

AMENDMENT TO H.R. 1106**OFFERED BY MR. CONYERS OF MICHIGAN**

In the table of contents of the bill, in the item relating to section 121, strike “department of veterans affairs” and insert “Department of Veterans Affairs”.

Beginning on page 8, strike line 17 and all that follows through line 7 on page 9, and insert the following (and make such technical and conforming changes as may be appropriate)

1 “(h) With respect to a claim of the kind described
2 in subsection (b)(11), the plan may not contain a modi-
3 fication under the authority of subsection (b)(11)—

4 “(1) in a case commenced under this chapter
5 after the expiration of the 30-day period beginning
6 on the effective date of this subsection, unless—

7 “(A) the debtor certifies that the debtor—

8 “(i) not less than 30 days before the
9 commencement of the case, contacted the
10 holder of such claim (or the entity col-
11 lecting payments on behalf of such holder)
12 regarding modification of the loan that is
13 the subject of such claim;

1 “(ii) provided the holder of the claim
2 (or the entity collecting payments on be-
3 half of such holder) a written statement of
4 the debtor’s current income, expenses, and
5 debt substantially conforming with the
6 schedules required under section 521(a) or
7 such other form as is promulgated by the
8 Judicial Conference of the United States
9 for such purpose; and

10 “(iii) considered any qualified loan
11 modification offered to the debtor by the
12 holder of the claim (or the entity collecting
13 payments on behalf of such holder); or

14 “(B) a foreclosure sale is scheduled to
15 occur on a date in the 30-day period beginning
16 on the date of case is commenced;”.

Page 9, after line 19, insert the following:

17 “(3) As used in this subsection, the term ‘quali-
18 fied loan modification’ means, with respect to an in-
19 dividual residential mortgage, a loan modification or
20 refinancing under a loan modification program im-
21 plemented by the Federal Deposit Insurance Cor-
22 poration with respect to the IndyMac Federal Sav-
23 ings Bank, any loan modification program that con-
24 forms to the uniform guidance for loan modification

1 developed by the Secretary of the Treasury under
2 the Homeowner Affordability and Stability Plan, or
3 any offer of a refinance under the HOPE for Home-
4 owners program.”.

Page 9, line 24, insert “and, if the issue of value is contested, the court shall determine such value in accordance with the appraisal rules used by the Federal Housing Administration” after “determined”.

Page 11, strike lines 23 through 25, insert the following:

5 (1) in paragraph (5)—
6 (A) by inserting “except as otherwise provided in section 1322(b)(11),” after “(5)”, and
7 (B) in subparagraph (B)(iii)(I) by inserting
8 “(including payments of a claim modified
9 under section 1322(b)(11))” after “payments”
10 the 1st place it appears,
11

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

12 (Lack of good faith exists if the debtor has no need
13 for relief under this paragraph because the debtor
14 can pay all of his or her debts and any future pay-
15 ment increases on such debts without difficulty for
16 the foreseeable future, including the positive amorti-
17 zation of mortgage debt.)

Page 15, after line 8, insert the following (and make such technical and conforming changes as may be appropriate):

1 **SEC. 109. GAO STUDY.**

2 The Comptroller General shall carry out a study, and
3 submit to the Committee on the Judiciary of the House
4 of Representatives and the Committee on the Judiciary
5 of the Senate, not later than 2 years after the date of
6 the enactment of this Act a report containing—

7 (1) the results of such study of—

8 (A) the number of debtors who filed, dur-
9 ing the 1-year period beginning on the date of
10 the enactment of this Act, cases under chapter
11 13 of title 11 of the United States Code for the
12 purpose of restructuring their principal resi-
13 dence mortgages,

14 (B) the number of mortgages restructured
15 under the amendments made by this subtitle
16 that subsequently resulted in default and fore-
17 closure,

18 (C) a comparison between the effectiveness
19 of mortgages restructured under programs out-
20 side of bankruptcy, such as Hope Now and
21 Help for Homeowners, and mortgages restruc-

