

“(e) In any action in State or Federal court with respect to a claim or defense asserted by an individual debtor in such action that was not scheduled under section 521(a)(1) of this title, the trustee shall be allowed a reasonable time to request joinder or substitution as the real party in interest. If the trustee does not request joinder or substitution in such action, the debtor may proceed as the real party in interest, and no such action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest or on the ground that the debtor’s claims were not properly scheduled in a case under this title.”.

SEC. 423. RESOLVING DISPUTES.

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

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

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

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

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

(3) by adding at the end and inserting the following:

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

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

SEC. 425. DISALLOWING CLAIMS FROM VIOLATIONS OF CONSUMER PROTECTION LAWS.

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

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

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

(3) by adding at the end the following:

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

TITLE V—MORTGAGE DISCLOSURE IMPROVEMENT ACT

SEC. 501. SHORT TITLE.

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

SEC. 502. ENHANCED MORTGAGE LOAN DISCLOSURES.

(a) TRUTH IN LENDING ACT DISCLOSURES.—Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)) is amended—

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

(2) by striking “a residential mortgage transaction, as defined in section 103(w)” and inserting “any extension of credit that is secured by the dwelling of a consumer”;

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

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

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

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

“(ii) be furnished to the borrower not later than 7 business days before the date of consummation of the transaction, and at the time of consummation of the transaction, subject to subparagraph (D).

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

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

“(ii) state the maximum amount of the regular required payments on the loan, based on the maximum interest rate allowed, introduced with the following language in conspicuous type size and format: ‘Your payment can go as high as _____’, the blank to be filled in with the maximum possible payment amount.

“(D) In any case in which the disclosure statement provided 7 business days before the date of consummation of the transaction contains an annual percentage rate of interest that is no longer accurate, as determined under section 107(c), the creditor shall furnish an additional, corrected statement to the borrower, not later than 3 business days before the date of consummation of the transaction.”.

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

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

(2) in the penultimate sentence of the undesignated matter following paragraph (4)—

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

(B) by striking “section 125 or” and inserting “section 122, section 125,”;

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

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

TITLE VI—INCENTIVES FOR BUSINESS

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

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

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

“(i) TAXABLE YEARS ENDING DURING 2001 AND 2002.—In the case of a net operating loss for any taxable year ending during 2001 or 2002, subparagraph (A)(i) shall be applied by substituting ‘5’ for ‘2’ and subparagraph (F) shall not apply.

“(ii) TAXABLE YEARS BEGINNING OR ENDING DURING 2006, 2007, AND 2008.—In the case of a net operating loss with respect to any eligible taxpayer (within the meaning of section 168(k)(1)(B)) for any taxable year beginning or ending during 2006, 2007, or 2008—

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

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

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

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

(1) IN GENERAL.—Section 56(d) of the of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

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

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

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

(2) CONFORMING AMENDMENT.—Subclause (I) of section 56(d)(1)(A)(i) of such Code is amended by inserting “amount of such” before “deduction described in clause (ii)(I)”.

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

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (a) shall apply to net operating losses arising in taxable years beginning or ending in 2006, 2007, or 2008.

(B) ELECTION.—In the case of an eligible taxpayer (within the meaning of section 168(k)(1)(B) of the Internal Revenue Code of 1986) with a net operating loss for a taxable year beginning or ending during 2006 or 2007—

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

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

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

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 450—DESIGNATING JULY 26, 2008, AS “NATIONAL DAY OF THE COWBOY”

Mr. ENZI (for himself, Mr. BARRASSO, Mr. ALLARD, Mr. CRAIG, Mr. CRAPO, Mr. DOMENICI, Mr. DORGAN, Mr. ENSIGN, Mr. BINGAMAN, Mr. INHOFE, Mrs. MURRAY, Mr. REID, Mr. SALAZAR, Mr. STEVENS, Mr. MARTINEZ, and Mr. JOHNSON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 450

Whereas pioneering men and women, recognized as “cowboys”, helped establish the American West;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy spirit exemplifies strength of character, sound family values, and good common sense;

Whereas the cowboy archetype transcends ethnicity, gender, geographic boundaries, and political affiliations;

Whereas the cowboy is an excellent steward of the land and its creatures, who lives off of the land and works to protect and enhance the environment;

Whereas cowboy traditions have been a part of American culture for generations;

Whereas the cowboy continues to be an important part of the economy through the work of approximately 727,000 ranchers in all 50 of the United States that contribute to the economic well-being of nearly every county in the Nation;

Whereas annual attendance at professional and working ranch rodeo events exceeds 27,000,000 fans and rodeo is the 7th most-watched sport in the Nation;

Whereas membership and participation in rodeo and other organizations that promote and encompass the livelihood of a cowboy span every generation and transcend race and gender;

Whereas the cowboy is a central figure in literature, film, and music and occupies a central place in the public imagination;

Whereas the cowboy is an American icon; and

Whereas the ongoing contributions made by cowboys and cowgirls to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 26, 2008, as “National Day of the Cowboy”; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

Mr. ENZI. Mr. President, I am proud to introduce a resolution today honoring the men and women known as “cowboys.” My late colleague, Senator Craig Thomas began the tradition of introducing a Senate resolution designating the fourth Saturday of July as the National Day of the Cowboy. I am so proud to carry on that tradition. The national day celebrates the history of cowboys in America and recognizes the important work today’s cowboys are doing in the United States. The cowboy spirit is about honesty, integrity, courage, and patriotism, and cowboys are models of strong character, sound family values, and good common sense.

