

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide a complete substitute.

IN THE SENATE OF THE UNITED STATES—110th Cong., 2d Sess.

H. R. 3221

Moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. REID

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 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”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 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 fore-
closed 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. Definitions.

Sec. 412. Special rules for modification of loans secured by residences.

Sec. 413. 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. Election for 5-year carryback of certain net operating losses and tem-
porary suspension of 90 percent AMT limit.

TITLE VII—EMERGENCY DESIGNATION

Sec. 701. Emergency designation.

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:

12 “(12) SPECIAL RULES FOR SUBPRIME
13 REFINANCINGS.—

14 “(A) IN GENERAL.—Notwithstanding the
15 requirements of subsection (i)(1), the proceeds
16 of a qualified mortgage issue may be used to re-
17 finance a mortgage on a residence which was
18 originally financed by the mortgagor through a
19 qualified subprime loan.

20 “(B) SPECIAL RULES.—In applying this
21 paragraph to any case in which the proceeds of
22 a qualified mortgage issue are used for any re-
23 financing described in subparagraph (A)—

24 “(i) subsection (a)(2)(D)(i) shall be
25 applied by substituting ‘12-month period’

1 for ‘42-month period’ each place it ap-
2 pears,

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

5 “(iii) subsection (e) (relating to pur-
6 chase price requirement) shall be applied
7 by using the market value of the residence
8 at the time of refinancing in lieu of the ac-
9 quisition cost.

10 “(C) QUALIFIED SUBPRIME LOAN.—The
11 term ‘qualified subprime loan’ means an adjust-
12 able rate single-family residential mortgage loan
13 originated after December 31, 2001, and before
14 January 1, 2008, that the bond issuer deter-
15 mines would be reasonably likely to cause finan-
16 cial hardship to the borrower if not refinanced.

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

20 (b) INCREASED VOLUME CAP FOR CERTAIN
21 BONDS.—

22 (1) IN GENERAL.—Subsection (d) of section
23 146 of the Internal Revenue Code of 1986 is amend-
24 ed by adding at the end the following new para-
25 graph:

1 “(II) a qualified mortgage issue
2 (determined by substituting ‘12-month
3 period’ for ‘42-month period’ each
4 place it appears in section
5 143(a)(2)(D)(i)).”.

6 (2) CARRYFORWARD OF UNUSED LIMITA-
7 TIONS.—Subsection (f) of section 146 of such Code
8 is amended by adding at the end the following new
9 paragraph:

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

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

15 “(i) for a carryforward purpose other
16 than a qualified purpose (as defined in
17 subsection (d)(5)), and

18 “(ii) to issue any bond after calendar
19 year 2010.

20 “(B) ORDERING RULES.—For purposes of
21 subparagraph (A), any carryforward of an
22 issuing authority’s volume cap for calendar year
23 2008 shall be treated as attributable to such in-
24 crease to the extent of such increase.”.

25 (c) ALTERNATIVE MINIMUM TAX.—

1 (1) IN GENERAL.—Clause (ii) of section
2 57(a)(5)(C) of the Internal Revenue Code of 1986 is
3 amended by striking “shall not include” and all that
4 follows and inserting “shall not include—

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

7 “(II) any qualified mortgage
8 bond (as defined in section 143(a)) or
9 qualified veterans’ mortgage bond (as
10 defined in section 143(b)) issued after
11 the date of the enactment of this sub-
12 clause and before January 1, 2011.”.

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

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

1 **TITLE II—EMERGENCY ASSIST-**
2 **ANCE FOR THE REDEVELOP-**
3 **MENT OF ABANDONED AND**
4 **FORECLOSED HOMES**

5 **SEC. 201. EMERGENCY ASSISTANCE FOR THE REDEVELOP-**
6 **MENT OF ABANDONED AND FORECLOSED**
7 **HOMES.**

8 (a) DIRECT APPROPRIATIONS.—There shall be ap-
9 propriated out of any money in the Treasury not otherwise
10 appropriated for the fiscal year 2008, \$4,000,000,000, to
11 remain available until expended, for assistance to States
12 and units of general local government (as such terms are
13 defined in section 102 of the Housing and Community De-
14 velopment Act of 1974 (42 U.S.C. 5302)) for the redev-
15 opment of abandoned and foreclosed homes.

