

**AMENDMENT OFFERED BY MR. SMITH OF TEXAS  
TO THE AMENDMENT IN THE NATURE OF A  
SUBSTITUTE TO H. R. 200**

Strike section 4 insert the following (and make such technical and conforming changes as may be appropriate):

**1 SEC. 4. AUTHORITY TO MODIFY CERTAIN MORTGAGES.**

2 Section 1322(b) of title 11, United States Code, is  
3 amended—

4 (1) by redesignating paragraph (11) as para-  
5 graph (12);

6 (2) in paragraph (10), by striking “and” at the  
7 end; and

8 (3) by inserting after paragraph (10) the fol-  
9 lowing:

10 “(11) notwithstanding paragraph (2) and other-  
11 wise applicable nonbankruptcy law, with respect to a  
12 claim for a loan secured by a security interest in the  
13 debtor’s principal residence that is the subject of a  
14 notice that a foreclosure maybe commenced, to the  
15 extent necessary so that the monthly mortgage pay-  
16 ment is not less than 31 percent and not more than

*Defeated by a Roll Call Vote: 14 Ayes 20 Nays*

1 38 percent of the current monthly income of the  
2 debtor, provide for—

3 “(A) waiver of any otherwise applicable  
4 early repayment or prepayment penalties associ-  
5 ated with a loan secured by such residence; or

6 “(B) in the following order, as necessary—

7 “(i) modification of the terms and  
8 conditions of a loan secured by such resi-  
9 dence—

10 “(I) to provide for the payment  
11 of interest accruing after the date of  
12 the order for relief under this chapter  
13 at an annual percentage rate cal-  
14 culated at a fixed annual percentage  
15 rate, in an amount equal to the then  
16 most recently published annual yield  
17 on conventional mortgages published  
18 by the Board of Governors of the Fed-  
19 eral Reserve System, as of the appli-  
20 cable time set forth in the rules of the  
21 Board, plus a reasonable premium for  
22 risk; or

23 “(II) in the case of a debt for a  
24 loan secured by a mortgage with an  
25 adjustable rate of interest, by prohib-

1                   iting, reducing, or delaying adjust-  
2                   ments to such rate of interest applica-  
3                   ble on and after the date of filing of  
4                   the plan;

5                   “(ii) modification of the terms and  
6                   conditions of such loan to extend the re-  
7                   payment period for a period that is the  
8                   longer of—

9                   “(I) 30 years (reduced by the pe-  
10                  riod for which such loan has been out-  
11                  standing); or

12                  “(II) the remaining term of such  
13                  loan, beginning on the date of the  
14                  order for relief under this chapter; or

15                  “(iii) reduction of a such claim to an  
16                  amount equal to the greater of—

17                  “(I)  $\frac{2}{3}$  of the original value of  
18                  the loan secured by a mortgage on the  
19                  debtor’s principal residence; or

20                  “(II) the fair market value of the  
21                  residence securing such claim, as de-  
22                  termined by an appraisal method ap-  
23                  proved by the Federal Housing Ad-  
24                  ministration; and”.

Page 7, after line 22 insert the following (and make such technical and conforming changes as may be appropriate):

1           “(12) in the case of a claim that has been  
2           modified to an amount below the original principal  
3           of the loan pursuant to section 1322(b)(11)(A) and  
4           in which the debtor’s principal residence is sold,  
5           transferred, or refinanced during or after the term  
6           of the plan, the plan requires the debtor to enter  
7           into an enforceable agreement with the holder of any  
8           modified secured claim that such holder shall be en-  
9           titled to receive, in addition to the unpaid portion of  
10          the allowed secured claim, the net proceeds of the  
11          sale or the amount of the allowed unsecured claim  
12          by the holder, whichever is less.”.

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