1 tured under the amendments made by this sub-
2 title,

3 (D) the number of cases presented to the
4 bankruptcy courts where mortgages were re-
5 structured under the amendments made by this
6 subtitle that were appealed,

7 (E) the number of cases presented to the
8 bankruptcy courts where mortgages were re-
9 structured under the amendments made by the
10 subtitle that were overturned on appeal, and

11 (F) the number of bankruptcy judges dis-
12 ciplined as a result of actions taken to restruc-
13 ture mortgages under the amendments made by
14 this subtitle, and

15 (2) a recommendation as to whether such
16 amendments should be amended to include a sunset
17 clause.

18 **SEC. 110. REPORT TO CONGRESS.**

19 Not later than 18 months after the date of the enact-
20 ment of this Act, the Comptroller General, in consultation
21 with the Federal Housing Administration, shall submit to
22 the Congress, a report containing —

23 (1) a comprehensive review of the effects of the
24 amendments made by this subtitle on bankruptcy
25 court,

1 (2) a survey of whether the program should
2 limit the types of homeowners eligible for the pro-
3 gram., and

4 (3) a recommendation on whether such amend-
5 ments should remain in effect.

Page 15, line 15, strike "Subsection (a) of section"
and insert "Section".

Page 25, after line 9, insert the following (and make
such technical and conforming changes as may be appro-
priate):

6 **SEC. 125. MORTGAGE MODIFICATION DATA COLLECTING**
7 **AND REPORTING.**

8 (a) **REPORTING REQUIREMENTS.**—Not later than
9 120 days after the date of the enactment of this Act, and
10 quarterly thereafter, the Comptroller of the Currency, in
11 coordination with the Director of the Office of Thrift Su-
12 pervision, shall submit a report to the Committee on
13 Banking, Housing, and Urban Affairs of the Senate, the
14 Committee on Financial Services of the House of Rep-
15 resentatives, and the Joint Economic Committee on the
16 volume of mortgage modifications reported to the Office
17 of the Comptroller of the Currency and the Office of
18 Thrift Supervision, under the mortgage metrics program

1 of each such Office, during the previous quarter, including
2 the following:

3 (1) A copy of the data collection instrument
4 currently used by the Office of the Comptroller of
5 the Currency and the Office of Thrift Supervision to
6 collect data on loan modifications.

7 (2) The total number of mortgage modifications
8 resulting in each of the following:

9 (A) Additions of delinquent payments and
10 fees to loan balances.

11 (B) Interest rate reductions and freezes.

12 (C) Term extensions.

13 (D) Reductions of principal.

14 (E) Deferrals of principal.

15 (F) Combinations of modifications de-
16 scribed in subparagraph (A), (B), (C), (D), or
17 (E).

18 (3) The total number of mortgage modifications
19 in which the total monthly principal and interest
20 payment resulted in the following:

21 (A) An increase.

22 (B) Remained the same.

23 (C) Decreased less than 10 percent.

24 (D) Decreased between 10 percent and 20
25 percent.

1 (E) Decreased 20 percent or more.

2 (4) The total number of loans that have been
3 modified and then entered into default, where the
4 loan modification resulted in—

5 (A) higher monthly payments by the home-
6 owner;

7 (B) equivalent monthly payments by the
8 homeowner;

9 (C) lower monthly payments by the home-
10 owner of up to 10 percent;

11 (D) lower monthly payments by the home-
12 owner of between 10 percent to 20 percent; or

13 (E) lower monthly payments by the home-
14 owner of more than 20 percent.

15 (b) DATA COLLECTION.—

16 (1) REQUIRED.—

17 (A) IN GENERAL.—Not later than 60 days
18 after the date of the enactment of this Act, the
19 Comptroller of the Currency and the Director
20 of the Office of Thrift Supervision, shall issue
21 mortgage modification data collection and re-
22 porting requirements to institutions covered
23 under the reporting requirement of the mort-
24 gage metrics program of the Comptroller or the
25 Director.

