

110TH CONGRESS
2D SESSION

S. _____

To provide needed housing reform.

IN THE SENATE OF THE UNITED STATES

Mr. REID introduced the following bill; which was read twice and referred to
the Committee on _____

A BILL

To provide needed housing reform.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Foreclosure Prevention Act of 2008”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MODIFICATIONS ON USE OF QUALIFIED MORTGAGE
BONDS

Sec. 101. Modifications on use of qualified mortgage bonds; temporary in-
creased volume cap for certain housing bonds.

TITLE II—EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT
OF ABANDONED AND FORECLOSED HOMES

Sec. 201. Emergency assistance for the redevelopment of abandoned and foreclosed homes.

TITLE III—HOUSING COUNSELING RESOURCES

Sec. 301. Housing counseling resources.

TITLE IV—HELPING FAMILIES SAVE THEIR HOME IN BANKRUPTCY ACT

Sec. 401. Short title.

Subtitle A—Minimizing Foreclosures

Sec. 411. Special rules for modification of loans secured by residences.
Sec. 412. Waiver of counseling requirement when homes are in foreclosure.

Subtitle B—Providing Other Debtor Protections

Sec. 421. Combating excessive fees.
Sec. 422. Maintaining debtors' legal claims.
Sec. 423. Resolving disputes.
Sec. 424. Enacting a homestead floor for debtors over 55 years of age.
Sec. 425. Disallowing claims from violations of consumer protection laws.

TITLE V—MORTGAGE DISCLOSURE IMPROVEMENT ACT

Sec. 501. Short title.
Sec. 502. Enhanced mortgage loan disclosures.

TITLE VI—INCENTIVES FOR BUSINESS

Sec. 601. Carryback of certain net operating losses allowed for 5 years; temporary suspension of 90 percent AMT limit.

1 **TITLE I—MODIFICATIONS ON** 2 **USE OF QUALIFIED MORT-** 3 **GAGE BONDS**

4 **SEC. 101. MODIFICATIONS ON USE OF QUALIFIED MORT-** 5 **GAGE BONDS; TEMPORARY INCREASED VOL-** 6 **UME CAP FOR CERTAIN HOUSING BONDS.**

7 (a) USE OF QUALIFIED MORTGAGE BONDS PRO-
8 CEEDS FOR SUBPRIME REFINANCING LOANS.—Section
9 143(k) of the Internal Revenue Code of 1986 (relating to
10 other definitions and special rules) is amended by adding
11 at the end the following new paragraph:

1 “(12) SPECIAL RULES FOR SUBPRIME
2 REFINANCINGS.—

3 “(A) IN GENERAL.—Notwithstanding the
4 requirements of subsection (i)(1), the proceeds
5 of a qualified mortgage issue may be used to re-
6 finance a mortgage on a residence which was
7 originally financed by the mortgagor through a
8 qualified subprime loan.

9 “(B) SPECIAL RULES.—In applying this
10 paragraph to any case in which the proceeds of
11 a qualified mortgage issue are used for any refi-
12 nancing described in subparagraph (A)—

13 “(i) subsection (a)(2)(D)(i) shall be
14 applied by substituting ‘12-month period’
15 for ‘42-month period’ each place it ap-
16 pears,

17 “(ii) subsection (d) (relating to 3-year
18 requirement) shall not apply, and

19 “(iii) subsection (e) (relating to pur-
20 chase price requirement) shall be applied
21 by using the market value of the residence
22 at the time of refinancing in lieu of the ac-
23 quisition cost.

24 “(C) QUALIFIED SUBPRIME LOAN.—The
25 term ‘qualified subprime loan’ means an adjust-

1 able rate single-family residential mortgage loan
2 originated after December 31, 2001, and before
3 January 1, 2008, that the bond issuer deter-
4 mines would be reasonably likely to cause finan-
5 cial hardship to the borrower if not refinanced.

6 “(D) TERMINATION.—This paragraph
7 shall not apply to any bonds issued after De-
8 cember 31, 2010.”.

