 400 dogs and cats in 2009, all given up by owners with financial difficulties.¹⁴⁰

Pet food bank programs have also surfaced. In Michigan, the Humane Society of Huron Valley in Ann Arbor created the Bountiful Bowls Program to help supplement pet food costs.¹⁴¹ The program enrolls over 100 families in Washtenaw County, Plymouth and Canton, Michigan.¹⁴² Similarly, the Dearborn Animal Shelter created its Operation Feed Fido program to keep pets with their families and out of shelters.¹⁴³ As of April 2010, this program partnered with a local PETCO store as part of the PETCO Foundation’s “We are Family, Too” Fund that helps provide needy pets and their families with pet food and supplies.¹⁴⁴ Even pet food bank programs that have provided assistance for decades are seeing an increase in need.¹⁴⁵ The Tree House Humane Society in Chicago, for example, has provided pet food bank services for over 30 years and saw demand double in 2009 from the previous year.¹⁴⁶

In addition, the Humane Society of the United States (HSUS) began its nationwide Foreclosure Pets Grant Program in March 2008 to

¹³⁷ No Paws Left Behind, <http://nopawsleftbehind.org/> (last visited Aug. 30, 2010).

¹³⁸ Taylor, *supra* note 30.

¹³⁹ Lost Our Home Pet Foundation, <http://www.lostourhome.org/> (last visited Aug. 30, 2010).

¹⁴⁰ Cathryn Creno, 'Foreclosure' Pets Remain a Growing Problem in Valley, ARIZONA REPUBLIC, Jan. 8, 2010, at 14, available at <http://www.azcentral.com/community/ahwatukeenews/articles/2010/01/07/20100107ar-foreclosedogs0108.html>.

¹⁴¹ Humane Society of Huron Valley, Bountiful Bowls, <http://www.hshv.org/BountifulBowls.htm> (last visited Aug. 30, 2010); Taylor, *supra* note 30.

¹⁴² Taylor, *supra* note 30.

¹⁴³ Dearborn Animal Shelter, Operation Feed Fido, <http://www.dearbornanimals.org/education/services/operation-feed-fido> (last visited Feb. 27, 2011); Taylor, *supra* note 30.

¹⁴⁴ Dearborn Animal Shelter, *supra* note 143.

¹⁴⁵ Baranauckas, *supra* note 43.

¹⁴⁶ *Id.*

help animal control agencies and shelters cope with the economic downturn.¹⁴⁷ Grants ranged from \$500 to \$2,000 per organization and were intended to “help establish, expand, or publicize services or programs that assist families in caring for their pets during the current economic crisis.”¹⁴⁸ Unfortunately, the HSUS suspended the program in May 2009 because of financial constraints.¹⁴⁹ However, HSUS is also collaborating with fair housing groups, such as the Regional Human Rights and Fair Housing Commission in California, to help pet owners find local shelters and pet friendly rentals.¹⁵⁰

Finally, in an effort to combat economic euthanasia, the American Animal Hospital Association (AAHA) Foundation created the Helping Pets Fund in 2005.¹⁵¹ This fund provides financial assistance for pets whose owners are facing financial hardship as well as emergency and non-elective treatment of abandoned pets.¹⁵² In April 2009, the Foundation temporarily suspended its grants because of a surge in requests, which tripled in 2008.¹⁵³ Fortunately, AAHA

¹⁴⁷ Hirshey, *supra* note 1; Humane Society of the United States, Financial Crisis: Assistance for Families and Pets, March 26, 2008, http://www.humanesociety.org/news/press_releases/2008/03/recession_pet_grants_032608.html [hereinafter HSUS Assistance]. While applauded by many, the U.S. Sportsmen’s Alliance objected to a pet photo contest fundraiser by Meijer grocery stores that would benefit the HSUS Foreclosure Pets Fund, complaining that the HSUS opposed hunting and contributions to the Fund would free up funding for the HSUS anti-hunting campaign. *Hunters Hit Foreclosed Pets*, *supra* note 11; Dave Golowenski, Sportsmen’s Alliance, *Humane Society at Odds*, COLUMBUS DISPATCH (Ohio), at 13C. Meijer withdrew its support for the program. *Id.*

¹⁴⁸ HSUS Assistance, *supra* note 147.

¹⁴⁹ *Id.* Humane Society of the United States, Foreclosure Pets Fund, http://www.animalsheltering.org/programs_and_services/financial_assistance/foreclosure_pets_fund_information.html. *Id.*

¹⁵⁰ Regional Human Rights and Fair Housing Commission, Pets in Foreclosure, <http://www.hrfh.org/pets.html> (last visited Aug. 30, 2010).

¹⁵¹ Tremayne, *supra* note 91; American Animal Hospital Association Foundation, AAHA Helping Pets Fund, <http://www.aahahelpingpets.org/> (last visited Sept. 1, 2010) [hereinafter AAHA Foundation]; American Animal Hospital Association, AAHA Helping Pets Fund, <http://www.aahanet.org/OtherSites/helpingpets.aspx> (last visited Sept. 1, 2010); *AAHA Launches Pet Fund*, 36 DVM 18 (2005).

¹⁵² AAHA Foundation, *supra* note 151.

¹⁵³ Tremayne, *supra* note 91; *AAHA Helping Pets Fund Reinstated After \$25,000 Donation from VPI*, DVM NEWSMAGAZINE, June 17, 2009, <http://veterinarynews.dvm360.com/dvm/Veterinary+news/AAHA-Helping-Pets->

reinstated the fund after a donation from Veterinary Pet Insurance (VPI).¹⁵⁴

As these examples show, many local and national groups are concentrating their efforts on assisting pet owners in financial need. Some rescue animals while others concentrate on running pet food banks, education, assisting pet owners with finding pet-friendly housing, or helping people re-home their pets. As the foreclosure crisis persists, these groups will continue to assist pets and their owners through a difficult economy.

Conclusion

It is inevitable that our pets suffer when we suffer in tough economic times. The foreclosure crisis has created widespread animal shelter overload, an increase in animal abandonment cases, and an uptick in economic euthanasia. Farm animals and livestock, especially horses, have not been immune to the problems created during this lean economy. Fortunately, lawmakers have begun to respond to these issues by creating legislation that assists animals affected by foreclosure, and nonprofit groups are helping with pet food, supplies, and housing resources. Until the mortgage crisis resolves, however, America's animals will continue to suffer the consequences.

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¹⁵⁴ AAHA *Helping Pets Fund Reinstated After \$25,000 Donation from VPI*, *supra* note 153; Press Release, American Animal Hospital Association, AAHA Helping Pets Fund Receives a Helping Hand (June 16, 2009),

<http://secure.aahanet.org/eweb/dynamicpage.aspx?site=media&webcode=prdetail&postKey=77b6089c-6c13-46be-a447-359f6a7ccd23.359f6a7ccd23359f6a7ccd23>.