



COMMERCIAL LAW LEAGUE OF AMERICA®

October 31, 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) for residential mortgages existing at the time that the legislation is enacted. Such a proposal is narrowly tailored to address the current national mortgage crisis.

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

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The Honorable Christopher Dodd
October 31, 2008
Page 2

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.

Respectfully submitted,

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