

108th CONGRESS
2d Session
S. 2422

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 SENATE OF THE UNITED STATES

May 13, 2004

Mr. SMITH (for himself and Mr. CONRAD) introduced the following bill; which was read twice and referred to the Committee on Finance

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN MODIFICATIONS PERMITTED TO QUALIFIED MORTGAGES HELD BY A REMIC OR A GRANTOR TRUSTS.

(a) QUALIFIED MORTGAGES HELD BY A REMIC-

(1) IN GENERAL- Paragraph (3) of section 860G(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(C) QUALIFIED MODIFICATIONS-

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

“(ii) QUALIFIED MODIFICATION- For purposes of this section, the term ‘qualified modification’ means, with respect to any obligation, any amendment, waiver, or other modification which is treated as a disposition of such obligation under section 1001 if such amendment, waiver or other modification does not--

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

“(II) increase the outstanding principal balance under the obligation (other than the capitalization of accrued, unpaid interest),

“(III) result in a release of an interest in real property securing the obligation such that the obligation is not

principally secured by an interest in real property (determined after giving effect to the release), or
(IV) result in an instrument or property right which is not debt for Federal income tax purposes.

(iii) DEFAULTS- Under regulations prescribed by the Secretary, any amendment, waiver, or other modification of an obligation which is in default or with respect to which default is reasonably foreseeable may be treated as a qualified modification for purposes of this section.

(iv) DEFEASANCE WITH GOVERNMENT SECURITIES- The requirements of clause (ii)(III) shall be treated as satisfied if, after the release described in such clause, the obligation is principally secured by Government securities and the amendment, waiver, or other modification to such obligation satisfies such requirements as the Secretary may prescribe.'

(2) EXCEPTION FROM PROHIBITED TRANSACTION RULES-

Subparagraph (A) of section 860F(a)(2) of such Code is amended by striking 'or' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ', or', and by adding at the end the following new clause:

(v) a qualified modification (as defined in section 860G(a)(3)(C)).'

(3) CONFORMING AMENDMENTS-

(A) Section 860G(a)(3) of such Code is amended--

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

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

(iii) by striking 'The term' and inserting the following:

(A) IN GENERAL- The term', and

(iv) by striking 'For purposes of subparagraph (A)' and inserting the following:

(B) TENANT-STOCKHOLDERS OF COOPERATIVE HOUSING CORPORATIONS- For purposes of subparagraph (A)(i)'

(B) Section 860G(a)(3)(A)(iv) of such Code (as redesignated by subparagraph (A)) is amended--

(i) by striking 'clauses (i) and (ii) of subparagraph (A)' and inserting 'subclauses (I) and (II) of clause (i)', and

(ii) by striking 'subparagraph (A) (without regard to such clauses)' and inserting 'clause (i) (without regard to such subclauses)'

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

(g) SPECIAL RULE FOR CERTAIN INVESTMENT TRUSTS- A grantor shall not fail to be treated as the owner of any portion of a trust under this subpart solely because such portion includes one or more obligations with respect to which a qualified modification

(within the meaning of section 860G(a)(3)(C)) has been, or may be, made under the terms of such trust.'

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

END