

109TH CONGRESS
1ST SESSION

H. R. 1010

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

MARCH 1, 2005

Mr. FOLEY (for himself, Mr. POMEROY, Mr. SHAW, Mr. CANTOR, Mr. TANNER, Mr. ENGLISH of Pennsylvania, Ms. HARRIS, Mr. HOLT, and Mr. TERRY) 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

1 amended by adding at the end the following new
2 subparagraph:

3 “(C) QUALIFIED MODIFICATIONS.—

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

8 “(ii) QUALIFIED MODIFICATION.—For
9 purposes of this section, the term ‘qualified
10 modification’ means, with respect to any
11 obligation, any amendment, waiver, or
12 other modification which is treated as a
13 disposition of such obligation under section
14 1001 if such amendment, waiver or other

15 *Insert
per
attachment*

modification, does not

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

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

22 “(III) result in a release of an in-
23 terest in real property securing the
24 obligation such that the obligation is
25 not principally secured by an interest

Changes to H.R. 1010

1. Strike 860G(a)(1)(C)(ii) commencing with “does not” and add:

“—

- (I) is not treated as a “significant modification” under regulations prescribed by the Secretary under this part,
 - (II) releases, adds, substitutes or otherwise alters any portion of the collateral for, a guarantee of, or other form of credit enhancement for the obligation, whether recourse or nonrecourse (other than an alteration that causes the obligation not to be principally secured by an interest in real property),
 - (III) constitutes a change in the date on which the obligation maybe be prepaid or defeased in whole or in part, or adds a defeasance provision that complies with regulations prescribed by the Secretary under this part,
 - (IV) results in a change of the obligation from recourse (or substantially all recourse) to nonrecourse (or substantially all nonrecourse), or vice versa,
 - (V) constitutes the substitution of a new obligor or the addition or deletion of a co-obligor on the obligation,
 - (VI) constitutes the imposition or waiver of a prepayment penalty or other fee, or
 - (VII) results in a change in the principal payment schedule of a loan following a voluntary or involuntary prepayment of principal.
2. Strike 860G(a)(1)(C)(iii) and (iv).

1 in real property (determined after giv
 2 ing effect to the release), or

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

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

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

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

1 at the end of clause (iv) and inserting “, or”, and
 2 by adding at the end the following new clause:

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

5 (3) CONFORMING AMENDMENTS.—

6 (A) Section 860G(a)(3) of such Code is
 7 amended—

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

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

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

16 “(A) IN GENERAL.—The term”, and

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

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

23 (B) Section 860G(a)(3)(A)(iv) of such
 24 Code (as redesignated by subparagraph (A)) is
 25 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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