16 (b) ALLOCATION OF APPROPRIATED AMOUNTS.—

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

22 (2) FORMULA TO BE DEvised SWIFTLY.—The
23 funding formula required under paragraph (1) shall
24 be established not later than 60 days after the date
25 of enactment of this title.

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

8 (A) The number and percentage of home
9 foreclosures in each State or unit of general
10 local government.

11 (B) The number and percentage of homes
12 financed by a subprime mortgage related loan
13 in each State or unit of general local govern-
14 ment.

15 (C) The number and percentage of homes
16 in default or delinquency in each State or unit
17 of general local government.

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

24 (c) USE OF FUNDS.—

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

6 (2) PRIORITY.—Any State or unit of general
7 local government that receives amounts pursuant to
8 this section shall in distributing such amounts give
9 priority emphasis and consideration to those metro-
10 politan areas, metropolitan cities, urban areas, rural
11 areas, low- and moderate-income areas, and other
12 areas with the greatest need, including those—

13 (A) with the greatest percentage of home
14 foreclosures;

15 (B) with the highest percentage of homes
16 financed by a subprime mortgage related loan;
17 or

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

21 (3) ELIGIBLE USES.—

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

24 (i) make grants, loans, and other fi-
25 nancing mechanisms to community devel-

1 opment financial institutions (as such term
2 is defined under section 103(5) of the
3 Community Development Banking and Fi-
4 nancial Institutions Act of 1994 (12
5 U.S.C. 4702(5))), national intermediaries,
6 and nonprofit housing or community devel-
7 opment organizations and others to pur-
8 chase and rehabilitate homes that have
9 been abandoned or foreclosed upon, in
10 order to sell, rent, or redevelop such
11 homes;

12 (ii) establish financing mechanisms
13 for redevelopment of foreclosed upon
14 homes, including such mechanisms as soft-
15 seconds, loan loss reserves, and shared-eq-
16 uity loans for low- and moderate-income
17 homebuyers;

18 (iii) purchase and rehabilitate homes
19 that have been abandoned or foreclosed
20 upon, in order to sell, rent, or redevelop
21 such homes;

22 (iv) establish land banks for homes
23 that have been foreclosed upon; and

24 (v) demolish blighted structures.

1 (B) LIMITATION.—Any funds used under
2 this section for the purchase of an abandoned
3 or foreclosed upon home shall be at a cost equal
4 to or less than the appraised value of the home
5 based on the most up-to-date appraisal, as such
6 appraisal is defined by the Secretary.

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

13 (e) WAIVER AUTHORITY.—

14 (1) IN GENERAL.—In administering any
15 amounts appropriated or otherwise made available
16 under this section, the Secretary of Housing and
17 Urban Development may waive, or specify alter-
18 native requirements for, any provision of any statute
19 or regulation that the Secretary administers in con-
20 nection with the obligation by the Secretary or the
21 use by the recipient of such funds (except for re-
22 quirements related to fair housing, nondiscrimina-
23 tion, labor standards, and the environment), in order
24 to expedite or facilitate the use of such funds.

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

8 (f) PERIODIC AUDITS.—In consultation with the Sec-
9 retary of Housing and Urban Development, the Comp-
10 troller General of the United States shall conduct periodic
11 audits to ensure that funds appropriated, made available,
12 or otherwise distributed under this title are being used in
13 a manner consistent with the criteria provided in this title.