9 (b) INCREASED VOLUME CAP FOR CERTAIN
10 BONDS.—

11 (1) IN GENERAL.—Subsection (d) of section
12 146 of the Internal Revenue Code of 1986 is amend-
13 ed by adding at the end the following new para-
14 graph:

15 “(5) INCREASE AND SET ASIDE FOR HOUSING
16 BONDS FOR 2008.—

17 “(A) INCREASE FOR 2008.—In the case of
18 calendar year 2008, the State ceiling for each
19 State shall be increased by an amount equal to
20 \$10,000,000,000 multiplied by a fraction—

21 “(i) the numerator of which is the
22 population of such State (as reported in
23 the most recent decennial census), and

1 “(ii) the denominator of which is the
2 total population of all States (as reported
3 in the most recent decennial census).

4 “(B) SET ASIDE.—

5 “(i) IN GENERAL.—Any amount of
6 the State ceiling for any State which is at-
7 tributable to an increase under this para-
8 graph shall be allocated solely for one or
9 more qualified purposes.

10 “(ii) QUALIFIED PURPOSE.—For pur-
11 poses of this paragraph, the term ‘qualified
12 purpose’ means—

13 “(I) the issuance of exempt facil-
14 ity bonds used solely to provide quali-
15 fied residential rental projects, or

16 “(II) a qualified mortgage issue
17 (determined by substituting ‘12-month
18 period’ for ‘42-month period’ each
19 place it appears in section
20 143(a)(2)(D)(i)).”.

21 (2) CARRYFORWARD OF UNUSED LIMITA-
22 TIONS.—Subsection (f) of section 146 of such Code
23 is amended by adding at the end the following new
24 paragraph:

1 “(6) SPECIAL RULES FOR INCREASED VOLUME
2 CAP UNDER SUBSECTION (d)(5).—

3 “(A) IN GENERAL.—No amount which is
4 attributable to the increase under subsection
5 (d)(5) may be used—

6 “(i) for a carryforward purpose other
7 than a qualified purpose (as defined in
8 subsection (d)(5)), and

9 “(ii) to issue any bond after calendar
10 year 2010.

11 “(B) ORDERING RULES.—For purposes of
12 subparagraph (A), any carryforward of an
13 issuing authority’s volume cap for calendar year
14 2008 shall be treated as attributable to such in-
15 crease to the extent of such increase.”.

16 (c) ALTERNATIVE MINIMUM TAX.—

17 (1) IN GENERAL.—Clause (ii) of section
18 57(a)(5)(C) of the Internal Revenue Code of 1986 is
19 amended by striking “shall not include” and all that
20 follows and inserting “shall not include—

21 “(I) any qualified 501(c)(3) bond
22 (as defined in section 145), or

23 “(II) any qualified mortgage
24 bond (as defined in section 143(a)) or
25 qualified veterans’ mortgage bond (as

1 defined in section 143(b)) issued after
2 the date of the enactment of this sub-
3 clause and before January 1, 2011.”.

4 (2) CONFORMING AMENDMENT.—The heading
5 for section 57(a)(5)(C)(ii) is amended by striking
6 “QUALIFIED 501(c)(3) BONDS” and inserting “CER-
7 TAIN BONDS”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to bonds issued after the date of
10 the enactment of this title.

11 **TITLE II—EMERGENCY ASSIST-**
12 **ANCE FOR THE REDEVELOP-**
13 **MENT OF ABANDONED AND**
14 **FORECLOSED HOMES**

15 **SEC. 201. EMERGENCY ASSISTANCE FOR THE REDEVELOP-**
16 **MENT OF ABANDONED AND FORECLOSED**
17 **HOMES.**

18 (a) DIRECT APPROPRIATIONS.—There shall be ap-
19 propriated out of any money in the Treasury not otherwise
20 appropriated for the fiscal year 2008, \$4,000,000,000, to
21 remain available until expended, for assistance to States
22 and units of general local government (as such terms are
23 defined in section 102 of the Housing and Community De-
24 velopment Act of 1974 (42 U.S.C. 5302)) for the redevel-
25 opment of abandoned and foreclosed homes.

1 (b) ALLOCATION OF APPROPRIATED AMOUNTS.—

2 (1) IN GENERAL.—The amounts appropriated
3 or otherwise made available to States and units of
4 general local government under this section shall be
5 allocated based on a funding formula established by
6 the Secretary of Housing and Urban Development.

