CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

February 5, 2008

H.R. 3609

Emergency Home Ownership and Mortgage Equity Protection Act of 2007

As ordered reported by the House Committee on the Judiciary on December 12, 2007

SUMMARY

H.R. 3609 would authorize bankruptcy courts to modify the terms of certain nontraditional and subprime home mortgages during Chapter 13 bankruptcy proceedings. CBO estimates that enacting H.R. 3609 would reduce direct spending by $10 million over the 2009-2018 period and increase revenues by $7 million over the same period. While CBO estimates that the bill would add to court costs to adjudicate bankruptcies, we expect that such costs would not be significant and would be subject to the availability of appropriated funds.

H.R. 3069 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 3609 would impose private-sector mandates, as defined in UMRA, on holders of certain claims on mortgage debt in bankruptcy proceedings. Because of uncertainty about the number of bankruptcy plans that would be modified and how those changes would affect holders of secured claims, CBO cannot determine whether the aggregate cost of complying with the mandates would exceed the annual threshold established in UMRA ($136 million in 2008, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3609 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars												
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2009-2013	2009-2018
CHANGES IN DIRECT SPENDING													
Estimate Budget Authority	-1	-2	-2	-2	-1	-1	-1	-1	0	0	0	-8	-10
Estimated Outlays	-1	-2	-2	-2	-1	-1	-1	-1	0	0	0	-8	-10
CHANGES IN REVENUES													
Estimated Revenues	1	1	1	1	1	1	1	1	0	0	0	5	7

BASIS OF ESTIMATE

CBO assumes that H.R. 3609 will be enacted near the middle of 2008.

Direct Spending

H.R. 3609 would allow bankruptcy courts to modify the terms of certain nontraditional and subprime home mortgages (as defined in the bill) for a primary residence during Chapter 13 bankruptcy proceedings. The bill would apply in the following circumstances:

- The mortgage was initiated between January 1, 2000, and the date of the bill's enactment;
- The mortgage must be subject to a notice that a foreclosure may be initiated;
- The debtor's income, after several deductions, is insufficient to pay the mortgage default and maintain all payments; and
- The bankruptcy claim must be filed within the seven-year period following enactment.

Under current law, bankruptcy courts can establish a payment plan for overdue mortgage payments but cannot change the amount, timing, or interest rate terms of mortgage payments. A bankruptcy judge can make substantive changes to mortgages on secondary or vacation homes under current law. In 2007, around 310,000 individuals filed for bankruptcy under Chapter 13.

Information from the Administrative Office of the United States Courts (AOUSC) indicates that a significant portion of individuals who receive a notice of foreclosure currently seek bankruptcy protection under Chapter 13. CBO expects this pattern to continue for individuals with all types of mortgages, including those considered to be subprime and nontraditional. CBO expects that the bill could encourage some individuals to file for Chapter 13 bankruptcy who otherwise would not seek such protection, resulting in a 4 percent to 5 percent increase in annual filings over the number expected under current law.

Fees collected for bankruptcy filings ($235 per Chapter 13 filing) are distributed among several government entities, including the judiciary. About half of the amounts collected are used to cover the agencies' costs, and thus have no net effect on spending. A portion of those filing fees is recorded as an offsetting receipt (a credit against direct spending) in the federal budget and deposited into a special fund in the Treasury; it is not available for spending unless provided in an appropriation act. CBO estimates that enacting the legislation would increase such offsetting receipts by $10 million over the 2009-2018 period. (In 2007, $135 million was collected by the judiciary from all bankruptcy filing fees. Most of those funds were spent to cover court costs.)

Revenues

Another portion of Chapter 13 filing fees is deposited into the general fund of the Treasury and recorded as revenues. CBO estimates that enacting H.R. 3609 would increase such revenues from additional Chapter 13 bankruptcy filing fees by $7 million over the 2009-2018 period.

Spending Subject to Appropriation

Based on information from the AOUSC, CBO expects that enacting the bill could increase the workload of court staff; spending for that purpose would be subject to the availability of appropriated sums, and we estimate that any increase in such spending would be insignificant. Similarly, the bill could increase the workload of the United States Trustees; CBO estimates that cost also would be insignificant.

Under the bill, the Government Accountability Office and United States Trustees would each be required to prepare a study examining the effect of the changes made under H.R. 3609. CBO estimates the cost of these studies would total less than $500,000 in 2009.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 3069 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 3609 would impose private-sector mandates, as defined in UMRA, on holders of certain claims on debt secured only by a debtor's principal residence. The bill would allow bankruptcy judges to modify the rights of such claimholders by making changes to the terms of certain home mortgage agreements during bankruptcy proceedings. The bill also would require claimholders to give timely notice to both the debtor and the bankruptcy trustee before adding fees, costs, or charges while a bankruptcy case is pending. The cost of those mandates would depend on the number of Chapter 13 bankruptcy plans that judges would choose to modify and how changes in home mortgage agreements would affect holders of secured claims. In some cases, claimholders might not incur incremental costs, compared to current law, from changes that would aid debtors in preventing foreclosure on their homes. Because of those uncertainties, CBO cannot determine whether the aggregate cost of complying with the mandates would exceed the annual threshold established in UMRA ($136 million in 2008, adjusted annually for inflation).

ESTIMATE PREPARED BY:

Federal Costs: Leigh Angres
Impact on State, Local, and Tribal Governments: Melissa Merrell
Impact on the Private Sector: Paige Piper/Bach

ESTIMATE APPROVED BY:

Theresa Gullo
Deputy Assistant Director for Budget Analysis