

H.R. 3609, the “Emergency Home Ownership and Mortgage Equity Protection Act of 2007”

Highlights of the Conyers-Chabot Compromise

Summary: Allows qualifying homeowners unable to make their current mortgage payments and cure their arrears under the protection of Chapter 13 (a form of bankruptcy protection that allows debtors to restructure their debts) to modify certain mortgages known as “nontraditional” and “subprime mortgages.”

Allows Mortgages To Be Modified: If the Chapter 13 debtor and the mortgage qualify, the mortgage can be modified in the following ways:

- exorbitant interest rates can be reduced;
- onerous prepayment penalties do not have to be paid;
- the term of the mortgage can be extended up to 30 years; and
- the principal amount of the mortgage can be reduced to the home’s fair market value.

It also allows homeowners to object to unlawful fees charged by unscrupulous mortgage lenders.

Mortgages Covered: Only applies to certain existing mortgages based on date of origination and type. The mortgage must have originated after January 1, 2000, but before the Act’s date of enactment. The two types of mortgages covered are as follows:

- “Nontraditional mortgages” – interest only and negatively amortized mortgages. The term excludes subordinate home equity line of credit loans and reverse mortgages. This definition is derived from U.S. Treasury guidance issued last year.
- “Subprime mortgages” – mortgages with interest rates that exceed certain thresholds: in excess of 3% over U.S. Treasury securities for first mortgages; and in excess of 5% for subordinate mortgages. This definition is derived from H.R. 3915, the “Mortgage Reform and Anti-Predatory Lending Act of 2007.”

Why Is It Necessary?: Chapter 13 is a form of bankruptcy relief whereby an individual must repay his or her debts out of earnings to the extent such funds are available. If a consumer wants to prevent losing his or her home through foreclosure, Chapter 13 only allows a debtor to cure the mortgage arrears through a repayment plan approved by the court. A consumer cannot use Chapter 13 to deal with the problems that most likely triggered the foreclosure, i.e., exploding ARMs, prepayment penalties, and hidden fees. As a result, Chapter 13 does not enable a consumer to save his or her home from foreclosure, even though most other debts – secured and unsecured – can be restructured in Chapter 13, including mortgages secured by vacation homes and automobile loans. The Center for Responsible Lending estimates that more than 600,000 families could save their homes from foreclosure in the coming years if this exception was eliminated.

Supporters Include: The Honorable Jack Kemp, former Secretary, U.S. Department of Housing and Urban Development, under President George H.W. Bush; various state Governors; U.S. Conference of Mayors; Dr. Mark Zandi, Chief Economist at Moody’s Economy.com; *New York Times* Editorial (Oct. 8, 2007); AARP; ACORN; AFL-CIO; Center for Responsible Lending; Central Illinois Organizing Project; Consumer Action; Consumer Federation of America; Consumers Union; DEMOS; Leadership Conference on Civil Rights; National Association for the Advancement of Colored People; National Association of Chapter 13 Trustees; National Association of Consumer Advocates; National Association of Consumer Bankruptcy Attorneys; National Bankruptcy Conference; National Community Reinvestment Coalition; National Consumer Law Center; National Council of La Raza; National Fair Housing Alliance; National Neighborworks; National Urban League; National Women’s Law Center; Opportunity Finance Network; Service Employees International Union; United Auto Workers; U.S. PIRG.