7 (2) FORMULA TO BE DEVISED SWIFTLY.—The
8 funding formula required under paragraph (1) shall
9 be established not later than 60 days after the date
10 of enactment of this title.

11 (3) CRITERIA.—The funding formula required
12 under paragraph (1) shall ensure that any amounts
13 appropriated or otherwise made available under this
14 section are allocated to States and units of general
15 local government with the greatest need, as such
16 need is determined in the discretion of the Secretary
17 based on the following factors:

18 (A) The number and percentage of home
19 foreclosures in each State or unit of general
20 local government.

21 (B) The number and percentage of homes
22 financed by a subprime mortgage related loan
23 in each State or unit of general local govern-
24 ment.

1 (C) The number and percentage of homes
2 in default or delinquency in each State or unit
3 of general local government.

4 (4) DISTRIBUTION.—Amounts appropriated or
5 otherwise made available to States and units of gen-
6 eral local government under this section shall be dis-
7 tributed according to the funding formula required
8 under paragraph (1) not later than 30 days after
9 the establishment of such formula.

10 (c) USE OF FUNDS.—

11 (1) IN GENERAL.—Any State or unit of general
12 local government that receives amounts pursuant to
13 this section shall, not later than 18 months after the
14 receipt of such amounts, use such amounts to rede-
15 velop abandoned and foreclosed homes.

16 (2) PRIORITY.—Any State or unit of general
17 local government that receives amounts pursuant to
18 this section shall in distributing such amounts give
19 priority emphasis and consideration to those metro-
20 politan areas, metropolitan cities, urban areas, rural
21 areas, low- and moderate-income areas, and other
22 areas with the greatest need, including those—

23 (A) with the greatest percentage of home
24 foreclosures;

1 (B) with the highest percentage of homes
2 financed by a subprime mortgage related loan;
3 or

4 (C) identified by the State or unit of gen-
5 eral local government as likely to face a signifi-
6 cant rise in the rate of home foreclosures.

7 (3) ELIGIBLE USES.—

8 (A) IN GENERAL.—Amounts made avail-
9 able under this section may be used to—

10 (i) make grants, loans, and other fi-
11 nancing mechanisms to community devel-
12 opment financial institutions (as such term
13 is defined under section 103(5) of the
14 Community Development Banking and Fi-
15 nancial Institutions Act of 1994 (12
16 U.S.C. 4702(5))), national intermediaries,
17 and nonprofit housing or community devel-
18 opment organizations and others to pur-
19 chase and rehabilitate homes that have
20 been abandoned or foreclosed upon, in
21 order to sell, rent, or redevelop such
22 homes;

23 (ii) establish financing mechanisms
24 for redevelopment of foreclosed upon
25 homes, including such mechanisms as soft-

1 seconds, loan loss reserves, and shared-equity
2 loans for low- and moderate-income
3 homebuyers;

4 (iii) purchase and rehabilitate homes
5 that have been abandoned or foreclosed
6 upon, in order to sell, rent, or redevelop
7 such homes;

8 (iv) establish land banks for homes
9 that have been foreclosed upon; and

10 (v) demolish blighted structures.

11 (B) LIMITATION.—Any funds used under
12 this section for the purchase of an abandoned
13 or foreclosed upon home shall be at a cost equal
14 to or less than the appraised value of the home
15 based on the most up-to-date appraisal, as such
16 appraisal is defined by the Secretary.

17 (d) RULE OF CONSTRUCTION.—Amounts appro-
18 priated or otherwise made available to States and units
19 of general local government under this section shall be
20 treated as though such funds were community develop-
21 ment block grant funds under title I of the Housing and
22 Community Development Act of 1974.

23 (e) WAIVER AUTHORITY.—

24 (1) IN GENERAL.—In administering any
25 amounts appropriated or otherwise made available

1 under this section, the Secretary of Housing and
2 Urban Development may waive, or specify alter-
3 native requirements for, any provision of any statute
4 or regulation that the Secretary administers in con-
5 nection with the obligation by the Secretary or the
6 use by the recipient of such funds (except for re-
7 quirements related to fair housing, nondiscrimina-
8 tion, labor standards, and the environment), in order
9 to expedite or facilitate the use of such funds.