14 **TITLE III—HOUSING**
15 **COUNSELING RESOURCES**

16 **SEC. 301. HOUSING COUNSELING RESOURCES.**

17 There shall be appropriated out of any money in the
18 Treasury not otherwise appropriated, for an additional
19 amount for the “Neighborhood Reinvestment Corpora-
20 tion—Payment to the Neighborhood Reinvestment Cor-
21 poration” \$200,000,000 to remain available until Sep-
22 tember 30, 2008, for foreclosure mitigation activities
23 under the terms and conditions contained in the second
24 undesignated paragraph (beginning with the phrase “For
25 an additional amount”) under the heading “Neighborhood

1 Reinvestment Corporation—Payment to the Neighborhood
2 Reinvestment Corporation” of Public Law 110–161.

3 **TITLE IV—HELPING FAMILIES**
4 **SAVE THEIR HOME IN BANK-**
5 **RUPTCY ACT**

6 **SEC. 401. SHORT TITLE.**

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

9 **Subtitle A—Minimizing**
10 **Foreclosures**

11 **SEC. 411. DEFINITIONS.**

12 Section 101 of title 11, United States Code, is
13 amended—

14 (1) by redesignating paragraphs (40A) and
15 (40B) as paragraphs (40B) and (40C), respectively;

16 (2) by inserting after paragraph (40) the fol-
17 lowing:

18 “(40A) The term ‘nontraditional mortgage’
19 means a security interest in the debtor’s principal
20 residence that secures a debt for a loan that at any
21 period during the term of the loan provides for the
22 deferral of payment of principal or interest through
23 permitting periodic payments that do not cover the
24 full amount of interest due or that cover only the in-
25 terest due, except that such term excludes—

1 “(A) a loan that at any period during the
2 term of the loan provides for the deferral of
3 payment of principal through permitting peri-
4 odic payments that cover only the interest due,
5 if the creditor demonstrates that it determined
6 in good faith at the time the loan was con-
7 summated, after undergoing a full underwriting
8 process based on verified and documented infor-
9 mation, that the debtor had a reasonable ability
10 to repay at the full interest and principal pay-
11 ment amount (assuming an initial 30 year full
12 amortization), and payments under the loan re-
13 sulted in a debt-to-income ratio of the debtor in
14 an amount equal to or less than that which
15 would have been permitted under guidelines and
16 directives established by the Secretary of Hous-
17 ing and Urban Development pursuant to section
18 203.33 of title 24, Code of Federal Regulations,
19 for loans subject to such section;

20 “(B) a home equity line of credit that is in
21 a subordinate lien position; and

22 “(C) a reverse mortgage.”,

23 (3) by redesignating paragraphs (53B) through
24 (53D) as paragraphs (53C), (53D), (53E), and
25 (53F), respectively; and

1 (4) by inserting after paragraph (53A) the fol-
2 lowing:

3 “(53B) The term ‘subprime mortgage’ means a
4 security interest in the debtor’s principal residence
5 that secures a debt for a loan that has an annual
6 percentage rate that is greater than—

7 “(A) the sum of 3 percent plus the yield on
8 United States Treasury securities having com-
9 parable periods of maturity, if the loan is se-
10 cured by a first mortgage or first deed of trust;
11 or

12 “(B) the sum of 5 percent plus the yield
13 on United States Treasury securities having
14 comparable periods of maturity, if the loan is
15 secured by a subordinate mortgage or subordi-
16 nate deed of trust.

17 Without regard to whether such loan is subject to or
18 reportable under the Home Mortgage Disclosure
19 Act, the difference between the annual percentage
20 rate of such loan and the yield on United States
21 Treasury securities having comparable periods of
22 maturity shall be determined using the procedures
23 and calculation methods applicable to loans that are
24 subject to the reporting requirements of such Act,
25 except that such yield shall be determined as of the

1 15th day of the month preceding the month in which
2 a completed application is submitted for such loan.
3 If such loan provides for a fixed interest rate for an
4 introductory period and then resets or adjusts to a
5 variable interest rate, the determination of the an-
6 nual percentage rate shall be based on the greater
7 of the introductory rate and the fully indexed rate.
8 For purposes of this paragraph, the term ‘fully in-
9 dexed rate’ means the prevailing index rate on a res-
10 idential mortgage loan at the time at which the loan
11 is made, plus the margin that will apply after the ex-
12 piration of an introductory interest rate.”.