1 (B) INCLUSIVENESS OF COLLECTIONS.—

2 The requirements under subparagraph (A) shall
3 provide for the collection of all mortgage modi-
4 fication data needed by the Comptroller of the
5 Currency and the Director of the Office of
6 Thrift Supervision to fulfill the reporting re-
7 quirements under subsection (a).

8 (2) REPORT.—The Comptroller of the Currency
9 shall report all requirements established under para-
10 graph (1) to each committee receiving the report re-
11 quired under subsection (a).

Page 25, line 24, after “disposition” insert the fol-
lowing: “, including any modification or refinancing un-
dertaken pursuant to standard loan modification, sale, or
disposition guidelines issued by the Secretary of the
Treasury or his designee under the Emergency Economic
Stabilization Act of 2008,”.

Page 28, strike lines 18 and 19 and insert the fol-
lowing:

12 (c) DEFINITIONS.—For purposes of this section, the
13 following definitions shall apply:

14 (1) SECRETARY.—The term “Secretary” means
15 the Secretary of the Treasury.

1 (2) SECURITIZATION VEHICLE.—The term
2 “securitization vehi-

Page 28, strike line 22 and insert the following:

3 (A) is the issuer, or is created by the
4 issuer, of

Page 29, strike line 3 and insert the following:

5 (B) holds such mortgages.

Page 30, line 12, before the period insert the following: “and has not been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section”.

Page 30, after line 23, insert the following:

6 (B) in paragraph (4)(A), by striking “; subject
7 to standards established by the Board under sub-
8 paragraph (B),”;

Page 31, line 1, strike lines 1 through 3 and insert the following:

9 (C) in paragraph (7), by striking “and pro-
10 vided that” and all that follows through “new
11 second lien” and inserting “and except that the
12 Secretary may, under such terms and condi-
13 tions as the Secretary may establish, permit the

1 establishment of a second lien on a property
2 under an eligible mortgage to be insured, for
3 the purpose of facilitating payment of closing or
4 refinancing costs by a State or locality using
5 funds provided under the HOME Investment
6 Partnerships program under title II of the
7 Cranston-Gonzalez National Affordable Hous-
8 ing Act (42 U.S.C. 12721 et seq.) or the com-
9 munity development block grants program
10 under title I of the Housing and Community
11 Development Act of 1974 (42 U.S.C. 5301 et
12 seq.) or by a State or local housing finance
13 agency”;

Page 31, line 4, strike “(C)” and insert “(D)”.

Page 31, line 15, strike “and”.

Page 31, after line 15, insert the following:

14 (E) by striking subparagraph (10);
15 (F) in paragraph (11), by inserting before
16 the period at the end the following: “, except
17 that the Secretary may provide exceptions to
18 such latter requirement (relating to present
19 ownership interest) for any mortgagor who has
20 inherited a property or for any mortgagor who
21 has relocated to a new jurisdiction, and is in

1 the process of trying to sell such property or
2 has been unable to sell such property due to ad-
3 verse market conditions”;

4 (G) by redesignating paragraph (11) as
5 paragraph (10); and

Page 31, line 16, strike “(D) by adding after para-
graph (11)” and insert “(H) by adding at the end”.

Page 31, line 18, strike “(12)” and insert “(11)”.

Page 36, line 6, strike “or employee” and insert
“manager, supervisor, loan processor, loan underwriter,
or loan originator”.

Page 37, strike the quotation marks in line 19 and
all that follows through the end of the line.

