

111TH CONGRESS
1ST SESSION

H. R. 1903

To provide incentives for the residential housing market.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2009

Mr. CANTOR (for himself, Mr. LEE of New York, Mr. DREIER, Mrs. BIGGERT, Mr. BRADY of Texas, Mr. MCCARTHY of California, Mr. CASSIDY, Mr. CAMPBELL, Mrs. BONO MACK, Mr. PAULSEN, and Mr. BOUSTANY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Financial Services and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide incentives for the residential housing market.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Responsible Homeowners Act of 2009”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Stopping mortgage fraud.
- Sec. 3. Tax credit for mortgage refinancing.

Sec. 4. Tax incentives for voluntary mortgage modifications.

Sec. 5. Servicer safe harbor for mortgage loan modifications.

Sec. 6. Credit for certain home purchases.

Sec. 7. Certain gains on single-family residential rental property excluded from gross income.

1 **SEC. 2. STOPPING MORTGAGE FRAUD.**

2 (a) PRIORITY OF EFFORTS.—The Secretary of Hous-
 3 ing and Urban Development, the Assistant Secretary for
 4 Housing—Federal Housing Commissioner of the Depart-
 5 ment of Housing and Urban Development, and the Direc-
 6 tor of the Federal Housing Finance Agency, shall give in-
 7 creased priority to efforts and activities to detect, identify,
 8 reduce, and report fraud in residential mortgage lending,
 9 including in the marketing, offering, origination, under-
 10 writing, servicing, and refinancing of residential mort-
 11 gages, and in all other aspects of residential mortgage
 12 lending. Such efforts and activities shall include increasing
 13 the number of personnel assigned specifically to mortgage
 14 fraud detection.

15 (b) AUTHORIZATION OF APPROPRIATIONS.—For fis-
 16 cal years 2009, 2010, 2011, 2012, and 2013, there are
 17 authorized to be appropriated to the Attorney General a
 18 total of—

19 (1) \$31,250,000 to support the employment of
 20 30 additional agents of the Federal Bureau of Inves-
 21 tigation and 2 additional dedicated prosecutors at
 22 the Department of Justice to coordinate prosecution

1 of mortgage fraud efforts with the offices of the
 2 United States Attorneys; and

3 (2) \$750,000 to support the operations of inter-
 4 agency task forces of the Federal Bureau of Inves-
 5 tigation in the areas with the 15 highest concentra-
 6 tions of mortgage fraud.

7 **SEC. 3. TAX CREDIT FOR MORTGAGE REFINANCING.**

8 (a) ALLOWANCE OF CREDIT.—Subpart A of part IV
 9 of subchapter A of chapter 1 of the Internal Revenue Code
 10 of 1986 is amended by inserting after section 25D the fol-
 11 lowing new section:

12 **“SEC. 25E. CREDIT FOR MORTGAGE REFINANCING.**

13 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 14 dividual who completes a refinancing of a qualified resi-
 15 dential mortgage during the taxable year, there shall be
 16 allowed as a credit against the tax imposed by this subtitle
 17 for such taxable year an amount equal to \$5,000.

18 “(b) DEFINITIONS.—For purposes of this section—

19 “(1) QUALIFIED RESIDENTIAL MORTGAGE.—

20 The term ‘qualified residential mortgage’ means in-
 21 debtedness which is secured by the taxpayer’s prin-
 22 cipal residence (within the meaning of section 121).
 23 Such term shall not include any indebtedness which
 24 is secured by a residence which is located outside the
 25 United States.

1 “(2) REFINANCING.—The term ‘refinancing’
 2 means a qualified residential mortgage any portion
 3 of the proceeds of which are used to satisfy the tax-
 4 payer’s entire obligation under another qualified res-
 5 idential mortgage.

