

AMENDMENT TO H.R. 4173**OFFERED BY MR. CONYERS OF MICHIGAN**

At the end of the bill, insert the following (and make such technical and conforming changes as may be appropriate):

1 **TITLE VII—PREVENTION OF**
2 **MORTGAGE FORECLOSURES**
3 **Subtitle A—Modification of**
4 **Residential Mortgages**

5 **SEC. 9001. DEFINITION.**

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

10 “(43A) The term ‘qualified loan modification’
11 means a loan modification agreement made in ac-
12 cordance with the guidelines of the Obama Adminis-
13 tration’s Homeowner Affordability and Stability
14 Plan as implemented March 4, 2009, that—

15 “(A) reduces the debtor’s payment (includ-
16 ing principal and interest, and payments for
17 real estate taxes, hazard insurance, mortgage
18 insurance premium, homeowners’ association

1 dues, ground rent, and special assessments) on
2 a loan secured by a senior security interest in
3 the principal residence of the debtor, to a per-
4 centage of the debtor's income in accordance
5 with such guidelines, without any period of neg-
6 ative amortization or under which the aggregate
7 amount of the regular periodic payments would
8 not fully amortize the outstanding principal
9 amount of such loan;

10 "(B) requires no fees or charges to be paid
11 by the debtor in order to obtain such modifica-
12 tion; and

13 "(C) permits the debtor to continue to
14 make payments under the modification agree-
15 ment notwithstanding the filing of a case under
16 this title, as if such case had not been filed."

17 **SEC. 9002. ELIGIBILITY FOR RELIEF.**

18 Section 109 of title 11, United States Code, is
19 amended—

20 (1) by adding at the end of subsection (e) the
21 following: "For purposes of this subsection, the com-
22 putation of debts shall not include the secured or
23 unsecured portions of—

24 "(1) debts secured by the debtor's principal res-
25 idence if the value of such residence as of the date

1 of the order for relief under chapter 13 is less than
2 the applicable maximum amount of noncontingent,
3 liquidated, secured debts specified in this subsection;
4 or

5 “(2) debts secured or formerly secured by what
6 was the debtor’s principal residence that was sold in
7 foreclosure or that the debtor surrendered to the
8 creditor if the value of such real property as of the
9 date of the order for relief under chapter 13 was less
10 than the applicable maximum amount of noncontingent,
11 liquidated, secured debts specified in this sub-
12 section.”, and

13 (2) by adding at the end of subsection (h) the
14 following:

15 “(5) Notwithstanding the 180-day period speci-
16 fied in paragraph (1), with respect to a debtor in a
17 case under chapter 13 who submits to the court a
18 certification that the debtor has received notice that
19 the holder of a claim secured by the debtor’s prin-
20 cipal residence may commence a foreclosure on the
21 debtor’s principal residence, the requirements of
22 paragraph (1) shall be considered to be satisfied if
23 the debtor satisfies such requirements not later than
24 the expiration of the 30-day period beginning on the
25 date of the filing of the petition.”.

1 **SEC. 9003. PROHIBITING CLAIMS ARISING FROM VIOLA-**
2 **TIONS OF THE TRUTH IN LENDING ACT.**

3 Section 502(b) of title 11, United States Code, is
4 amended—

5 (1) in paragraph (8) by striking “or” at the
6 end,

7 (2) in paragraph (9) by striking the period at
8 the end and inserting “; or”, and

9 (3) by adding at the end the following:

10 “(10) the claim for a loan secured by a security
11 interest in the debtor’s principal residence is subject
12 to a remedy for rescission under the Truth in Lend-
13 ing Act notwithstanding the prior entry of a fore-
14 closure judgment, except that nothing in this para-
15 graph shall be construed to modify, impair, or super-
16 sede any other right of the debtor.”