Page 37, after line 19, insert the following:

6 “(3) RULEMAKING AND IMPLEMENTATION.—
7 The Secretary shall conduct a rulemaking to carry
8 out this subsection. The Secretary shall implement
9 this subsection not later than the expiration of the
10 60-day period beginning upon the date of the enact-
11 ment of this subsection by notice, mortgagee letter,
12 or interim final regulations, which shall take effect
13 upon issuance.”; and

Page 47, after line 13, insert the following (and make such technical and conforming changes as may be appropriate):

1 **SEC. 205. APPLICATION OF GSE CONFORMING LOAN LIMIT**
2 **TO MORTGAGES ASSISTED WITH TARP**
3 **FUNDS.**

4 In making any assistance available to prevent and
5 mitigate foreclosures on residential properties, including
6 any assistance for mortgage modifications, using any
7 amounts made available to the Secretary of the Treasury
8 under title I of the Emergency Economic Stabilization Act
9 of 2008, the Secretary shall provide that the limitation
10 on the maximum original principal obligation of a mort-
11 gage that may be modified, refinanced, made, guaranteed,
12 insured, or otherwise assisted, using such amounts shall
13 not be less than the dollar amount limitation on the max-
14 imum original principal obligation of a mortgage that may
15 be purchased by the Federal Home Loan Mortgage Cor-
16 poration that is in effect, at the time that the mortgage
17 is modified, refinanced, made, guaranteed, insured, or oth-
18 erwise assisted using such amounts, for the area in which
19 the property involved in the transaction is located.

1 **SEC. 206. MORTGAGES ON CERTAIN HOMES ON LEASED**
 2 **LAND.**

3 Section 255(b)(4) of the National Housing Act (12
 4 U.S.C. 1715z-20(b)(4)) is amended by striking subpara-
 5 graph (B) and inserting:

6 “(B) under a lease that has a term that ends
 7 no earlier than the minimum number of years, as
 8 specified by the Secretary, beyond the actuarial life
 9 expectancy of the mortgagor or comortgagor, which-
 10 ever is the later date.”

11 **SEC. 207. SENSE OF CONGRESS REGARDING MORTGAGE**
 12 **REVENUE BOND PURCHASES.**

13 It is the sense of the Congress that the Secretary of
 14 the Treasury should use amounts made available in this
 15 Act to purchase mortgage revenue bonds for single-family
 16 housing issued through State housing finance agencies
 17 and through units of local government and agencies there-
 18 of.

Page 47, at the end of title II, add the following
 (and conform the table of contents accordingly):

19 **TITLE III—MORTGAGE FRAUD**

20 **SEC. 301. SHORT TITLE.**

21 This title may be cited as the “Nationwide Mortgage
 22 Fraud Task Force Act of 2009”.

1 **SEC. 302. NATIONWIDE MORTGAGE FRAUD TASK FORCE.**

2 (a) **ESTABLISHMENT.**—There is established in the
3 Department of Justice the Nationwide Mortgage Fraud
4 Task Force (hereinafter referred to in this section as the
5 “Task Force”) to address mortgage fraud in the United
6 States.

7 (b) **SUPPORT.**—The Attorney General shall provide
8 the Task Force with the appropriate staff, administrative
9 support, and other resources necessary to carry out the
10 duties of the Task Force.

11 (c) **EXECUTIVE DIRECTOR.**—The Attorney General
12 shall appoint one staff member provided to the Task Force
13 to be the Executive Director of the Task Force and such
14 Executive Director shall ensure that the duties of the Task
15 Force are carried out.

16 (d) **BRANCHES.**—The Task Force shall establish,
17 oversee, and direct branches in each of the 10 States de-
18 termined by the Attorney General to have the highest con-
19 centration of mortgage fraud.

20 (e) **MANDATORY FUNCTIONS.**—The Task Force, in-
21 cluding the branches of the Task Force established under
22 subsection (d), shall—

23 (1) establish coordinating entities, and solicit
24 the voluntary participation of Federal, State, and
25 local law enforcement and prosecutorial agencies in
26 such entities, to organize initiatives to address mort-

1 mortgage fraud, including initiatives to enforce State
2 mortgage fraud laws and other related Federal and
3 State laws;

4 (2) provide training to Federal, State, and local
5 law enforcement and prosecutorial agencies with re-
6 spect to mortgage fraud, including related Federal
7 and State laws;

8 (3) collect and disseminate data with respect to
9 mortgage fraud, including Federal, State, and local
10 data relating to mortgage fraud investigations and
11 prosecutions; and

12 (4) perform other functions determined by the
13 Attorney General to enhance the detection of, pre-
14 vention of, and response to mortgage fraud in the
15 United States.

