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Amendments to H.R. 1106—Helping Families Save Their Homes Act

H.R. 1106, the Helping Families Save Their Homes Act (sponsored by *Rep. Conyers, D-MI*), is scheduled to be considered in the House on Thursday, March 5, 2009, subject to a structured rule (First Rule: [H.Res. 190](#), passed by a vote of 224-198; Second Rule revising the Manager’s Amendment: [H.Res. 205](#)) that waives all points of order against consideration of the bill except for clause 9 of Rule XXI (earmarks), and makes in order the amendments listed below. All amendments are debatable for 10 minutes, except for the Manager’s Amendment, which is debatable for 30 minutes.

H.R. 1106, originally scheduled to be on the floor last week, was pulled by the Democrat leadership primarily due to objections regarding Title I, or the “cramdown” portion of the bill. The amended Manager’s Amendment, however, retains many of the same provisions that conservatives might find objectionable.

Note: The rule for H.R. 1106 waives PAYGO. According to CBO, the bill would increase mandatory spending by \$7.5 billion over the 2009-2104 period, and decrease mandatory spending by \$14.9 billion over the 2009-2019 period. Because the bill has a non-offset mandatory spending increase over five years, the bill violates the PAYGO rule.

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AMENDMENTS MADE IN ORDER UNDER THE RULE

1. *Conyers (D-MI)*. MANAGER’S AMENDMENT, as amended by the second rule. Among other things, the amendment would:
 - allow for two bites at the apple. Even if debtors meet the terms of President Obama’s mortgage program they can still go into bankruptcy and get a cramdown. After which, the debtor can keep whichever deal best suits them;
 - effectively give away free money by allowing no-interest loans. The amendment provides that a judge can offer an alternative to a cramdown by

reducing interest rates. This could result in the re-writing of the mortgage as a no-interest loan;

- extend the recapture provisions of the bill (allowing for the lender to recapture a percentage of the principal lost in a cramdown) by one year and 10 percent. If the borrower sells the house within a year, the lender can now collect 90 percent of the principal and lenders can collect a percentage (reduced each year) for five years;
- require courts to use the Federal Housing Administration (FHA) appraisal guidelines where the fair market value of a home is in dispute;
- extend the negotiation period in the underlying bill that requires the debtor to contact the lender to discuss an agreement on a qualified loan modification;
- require a GAO study on the effectiveness of mortgage modifications and whether there should be a sunset, the impact of the amendment on bankruptcy courts, and whether relief should be limited to certain types of homeowners;
- prohibit a mortgagor from participating in the Hope for Homeowners program if the individual has been convicted under federal or state law for fraud;
- add a sense of the Congress that the Secretary of the Treasury should use amounts made available in the bill to “purchase mortgage revenue bonds for single-family housing issued through State housing finance agencies and through units of local government and agencies thereof;”
- establish a Nationwide Mortgage Fraud Taskforce in the Department of Justice;
- add a sense of the Congress that mortgage holders, institutions, and mortgage servicers should not initiate a foreclosure proceeding or a foreclosure sale on any homeowner until the foreclosure mitigation provisions (such as the Hope for Homeowners program and the President’s “Homeowner Affordability and Stability Plan) have taken effect.

2. **Price (R-GA).** The amendment would provide that, if a homeowner who has had a mortgage modified in a bankruptcy proceeding sells the home at a profit, the lender can recapture the amount of principal lost in the modification. H.R. 1106 requires any debtor that gets their loan modified (crammed down) in bankruptcy court to repay a portion of the sale of the home if it is sold within four years of the cramdown. (The revised Manager’s Amendment allows for payments to be made for a fifth year.)
3. **Peters (D-MI).** The amendment would provide that, in the case of a debtor whose home is in foreclosure, the debtor could meet the pre-filing credit counseling requirement by receiving counseling either before filing or up to 30 days after filing. Under current law, a debtor filing for bankruptcy must receive counseling services during the 180 day period *before* the filing. H.R. 1106 eliminates the counseling requirement for those who have already received a foreclosure notice. This amendment would restore the counseling requirement for individuals who have already filed for bankruptcy by giving them an extra 30 days to get the counseling.
4. **Titus (D-NV).** The underlying bill allows the Secretary to make payments to servicers of up to \$1,000 for each loan made by a mortgage servicer under the Hope

for Homeowners program. This amendment requires each servicer that receives such a payment to notify all mortgagors (with mortgages under the mortgage servicer) who are at-risk homeowners that they may be eligible for the Hope for Homeowner program.