

109TH CONGRESS
1ST SESSION

S. 580

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 SENATE OF THE UNITED STATES

MARCH 9, 2005

Mr. SMITH (for himself, Mr. CONRAD, Mr. STEVENS, Mr. HAGEL, and Mr. CHAFEE) introduced the following bill; which was read twice and referred to the Committee on Finance

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 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

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—

1 (A) by striking “or” at the end of clause
2 (iii);

3 (B) by striking the period at the end of
4 clause (iv) and inserting “or”; and

5 (C) by adding at the end the following new
6 clause:

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

9 (3) CONFORMING AMENDMENTS.—

10 (A) Section 860G(a)(3) of such Code is
11 amended—

12 (i) by redesignating clauses (i) and
13 (ii) of subparagraph (A) as subclauses (I)
14 and (II), respectively;

15 (ii) by redesignating subparagraphs
16 (A) through (D) as clauses (i) through
17 (iv), respectively;

18 (iii) by striking ‘The term’ and insert-
19 ing the following:

20 “(A) IN GENERAL.—The term”; and

21 (iv) by striking “For purposes of sub-
22 paragraph (A)” and inserting the fol-
23 lowing:

1 “(B) TENANT-STOCKHOLDERS OF COOPER-
2 ATIVE HOUSING CORPORATIONS.—For purposes
3 of subparagraph (A)(i)”.

4 (B) Section 860G(a)(3)(A)(iv) of such
5 Code (as redesignated by subparagraph (A)) is
6 amended—

7 (i) by striking “clauses (i) and (ii) of
8 subparagraph (A)” and inserting “sub-
9 clauses (I) and (II) of clause (i)”;

10 (ii) by striking “subparagraph (A)
11 (without regard to such clauses)” and in-
12 serting “clause (i) (without regard to such
13 subclauses)”.

14 (b) QUALIFIED MORTGAGES HELD BY A GRANTOR
15 TRUST.—Section 672 of the Internal Revenue Code of
16 1986 is amended by adding at the end the following new
17 subsection:

18 “(g) SPECIAL RULE FOR CERTAIN INVESTMENT
19 TRUSTS.—A grantor shall not fail to be treated as the
20 owner of any portion of a trust under this subpart solely
21 because such portion includes one or more obligations with
22 respect to which a qualified modification (within the mean-
23 ing of section 860G(a)(3)(C)) has been, or may be, made
24 under the terms of such trust.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amendments, waivers, and other
3 modifications made after the date of enactment of this
4 Act.

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