17 **SEC. 9004. AUTHORITY TO MODIFY CERTAIN MORTGAGES.**

18 Section 1322 of title 11, United States Code, is
19 amended—

20 (1) in subsection (b)—

21 (A) by redesignating paragraph (11) as
22 paragraph (12),

23 (B) in paragraph (10) by striking “and” at
24 the end, and

25 (C) by inserting after paragraph (10) the
26 following:

1 “(11) notwithstanding paragraph (2), with re-
2 spect to a claim for a loan originated before the ef-
3 fective date of this paragraph and secured by a secu-
4 rity interest in the debtor’s principal residence that
5 is the subject of a notice that a foreclosure may be
6 commenced with respect to such loan, modify the
7 rights of the holder of such claim. (and the rights of
8 the holder of any claim secured by a subordinate se-
9 curity interest in such residence)—

10 “(A) by providing for payment of the
11 amount of the allowed secured claim as deter-
12 mined under section 506(a)(1);

13 “(B) if any applicable rate of interest is
14 adjustable under the terms of such loan by pro-
15 hibiting, reducing, or delaying adjustments to
16 such rate of interest applicable on and after the
17 date of filing of the plan;

18 “(C) by modifying the terms and condi-
19 tions of such loan—

20 “(i) to extend the repayment period
21 for a period that is no longer than the
22 longer of 40 years (reduced by the period
23 for which such loan has been outstanding)
24 or the remaining term of such loan, begin-

1 ning on the date of the order for relief
2 under this chapter; and

3 “(ii) to provide for the payment of in-
4 terest accruing after the date of the order
5 for relief under this chapter at a fixed an-
6 nual rate equal to the currently applicable
7 average prime offer rate as of the date of
8 the order for relief under this chapter, cor-
9 responding to the repayment term deter-
10 mined under the preceding paragraph, as
11 published by the Federal Financial Institu-
12 tions Examination Council in its table enti-
13 tled ‘Average Prime Offer Rates—Fixed’,
14 plus a reasonable premium for risk; and

15 “(D) by providing for payments of such
16 modified loan directly to the holder of the claim
17 or, at the discretion of the court, through the
18 trustee during the term of the plan; and”’, and
19 (2) by adding at the end the following:

20 “(g) A claim may be reduced under subsection
21 (b)(11)(A) only on the condition that if the debtor sells
22 the principal residence securing such claim, before com-
23 pleting all payments under the plan (or, if applicable, be-
24 fore receiving a discharge under section 1328(b)) and re-
25 ceives net proceeds from the sale of such residence, then

1 the debtor agrees to pay to such holder not later than 15
2 days after receiving such proceeds—

3 “(1) if such residence is sold in the 1st year oc-
4 curring after the effective date of the plan, 90 per-
5 cent of the amount of the difference between the
6 sales price and the amount of such claim as origi-
7 nally determined under subsection (b)(11) (plus
8 costs of sale and improvements), but not to exceed
9 the unpaid amount of the allowed secured claim de-
10 termined as if such claim had not been reduced
11 under such subsection;

12 “(2) if such residence is sold in the 2d year oc-
13 curring after the effective date of the plan, 70 per-
14 cent of the amount of the difference between the
15 sales price and the amount of such claim as origi-
16 nally determined under subsection (b)(11) (plus
17 costs of sale and improvements), but not to exceed
18 the unpaid amount of the allowed secured claim de-
19 termined as if such claim had not been reduced
20 under such subsection;

21 “(3) if such residence is sold in the 3d year oc-
22 curring after the effective date of the plan, 50 per-
23 cent of the amount of the difference between the
24 sales price and the amount of such claim as origi-
25 nally determined under subsection (b)(11) (plus

1 costs of sale and improvements), but not to exceed
2 the unpaid amount of the allowed secured claim de-
3 termined as if such claim had not been reduced
4 under such subsection;

5 “(4) if such residence is sold in the 4th year oc-
6 ccurring after the effective date of the plan, 30 per-
7 cent of the amount of the difference between the
8 sales price and the amount of such claim as origi-
9 nally determined under subsection (b)(11) (plus
10 costs of sale and improvements), but not to exceed
11 the unpaid amount of the allowed secured claim de-
12 termined as if such claim had not been reduced
13 under such subsection; and

14 “(5) if such residence is sold in the 5th year oc-
15 ccurring after the effective date of the plan, 10 per-
16 cent of the amount of the difference between the
17 sales price and the amount of such claim as origi-
18 nally determined under subsection (b)(11) (plus
19 costs of sale and improvements), but not to exceed
20 the unpaid amount of the allowed secured claim de-
21 termined as if such claim had not been reduced
22 under such subsection.