13 **SEC. 412. SPECIAL RULES FOR MODIFICATION OF LOANS**
14 **SECURED BY RESIDENCES.**

15 (a) IN GENERAL.—Section 1322(b) of title 11,
16 United States Code, is amended—

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

19 (2) by redesignating paragraph (11) as para-
20 graph (12); and

21 (3) by inserting after paragraph (10) the fol-
22 lowing:

23 “(11) notwithstanding paragraph (2) and other-
24 wise applicable nonbankruptcy law—

1 the date of the order for relief under this
2 chapter; and

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

12 “(C) if a claim has been modified to an
13 amount below the original principal of the loan
14 pursuant to paragraph (B)(i) and the debtor’s
15 principal residence is sold during the term of
16 the plan, the holder of the claim shall be enti-
17 tled to receive, in addition to the unpaid portion
18 of the allowed secured claim, the net proceeds
19 of the sale, or the amount of the holder’s al-
20 lowed unsecured claim, whichever is less; and”.

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

1 **SEC. 413. WAIVER OF COUNSELING REQUIREMENT WHEN**
2 **HOMES ARE IN FORECLOSURE.**

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

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

9 **Subtitle B—Providing Other**
10 **Debtor Protections**

11 **SEC. 421. COMBATING EXCESSIVE FEES.**

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

14 (1) in paragraph (1), by striking “and” at the
15 end;

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

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

19 “(3) the plan need not provide for the payment
20 of, and the debtor, the debtor’s property, and prop-
21 erty of the estate shall not be liable for, any fee,
22 cost, or charge, notwithstanding section 506(b), that
23 arises in connection with a claim secured by the
24 debtor’s principal residence if the event that gives
25 rise to such fee, cost, or charge occurs while the case

1 is pending but before the discharge order, except to
2 the extent that—

3 “(A) notice of such fees, costs or charges
4 is filed with the court, and served on the debtor
5 and the trustee, before the expiration of the
6 earlier of—

7 “(i) 1 year after the event that gives
8 rise to such fee, cost, or charge occurs; or

9 “(ii) 60 days before the closing of the
10 case; and

11 “(B) such fees, costs, or charges are law-
12 ful, reasonable, and provided for in the agree-
13 ment under which such claim or security inter-
14 est arose;

15 “(4) the failure of a party to give notice de-
16 scribed in paragraph (3) shall be deemed a waiver
17 of any claim for fees, costs, or charges described in
18 paragraph (3) for all purposes, and any attempt to
19 collect such fees, costs, or charges shall constitute a
20 violation of section 524(a)(2) of this title or, if the
21 violation occurs before the date of discharge, of sec-
22 tion 362(a) of this title; and

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

1 **SEC. 422. MAINTAINING DEBTORS' LEGAL CLAIMS.**

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

4 “(e) In any action in State or Federal court with re-
5 spect to a claim or defense asserted by an individual debt-
6 or in such action that was not scheduled under section
7 521(a)(1) of this title, the trustee shall be allowed a rea-
8 sonable time to request joinder or substitution as the real
9 party in interest. If the trustee does not request joinder
10 or substitution in such action, the debtor may proceed as
11 the real party in interest, and no such action shall be dis-
12 missed on the ground that it is not prosecuted in the name
13 of the real party in interest or on the ground that the
14 debtor’s claims were not properly scheduled in a case
15 under this title.”.