6 “(c) COORDINATION WITH HOME BUYER CRED-
 7 ITS.—No credit shall be allowed under this section for any
 8 taxable year if the taxpayer is allowed a credit under sec-
 9 tion 25F, 36, or 1400C for such taxable year or any prior
 10 taxable year. No credit shall be allowed under sections
 11 25F, 36, or 1400C for any taxable year if the taxpayer
 12 is allowed a credit under this subsection (a) for any prior
 13 taxable year.

14 “(d) EXCEPTION FOR NONRESIDENT ALIEN INDIVID-
 15 UALS.—No credit shall be allowed under subsection (a) to
 16 any taxpayer if such taxpayer is a nonresident alien indi-
 17 vidual.

18 “(e) ELECTION.—A taxpayer may elect to have sub-
 19 section (a) not apply for any taxable year.

20 “(f) TERMINATION.—This section shall not apply to
 21 any refinancing completed after June 30, 2010.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
 23 for subpart A of part IV of subchapter A of chapter 1
 24 of such Code is amended by inserting after the item relat-
 25 ing to section 25D the following new item:

“Sec. 25E. Credit for mortgage refinancing.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to refinancings completed after the
 3 date of the enactment of this Act, in taxable years ending
 4 after such date.

5 **SEC. 4. TAX INCENTIVES FOR VOLUNTARY MORTGAGE**
 6 **MODIFICATIONS.**

7 (a) EXCLUSION OF QUALIFIED APPRECIATION PAY-
 8 MENTS.—

9 (1) IN GENERAL.—Part III of subchapter B of
 10 chapter 1 of the Internal Revenue Code of 1986 is
 11 amended by inserting after section 139C the fol-
 12 lowing new section:

13 **“SEC. 139D. MORTGAGE MODIFICATION INCOME.**

14 “(a) IN GENERAL.—In the case of a lender who en-
 15 ters into a qualified mortgage workout with a borrower,
 16 gross income shall not include any qualified appreciation
 17 payment made pursuant to such workout.

18 “(b) QUALIFIED MORTGAGE WORKOUT.—For pur-
 19 poses of this section, the term ‘qualified mortgage work-
 20 out’ means legally binding modifications to a qualified
 21 mortgage which provide for each of the following:

22 “(1) Monthly payments under the mortgage
 23 which do not exceed 38 percent of the gross monthly
 24 income of the borrower.

1 “(2) Such modifications shall achieve the re-
 2 quirement of paragraph (1) by means of one or more
 3 of the following:

4 “(A) A reduction in the interest rate of the
 5 loan.

6 “(B) An extension of the term of the loan
 7 (but not greater than 40 years).

8 “(C) A reduction in the principal amount
 9 of the loan.

10 “(3) Provides the lender with a right to a pay-
 11 ment of a share of any appreciation in the value of
 12 the residence which secures the loan upon the dis-
 13 position of the residence by the borrower.

14 “(c) OTHER DEFINITIONS AND SPECIAL RULE.—For
 15 purposes of this section—

16 “(1) QUALIFIED MORTGAGE.—The term ‘quali-
 17 fied mortgage’ means indebtedness—

18 “(A) which is secured by a principal resi-
 19 dence (within the meaning of section 121)
 20 which is located in the United States, and

21 “(B) which fails to meet the requirement
 22 of subsection (b)(1).

23 “(2) QUALIFIED APPRECIATION PAYMENT.—
 24 The term ‘qualified appreciation payment’ means the
 25 payment described in subsection (b)(4).

1 “(3) TREATMENT OF REFINANCINGS.—A refi-
 2 nancing of a qualified mortgage shall be treated in
 3 the same manner as a modification to such mort-
 4 gage.

5 “(d) TERMINATION.—Subsection (a) shall not apply
 6 to any qualified mortgage workout which becomes legally
 7 binding after June 30, 2010.”.

8 (2) CONFORMING AMENDMENT.—The table of
 9 sections for part III of subchapter B of chapter 1
 10 of such Code is amended by inserting after the item
 11 relating to section 139C the following new item:

“Sec. 139D. Mortgage modification income.”.