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

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

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

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

11 “(ii) provided the holder of the claim
12 (or the entity collecting payments on be-
13 half of such holder) a written statement of
14 the debtor’s current income, expenses, and
15 debt substantially conforming with the
16 schedules required under section 521(a) or
17 such other form as is promulgated by the
18 Judicial Conference of the United States
19 for such purpose; and

20 “(iii) considered any qualified loan
21 modification offered to the debtor by the
22 holder of the claim (or the entity collecting
23 payments on behalf of such holder); or

1 “(B) a foreclosure sale is scheduled to
2 occur on a date in the 30-day period beginning
3 on the date the case is commenced;

4 “(2) in any other case pending under this chap-
5 ter, unless the debtor certifies that the debtor at-
6 tempted to contact the holder of such claim (or the
7 entity collecting payments on behalf of such holder)
8 regarding modification of the loan that is the subject
9 of such claim, before—

10 “(A) filing a plan under section 1321 that
11 contains a modification under the authority of
12 subsection (b)(11); or

13 “(B) modifying a plan under section 1323
14 or 1329 to contain a modification under the au-
15 thority of subsection (b)(11).

16 “(i) In determining the holder’s allowed secured claim
17 under section 506(a)(1) for purposes of subsection
18 (b)(11)(A), the value of the debtor’s principal residence
19 shall be the fair market value of such residence on the
20 date such value is determined and, if the issue of value
21 is contested, the court shall determine such value in ac-
22 cordance with the appraisal rules used by the Federal
23 Housing Administration.”

1 **SEC. 9005. COMBATING EXCESSIVE FEES.**

2 Section 1322(c) of title 11, United States Code, is
3 amended—

4 (1) in paragraph (1) by striking “and” at the
5 end,

6 (2) in paragraph (2) by striking the period at
7 the end and inserting a semicolon, and

8 (3) by adding at the end the following:

9 “(3) the debtor, the debtor’s property, and
10 property of the estate are not liable for a fee, cost,
11 or charge that is incurred while the case is pending
12 and arises from a debt that is secured by the debt-
13 or’s principal residence except to the extent that—

14 “(A) the holder of the claim for such debt
15 files with the court and serves on the trustee,
16 the debtor, and the debtor’s attorney (annually
17 or, in order to permit filing consistent with
18 clause (ii), at such more frequent periodicity as
19 the court determines necessary) notice of such
20 fee, cost, or charge before the earlier of—

21 “(i) 1 year after such fee, cost, or
22 charge is incurred; or

23 “(ii) 60 days before the closing of the
24 case; and

25 “(B) such fee, cost, or charge—

1 “(i) is lawful under applicable non-
2 bankruptcy law, reasonable, and provided
3 for in the applicable security agreement;
4 and

5 “(ii) is secured by property the value
6 of which is greater than the amount of
7 such claim, including such fee, cost, or
8 charge;

9 “(4) the failure of a party to give notice de-
10 scribed in paragraph (3) shall be deemed a waiver
11 of any claim for fees, costs, or charges described in
12 paragraph (3) for all purposes, and any attempt to
13 collect such fees, costs, or charges shall constitute a
14 violation of section 524(a)(2) or, if the violation oc-
15 curs before the date of discharge, of section 362(a);
16 and

17 “(5) a plan may provide for the waiver of any
18 prepayment penalty on a claim secured by the debt-
19 or’s principal residence.”.

20 **SEC. 9006. CONFIRMATION OF PLAN.**

21 (a) Section 1325(a) of title 11, United States Code,
22 is amended—

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

1 (2) in paragraph (5)—

2 (A) by inserting “except as otherwise pro-
3 vided in section 1322(b)(11),” after “(5)”, and

4 (B) in subparagraph (B)(iii)(I) by insert-
5 ing “(including payments of a claim modified
6 under section 1322(b)(11))” after “payments”
7 the 1st place it appears,

8 (3) in paragraph (8) by striking “and” at the
9 end,

10 (4) in paragraph (9) by striking the period at
11 the end and inserting a semicolon, and

12 (5) by inserting after paragraph (9) the fol-
13 lowing:

