

110TH CONGRESS
1ST SESSION

H. R. 4178

To amend the Truth in Lending Act to remove an impediment to troubled debt restructuring on the part of holders of residential mortgage loans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2007

Mr. CASTLE introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Truth in Lending Act to remove an impediment to troubled debt restructuring on the part of holders of residential mortgage loans, 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 “Emergency Mortgage
5 Loan Modification Act of 2007”.

1 **SEC. 2. SAFE HARBOR FOR HOLDERS ENGAGED IN TROU-**
2 **BLED DEBT RESTRUCTURING WITH REGARD**
3 **TO RESIDENTIAL MORTGAGE LOANS.**

4 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
5 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
6 after section 129 the following new section:

7 **“§ 129A. Safe harbor for holders engaged in troubled**
8 **debt restructuring with regard to resi-**
9 **dential mortgage loans**

10 “(a) IN GENERAL.—A creditor, assignee, servicer,
11 securitizer, or other holder of a residential mortgage loan
12 shall not be liable to any person under any law or regula-
13 tion of the United States or any law or regulation of any
14 State or political subdivision of any State, or under any
15 contract, for entering into a qualified loan modification or
16 workout plan on any residential mortgage loan, as pro-
17 vided by this subsection, that was consummated on or
18 after January 1, 2004.

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

21 “(1) QUALIFIED LOAN MODIFICATION OR
22 WORKOUT PLAN.—The term ‘qualified loan modifica-
23 tion or workout plan’ means a troubled debt restruc-
24 turing that meets the following criteria with respect
25 to a residential mortgage loan:

1 “(A) The loan is in payment default under
2 the loan agreements or payment default is im-
3 minent or reasonably foreseeable.

4 “(B) The creditor, assignee, servicer,
5 securitizer, or other holder reasonably believes
6 that the net present value to be realized on the
7 loan, as determined under the applicable con-
8 tract, will be maximized by entering into the
9 workout plan.

10 “(2) QUALIFIED MORTGAGE.—

11 “(A) IN GENERAL.—The term ‘qualified
12 mortgage’ means—

13 “(i) any residential mortgage loan
14 that constitutes a first lien on the dwelling
15 or real property securing the loan and ei-
16 ther—

17 “(I) has an annual percentage
18 rate that does not equal or exceed the
19 yield on securities issued by the Sec-
20 retary of the Treasury under chapter
21 31 of title 31, United States Code,
22 that bear comparable periods of matu-
23 rity by more than 3 percentage points;
24 or

1 “(II) has an annual percentage
2 rate that does not equal or exceed the
3 most recent conventional mortgage
4 rate, or such other annual percentage
5 rate as may be established by regula-
6 tion under paragraph (6), by more
7 than 175 basis points;

8 “(ii) any residential mortgage loan
9 that is not the first lien on the dwelling or
10 real property securing the loan and ei-
11 ther—

12 “(I) has an annual percentage
13 rate that does not equal or exceed the
14 yield on securities issued by the Sec-
15 retary of the Treasury under chapter
16 31 of title 31, United States Code,
17 that bear comparable periods of matu-
18 rity by more than 5 percentage points;
19 or

20 “(II) has an annual percentage
21 rate that does not equal or exceed the
22 most recent conventional mortgage
23 rate, or such other annual percentage
24 rate as may be established by regula-

1 tion under paragraph (6), by more
2 than 375 basis points; and

3 “(iii) a loan made or guaranteed by
4 the Secretary of Veterans Affairs.

5 “(B) MOST RECENT CONVENTIONAL MORT-
6 GAGE RATE.—The term ‘most recent conven-
7 tional mortgage rate’ means the contract inter-
8 est rate on commitments for fixed-rate first
9 mortgages most recently published in the Fed-
10 eral Reserve Statistical Release on selected in-
11 terest rates (daily or weekly), and commonly re-
12 ferred to as the H.15 release (or any successor
13 publication), in the week preceding a date of de-
14 termination for purposes of applying this sub-
15 section.

16 “(3) RESIDENTIAL MORTGAGE LOAN DE-
17 FINED.—For purposes of this subsection, the term
18 ‘residential mortgage loan’ means a loan that is se-
19 cured by a lien on an owner-occupied dwelling and
20 is not a qualified mortgage.

21 “(4) SECURITIZATION VEHICLE.—The term
22 ‘securitization vehicle’ means a trust, corporation,
23 partnership, limited liability entity, or special pur-
24 pose entity that—

1 “(A) is the issuer, or is created by the
2 issuer, of mortgage pass-through certificates,
3 participation certificates, mortgage-backed secu-
4 rities, or other similar securities backed by a
5 pool of assets that includes residential mortgage
6 loans; and

7 “(B) holds such loans.

8 “(5) SECURITIZER.—The term ‘securitizer’
9 means the person that transfers, conveys, or assigns,
10 or causes the transfer, conveyance, or assignment of,
11 residential mortgage loans, including through a spe-
12 cial purpose vehicle, to any securitization vehicle, ex-
13 cluding any trustee that holds such loans solely for
14 the benefit of the securitization vehicle.

15 “(c) EFFECTIVE PERIOD.—This section shall apply
16 only with respect to qualified loan modification or workout
17 plans initiated during the 6-month period beginning on the
18 date of the enactment of this section.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for chapter 2 of the Truth in Lending Act is amended
21 by adding after the item relating to section 129 the fol-
22 lowing new item:

“129A. Safe harbor for holders engaged in troubled debt restructuring with re-
gard to residential mortgage loans.”.

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