10 (2) LOW AND MODERATE INCOME REQUIRE-
11 MENT.—Notwithstanding the authority of the Sec-
12 retary under paragraph (1), all of the funds appro-
13 priated or otherwise made available under this sec-
14 tion shall be used with respect to persons whose in-
15 come does not exceed 120 percent of area median in-
16 come.

17 (f) EMERGENCY DESIGNATION.—The amounts ap-
18 propriated under this title are designated as an emergency
19 requirement and necessary to meet emergency needs pur-
20 suant to section 204 of S. Con. Res. 21 (110th Congress),
21 the concurrent resolution on the budget for fiscal year
22 2008.

1 **TITLE III—HOUSING**
2 **COUNSELING RESOURCES**

3 **SEC. 301. HOUSING COUNSELING RESOURCES.**

4 There shall be appropriated out of any money in the
5 Treasury not otherwise appropriated, for an additional
6 amount for the “Neighborhood Reinvestment Corpora-
7 tion—Payment to the Neighborhood Reinvestment Cor-
8 poration” \$200,000,000,000, to remain available until
9 September 30, 2008, for foreclosure mitigation activities
10 under the terms and conditions contained in the second
11 paragraph under the heading “Neighborhood Reinvest-
12 ment Corporation—Payment to the Neighborhood Rein-
13 vestment Corporation” of Public Law 110-161.

14 **TITLE IV—HELPING FAMILIES**
15 **SAVE THEIR HOME IN BANK-**
16 **RUPTCY ACT**

17 **SEC. 401. SHORT TITLE.**

18 This title may be cited as the “Helping Families Save
19 Their Homes in Bankruptcy Act of 2008”.

20 **Subtitle A—Minimizing**
21 **Foreclosures**

22 **SEC. 411. SPECIAL RULES FOR MODIFICATION OF LOANS**
23 **SECURED BY RESIDENCES.**

24 (a) **IN GENERAL.**—Section 1322(b) of title 11,
25 United States Code, is amended—

1 (1) in paragraph (10), by striking “and” at the
2 end;

3 (2) by redesignating paragraph (11) as para-
4 graph (12); and

5 (3) by inserting after paragraph (10) the fol-
6 lowing:

7 “(11) notwithstanding paragraph (2) and other-
8 wise applicable nonbankruptcy law—

9 “(A) modify an allowed secured claim se-
10 cured by the debtor’s principal residence, as de-
11 scribed in subparagraph (B), if, after deduction
12 from the debtor’s current monthly income of
13 the expenses permitted for debtors described in
14 section 1325(b)(3) of this title (other than
15 amounts contractually due to creditors holding
16 such allowed secured claims and additional pay-
17 ments necessary to maintain possession of that
18 residence), the debtor has insufficient remain-
19 ing income to retain possession of the residence
20 by curing a default and maintaining payments
21 while the case is pending, as provided under
22 paragraph (5); and

23 “(B) provide for payment of such claim—

24 “(i) for a period not to exceed 30
25 years (reduced by the period for which the

1 loan has been outstanding) from the date
2 of the order for relief under this chapter;
3 and

4 “(ii) at a rate of interest accruing
5 after such date calculated at a fixed an-
6 nual percentage rate, in an amount equal
7 to the most recently published annual yield
8 on conventional mortgages published by
9 the Board of Governors of the Federal Re-
10 serve System, as of the applicable time set
11 forth in the rules of the Board, plus a rea-
12 sonable premium for risk; and”.

13 (b) CONFORMING AMENDMENT.—Section 1325(a)(5)
14 of title 11, United States Code, is amended by inserting
15 before “with respect” the following: “except as otherwise
16 provided in section 1322(b)(11) of this title,”.

17 **SEC. 412. WAIVER OF COUNSELING REQUIREMENT WHEN**
18 **HOMES ARE IN FORECLOSURE.**

19 Section 109(h) of title 11, United States Code, is
20 amended by adding at the end the following:

21 “(5) Paragraph (1) shall not apply with respect to
22 a debtor who files with the court a certification that a
23 foreclosure sale of the debtor’s principal residence has
24 been scheduled.”.