16 (f) OPTIONAL FUNCTIONS.—The Task Force, includ-
17 ing the branches of the Task Force established under sub-
18 section (d), may—

19 (1) initiate and coordinate Federal mortgage
20 fraud investigations and, through the coordinating
21 entities established under subsection (e), State and
22 local mortgage fraud investigations;

23 (2) establish a toll-free hotline for—

24 (A) reporting mortgage fraud;

1 (B) providing the public with access to in-
2 formation and resources with respect to mort-
3 gage fraud; and

4 (C) directing reports of mortgage fraud to
5 the appropriate Federal, State, and local law
6 enforcement and prosecutorial agency, including
7 to the appropriate branch of the Task Force es-
8 tablished under subsection (d);

9 (3) create a database with respect to suspen-
10 sions and revocations of mortgage industry licenses
11 and certifications to facilitate the sharing of such in-
12 formation by States;

13 (4) make recommendations with respect to the
14 need for and resources available to provide the
15 equipment and training necessary for the Task
16 Force to combat mortgage fraud; and

17 (5) propose legislation to Federal, State, and
18 local legislative bodies with respect to the elimination
19 and prevention of mortgage fraud, including meas-
20 ures to address mortgage loan procedures and prop-
21 erty appraiser practices that provide opportunities
22 for mortgage fraud.

23 (g) DEFINITION.—In this section, the term “mort-
24 gage fraud” means a material misstatement, misrepresen-
25 tation, or omission relating to the property or potential

- 1 mortgage relied on by an underwriter or lender to fund,
2 purchase, or insure a loan.

Page 47, at the end of the bill, add the following
(and conform the table of contents accordingly):

3 **TITLE IV—FORECLOSURE**
4 **MORATORIUM PROVISIONS**

5 **SEC. 401. SENSE OF THE CONGRESS ON FORECLOSURES.**

6 (a) IN GENERAL.—It is the sense of the Congress
7 that mortgage holders, institutions, and mortgage
8 servicers should not initiate a foreclosure proceeding or
9 a foreclosure sale on any homeowner until the foreclosure
10 mitigation provisions, like the Hope for Homeowners pro-
11 gram, as required under title II, and the President’s
12 “Homeowner Affordability and Stability Plan” have been
13 implemented and determined to be operational by the Sec-
14 retary of Housing and Urban Development and the Sec-
15 retary of the Treasury.

16 (b) SCOPE OF MORATORIUM.—The foreclosure mora-
17 torium referred to in subsection (a) should apply only for
18 first mortgages secured by the owner’s principal dwelling.

19 (c) FIHA-REGULATED LOAN MODIFICATION AGREE-
20 MENTS.—If a mortgage holder, institution, or mortgage
21 servicer to which subsection (a) applies reaches a loan
22 modification agreement with a homeowner under the aus-
23 pices of the Federal Housing Administration before any

1 plan referred to in such subsection takes effect, subsection
2 (a) shall cease to apply to such institution as of the effec-
3 tive date of the loan modification agreement.

4 (d) DUTY OF CONSUMER TO MAINTAIN PROPERTY.—

5 Any homeowner for whose benefit any foreclosure pro-
6 ceeding or sale is barred under subsection (a) from being
7 instituted, continued, or consummated with respect to any
8 homeowner mortgage should not, with respect to any prop-
9 erty securing such mortgage, destroy, damage, or impair
10 such property, allow the property to deteriorate, or commit
11 waste on the property.

12 (e) DUTY OF CONSUMER TO RESPOND TO REASON-

13 ABLE INQUIRIES.—Any homeowner for whose benefit any
14 foreclosure proceeding or sale is barred under subsection
15 (a) from being instituted, continued, or consummated with
16 respect to any homeowner mortgage should respond to
17 reasonable inquiries from a creditor or servicer during the
18 period during which such foreclosure proceeding or sale
19 is barred.