12 (b) EXCLUSION OF DEBT CANCELLED PURSUANT TO
 13 A QUALIFIED MORTGAGE WORKOUT.—

14 (1) IN GENERAL.—Paragraph (1) of section
 15 108(a) of such Code is amended by striking “or” at
 16 the end of the subparagraph (D), by striking the pe-
 17 riod at the end of subparagraph (E) and inserting
 18 “, or”, and by adding at the end the following new
 19 subparagraph:

20 “(F) the indebtedness is a qualified mort-
 21 gage (as defined in section 139D(c)(1)) and is
 22 discharged in connection with a qualified mort-
 23 gage workout to which section 139D(a) ap-
 24 plies.”.

1 (2) BASIS REDUCTION.—Subsection (h) of sec-
2 tion 108 of such Code is amended—

3 (A) by striking “subsection (a)(1)(E)” in
4 paragraph (1) and inserting “subparagraph (E)
5 or (F) of subsection (a)(1)”, and

6 (B) by striking “QUALIFIED” in the head-
7 ing of such subsection.

8 (3) COORDINATION OF EXCLUSIONS.—Para-
9 graph (2) of section 108(a) of such Code is amend-
10 ed—

11 (A) by striking “and (E)” in subparagraph
12 (A) and inserting “(E), and (F)”, and

13 (B) by adding at the end the following new
14 subparagraph:

15 “(D) MORTGAGE WORKOUT EXCLUSION
16 TAKES PRECEDENCE UNLESS ELECTED OTHER-
17 WISE.—Subparagraphs (B) and (E) shall not
18 apply to a discharge to which paragraph (1)(F)
19 applies unless the taxpayer elects to have para-
20 graph (1)(F) not apply.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to qualified mortgage workouts
23 (within the meaning of section 139D of the Internal Rev-
24 enue Code of 1986, as added by this section) which be-

1 come legally binding after the date of the enactment of
2 this Act.

3 **SEC. 5. SERVICER SAFE HARBOR FOR MORTGAGE LOAN**
4 **MODIFICATIONS.**

5 (a) SAFE HARBOR.—

6 (1) LOAN MODIFICATIONS AND WORKOUT
7 PLANS.—Notwithstanding any other provision of
8 law, and notwithstanding any investment contract
9 between a servicer and a securitization vehicle or in-
10 vestor, a servicer that acts consistent with the duty
11 set forth in section 129A(a) of Truth in Lending Act
12 (15 U.S.C. 1639a) shall not be liable for entering
13 into a loan modification, workout, or other loss miti-
14 gation plan, including, but not limited to, disposi-
15 tion, including any modification or refinancing un-
16 dertaken pursuant to standard loan modification,
17 sale, or disposition guidelines issued by the Sec-
18 retary of the Treasury or his designee under the
19 Emergency Economic Stabilization Act of 2008, with
20 respect to any such mortgage that meets all of the
21 criteria set forth in paragraph (2)(B) to—

22 (A) any person, based on that person's
23 ownership of a residential mortgage loan or any
24 interest in a pool of residential mortgage loans
25 or in securities that distribute payments out of

1 the principal, interest and other payments in
2 loans on the pool;

3 (B) any person who is obligated pursuant
4 to a derivatives instrument to make payments
5 determined in reference to any loan or any in-
6 terest referred to in subparagraph (A); or

7 (C) any person that insures any loan or
8 any interest referred to in subparagraph (A)
9 under any law or regulation of the United
10 States or any law or regulation of any State or
11 political subdivision of any State.