1 **Subtitle B—Providing Other**
2 **Debtor Protections**

3 **SEC. 421. COMBATING EXCESSIVE FEES.**

4 Section 1322(c) of title 11, the United States Code,
5 is amended—

6 (1) in paragraph (1), by striking “and” at the
7 end;

8 (2) in paragraph (2), by striking the period at
9 the end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(3) to the extent that an allowed secured claim
12 is secured by the debtor’s principal residence, the
13 value of which is greater than the amount of such
14 claim, fees, costs, or charges arising during the
15 pendency of the case may be added to secured debt
16 provided for by the plan only if—

17 “(A) notice of such fees, costs or charges
18 is filed with the court before the expiration of
19 the earlier of—

20 “(i) 1 year after the time at which
21 they are incurred; or

22 “(ii) 60 days before the conclusion of
23 the case; and

1 “(B) such fees, costs, or charges are law-
2 ful, reasonable, and provided for in the under-
3 lying contract;

4 “(4) the failure of a party to give notice de-
5 scribed in paragraph (3) shall be deemed a waiver
6 of any claim for fees, costs, or charges described in
7 paragraph (3) for all purposes, and any attempt to
8 collect such fees, costs, or charges shall constitute a
9 violation of section 524(a)(2) of this title or, if the
10 violation occurs before the date of discharge, of sec-
11 tion 362(a) of this title; and

12 “(5) a plan may provide for the waiver of any
13 prepayment penalty on a claim secured by the prin-
14 cipal residence of the debtor.”.

15 **SEC. 422. MAINTAINING DEBTORS’ LEGAL CLAIMS.**

16 Section 554(e) of title 11, United States Code, is
17 amended by adding at the end the following:

18 “(e) In any action in State or Federal court with re-
19 spect to a claim or defense asserted by an individual debt-
20 or in such action that was not scheduled under section
21 521(a)(1) of this title, the trustee shall be allowed a rea-
22 sonable time to request joinder or substitution as the real
23 party in interest. If the trustee does not request joinder
24 or substitution in such action, the debtor may proceed as
25 the real party in interest, and no such action shall be dis-

1 missed on the ground that it is not prosecuted in the name
2 of the real party in interest or on the ground that the
3 debtor's claims were not properly scheduled in a case
4 under this title.”.

5 **SEC. 423. RESOLVING DISPUTES.**

6 Section 1334 of title 28, United States Code, is
7 amended by adding at the end the following: “Notwith-
8 standing any agreement for arbitration that is subject to
9 chapter 1 of title 9, in any core proceeding under section
10 157(b) of this title involving an individual debtor whose
11 debts are primarily consumer debts, the court may hear
12 and determine the proceeding, and enter appropriate or-
13 ders and judgments, in lieu of referral to arbitration.”.

14 **SEC. 424. ENACTING A HOMESTEAD FLOOR FOR DEBTORS**
15 **OVER 55 YEARS OF AGE.**

16 (a) IN GENERAL.—Section 522(b)(3) of title 11,
17 United States Code, is amended—

18 (1) in subparagraph (B), by striking “and” at
19 the end;

20 (2) in subparagraph (C), by striking the period
21 at the end and inserting “; and”; and

22 (3) by adding at the end and inserting the fol-
23 lowing:

24 “(D) if the debtor, as of the date of the filing
25 of the petition, is 55 years old or older, the debtor’s

1 aggregate interest, not to exceed \$75,000 in value,
2 in real property or personal property that the debtor
3 or a dependent of the debtor uses as a principal resi-
4 dence, or in a cooperative that owns property that
5 the debtor or a dependent of the debtor uses as a
6 principal residence.”.

7 (b) EXEMPTION AUTHORITY.—Section 522(d)(1) of
8 title 11, United States Code, is amended by inserting “or,
9 if the debtor is 55 years of age or older, \$75,000 in value,”
10 before “in real property”.