16 **SEC. 423. RESOLVING DISPUTES.**

17 Section 1334 of title 28, United States Code, is
18 amended by adding at the end the following: “Notwith-
19 standing any agreement for arbitration that is subject to
20 chapter 1 of title 9, in any core proceeding under section
21 157(b) of this title involving an individual debtor whose
22 debts are primarily consumer debts, the court may hear
23 and determine the proceeding, and enter appropriate or-
24 ders and judgments, in lieu of referral to arbitration.”.

1 **SEC. 424. ENACTING A HOMESTEAD FLOOR FOR DEBTORS**
2 **OVER 55 YEARS OF AGE.**

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

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

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

9 (3) by adding at the end and inserting the fol-
10 lowing:

11 “(D) if the debtor, as of the date of the filing
12 of the petition, is 55 years old or older, the debtor’s
13 aggregate interest, not to exceed \$75,000 in value,
14 in real property or personal property that the debtor
15 or a dependent of the debtor uses as a principal resi-
16 dence, or in a cooperative that owns property that
17 the debtor or a dependent of the debtor uses as a
18 principal residence.”.

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

23 **SEC. 425. DISALLOWING CLAIMS FROM VIOLATIONS OF**
24 **CONSUMER PROTECTION LAWS.**

25 Section 502(b) of title 11, United States Code, is
26 amended—

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

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

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

6 “(10) the claim is subject to any remedy for
7 damages or rescission due to failure to comply with
8 any applicable requirement under the Truth in
9 Lending Act (15 U.S.C. 1601 et seq.), or any other
10 provision of applicable State or Federal consumer
11 protection law that was in force when the noncompli-
12 ance took place, notwithstanding the prior entry of
13 a foreclosure judgment.”.

14 **TITLE V—MORTGAGE DISCLO-** 15 **SURE IMPROVEMENT ACT**

16 **SEC. 501. SHORT TITLE.**

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

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

20 (a) **TRUTH IN LENDING ACT DISCLOSURES.**—Sec-
21 tion 128(b)(2) of the Truth in Lending Act (15 U.S.C.
22 1638(b)(2)) is amended—

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

24 (2) by striking “a residential mortgage trans-
25 action, as defined in section 103(w)” and inserting

1 “any extension of credit that is secured by the dwell-
2 ing of a consumer”;

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

5 (4) by striking “If the” and all that follows
6 through the end of the paragraph and inserting the
7 following:

8 “(B) In the case of an extension of credit that
9 is secured by the dwelling of a consumer, in addition
10 to the other disclosures required by subsection (a),
11 the disclosures provided under this paragraph
12 shall—

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

18 “(ii) be furnished to the borrower not later
19 than 7 business days before the date of con-
20 summation of the transaction, and at the time
21 of consummation of the transaction, subject to
22 subparagraph (D).

23 “(C) In the case of an extension of credit that
24 is secured by the dwelling of a consumer, under
25 which the annual rate of interest is variable, or with

1 respect to which the regular payments may other-
2 wise be variable, in addition to the other disclosures
3 required by subsection (a), the disclosures provided
4 under this paragraph shall—

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

8 “(ii) state the maximum amount of the
9 regular required payments on the loan, based
10 on the maximum interest rate allowed, intro-
11 duced with the following language in con-
12 spicuous type size and format: ‘Your payment
13 can go as high as _____’, the blank to be filled
14 in with the maximum possible payment amount.

15 “(D) In any case in which the disclosure state-
16 ment provided 7 business days before the date of
17 consummation of the transaction contains an annual
18 percentage rate of interest that is no longer accu-
19 rate, as determined under section 107(c), the cred-
20 itor shall furnish an additional, corrected statement
21 to the borrower, not later than 3 business days be-
22 fore the date of consummation of the transaction.”.

