

TEXT OF MODIFICATION TO BE CONSIDERED AS ADOPTED

AMENDMENT OFFERED BY _____
TO THE AMENDMENT OF MR. CONYERS OF
MICHIGAN
To H.R. 1106

After the instruction amending the table of contents of the bill, insert the following (and make such technical and conforming changes as may be appropriate):

1 Page 2, after line 6, insert the following (and make
2 such technical and conforming changes as may be appro-
3 priate):

4 **SEC. 100. DEFINITION.**

5 Section 101 of title 11, United States Code, is
6 amended by inserting after paragraph (43) the following
7 (and make such technical and conforming changes as may
8 be appropriate):

9 “(43A) The term ‘qualified loan modification’
10 means a loan modification agreement made in ac-
11 cordance with the guidelines of the Obama Adminis-
12 tration’s Homeowner Affordability and Stability
13 Plan as implemented March 4, 2009, that—

14 “(A) reduces the debtor’s payment (includ-
15 ing principal and interest, and payments for

1 real estate taxes, hazard insurance, mortgage
2 insurance premium, homeowners' association
3 dues, ground rent, and special assessments) on
4 a loan secured by a senior security interest in
5 the principal residence of the debtor, to a per-
6 centage of the debtor's income in accordance
7 with such guidelines, without any period of neg-
8 ative amortization or under which the aggregate
9 amount of the regular periodic payments would
10 not fully amortize the outstanding principal
11 amount of such loan;

12 "(B) requires no fees or charges to be paid
13 by the debtor in order to obtain such modifica-
14 tion; and

15 "(C) permits the debtor to continue to
16 make payments under the modification agree-
17 ment notwithstanding the filing of a case under
18 this title, as if such case had not been filed."

19 Beginning on page 7, strike line 6 and all that follows
20 through line 16 on page 8, and insert the following:

21 "(1) if such residence is sold in the 1st year oc-
22 ccurring after the effective date of the plan, 90 per-
23 cent of the amount of the difference between the
24 sales price and the amount of such claim as origi-
25 nally determined under subsection (b)(11) (plus

1 costs of sale and improvements), but not to exceed
2 the unpaid amount of the allowed secured claim de-
3 termined as if such claim had not been reduced
4 under such subsection;

5 “(2) if such residence is sold in the 2d year oc-
6 ccurring after the effective date of the plan, 70 per-
7 cent of the amount of the difference between the
8 sales price and the amount of such claim as origi-
9 nally determined under subsection (b)(11) (plus
10 costs of sale and improvements), but not to exceed
11 the unpaid amount of the allowed secured claim de-
12 termined as if such claim had not been reduced
13 under such subsection;

14 “(3) if such residence is sold in the 3d year oc-
15 ccurring after the effective date of the plan, 50 per-
16 cent of the amount of the difference between the
17 sales price and the amount of such claim as origi-
18 nally determined under subsection (b)(11) (plus
19 costs of sale and improvements), but not to exceed
20 the unpaid amount of the allowed secured claim de-
21 termined as if such claim had not been reduced
22 under such subsection;

23 “(4) if such residence is sold in the 4th year oc-
24 ccurring after the effective date of the plan, 30 per-
25 cent of the amount of the difference between the

1 sales price and the amount of such claim as origi-
2 nally determined under subsection (b)(11) (plus
3 costs of sale and improvements), but not to exceed
4 the unpaid amount of the allowed secured claim de-
5 termined as if such claim had not been reduced
6 under such subsection; and

7 “(5) if such residence is sold in the 5th year oc-
8 ccurring after the effective date of the plan, 10 per-
9 cent of the amount of the difference between the
10 sales price and the amount of such claim as origi-
11 nally determined under subsection (b)(11) (plus
12 costs of sale and improvements), but not to exceed
13 the unpaid amount of the allowed secured claim de-
14 termined as if such claim had not been reduced
15 under such subsection.”.

Strike the 1st instruction to amend page 9 of the bill and strike the amendment proposed to be inserted after line 19 on page 9 of the bill.

Strike the instruction to amend page 11 of the bill and all the text that follows through the amendment to page 12 of the bill, and insert the following (and make such technical and conforming changes as may be appropriate):

1 Page 11, strike lines 23 through 25, insert the fol-
2 lowing (and make such technical and conforming changes
3 as may be appropriate):

4 (1) in the matter preceding paragraph (1)
5 strike “subsection (b)” and insert “subsections (b)
6 and (d)”.

7 (2) in paragraph (5)—

8 (A) by inserting “except as otherwise pro-
9 vided in section 1322(b)(11),” after “(5)”, and

10 (B) in subparagraph (B)(iii)(I) by insert-
11 ing “(including payments of a claim modified
12 under section 1322(b)(11))” after “payments”
13 the 1st place it appears,

14 Page 12, line 20, insert the following after “faith”:

15 (Lack of good faith exists if the debtor has no need
16 for relief under this paragraph because the debtor
17 can pay all of his or her debts and any future pay-
18 ment increases on such debts without difficulty for
19 the foreseeable future, including the positive amorti-
20 zation of mortgage debt. In determining whether a
21 reduction of the principal amount of loan resulting
22 from a modification made under the authority of
23 section 1322(b)(11) is made in good faith, the court
24 shall consider whether the holder of such claim (or

1 the entity collecting payments on behalf of such
2 holder) has offered to the debtor a qualified loan
3 modification that would enable the debtor to pay
4 such debts and such loan without reducing such
5 principal amount.)”.

6 Page 12, after line 24, insert the following (and make
7 such technical and conforming changes as may be appro-
8 priate):

9 (b) Section 1325 of title 11, United States Code, is
10 amended by adding at the end the following (and make
11 such technical and conforming changes as may be appro-
12 priate):

13 “(d) Notwithstanding section 1322(b)(11)(C)(ii), the
14 court, on request of the debtor or the holder of a claim
15 secured by a senior security interest in the debtor’s prin-
16 cipal residence, may confirm a plan proposing a reduction
17 in the interest rate on the loan secured by such security
18 interest and that does not reduce the principal, provided
19 the total monthly mortgage payment is reduced to a per-
20 centage of the debtor’s income in accordance with the
21 guidelines of the Obama Administration’s Homeowner Af-
22 fordability and Stability Plan as implemented March 4,
23 2009, if, taking into account the debtor’s financial situa-
24 tion, after allowance of expenses that would be permitted
25 for a debtor under this chapter subject to paragraph (3)

1 of subsection (b), regardless of whether the debtor is oth-
2 erwise subject to such paragraph, and taking into account
3 additional debts and fees that are to be paid in this chap-
4 ter and thereafter, the debtor would be able to prevent
5 foreclosure and pay a fully amortizing 30-year loan at
6 such reduced interest rate without such reduction in prin-
7 cipal.”.