11 **SEC. 425. DISALLOWING CLAIMS FROM VIOLATIONS OF**
12 **CONSUMER PROTECTION LAWS.**

13 Section 502(b) of title 11, United States Code, is
14 amended—

15 (1) in paragraph (8), by striking “or” at the
16 end;

17 (2) in paragraph (9), by striking the period at
18 the end and inserting “; or”; and

19 (3) by adding at the end the following:

20 “(10) the claim is subject to any remedy for
21 damages or rescission due to failure to comply with
22 any applicable requirement under the Truth in
23 Lending Act (15 U.S.C. 1601 et seq.), or any other
24 provision of applicable State or Federal consumer
25 protection law that was in force when the noncompli-

1 ance took place, notwithstanding the prior entry of
2 a foreclosure judgment.”.

3 **TITLE V—MORTGAGE DISCLO-**
4 **SURE IMPROVEMENT ACT**

5 **SEC. 501. SHORT TITLE.**

6 This title may be cited as the “Mortgage Disclosure
7 Improvement Act of 2008”.

8 **SEC. 502. ENHANCED MORTGAGE LOAN DISCLOSURES.**

9 (a) TRUTH IN LENDING ACT DISCLOSURES.—Sec-
10 tion 128(b)(2) of the Truth in Lending Act (15 U.S.C.
11 1638(b)(2)) is amended—

12 (1) by inserting “(A)” before “In the”;

13 (2) by striking “a residential mortgage trans-
14 action, as defined in section 103(w)” and inserting
15 “any extension of credit that is secured by the dwell-
16 ing of a consumer”;

17 (3) by striking “shall be made in accordance”
18 and all that follows through “extended, or”;

19 (4) by striking “If the” and all that follows
20 through the end of the paragraph and inserting the
21 following:

22 “(B) In the case of an extension of credit that
23 is secured by the dwelling of a consumer, in addition
24 to the other disclosures required by subsection (a),

1 the disclosures provided under this paragraph
2 shall—

3 “(i) state in conspicuous type size and for-
4 mat, the following: ‘You are not required to
5 complete this agreement merely because you
6 have received these disclosures or signed a loan
7 application.’; and

8 “(ii) be furnished to the borrower not later
9 than 7 business days before the date of con-
10 summation of the transaction, and at the time
11 of consummation of the transaction, subject to
12 subparagraph (D).

13 “(C) In the case of an extension of credit that
14 is secured by the dwelling of a consumer, under
15 which the annual rate of interest is variable, or with
16 respect to which the regular payments may other-
17 wise be variable, in addition to the other disclosures
18 required by subsection (a), the disclosures provided
19 under this paragraph shall—

20 “(i) label the payment schedule as follows:
21 ‘Payment Schedule: Payments Will Vary Based
22 on Interest Rate Changes’; and

23 “(ii) state the maximum amount of the
24 regular required payments on the loan, based
25 on the maximum interest rate allowed, intro-

1 duced with the following language in con-
2 spicuous type size and format: ‘Your payment
3 can go as high as _____’, the blank to be filled
4 in with the maximum possible payment amount.

5 “(D) In any case in which the disclosure state-
6 ment provided 7 business days before the date of
7 consummation of the transaction contains an annual
8 percentage rate of interest that is no longer accu-
9 rate, as determined under section 107(c), the cred-
10 itor shall furnish an additional, corrected statement
11 to the borrower, not later than 3 business days be-
12 fore the date of consummation of the transaction.”.

13 (b) CIVIL LIABILITY.—Section 130(a) of the Truth
14 in Lending Act (15 U.S.C. 1640(a)) is amended—

15 (1) in paragraph (2)(A)(iii), by striking “not
16 less than \$200 or greater than \$2,000” and insert-
17 ing “\$5,000, such amount to be adjusted annually
18 based on the consumer price index, to maintain cur-
19 rent value”; and

20 (2) in the penultimate sentence of the undesign-
21 nated matter following paragraph (4)—

22 (A) by striking “only for” and inserting
23 “for”;

24 (B) by striking “section 125 or” and in-
25 serting “section 122, section 125,”;

1 (C) by inserting “or section 128(b),” after
2 “128(a),”; and
3 (D) by inserting “or section 128(b)” before
4 the period.

