

109TH CONGRESS  
1ST SESSION

# H. R. 1025

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IN THE SENATE OF THE UNITED STATES

APRIL 7, 2005

Received; read twice and referred to the Committee on Banking, Housing, and  
Urban Affairs

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## AN ACT

To amend the Fair Debt Collection Practices Act to exempt  
mortgage servicers from certain requirements of the Act  
with respect to federally related mortgage loans secured  
by a first lien, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Mortgage Servicing  
3 Clarification Act”.

4 **SEC. 2. MORTGAGE SERVICING CLARIFICATION.**

5 (a) IN GENERAL.—The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

7 (1) by redesignating section 818 as section 819;  
8 and

9 (2) by inserting after section 817 the following  
10 new section:

11 **“§ 818. Mortgage servicer exemption**

12 “(a) EXEMPTION.—A covered mortgage servicer who,  
13 whether by assignment, sale or transfer, becomes the person  
14 responsible for servicing federally related mortgage  
15 loans secured by first liens that include loans that were  
16 in default at the time such person became responsible for  
17 the servicing of such federally related mortgage loans shall  
18 be exempt from the requirements of section 807(11) in  
19 connection with the collection of any debt arising from  
20 such defaulted federally related mortgage loans.

21 “(b) DEFINITIONS.—For purposes of this section, the  
22 following definitions shall apply:

23 “(1) COVERED MORTGAGE SERVICER.—The  
24 term ‘covered mortgage servicer’ means any servicer  
25 of federally related mortgage loans secured by first  
26 liens—

1                   “(A) who is also a debt collector; and  
2                   “(B) for whom the collection of delinquent  
3                   debts is incidental to the servicer’s primary  
4                   function of servicing current federally related  
5                   mortgage loans.

6                   “(2) FEDERALLY RELATED MORTGAGE LOAN.—  
7                   The term ‘federally related mortgage loan’ has the  
8                   meaning given to such term in section 3(1) of the  
9                   Real Estate Settlement Procedures Act of 1974, ex-  
10                  cept that, for purposes of this section, such term in-  
11                  cludes only loans secured by first liens.

12                  “(3) PERSON.—The term ‘person’ has the  
13                  meaning given to such term in section 3(5) of the  
14                  Real Estate Settlement Procedures Act of 1974.

15                  “(4) SERVICER; SERVICING.—The terms  
16                  ‘servicer’ and ‘servicing’ have the meanings given to  
17                  such terms in section 6(i) of the Real Estate Settle-  
18                  ment Procedures Act of 1974.”.

19                  (b) CLERICAL AMENDMENT.—The table of sections  
20                  for the Fair Debt Collection Practices Act (15 U.S.C.  
21                  1692 et seq.) is amended—

22                  (1) by redesignating the item relating to section  
23                  818 as section 819; and

“818. Mortgage servicer exemption.”.

Passed the House of Representatives April 6, 2005.

Attest: **JEFF TRANDAHL,**  
*Clerk.*