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

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

6 (2) in the penultimate sentence of the undesig-
7 nated matter following paragraph (4)—

8 (A) by striking “only for” and inserting
9 “for”;

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

12 (C) by inserting “or section 128(b),” after
13 “128(a),”; and

14 (D) by inserting “or section 128(b)” before
15 the period.

16 **TITLE VI—INCENTIVES FOR**
17 **BUSINESS**

18 **SEC. 601. ELECTION FOR 5-YEAR CARRYBACK OF CERTAIN**
19 **NET OPERATING LOSSES AND TEMPORARY**
20 **SUSPENSION OF 90 PERCENT AMT LIMIT.**

21 (a) IN GENERAL.—

22 (1) 5-YEAR CARRYBACK OF CERTAIN LOSSES.—
23 Subparagraph (H) of section 172(b)(1) of the Inter-
24 nal Revenue Code of 1986 is amended to read as fol-
25 lows:

1 “(H) 5-YEAR CARRYBACK OF CERTAIN
2 LOSSES.—

3 “(i) TAXABLE YEARS ENDING DURING
4 2001 AND 2002.—In the case of a net oper-
5 ating loss for any taxable year ending dur-
6 ing 2001 or 2002, subparagraph (A)(i)
7 shall be applied by substituting ‘5’ for ‘2’
8 and subparagraph (F) shall not apply.

9 “(ii) TAXABLE YEARS BEGINNING OR
10 ENDING DURING 2006, 2007, AND 2008.—In
11 the case of a net operating loss with re-
12 spect to any eligible taxpayer (within the
13 meaning of section 168(k)(4)) for any tax-
14 able year beginning or ending during 2006,
15 2007, or 2008—

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

18 “(II) subparagraph (E)(ii) shall
19 be applied by substituting ‘4’ for ‘2’,
20 and

21 “(III) subparagraph (F) shall not
22 apply.”.

23 (2) TEMPORARY SUSPENSION OF 90 PERCENT
24 LIMIT ON CERTAIN NOL CARRYBACKS AND
25 CARRYOVERS.—

1 (A) IN GENERAL.—Section 56(d) of the of
2 the Internal Revenue Code of 1986 is amended
3 by adding at the end the following new para-
4 graph:

5 “(3) ADDITIONAL ADJUSTMENTS.—For pur-
6 poses of paragraph (1)(A), in the case of an eligible
7 taxpayer (within the meaning of section 168(k)(4)),
8 the amount described in clause (I) of paragraph
9 (1)(A)(ii) shall be increased by the amount of the
10 net operating loss deduction allowable for the tax-
11 able year under section 172 attributable to the sum
12 of—

13 “(A) carrybacks of net operating losses
14 from taxable years beginning or ending during
15 2006, 2007, and 2008, and

16 “(B) carryovers of net operating losses to
17 taxable years beginning or ending during 2006,
18 2007, or 2008.”.

19 (B) CONFORMING AMENDMENT.—Sub-
20 clause (I) of section 56(d)(1)(A)(i) of such Code
21 is amended by inserting “amount of such” be-
22 fore “deduction described in clause (ii)(I)”.

23 (3) EFFECTIVE DATES.—

24 (A) NET OPERATING LOSSES.—

1 (i) IN GENERAL.—Except as provided
2 in clause (ii), the amendments made by
3 paragraph (1) shall apply to net operating
4 losses arising in taxable years beginning or
5 ending in 2006, 2007, or 2008.

6 (ii) ELECTION.—In the case of an eli-
7 gible taxpayer (within the meaning of sec-
8 tion 168(k)(4)) of the Internal Revenue
9 Code of 1986) with a net operating loss for
10 a taxable year beginning or ending during
11 2006 or 2007—

12 (I) any election made under sec-
13 tion 172(b)(3) of the Internal Rev-
14 enue Code of 1986 may (notwith-
15 standing such section) be revoked be-
16 fore November 1, 2008, and

17 (II) any election made under sec-
18 tion 172(j) of such Code shall (not-
19 withstanding such section) be treated
20 as timely made if made before Novem-
21 ber 1, 2008.