12 (2) ABILITY TO MODIFY MORTGAGES.—

13 (A) ABILITY.—Notwithstanding any other
14 provision of law, and notwithstanding any in-
15 vestment contract between a servicer and a
16 securitization vehicle or investor, a servicer—

17 (i) shall not be limited in the ability
18 to modify mortgages, the number of mort-
19 gages that can be modified, the frequency
20 of loan modifications, or the range of per-
21 missible modifications; and

22 (ii) shall not be obligated to repur-
23 chase loans from or otherwise make pay-
24 ments to the securitization vehicle on ac-
25 count of a modification, workout, or other

1 loss mitigation plan for a residential mort-
2 gage or a class of residential mortgages
3 that constitute a part or all of the mort-
4 gages in the securitization vehicle,

5 if any mortgage so modified meets all of the cri-
6 teria set forth in subparagraph (B).

7 (B) CRITERIA.—The criteria under this
8 subparagraph with respect to a mortgage are as
9 follows:

10 (i) Default on the payment of such
11 mortgage has occurred or is reasonably
12 foreseeable.

13 (ii) The property securing such mort-
14 gage is occupied by the mortgagor of such
15 mortgage.

16 (iii) The servicer reasonably and in
17 good faith believes that the anticipated re-
18 covery on the principal outstanding obliga-
19 tion of the mortgage under the particular
20 modification or workout plan or other loss
21 mitigation action will exceed, on a net
22 present value basis, the anticipated recov-
23 ery on the principal outstanding obligation
24 of the mortgage to be realized through
25 foreclosure.

1 (3) APPLICABILITY.—This subsection shall
2 apply only with respect to modifications, workouts,
3 and other loss mitigation plans initiated before Jan-
4 uary 1, 2012.

5 (b) REPORTING.—Each servicer that engages in loan
6 modifications or workout plans subject to the safe harbor
7 in subsection (a) shall report to the Secretary on a regular
8 basis regarding the extent, scope and results of the
9 servicer’s modification activities. The Secretary shall pre-
10 scribe regulations specifying the form, content, and timing
11 of such reports.

12 (c) LEGAL COSTS.—If an unsuccessful action is
13 brought against a servicer by any person described in sub-
14 paragraph (A), (B), or (C) of subsection (a)(1), such per-
15 son shall bear any actual legal costs of the servicer, includ-
16 ing reasonable attorney fees and expert witness fees, in-
17 curred in good faith in such action, as determined by the
18 court.

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

21 (1) SECRETARY.—The term “Secretary” means
22 the Secretary of the Treasury.

23 (2) SECURITIZATION VEHICLE.—The term
24 “securitization vehicle” means a trust, corporation,

1 partnership, limited liability entity, special purpose
2 entity, or other structure that—

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

9 (B) holds such mortgages.

10 **SEC. 6. CREDIT FOR CERTAIN HOME PURCHASES.**

11 (a) ALLOWANCE OF CREDIT.—Subpart A of part IV
12 of subchapter A of chapter 1 of the Internal Revenue Code
13 of 1986, as amended by this Act, is amended by inserting
14 after section 25E the following new section:

15 **“SEC. 25F. CREDIT FOR CERTAIN HOME PURCHASES.**

16 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
17 dividual who makes an eligible purchase during the taxable
18 year, there shall be allowed as a credit against the tax
19 imposed by this subtitle for such taxable year an amount
20 equal to so much of the purchase price of the residence
21 as does not exceed \$15,000.

22 “(b) DOWNPAYMENT REQUIREMENT.—No credit
23 shall be allowed under subsection (a) to any taxpayer with
24 respect to the purchase of any residence unless such tax-

1 payer makes a downpayment of not less 5 percent of the
2 purchase price of such residence.

3 “(c) DEFINITIONS.—For purposes of this section—

4 “(1) ELIGIBLE PURCHASE.—The term ‘eligible
5 purchase’ means the purchase of a residence for the
6 taxpayer if—

7 “(A) such residence is located in the
8 United States,

9 “(B) the construction of such residence
10 began before 2009, and

11 “(C) such purchase is made by the tax-
12 payer before July 1, 2010.

13 “(2) OTHER DEFINITIONS.—The terms ‘pur-
14 chase’ and ‘purchase price’ have the respective
15 meanings given such terms by section 26(c).

