

108TH CONGRESS
2D SESSION

H. R. 4113

To amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2004

Mr. FOLEY (for himself and Mr. POMEROY) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CERTAIN MODIFICATIONS PERMITTED TO**
4 **QUALIFIED MORTGAGES HELD BY A REMIC**
5 **OR A GRANTOR TRUST.**

6 (a) **QUALIFIED MORTGAGES HELD BY A REMIC.—**

7 (1) **IN GENERAL.—**Paragraph (3) of section
8 860G(a) of the Internal Revenue Code of 1986 is
9 amended by adding at the end the following new
10 subparagraph:

1 “(C) QUALIFIED MODIFICATIONS.—

2 “(i) IN GENERAL.—An obligation
3 shall not fail to be treated as a qualified
4 mortgage solely because of a qualified
5 modification of such obligation.

6 “(ii) QUALIFIED MODIFICATION.—For
7 purposes of this section, the term ‘qualified
8 modification’ means, with respect to any
9 obligation, any amendment, waiver, or
10 other modification which is treated as a
11 disposition of such obligation under section
12 1001 if such amendment, waiver or other
13 modification does not—

14 “(I) extend the final maturity
15 date of the obligation,

16 “(II) increase the outstanding
17 principal balance under the obligation
18 (other than the capitalization of ac-
19 crued, unpaid interest),

20 “(III) result in a release of an in-
21 terest in real property securing the
22 obligation such that the obligation is
23 not principally secured by an interest
24 in real property (determined after giv-
25 ing effect to the release), or

1 “(IV) result in an instrument or
2 property right which is not debt for
3 Federal income tax purposes.

4 “(iii) DEFAULTS.—Under regulations
5 prescribed by the Secretary, any amend-
6 ment, waiver, or other modification of an
7 obligation which is in default or with re-
8 spect to which default is reasonably fore-
9 seeable may be treated as a qualified modi-
10 fication for purposes of this section.

11 “(iv) DEFEASANCE WITH GOVERN-
12 MENT SECURITIES.—The requirements of
13 clause (ii)(III) shall be treated as satisfied
14 if, after the release described in such
15 clause, the obligation is principally secured
16 by Government securities and the amend-
17 ment, waiver, or other modification to such
18 obligation satisfies such requirements as
19 the Secretary may prescribe.”.

20 (2) EXCEPTION FROM PROHIBITED TRANS-
21 ACTION RULES.—Subparagraph (A) of section
22 860F(a)(2) of such Code is amended by striking
23 “or” at the end of clause (iii), by striking the period
24 at the end of clause (iv) and inserting “, or”, and
25 by adding at the end the following new clause:

1 “(v) a qualified modification (as de-
2 fined in section 860G(a)(3)(C)).”.

3 (3) CONFORMING AMENDMENTS.—

4 (A) Section 860G(a)(3) of such Code is
5 amended—

6 (i) by redesignating clauses (i) and
7 (ii) of subparagraph (A) as subclauses (I)
8 and (II), respectively,

9 (ii) by redesignating subparagraphs
10 (A) through (D) as clauses (i) through
11 (iv), respectively,

12 (iii) by striking “The term” and in-
13 serting the following:

14 “(A) IN GENERAL.—The term”, and

15 (iv) by striking “For purposes of sub-
16 paragraph (A)” and inserting the fol-
17 lowing:

18 “(B) TENANT-STOCKHOLDERS OF COOPER-
19 ATIVE HOUSING CORPORATIONS.—For purposes
20 of subparagraph (A)(i)”.

21 (B) Section 860G(a)(3)(A)(iv) of such
22 Code (as redesignated by subparagraph (A)) is
23 amended—

1 (i) by striking “clauses (i) and (ii) of
2 subparagraph (A)” and inserting “sub-
3 clauses (I) and (II) of clause (i)”, and

4 (ii) by striking “subparagraph (A)
5 (without regard to such clauses)” and in-
6 serting “clause (i) (without regard to such
7 subclauses)”.

8 (b) QUALIFIED MORTGAGES HELD BY A GRANTOR
9 TRUST.—Section 672 of the Internal Revenue Code of
10 1986 is amended by adding at the end the following new
11 subsection:

12 “(g) SPECIAL RULE FOR CERTAIN INVESTMENT
13 TRUSTS.—A grantor shall not fail to be treated as the
14 owner of any portion of a trust under this subpart solely
15 because such portion includes one or more obligations with
16 respect to which a qualified modification (within the mean-
17 ing of section 860G(a)(3)(C)) has been, or may be, made
18 under the terms of such trust.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to amendments, waivers, and other
21 modifications made after the date of the enactment of this
22 Act.

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