

AMENDMENT TO H.R. 1106
OFFERED BY MR. SMITH OF TEXAS

Strike section 103 and insert the following (and make such technical and conforming changes as may be appropriate):

1 SEC. 103. 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
17 38 percent of the current monthly income of the
18 debtor, provide for—

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

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

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

8 “(I) to provide for the payment
9 of interest accruing after the date of
10 the order for relief under this chapter
11 at an annual percentage rate cal-
12 culated at a fixed annual percentage
13 rate, in an amount equal to the cur-
14 rently applicable average prime offer
15 rate as of the date of the order for re-
16 lief under this chapter as published by
17 the Federal Financial Institutions Ex-
18 amination Council in its table entitled
19 ‘Average Prime Offer Rates—Fixed’ ,
20 plus a reasonable premium for risk; or

21 “(II) in the case of a debt for a
22 loan secured by a mortgage with an
23 adjustable rate of interest, by prohib-
24 iting, reducing, or delaying adjust-
25 ments to such rate of interest applica-

1 ble on and after the date of filing of
2 the plan;

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

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

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

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

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

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