14 “(10) notwithstanding subclause (I) of para-
15 graph (5)(B)(i), whenever the plan modifies a claim
16 in accordance with section 1322(b)(11), the holder
17 of a claim whose rights are modified pursuant to
18 section 1322(b)(11) shall retain the lien until the
19 later of—

20 “(A) the payment of such holder’s allowed
21 secured claim; or

22 “(B) completion of all payments under the
23 plan (or, if applicable, receipt of a discharge
24 under section 1328(b)); and

1 “(11) whenever the plan modifies a claim in ac-
2 cordance with section 1322(b)(11), the court finds
3 that such modification is in good faith (Lack of good
4 faith exists if the debtor has no need for relief under
5 this paragraph because the debtor can pay all of his
6 or her debts and any future payment increases on
7 such debts without difficulty for the foreseeable fu-
8 ture, including the positive amortization of mortgage
9 debt. In determining whether a reduction of the
10 principal amount of the loan resulting from a modi-
11 fication made under the authority of section
12 1322(b)(11) is made in good faith, the court shall
13 consider whether the holder of such claim (or the en-
14 tity collecting payments on behalf of such holder)
15 has offered to the debtor a qualified loan modifica-
16 tion that would enable the debtor to pay such debts
17 and such loan without reducing such principal
18 amount.) and does not find that the debtor has been
19 convicted of obtaining by actual fraud the extension,
20 renewal, or refinancing of credit that gives rise to a
21 modified claim.”.

22 (b) Section 1325 of title 11, United States Code, is
23 amended by adding at the end the following (and make
24 such technical and conforming changes as may be appro-
25 priate):

1 “(d) Notwithstanding section 1322(b)(11)(C)(ii), the
2 court, on request of the debtor or the holder of a claim
3 secured by a senior security interest in the debtor’s prin-
4 cipal residence, may confirm a plan proposing a reduction
5 in the interest rate on the loan secured by such security
6 interest and that does not reduce the principal, provided
7 the total monthly mortgage payment is reduced to a per-
8 centage of the debtor’s income in accordance with the
9 guidelines of the Obama Administration’s Homeowner Af-
10 fordability and Stability Plan as implemented March 4,
11 2009, if, taking into account the debtor’s financial situa-
12 tion, after allowance of expenses that would be permitted
13 for a debtor under this chapter subject to paragraph (3)
14 of subsection (b), regardless of whether the debtor is oth-
15 erwise subject to such paragraph, and taking into account
16 additional debts and fees that are to be paid in this chap-
17 ter and thereafter, the debtor would be able to prevent
18 foreclosure and pay a fully amortizing 30-year loan at
19 such reduced interest rate without such reduction in prin-
20 cipal.”.

21 **SEC. 9007. DISCHARGE.**

22 Section 1328(a) of title 11, United States Code, is
23 amended—

1 (1) by inserting “(other than payments to hold-
2 ers of claims whose rights are modified under sec-
3 tion 1322(b)(11))” after “paid”, and

4 (2) in paragraph (1) by inserting “or, to the ex-
5 tent of the unpaid portion of an allowed secured
6 claim, provided for in section 1322(b)(11)” after
7 “1322(b)(5)”.

8 **SEC. 9008. STANDING TRUSTEE FEES.**

9 (a) AMENDMENT TO TITLE 28.—Section
10 586(e)(1)(B)(i) of title 28, United States Code, is amend-
11 ed—

12 (1) by inserting “(I) except as provided in sub-
13 paragraph (II)” after “(i)”,

14 (2) by striking “or” at the end and inserting
15 “and”, and

16 (3) by adding at the end the following:

17 “(II) 4 percent with respect to pay-
18 ments received under section 1322(b)(11)
19 of title 11 by the individual as a result of
20 the operation of section 1322(b)(11)(D) of
21 title 11, unless the bankruptcy court
22 waives all fees with respect to such pay-
23 ments based on a determination that such
24 individual has income less than 150 per-
25 cent of the official poverty line (as defined

1 by the Office of Management and Budget,
2 and revised annually in accordance with
3 section 673(2) of the Omnibus Budget
4 Reconciliation Act of 1981) applicable to a
5 family of the size involved and payment of
6 such fees would render the debtor's plan
7 infeasible.".

