

PROVIDING FOR FURTHER CONSIDERATION OF THE BILL
(H.R. 1106) TO PREVENT MORTGAGE FORECLOSURES
AND ENHANCE MORTGAGE CREDIT AVAILABILITY

MARCH 4, 2009.—Referred to the House Calendar and ordered to be printed

Mr. HASTINGS of Florida, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 205]

The Committee on Rules, having had under consideration House Resolution 25, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides that amendment number 1 printed in House Report 111-21 to be offered by Rep. John Conyers or his designee shall be perfected by the modification printed in this report.

SUMMARY OF MODIFICATION TO BE CONSIDERED AS ADOPTED

The modification would (1) allow a court to consider, in lieu of reducing mortgage principal, lowering the interest rate to reduce the debtor's mortgage payments according to the Administration's Homeowner Affordability and Stability Plan as implemented on March 4, 2009; (2) give the mortgage holder a greater proportion of the appreciation in a home on a graduated basis if it is sold during the 5-year period that the case is pending; and (3) provide that when a debtor seeks to reduce a mortgage's principal, the court must determine whether such relief is in good faith based on whether debtor was offered a mortgage modification under the Administration's plan and the debtor was able to afford payments under such plan.

TEXT OF MODIFICATION TO BE CONSIDERED AS ADOPTED

After the instruction amending the table of contents of the bill, insert the following (and make such technical and conforming changes as may be appropriate):

Page 2, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 100. DEFINITION.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (43) the following (and make such technical and conforming changes as may be appropriate):

“(43A) The term ‘qualified loan modification’ means a loan modification agreement made in accordance with the guidelines of the Obama Administration’s Homeowner Affordability and Stability Plan as implemented March 4, 2009, that—

“(A) reduces the debtor’s payment (including principal and interest, and payments for real estate taxes, hazard insurance, mortgage insurance premium, homeowners’ association dues, ground rent, and special assessments) on a loan secured by a senior security interest in the principal residence of the debtor, to a percentage of the debtor’s income in accordance with such guidelines, without any period of negative amortization or under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal amount of such loan;

“(B) requires no fees or charges to be paid by the debtor in order to obtain such modification; and

“(C) permits the debtor to continue to make payments under the modification agreement notwithstanding the filing of a case under this title, as if such case had not been filed.”.

Beginning on page 7, strike line 6 and all that follows through line 16 on page 8, and insert the following:

“(1) if such residence is sold in the 1st year occurring after the effective date of the plan, 90 percent of the amount of the difference between the sales price and the amount of such claim as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection;

“(2) if such residence is sold in the 2d year occurring after the effective date of the plan, 70 percent of the amount of the difference between the sales price and the amount of such claim as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection;

“(3) if such residence is sold in the 3d year occurring after the effective date of the plan, 50 percent of the amount of the difference between the sales price and the amount of such claim as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection;

“(4) if such residence is sold in the 4th year occurring after the effective date of the plan, 30 percent of the amount of the difference between the sales price and the amount of such claim as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection; and

“(5) if such residence is sold in the 5th year occurring after the effective date of the plan, 10 percent of the amount of the difference between the sales price and the amount of such claim as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection.”.

Strike the 1st instruction to amend page 9 of the bill and strike the amendment proposed to be inserted after line 19 on page 9 of the bill.

Strike the instruction to amend page 11 of the bill and all the text that follows through the amendment to page 12 of the bill, and insert the following (and make such technical and conforming changes as may be appropriate):

Page 11, strike lines 23 through 25, insert the following (and make such technical and conforming changes as may be appropriate):

(1) in the matter preceding paragraph (1) strike “subsection (b)” and insert “subsections (b) and (d)”.

(2) in paragraph (5)—

(A) by inserting “except as otherwise provided in section 1322(b)(11),” after “(5)”, and

(B) in subparagraph (B)(iii)(I) by inserting “(including payments of a claim modified under section 1322(b)(11))” after “payments” the 1st place it appears,

Page 12, line 20, insert the following after “faith”:

(Lack of good faith exists if the debtor has no need for relief under this paragraph because the debtor can pay all of his or her debts and any future payment increases on such debts without difficulty for the foreseeable future, including the positive amortization of mortgage debt. In determining whether a reduction of the principal amount of loan resulting from a modification made under the authority of section 1322(b)(11) is made in good faith, the court shall consider whether the holder of such claim (or the entity collecting payments on behalf of such holder) has offered to the debtor a qualified loan modification that would enable the debtor to pay such debts and such loan without reducing such principal amount.)”.

Page 12, after line 24, insert the following (and make such technical and conforming changes as may be appropriate):

(b) Section 1325 of title 11, United States Code, is amended by adding at the end the following (and make such technical and conforming changes as may be appropriate):

“(d) Notwithstanding section 1322(b)(11)(C)(ii), the court, on request of the debtor or the holder of a claim secured by a senior security interest in the debtor’s principal residence, may confirm a

plan proposing a reduction in the interest rate on the loan secured by such security interest and that does not reduce the principal, provided the total monthly mortgage payment is reduced to a percentage of the debtor's income in accordance with the guidelines of the Obama Administration's Homeowner Affordability and Stability Plan as implemented March 4, 2009, if, taking into account the debtor's financial situation, after allowance of expenses that would be permitted for a debtor under this chapter subject to paragraph (3) of subsection (b), regardless of whether the debtor is otherwise subject to such paragraph, and taking into account additional debts and fees that are to be paid in this chapter and thereafter, the debtor would be able to prevent foreclosure and pay a fully amortizing 30-year loan at such reduced interest rate without such reduction in principal."