16 “(d) EXCEPTIONS.—No credit shall be allowed under
17 subsection (a) to any taxpayer for any taxable year with
18 respect to the purchase of a residence if—

19 “(1) credit under section 36 (relating to first-
20 time homebuyer credit) or 1400C (relating to first-
21 time homebuyer in the District of Columbia) is al-
22 lowed to the taxpayer (or the taxpayer’s spouse) for
23 such taxable year or any prior taxable year,

1 “(2) the residence is financed by the proceeds
2 of a qualified mortgage issue the interest on which
3 is exempt from tax under section 103,

4 “(3) the taxpayer is a nonresident alien indi-
5 vidual, or

6 “(4) the taxpayer disposes of such residence (or
7 such residence ceases to be a residence of the tax-
8 payer (or, if married, the taxpayer’s spouse)) before
9 the close of such taxable year.

10 “(e) LIMITATION BASED ON AMOUNT OF TAX.—In
11 the case of a taxable year to which section 26(a)(2) does
12 not apply, the credit allowed under subsection (a) for any
13 taxable year shall not exceed the excess of—

14 “(1) the sum of the regular tax liability (as de-
15 fined in section 26(b)) plus the tax imposed by sec-
16 tion 55, over

17 “(2) the sum of the credits allowable under this
18 subpart (other than this section and section 25D)
19 for the taxable year.

20 “(f) CARRYFORWARDS OF UNUSED CREDIT.—

21 “(1) RULE FOR YEARS IN WHICH ALL PER-
22 SONAL CREDITS ALLOWED AGAINST REGULAR AND
23 ALTERNATIVE MINIMUM TAX.—In the case of a tax-
24 able year to which section 26(a)(2) applies, if the
25 credit allowable under subsection (a) for any taxable

1 year exceeds the limitation imposed by section
2 26(a)(2) for such taxable year reduced by the sum
3 of the credits allowable under this subpart (other
4 than this section and sections 25D and 1400C),
5 such excess shall be carried to the succeeding tax-
6 able year and added to the credit allowable under
7 subsection (a) for such taxable year.

8 “(2) RULE FOR OTHER YEARS.—In the case of
9 a taxable year to which section 26(a)(2) does not
10 apply, if the credit allowable under subsection (a) for
11 any taxable year exceeds the limitation imposed by
12 subsection (e) for such taxable year, such excess
13 shall be carried to the succeeding taxable year and
14 added to the credit allowable under subsection (a)
15 for such taxable year.

16 “(3) LIMITATION.—No credit may be carried
17 forward under this subsection to any taxable year
18 following the third taxable year after the taxable
19 year in which the credit arose. For purposes of the
20 preceding sentence, credits shall be treated as used
21 on a first-in first-out basis.

22 “(g) OTHER RULES TO APPLY.—

23 “(1) RELATED PERSONS.—Rules similar to the
24 rules of section 26(c)(5) shall apply for purposes of
25 this section.

1 “(2) MARRIED INDIVIDUALS FILING SEPARATE
2 RETURNS, ETC.—Rules similar to the rules of sub-
3 paragraphs (B) and (C) of section 26(b)(1) shall
4 apply for purposes of this section.

5 “(3) REPORTING.—Rules similar to the rules of
6 section 26(e) shall apply for purposes of this section.

7 “(h) RECAPTURE OF CREDIT.—Rules similar to the
8 rules of section 26(f) shall apply for purposes of this sec-
9 tion, except that—

10 “(1) paragraph (1) thereof shall be applied by
11 substituting ‘33 $\frac{1}{3}$ percent’ for ‘6 $\frac{2}{3}$ percent’, and

12 “(2) paragraph (7) thereof shall be applied by
13 substituting ‘3 years’ for ‘15 years’.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1)(A) Section 23(b)(4)(B) of such Code is
16 amended by striking “section 25D” inserting “sec-
17 tions 25D and 25F”.