8 (b) CONFORMING PROVISION.—The amendments
9 made by this section shall apply to any trustee to whom
10 the provisions of section 302(d)(3) of the Bankruptcy
11 Judges, United States Trustees, and Family Farmer
12 Bankruptcy Act of 1986 (Public Law 99–554; 100 Stat.
13 3121) apply.

14 **SEC. 9009. EFFECTIVE DATE; APPLICATION OF AMEND-**
15 **MENTS.**

16 (a) EFFECTIVE DATE.—Except as provided in sub-
17 section (b), this subtitle and the amendments made by this
18 subtitle shall take effect on the date of the enactment of
19 this Act.

20 (b) APPLICATION OF AMENDMENTS.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the amendments made by this subtitle
23 shall apply with respect to cases commenced under
24 title 11 of the United States Code before, on, or
25 after the date of the enactment of this Act.

1 (2) **LIMITATION.**—Paragraph (1) shall not
2 apply with respect to cases closed under title 11 of
3 the United States Code as of the date of the enact-
4 ment of this Act that are neither pending on appeal
5 in, nor appealable to, any court of the United
6 States.

7 **SEC. 9010. GAO STUDY.**

8 The Comptroller General shall carry out a study, and
9 submit to the Committee on the Judiciary of the House
10 of Representatives and the Committee on the Judiciary
11 of the Senate, not later than 2 years after the date of
12 the enactment of this Act a report containing—

13 (1) the results of such study of—

14 (A) the number of debtors who filed, dur-
15 ing the 1-year period beginning on the date of
16 the enactment of this Act, cases under chapter
17 13 of title 11 of the United States Code for the
18 purpose of restructuring their principal resi-
19 dence mortgages,

20 (B) the number of mortgages restructured
21 under the amendments made by this subtitle
22 that subsequently resulted in default and fore-
23 closure,

24 (C) a comparison between the effectiveness
25 of mortgages restructured under non-judicial

1 voluntary mortgage modification programs and
2 mortgages restructured under the amendments
3 made by this subtitle,

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

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

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

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

19 **SEC. 9011. REPORT TO CONGRESS.**

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

1 (1) a comprehensive review of the effects of the
2 amendments made by this subtitle on bankruptcy
3 courts,

4 (2) a survey of whether the program should
5 limit the types of homeowners eligible for the pro-
6 gram, and

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

9 **Subtitle B—Related Mortgage**
10 **Modification Provisions**

11 **SEC. 9021. ADJUSTMENTS AS A RESULT OF MODIFICATION**
12 **IN BANKRUPTCY OF HOUSING LOANS GUAR-**
13 **ANTEED BY THE DEPARTMENT OF VETERANS**
14 **AFFAIRS.**

15 (a) IN GENERAL.—Section 3732 of title 38, United
16 States Code, is amended—

17 (1) in subsection (a)—

18 (A) by redesignating paragraph (2) as sub-
19 paragraph (A) of paragraph (2), and

20 (2) by inserting after subparagraph (A) the fol-
21 lowing new subparagraph:

22 “(B) In the event that a housing loan
23 guaranteed under this chapter is modified
24 under the authority provided under section
25 1322(b) of title 11, United States Code, the

1 Secretary may pay the holder of the obligation
2 the unpaid balance of the obligation due as of
3 the date of the filing of the petition under title
4 11, United States Code, plus accrued interest,
5 but only upon the assignment, transfer, and de-
6 livery to the Secretary (in a form and manner
7 satisfactory to the Secretary) of all rights, in-
8 terest, claims, evidence, and records with re-
9 spect to the housing loan.”.

10 (b) MATURITY OF HOUSING LOANS.—Paragraph (1)
11 of section (d) of section 3703 of title 38, United States
12 Code, is amended by inserting “at the time of origination”
13 after “loan”.

14 (c) IMPLEMENTATION.—The Secretary of Veterans
15 Affairs may implement the amendments made by this sec-
16 tion through notice, procedure notice, or administrative
17 notice.

