S 2136

Helping Families Save Their Homes in Bankruptcy Act of 2008

Congress: 110 (2007–2009, Ended)
Chamber: Senate
Policy Area: Finance and Financial Sector
Introduced: Oct 3, 2007
Current Status: Committee on the Judiciary. Hearings held.
Latest Action: Committee on the Judiciary. Hearings held. (Nov 19, 2008)
Official Text: https://www.congress.gov/bill/110th-congress/senate-bill/2136

Sponsor

Name: Sen. Durbin, Richard J. [D-IL]
Party: Democratic • **State:** IL • **Chamber:** Senate

Cosponsors (13 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Schumer, Charles E. [D-NY]	D · NY		Oct 3, 2007
Sen. Dodd, Christopher J. [D-CT]	D · CT		Oct 16, 2007
Sen. Obama, Barack [D-IL]	D · IL		Oct 23, 2007
Sen. Whitehouse, Sheldon [D-RI]	D · RI		Oct 29, 2007
Sen. Brown, Sherrod [D-OH]	D · OH		Nov 5, 2007
Sen. Menendez, Robert [D-NJ]	D · NJ		Nov 8, 2007
Sen. Biden, Joseph R., Jr. [D-DE]	D · DE		Nov 14, 2007
Sen. Harkin, Tom [D-IA]	D · IA		Dec 10, 2007
Sen. Reed, Jack [D-RI]	D · RI		Dec 17, 2007
Sen. Boxer, Barbara [D-CA]	D · CA		Jan 23, 2008
Sen. Clinton, Hillary Rodham [D-NY]	D · NY		Jan 31, 2008
Sen. Feinstein, Dianne [D-CA]	D · CA		Feb 14, 2008
Sen. Kerry, John F. [D-MA]	D · MA		Feb 14, 2008

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Hearings By (full committee)	Nov 19, 2008

Subjects & Policy Tags

Policy Area:

Finance and Financial Sector

Related Bills

Bill	Relationship	Last Action
110 S 2636	Related bill	**Feb 14, 2008:** Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 577.

Summary (as of Jul 29, 2008)

Helping Families Save Their Homes in Bankruptcy Act of 2008 - **Title I: Minimizing Foreclosures** - (Sec. 102) Amends federal bankruptcy law to permit a bankruptcy plan to: (1) modify a loan secured by a nontraditional mortgage, or a subprime mortgage, and any lien subordinate to such claim, on the principal residence (mortgage) of a chapter 13 debtor (individual with regular income); and (2) provide for payment of such loan, at a fixed annual percentage rate of interest, for a period that is the longer of 30 years (reduced by the period for which the loan has been outstanding) or the remaining term of such loan, beginning on the date of the order for relief.

Provides that, if a claim has been modified to an amount below the original principal of the loan, and the debtor's principal residence is sold during the term of the plan, the holder of the claim shall be entitled to receive, in addition to the unpaid portion of the allowed secured claim, the net proceeds of the sale, or the amount of the holder's allowed unsecured claim, whichever is less.

(Sec. 103) Exempts a chapter 13 debtor from the requirement for credit counseling if the court receives certification that debtor's principal residence has been scheduled for a foreclosure sale.

Title II: Providing Other Debtor Protections - (Sec. 201) Declares that the plan need not provide for the payment of, and the debtor, the debtor's property, and property of the estate shall not be liable for, any fee, cost, or charge that arises in connection with a claim secured by the debtor's principal residence, if the event that gives rise to the fee, cost, or charge occurs while the case is pending but before the discharge order, except to the extent that: (1) notice to the court is filed within a specified deadline; and (2) such fees, costs, or charges are lawful, reasonable, and provided for in the agreement under which such claim or security interest arose.

Permits a bankruptcy plan to provide for waiver of any prepayment penalty contained on a claim secured by debtor's principal residence.

(Sec. 202) Authorizes the trustee in bankruptcy to request joinder or substitution for the debtor as the real party in interest in any action in state or federal court regarding a claim or defense asserted by an individual debtor that was not scheduled in the debtor's petition. Permits the debtor to proceed as the real party in interest if the trustee does not make such a request.

(Sec. 203) Amends the judicial code to authorize the court in any core proceeding under bankruptcy law to hear and determine a proceeding in lieu of referral to arbitration if the case involves an individual debtor whose debts are primarily consumer debts.

(Sec. 204) Exempts from the estate in bankruptcy up to $75,000 of the debtor's aggregate interest in real property used as debtor's principal residence if the debtor is age 55 or older (homestead exemption).

(Sec. 205) Prohibits the court from allowing a claim that is subject to any remedy for damages or rescission due to failure to comply with the Truth in Lending Act or any other state or federal consumer protection law.

Actions Timeline

- **Nov 19, 2008:** Committee on the Judiciary. Hearings held.
- **Sep 26, 2008:** By Senator Leahy from Committee on the Judiciary filed written report. Report No. 110-514. Minority views filed.
- **Jul 29, 2008:** Committee on the Judiciary. Reported by Senator Leahy with an amendment in the nature of a substitute. Without written report.
- **Jul 29, 2008:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 911.
- **Apr 3, 2008:** Committee on the Judiciary. Ordered to be reported with an amendment favorably.
- **Dec 5, 2007:** Committee on the Judiciary. Hearings held.
- **Oct 3, 2007:** Introduced in Senate
- **Oct 3, 2007:** Sponsor introductory remarks on measure. (CR S12536-12537)
- **Oct 3, 2007:** Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S12537-12538)

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