22 (B) SUSPENSION OF AMT LIMITATION.—
23 The amendments made by paragraph (2) shall
24 apply to taxable years ending after December
25 31, 1995.

1 (4) ANTI-ABUSE RULES.—The Secretary of
2 Treasury or the Secretary’s designee shall prescribe
3 such rules as are necessary to prevent the abuse of
4 the purposes of the amendments made by this sub-
5 section, including anti-stuffing rules, anti-churning
6 rules (including rules relating to sale-leasebacks),
7 and rules similar to the rules under section 1091 of
8 the Internal Revenue Code of 1986 relating to losses
9 from wash sales.

10 (b) ELECTION AMONG STIMULUS INCENTIVES.—

11 (1) IN GENERAL.—

12 (A) BONUS DEPRECIATION.—Section
13 168(k) of the Internal Revenue Code of 1986,
14 as amended by the Economic Stimulus Act of
15 2008, is amended—

16 (i) in paragraph (1), by inserting
17 “placed in service by an eligible taxpayer”
18 after “any qualified property”, and

19 (ii) by adding at the end the following
20 new paragraph:

21 “(4) ELIGIBLE TAXPAYER.—

22 “(A) IN GENERAL.—At such time and in
23 such manner as the Secretary shall prescribe,
24 each taxpayer may elect to be an eligible tax-

1 payer with respect to 1 (and only 1) of the fol-
2 lowing:

3 “(i) This subsection and section
4 179(b)(7).

5 “(ii) The application of section
6 56(d)(1)(A)(ii)(I) and section
7 172(b)(1)(H)(ii) in connection with net op-
8 erating losses relating to taxable years be-
9 ginning or ending during 2006, 2007, and
10 2008.

11 “(B) ELIGIBLE TAXPAYER.—For purposes
12 of each of the provisions described in subpara-
13 graph (A), a taxpayer shall only be treated as
14 an eligible taxpayer with respect to the provi-
15 sion with respect to which the taxpayer made
16 the election subparagraph (A).

17 “(C) ELECTION IRREVOCABLE.—An elec-
18 tion under subparagraph (A) may not be re-
19 voked except with the consent of the Sec-
20 retary.”.

21 (B) EFFECTIVE DATE.—The amendments
22 made by this paragraph shall take effect as if
23 included in section 103 of the Economic Stim-
24 ulus Act of 2008.

25 (2) ELECTION FOR INCREASED EXPENSING.—

1 (A) IN GENERAL.—Paragraph (7) of sec-
2 tion 179(b) of the Internal Revenue Code of
3 1986 (relating to limitations), as added by the
4 Economic Stimulus Act of 2008, is amended to
5 read as follows:

6 “(7) SPECIAL RULE FOR ELIGIBLE TAXPAYERS
7 IN 2008.—In the case of any taxable year of any eli-
8 gible taxpayer (within the meaning of section
9 168(k)(4)) beginning in 2008—

10 “(A) the dollar limitation under paragraph
11 (1) shall be \$250,000,

12 “(B) the dollar limitation under paragraph
13 (2) shall be \$800,000, and

14 “(C) the amounts described in subpara-
15 graphs (A) and (B) shall not be adjusted under
16 paragraph (5).”.

17 (B) EFFECTIVE DATE.—The amendments
18 made by this paragraph shall take effect as if
19 included in section 102 of the Economic Stim-
20 ulus Act of 2008.

21 **TITLE VII—EMERGENCY** 22 **DESIGNATION**

23 **SEC. 701. EMERGENCY DESIGNATION.**

24 For purposes of Senate enforcement, all provisions of
25 this Act are designated as emergency requirements and

1 necessary to meet emergency needs pursuant to section
2 204 of S. Con. Res. 21 (110th Congress), the concurrent
3 resolution on the budget for fiscal year 2008.