18 (B) Section 24(b)(3)(B) of such Code is amend-
19 ed by inserting “25F,” after “25D,”.

20 (C) Section 25(e)(1)(C)(ii) of such Code is
21 amended by inserting “25F,” after “25D,”.

22 (D) Section 25B(g)(2) of such Code is amended
23 by inserting “25F,” after “25D,”.

24 (E) Section 26(a)(1) of such Code is amended
25 by inserting “25F,” after “25D,”.

1 (F) Section 30(c)(2)(B)(ii) of such Code is
2 amended by inserting “25F,” after “25D,”.

3 (G) Section 30B(g)(2)(B)(ii) of such Code is
4 amended by inserting “25F,” after “25D,”.

5 (H) Section 30D(c)(2)(B)(ii) of such Code is
6 amended by striking “and 25D” and inserting “,
7 25D, and 25F”.

8 (I) Section 904(i) of such Code is amended by
9 inserting “25F,” after “25B,”.

10 (2) Paragraph (1) of section 23(c) of such Code
11 is amended by inserting “, 25F,” after “25D,”.

12 (3) The table of sections for subpart A of part
13 IV of subchapter A of chapter 1 of such Code, as
14 amended by this Act, is amended by inserting after
15 the item relating to section 25E the following new
16 item:

“Sec. 25F. Credit for certain home purchases.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to residences purchased after the
19 date of the enactment of this Act, in taxable years ending
20 after such date.

21 **SEC. 7. CERTAIN GAINS ON SINGLE-FAMILY RESIDENTIAL**
22 **RENTAL PROPERTY EXCLUDED FROM GROSS**
23 **INCOME.**

24 (a) IN GENERAL.—Part III of subchapter B of chap-
25 ter 1 of the Internal Revenue Code of 1986, as amended

1 by this Act, is amended by inserting after section 139D
 2 the following new section:

3 **“SEC. 139E. CERTAIN GAINS ON SINGLE-FAMILY RESIDEN-**
 4 **TIAL RENTAL PROPERTY.**

5 “(a) IN GENERAL.—Gross income shall not include
 6 any gain from the sale or exchange of a qualified single-
 7 family residential rental property.

8 “(b) LIMITATION.—The amount of gain excluded
 9 from gross income under subsection (a) with respect to
 10 any sale or exchange shall not exceed \$250,000.

11 “(c) QUALIFIED SINGLE-FAMILY RESIDENTIAL
 12 RENTAL PROPERTY.—For purposes of this section—

13 “(1) IN GENERAL.—The term ‘qualified prop-
 14 erty’ means any real property located in the United
 15 States which—

16 “(A) was acquired by the taxpayer by pur-
 17 chase (as defined in section 179(d)(2)) during
 18 the period beginning on the date of the enact-
 19 ment of this section and ending on June 30,
 20 2010,

21 “(B) was held by the taxpayer for 2 years
 22 or more, and

23 “(C) was rented as a single dwelling unit
 24 on a regular basis during 2 of the taxable years
 25 in the 5 taxable year period ending with the

1 taxable year in which the property was sold or
2 exchanged.

3 “(2) REGULAR BASIS.—For purposes of para-
4 graph (1)(C), property shall not be treated as rented
5 on a regular basis during any taxable year unless—

6 “(A) such property is rented on the basis
7 of months or longer periods, and

8 “(B) such property is rented for not less
9 than 6 months of such year.

10 “(d) EXCEPTION FOR NONRESIDENT ALIEN INDIVID-
11 UALS.—No credit shall be allowed under subsection (a) to
12 any taxpayer if such taxpayer is a nonresident alien indi-
13 vidual.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 for part III of subchapter B of chapter 1 of such Code,
16 as amended by this Act, is amended by inserting after the
17 item relating to section 139D the following new item:

“Sec. 139E. Certain gains on single-family residential rental property.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to property acquired after the date
20 of the enactment of this Act.

○