5 **TITLE VI—INCENTIVES FOR** 6 **BUSINESS**

7 **SEC. 601. CARRYBACK OF CERTAIN NET OPERATING** 8 **LOSSES ALLOWED FOR 5 YEARS; TEMPORARY** 9 **SUSPENSION OF 90 PERCENT AMT LIMIT.**

10 (a) IN GENERAL.—Subparagraph (H) of section
11 172(b)(1) of the Internal Revenue Code of 1986 is amend-
12 ed to read as follows:

13 “(H) 5-YEAR CARRYBACK OF CERTAIN
14 LOSSES.—

15 “(i) TAXABLE YEARS ENDING DURING
16 2001 AND 2002.—In the case of a net oper-
17 ating loss for any taxable year ending dur-
18 ing 2001 or 2002, subparagraph (A)(i)
19 shall be applied by substituting ‘5’ for ‘2’
20 and subparagraph (F) shall not apply.

21 “(ii) TAXABLE YEARS BEGINNING OR
22 ENDING DURING 2006, 2007, AND 2008.—In
23 the case of a net operating loss with re-
24 spect to any eligible taxpayer (within the
25 meaning of section 168(k)(1)(B)) for any

1 taxable year beginning or ending during
2 2006, 2007, or 2008—

3 “(I) subparagraph (A)(i) shall be
4 applied by substituting ‘5’ for ‘2’,

5 “(II) subparagraph (E)(ii) shall
6 be applied by substituting ‘4’ for ‘2’,
7 and

8 “(III) subparagraph (F) shall not
9 apply.”.

10 (b) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT
11 ON CERTAIN NOL CARRYBACKS AND CARRYOVERS.—

12 (1) IN GENERAL.—Section 56(d) of the of the
13 Internal Revenue Code of 1986 is amended by add-
14 ing at the end the following new paragraph:

15 “(3) ADDITIONAL ADJUSTMENTS.—For pur-
16 poses of paragraph (1)(A), in the case of an eligible
17 taxpayer (within the meaning of section
18 168(k)(1)(B)), the amount described in clause (I) of
19 paragraph (1)(A)(ii) shall be increased by the
20 amount of the net operating loss deduction allowable
21 for the taxable year under section 172 attributable
22 to the sum of—

23 “(A) carrybacks of net operating losses
24 from taxable years beginning or ending during
25 2006, 2007, and 2008, and

1 “(B) carryovers of net operating losses to
2 taxable years beginning or ending during 2006,
3 2007, or 2008.”.

4 (2) CONFORMING AMENDMENT.—Subclause (I)
5 of section 56(d)(1)(A)(i) of such Code is amended by
6 inserting “amount of such” before “deduction de-
7 scribed in clause (ii)(I)”.

8 (c) ANTI-ABUSE RULES.—The Secretary of Treasury
9 or the Secretary’s designee shall prescribes such rules as
10 are necessary to prevent the abuse of the purposes of the
11 amendments made by this section, including anti-stuffing
12 rules, anti-churning rules (including rules relating to sale-
13 leasebacks), and rules similar to the rules under section
14 1091 of the Internal Revenue Code of 1986 relating to
15 losses from wash sales.

16 (d) EFFECTIVE DATES.—

17 (1) SUBSECTION (a).—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (B), the amendments made by
20 subsection (a) shall apply to net operating
21 losses arising in taxable years beginning or end-
22 ing in 2006, 2007, or 2008.

23 (B) ELECTION.—In the case of an eligible
24 taxpayer (within the meaning of section
25 168(k)(1)(B) of the Internal Revenue Code of

1 1986) with a net operating loss for a taxable
2 year beginning or ending during 2006 or
3 2007—

4 (i) any election made under section
5 172(b)(3) of the Internal Revenue Code of
6 1986 may (notwithstanding such section)
7 be revoked before November 1, 2008, and

8 (ii) any election made under section
9 172(j) of such Code shall (notwithstanding
10 such section) be treated as timely made if
11 made before November 1, 2008.

12 (2) SUBSECTION (b).—The amendments made
13 by subsection (b) shall apply to taxable years ending
14 after December 31, 1995.