

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide rules for the modification or disposition of certain assets by real estate mortgage investment conduits pursuant to division A of the Emergency Economic Stabilization Act of 2008.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

H. R. 1

Making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. REED (for himself, Mr. DODD, Mr. KERRY, Mr. SCHUMER, and Ms. STABENOW) to the amendment (No. 98) proposed by Mr. INOUE (for himself and Mr. BAUCUS)

Viz:

- 1 On page 570, between lines 8 and 9, insert the fol-
- 2 lowing:

1 **PART —HOUSING PROVISIONS**

2 **SEC. 1. SPECIAL RULES FOR MODIFICATION OR DIS-**
3 **POSITION OF QUALIFIED MORTGAGES OR**
4 **FORECLOSURE PROPERTY BY REAL ESTATE**
5 **MORTGAGE INVESTMENT CONDUITS.**

6 (a) **IN GENERAL.**—If a REMIC (as defined in section
7 860D(a) of the Internal Revenue Code of 1986) modifies
8 or disposes of a troubled asset under the Troubled Asset
9 Relief Program established by the Secretary of the Treas-
10 ury under section 101(a) of the Emergency Economic Sta-
11 bilization Act of 2008 or under rules established by the
12 Secretary under section 2 of this Act—

13 (1) such modification or disposition shall not be
14 treated as a prohibited transaction under section
15 860F(a)(2) of such Code, and

16 (2) for purposes of part IV of subchapter M of
17 chapter 1 of such Code—

18 (A) an interest in the REMIC shall not fail
19 to be treated as a regular interest (as defined
20 in section 860G(a)(1) of such Code) solely be-
21 cause of such modification or disposition, and

22 (B) any proceeds resulting from such
23 modification or disposition shall be treated as
24 amounts received under qualified mortgages.

25 (b) **TERMINATION OF REMIC.**—For purposes of the
26 Internal Revenue Code of 1986, an entity which is a

1 REMIC (as defined in section 860D(a) of the Internal
2 Revenue Code of 1986) shall cease to be a REMIC if the
3 instruments governing the conduct of servicers or trustees
4 with respect to qualified mortgages (as defined in section
5 860G(a)(3) of such Code) or foreclosure property (as de-
6 fined in section 860G(a)(8) of such Code)—

7 (1) prohibit or restrict (including restrictions on
8 the type, number, percentage, or frequency of modi-
9 fications or dispositions) such servicers or trustees
10 from reasonably modifying or disposing of such
11 qualified mortgages or such foreclosure property in
12 order to participate in the Troubled Asset Relief
13 Program established by the Secretary of the Treas-
14 ury under section 101(a) of the Emergency Eco-
15 nomic Stabilization Act of 2008 or under rules es-
16 tablished by the Secretary under section _____ 2
17 of this Act,

18 (2) commit to a person other than the servicer
19 or trustee the authority to prevent the reasonable
20 modification or disposition of any such qualified
21 mortgage or foreclosure property,

22 (3) require a servicer or trustee to purchase
23 qualified mortgages which are in default or as to
24 which default is reasonably foreseeable for the pur-

1 poses of reasonably modifying such mortgages or as
2 a consequence of such reasonable modification, or

3 (4) fail to provide that any duty a servicer or
4 trustee owes when modifying or disposing of quali-
5 fied mortgages or foreclosure property shall be to
6 the trust in the aggregate and not to any individual
7 or class of investors.

8 (c) EFFECTIVE DATES.—

9 (1) SUBSECTION (a).—Subsection (a) shall
10 apply to modification and dispositions after the date
11 of the enactment of this Act, in taxable years ending
12 on or after such date.

13 (2) SUBSECTION (b).—

14 (A) IN GENERAL.—Except as provided in
15 subparagraph (B), subsection (b) shall take ef-
16 fect on the date that is 3 months after the date
17 of the enactment of this Act.

18 (B) EXCEPTION.—The Secretary of the
19 Treasury may waive the application of sub-
20 section (b) in whole or in part for any period
21 of time with respect to any entity if—

22 (i) the Secretary determines that such
23 entity is unable to comply with the require-
24 ments of such subsection in a timely man-
25 ner, or

1 (ii) the Secretary determines that
2 such waiver would further the purposes of
3 this Act.

4 **SEC. _____ 2. ESTABLISHMENT OF A HOME MORTGAGE**
5 **LOAN RELIEF PROGRAM UNDER THE TROU-**
6 **BLED ASSET RELIEF PROGRAM AND RE-**
7 **LATED AUTHORITIES.**

8 (a) ESTABLISHMENT.—Not later than 30 days after
9 the date of enactment of this Act, the Secretary of the
10 Treasury shall establish and implement a program under
11 the Troubled Asset Relief Program and related authorities
12 established under section 101(a) of the Emergency Eco-

13 nomic Stabilization Act of 2008 (12 U.S.C. 5211(a))—
14 (1) to achieve appropriate broad-scale modifica-
15 tions or dispositions of troubled home mortgage
16 loans; and

17 (2) to achieve appropriate broad-scale disposi-
18 tions of foreclosure property.

19 (b) RULES.—The Secretary of the Treasury shall
20 promulgate rules governing the—

21 (1) reasonable modification of any home mort-
22 gage loan pursuant to the requirements of this Act;
23 and

1 (2) disposition of any such home mortgage loan
2 or foreclosed property pursuant to the requirements
3 of this Act.

4 (c) CONSIDERATIONS.—In developing the rules re-
5 quired under subsection (b), the Secretary of the Treasury
6 shall take into consideration—

7 (1) the debt-to-income ratio, loan-to-value ratio,
8 or payment history of the mortgagors of such home
9 mortgage loans; and

10 (2) any other factors consistent with the intent
11 to streamline modifications of trouble home mort-
12 gage loans into sustainable home mortgage loans.

13 (d) USE OF BROAD AUTHORITY.—The Secretary of
14 the Treasury shall use all available authorities to imple-
15 ment the home mortgage loan relief program established
16 under this section, including, as appropriate—

17 (1) home mortgage loan purchases;

18 (2) home mortgage loan guarantees;

19 (3) making and funding commitments to pur-
20 chase home mortgage loans or mortgage-backed se-
21 curities;

22 (4) buying down interest rates and principal on
23 home mortgage loans;

24 (5) principal forbearance; and

1 (6) developing standard home mortgage loan
2 modification and disposition protocols, which shall
3 include ratifying that servicer action taken in antici-
4 pation of any necessary changes to the instruments
5 governing the conduct of servicers or trustees with
6 respect to qualified mortgages or foreclosure prop-
7 erty are consistent with the Secretary of the Treas-
8 ury's standard home mortgage loan modification and
9 disposition protocols.

10 (e) PAYMENTS AUTHORIZED.—The Secretary of the
11 Treasury is authorized to pay servicers for home mortgage
12 loan modifications or other dispositions consistent with
13 any rules established under subsection (b).

14 (f) RULE OF CONSTRUCTION.—Any standard home
15 mortgage loan modification and disposition protocols de-
16 veloped by the Secretary of the Treasury under this sec-
17 tion shall be construed to constitute standard industry
18 practice.