18 **SEC. 9022. PAYMENT OF FHA MORTGAGE INSURANCE BENE-**
19 **FITS.**

20 (a) IN GENERAL.—Subsection (a) of section 204 of
21 the National Housing Act (12 U.S.C. 1710(a)) is amend-
22 ed—

23 (1) in paragraph (1), by adding at the end the
24 following new subparagraph:

1 “(E) MODIFICATION OF MORTGAGE IN
2 BANKRUPTCY.—

3 “(i) AUTHORITY.—If an order is en-
4 tered under the authority provided under
5 section 1322(b) of title 11, United States
6 Code, that (a) determines the amount of
7 an allowed secured claim under a mortgage
8 in accordance with section 506(a)(1) of
9 title 11, United States Code, and the
10 amount of such allowed secured claim is
11 less than the amount due under the mort-
12 gage as of the date of the filing of the peti-
13 tion under title 11, United States Code, or
14 (b) reduces the interest to be paid under a
15 mortgage in accordance with section 1325
16 of such title, the Secretary may pay insur-
17 ance benefits for the mortgage as follows:

18 “(I) FULL PAYMENT AND AS-
19 SIGNMENT.—The Secretary may pay
20 the insurance benefits for the mort-
21 gage, but only upon the assignment,
22 transfer, and delivery to the Secretary
23 of all rights, interest, claims, evidence,
24 and records with respect to the mort-
25 gage specified in clauses (i) through

1 (iv) of paragraph (1)(A). The insur-
2 ance benefits shall be paid in the
3 amount equal to the original principal
4 obligation of the mortgage (with such
5 additions and deductions as the Sec-
6 retary determines are appropriate)
7 which was unpaid upon the date of
8 the filing of by the mortgagor of the
9 petition under title 11 of the United
10 States Code. Nothing in this Act may
11 be construed to prevent the Secretary
12 from providing insurance under this
13 title for a mortgage that has pre-
14 viously been assigned to the Secretary
15 under this subclause. The decision of
16 whether to utilize the authority under
17 this subclause for payment and as-
18 signment shall be at the election of
19 the mortgagee, subject to such terms
20 and conditions as the Secretary may
21 establish.

22 “(II) ASSIGNMENT OF UNSE-
23 CURED CLAIM.—The Secretary may
24 make a partial payment of the insur-
25 ance benefits for any unsecured claim

1 under the mortgage, but only upon
2 the assignment to the Secretary of
3 any unsecured claim of the mortgagee
4 against the mortgagor or others aris-
5 ing out of such order. Such assign-
6 ment shall be deemed valid irrespec-
7 tive of whether such claim has been or
8 will be discharged under title 11 of
9 the United States Code. The insur-
10 ance benefits shall be paid in the
11 amount specified in subclause (I) of
12 this clause, as such amount is reduced
13 by the amount of the allowed secured
14 claim. Such allowed secured claim
15 shall continue to be insured under sec-
16 tion 203.

17 “(III) INTEREST PAYMENTS.—
18 The Secretary may make periodic pay-
19 ments, or a one-time payment, of in-
20 surance benefits for interest payments
21 that are reduced pursuant to such
22 order, as determined by the Secretary,
23 but only upon assignment to the Sec-
24 retary of all rights and interest re-
25 lated to such payments.

1 “(ii) DELIVERY OF EVIDENCE OF
2 ENTRY OF ORDER.—Notwithstanding any
3 other provision of this paragraph, no insur-
4 ance benefits may be paid pursuant to this
5 subparagraph for a mortgage before deliv-
6 ery to the Secretary of evidence of the
7 entry of the order issued pursuant to title
8 11, United States Code, in a form satisfac-
9 tory to the Secretary.”;

10 (2) in paragraph (5), in the matter preceding
11 subparagraph (A), by inserting after “section 520,
12 and” the following: “, except as provided in para-
13 graph (1)(E),”; and

14 (3) by adding at the end the following new
15 paragraph:

16 “(10) LOAN MODIFICATION PROGRAM.—

17 “(A) AUTHORITY.—The Secretary may
18 carry out a program solely to encourage loan
19 modifications for eligible delinquent mortgages
20 through the payment of insurance benefits and
21 assignment of the mortgage to the Secretary
22 and the subsequent modification of the terms of
23 the mortgage according to a loan modification
24 approved by the mortgagee.

