



COMMERCIAL LAW LEAGUE OF AMERICA®

September 26, 2008

Honorable Nancy Pelosi
H-232, US Capitol
Washington, DC 20515
Fax: (202) 225-4188

Dear Speaker Pelosi,

The Commercial Law League of America ("CLLA"), founded in 1895, is the nation's oldest organization of attorneys and other experts in credit and finance actively engaged in the field of commercial law, bankruptcy and reorganization. Its membership consists of nearly 2,300 individuals. The Bankruptcy Section of the CLLA is made up of approximately 900 bankruptcy lawyers and bankruptcy judges from virtually every state in the United States. Its members include practitioners with both small and large practices, who represent divergent interests in bankruptcy cases. The CLLA supports efforts to remove Bankruptcy Code Section 1322(b)(2)'s prohibition of modification of mortgages secured by the debtor's principal residence. By permitting modification of home mortgages, good lending practices are reinforced as lenders are encouraged to thoroughly examine the character of the borrower and the collateral at the time of the initial loan process. In contrast, the present Section 1322 restriction encourages lenders to ignore these essential elements. As Secretary Paulson has stated that the source of the present crisis is bad lending practices, we believe the removal of Section 1322(b)(2)'s bar would put home mortgage lending practices on a proper path.

The CLLA adds that it is the experience of its members that those mortgages that exceed the value of the property are more likely to fail in the Chapter 13 context as compared to mortgages that do not exceed the property's value. Indeed, few Chapter 13 cases are successful if the mortgage exceeds the value of the home, even though the debtor's home is at risk. Upon failure, foreclosure follows, realizing the lender less than the value of the property at the beginning of the Chapter 13 case, while values are generally depressed further by foreclosure. In contrast, modification of the loan to the collateral's value will result in greater returns for the lender as success is much more likely, while price stabilization is encouraged. And further, as indicated by the statistics recently released from the Administrative Office of the US Courts for the 12 months ending on June 30, 2008, of the nearly 968,000 of the filed bankruptcy cases, 344,000 cases were Chapter 13 cases (35.5%) – a relative small group of debtors, particularly when compared to the number of homes with mortgages (at least 40 million).

Respectfully submitted,

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COMMERCIAL LAW LEAGUE OF AMERICA®

October __ 2008

VIA TELECOPIER (202) 224-1083 AND MAIL

The Honorable Christopher Dodd
448 Russell Building
Washington, DC 20510

Re: Bankruptcy Modification of Residential Mortgages

Dear Senator Dodd:

The Commercial Law League of America ("CLLA"), founded in 1895, is the nation's oldest organization of attorneys and other experts in credit and finance actively engaged in the field of commercial law, bankruptcy and reorganization. Its membership consists of nearly 2,300 individuals. The Bankruptcy Section of the CLLA is made up of approximately 900 bankruptcy lawyers, trustees and bankruptcy judges from virtually every state in the United States, including practitioners with both small and large practices, who represent divergent interests in bankruptcy cases.

The CLLA has long been associated with the representation of creditor interests, while at the same time seeking fair, equitable and efficient administration of state-law collection and insolvency matters and in bankruptcy cases for all parties-in-interest. Members of the CLLA have testified on numerous occasions before Congress as experts in collection, insolvency-related and bankruptcy issues. We write to indicate our support to allow modification of residential mortgages in bankruptcy. This can be accomplished through the elimination of the current prohibition of mortgage modification contained Bankruptcy Code Sections 1322(b)(2) and 1123(b)(5).

One might expect CLLA to take a reflexive creditors' position and oppose any proposal to remove the prohibition on mortgage modification. However, it is the experience of CLLA members that those debtors' mortgages that exceed the value of the property are more likely to fail in bankruptcy as compared to mortgages that do not exceed the property's value. Upon failure, foreclosure often follows, the lender realizes less on its loan than what would have been realized with a modification, and values of other properties in the area are further depressed by more foreclosures. In contrast, modification of the loan to the collateral's value in bankruptcy will result in greater returns for the lender as success of the debtor is much more likely, and price stabilization is promoted. Therefore, we believe that it is in the creditor's best interest to allow modification of residential mortgages in bankruptcy. Given the current financial crisis in our nation, CLLA recommends the suggested change to the Bankruptcy Code be adopted without delay.

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The Honorable Christopher Dodd

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