

110TH CONGRESS
1ST SESSION

H. R. 3778

To authorize bankruptcy courts to take certain actions with respect to mortgage loans in bankruptcy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 2007

Mr. CHABOT introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize bankruptcy courts to take certain actions with respect to mortgage loans in bankruptcy, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Home Owners Mort-
5 gage and Equity Savings Act” or “HOMES Act”.

6 **SEC. 2. AUTHORITY TO MODIFY CERTAIN MORTGAGES.**

7 Section 1322(b) of title 11, United States Code, is
8 amended—

9 (1) in paragraph (2), by inserting “except as
10 provided in paragraph (11),” after “residence,”;

1 (2) by redesignating paragraph (11) as para-
2 graph (12);

3 (3) in paragraph (10), by striking “and” at the
4 end; and

5 (4) by inserting after paragraph (10) the fol-
6 lowing:

7 “(11) with respect to a claim secured by a secu-
8 rity interest in real property initiated before Sep-
9 tember 26, 2007, that is the debtor’s principal resi-
10 dence, if the current monthly income of the debtor
11 and the debtor’s spouse combined, when multiplied
12 by 12, is less than, in the case of a debtor in a
13 household of 1 person, 150 percent of the median
14 family income of the applicable State for 1 earner,
15 in the case of a debtor in a household of 2, 3, or
16 4 individuals, the highest median family income of
17 the applicable State for a family of the same number
18 or fewer individuals, or in the case of a debtor in a
19 household exceeding 4 individuals, the highest me-
20 dian family income of the applicable State for a fam-
21 ily of 4 or fewer individuals, plus \$525 per month
22 for each individual in excess of 4—

23 “(A) modify the rights of any holder of
24 such claim by lowering the principal amount of
25 the loan to the fair market value of the real

1 property securing the loan at the time of sub-
2 mission of the plan, to the extent that such fair
3 market value is less than the principal amount
4 outstanding on the loan;

5 “(B) waive any otherwise applicable early
6 repayment or prepayment penalties; and

7 “(C) in any case in which the applicable
8 rate of interest is adjustable under the mort-
9 gage contract, modify the rights of any holder
10 of such claim, by prohibiting or delaying adjust-
11 ments to the rate of interest applicable to the
12 debt on and after the date of filing of the plan
13 or voiding any such adjustments that occurred
14 during the 2-year period preceding that date of
15 filing; and”.

16 **SEC. 3. TREATMENT OF CERTAIN INTEREST AND FEES.**

17 Section 548(a) of title 11, United States Code, is
18 amended by adding at the end the following:

19 “(3) For purposes of chapter 13, where the
20 court finds there was a substantial failure to disclose
21 material terms regarding interest, late fees, or other
22 fees related to a claim secured by a security interest
23 in the debtor’s principal residence, the court may
24 consider such interest, late fees, or other fees to be
25 a transfer covered under paragraph (1)(B).”.

1 **SEC. 4. DELAY OF COUNSELING REQUIREMENT WHEN**
2 **HOUSES ARE IN FORECLOSURE.**

3 Section 109(h) of title 11, United States Code, is
4 amended by adding at the end the following:

5 “(5) The requirements of paragraph (1) may be
6 delayed until after the date of filing, with respect to
7 a debtor who submits to the court a certification
8 that the holder of a claim secured by the debtor’s
9 principal residence has initiated a judicial or non-
10 judicial foreclosure on the debtor’s principal resi-
11 dence.”.

12 **SEC. 5. STUDY AND REPORT.**

13 (a) **STUDY.**—The Comptroller General of the United
14 States shall conduct a study to determine the impact of
15 allowing bankruptcy judges to restructure principal resi-
16 dence mortgages on the secondary market for mortgages.

17 (b) **REPORT TO CONGRESS.**—Not later than 180 days
18 after the date of enactment of this Act, the Comptroller
19 General shall submit a report to Congress on the results
20 of the study required under subsection (a).

21 **SEC. 6. SUNSET.**

22 This Act and the amendments made by this Act shall
23 apply with respect to filings under chapter 13 of title 11,
24 United States Code, occurring during the 7-year period
25 following the date of enactment of this Act.