1 “(B) PAYMENT OF BENEFITS AND ASSIGN-
2 MENT.—Under the program under this para-
3 graph, the Secretary may pay insurance bene-
4 fits for a mortgage, in the amount determined
5 in accordance with paragraph (5)(A), without
6 reduction for any amounts modified, but only
7 upon the assignment, transfer, and delivery to
8 the Secretary of all rights, interest, claims, evi-
9 dence, and records with respect to the mortgage
10 specified in clauses (i) through (iv) of para-
11 graph (1)(A).

12 “(C) DISPOSITION.—After modification of
13 a mortgage pursuant to this paragraph, the
14 Secretary may provide insurance under this
15 title for the mortgage. The Secretary may sub-
16 sequently—

17 “(i) re-assign the mortgage to the
18 mortgagee under terms and conditions as
19 are agreed to by the mortgagee and the
20 Secretary;

21 “(ii) act as a Government National
22 Mortgage Association issuer, or contract
23 with an entity for such purpose, in order
24 to pool the mortgage into a Government
25 National Mortgage Association security; or

1 “(iii) re-sell the mortgage in accord-
2 ance with any program that has been es-
3 tablished for purchase by the Federal Gov-
4 ernment of mortgages insured under this
5 title, and the Secretary may coordinate
6 standards for interest rate reductions
7 available for loan modification with inter-
8 est rates established for such purchase.

9 “(D) LOAN SERVICING.—In carrying out
10 the program under this section, the Secretary
11 may require the existing servicer of a mortgage
12 assigned to the Secretary under the program to
13 continue servicing the mortgage as an agent of
14 the Secretary during the period that the Sec-
15 retary acquires and holds the mortgage for the
16 purpose of modifying the terms of the mort-
17 gage. If the mortgage is resold pursuant to sub-
18 paragraph (C)(iii), the Secretary may provide
19 for the existing servicer to continue to service
20 the mortgage or may engage another entity to
21 service the mortgage.”.

22 (b) AMENDMENT TO PARTIAL CLAIM AUTHORITY.—
23 Paragraph (1) of section 230(b) of the National Housing
24 Act (12 U.S.C. 1715u(b)(1)) is amended by striking “12

1 of the monthly mortgage payments” and inserting “30
2 percent of the unpaid principal balance of the mortgage”.

3 (c) IMPLEMENTATION.—The Secretary of Housing
4 and Urban Development may implement the amendments
5 made by this section through notice or mortgagee letter.

6 **SEC. 9023. ADJUSTMENTS AS RESULT OF MODIFICATION OF**
7 **RURAL SINGLE FAMILY HOUSING LOANS IN**
8 **BANKRUPTCY.**

9 (a) GUARANTEED RURAL HOUSING LOANS.—Sub-
10 section (h) of section 502 of the Housing Act of 1949 (42
11 U.S.C. 1472(h)) is amended—

12 (1) in paragraph (7)—

13 (A) in subparagraph (A), by inserting be-
14 fore the period at the end the following: “, un-
15 less the maturity date of the loan is modified in
16 a bankruptcy proceeding or at the discretion of
17 the Secretary”; and

18 (B) in subparagraph (B), by inserting be-
19 fore the semicolon the following: “, unless such
20 rate is modified in a bankruptcy proceeding”;

21 (2) by redesignating paragraphs (13) and (14)
22 as paragraphs (14) and (15), respectively; and

23 (3) by inserting after paragraph (12) the fol-
24 lowing new paragraph:

1 “(13) PAYMENT OF GUARANTEE.—In addition
2 to all other authorities to pay a guarantee claim, the
3 Secretary may also pay the guaranteed portion of
4 any losses incurred by the holder of a note or the
5 servicer resulting from a modification of a note by
6 a bankruptcy proceeding.”.

7 (b) INSURED RURAL HOUSING LOANS.—Subsection
8 (j) of section 517 of the Housing Act of 1949 (42 U.S.C.
9 1487(j)) is amended—

10 (1) by redesignating paragraphs (2) through
11 (7) as paragraphs (3) through (8), respectively; and

12 (2) by inserting after paragraph (1) the fol-
13 lowing new paragraph:

14 “(2) to pay for losses incurred by holders or
15 servicers in the event of a modification pursuant to
16 a bankruptcy proceeding;”.

17 (c) IMPLEMENTATION.—The Secretary of Agriculture
18 may implement the amendments made by this section
19 through notice, procedure notice, or administrative notice.

