



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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