Cowboys were some of the first men and women to settle in the American West, and they continue to make important contributions to our economy, Western culture and my home State of Wyoming today. This year’s resolution designates July 26, 2008, as the National Day of the Cowboy. I hope my colleagues will join me in recognizing the important role cowboys play in our country and will work with me to pass this resolution.

SENATE RESOLUTION 451—HONORING THE ACHIEVEMENTS OF RAWLE AND HENDERSON LLP, ON ITS 225TH ANNIVERSARY AND ON BEING RECOGNIZED AS THE OLDEST LAW FIRM IN CONTINUOUS PRACTICE IN THE UNITED STATES

Mr. SPECTER (for himself and Mr. CASEY) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 451

Whereas the law firm of Rawle and Henderson LLP has established and maintained a firm of national distinction whose reputation is based upon the notable accomplishments of its founders and its commitment to providing quality legal services to its clients;

Whereas Rawle and Henderson LLP celebrates 225 years of legal service in 2008, initiated by 5 generations of a family and expanded to over 100 attorneys in 8 offices and 5 states;

Whereas Rawle and Henderson attorneys throughout the last 225 years have served both the civic and legal community in the capacity of elected officials, as well as appointed and elected judges on the Federal and State benches;

Whereas William Rawle, who founded his practice in Philadelphia in 1783, was inspired by the innovation of the Revolutionary era and his notable contemporaries, such as Benjamin Franklin;

Whereas William Rawle actively participated in the ideological revolution as well, serving as chancellor of the Associated Members of the Bar of Philadelphia, and was elected to the American Philosophical Society and helped found the Pennsylvania Academy of Fine Arts;

Whereas William Rawle was made a Trustee by the University of Pennsylvania in 1796, a position he served with “zeal and punctuality”;

Whereas William Rawle’s son, William Rawle, Jr., joined the office in 1810, along with his brother William Henry, who eventually assumed his father’s position in the firm;

Whereas William Henry Rawle received his degree from the University of Pennsylvania, and published articles such as the “Practical Treatise on the Law of Covenants for Title”, which was accepted as a legal authority throughout the Union and in England;

Whereas William Henry Rawle was also invited to speak to the law department of his alma mater, the University of Pennsylvania, and in 1884 he appeared before a joint session of Congress to deliver a speech honoring Chief Justice John Marshall;

Whereas William Henry Rawle served as vice president of the Law Association of Philadelphia, and was noted by George Washington Biddle for his “intellectual strength and brilliancy of expression”;

Whereas William Rawle’s grandson Francis Rawle, the next leader of the Rawle law offices, attended Harvard College, began his law career in 1873, and was one of the founders of the American Bar Association and its first secretary and treasurer, later becoming its president in 1902;

Whereas Francis Rawle was a prolific author who gained national recognition with his revision of Bouvier’s Law Dictionary, the publication of which coincided with the centennial of the Rawle firm in 1883, and he served as a delegate from the American Bar Association to the London Conference for Reform and Codification of the Law of Nations in 1887;

Whereas Colonel William Brooke Rawle, nephew of William Henry, served his country with distinction during the Civil War, entering the Union Army as Second Lieutenant, Third Pennsylvania Cavalry, was commended by his cousin Francis Rawle for his service, and went on to earn a master’s degree from the University of Pennsylvania in 1866 and to join the family firm a year later, remaining the head of the office until his death in 1915;

Whereas Joseph W. Henderson joined the Rawle firm upon graduation from Harvard Law School, expanding the firm’s reputation for legal excellence and eventually becoming a partner in 1917;

Whereas, in similar fashion to his colleagues, Joseph Henderson reached a position of considerable power in the Philadelphia Bar Association and became chairman of the Association’s Board of Governors in 1936;

Whereas Joseph Henderson carried on the firm’s tradition of leadership upon the passing of Francis Rawle, and oversaw 2 other significant additions, George Brodhead and Tom Mount, who worked in trusts and estates and the admiralty business, respectively;

Whereas Joseph Henderson continued to lead the firm with landmark cases in the area of ship owner liability, arguing many of them before the Supreme Court;

Whereas the Rawle and Henderson firm has evolved into one of the leading legal firms in the country, employing a racially and socioeconomically diverse staff, and has a number of attorneys honored as “Super Lawyers” in Pennsylvania; and

Whereas, supported upon the integrity of its founders and the numerous accomplishments of the Rawle family and of Joseph W. Henderson, the firm of Rawle and Henderson is primed to extend its history and tradition of legal innovation into a future of continued prominence: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the achievement of Rawle and Henderson LLP on its 225th anniversary and on being recognized as the oldest law firm in continuous practice in the United States; and

(2) salutes the profound legacy the attorneys of Rawle and Henderson LLP have provided to the civic and legal community of Pennsylvania and the Nation.

Mr. SPECTER. Mr. President, I seek recognition to congratulate the firm of Rawle and Henderson LLP on its 225th anniversary, and on being recognized as the oldest law firm in continuous practice in the U.S.

Five generations of the Rawle family have established and maintained a firm that has expanded to over a hundred attorneys in eight offices and five States. Rawle and Henderson attorneys have served as elected officials in both the civic and legal community throughout the past 225 years, and have served as appointed and elected judges on the Federal and State benches.

Inspired by Benjamin Franklin’s accomplishments, William Rawle founded his practice in Philadelphia in 1783. His two sons followed their father’s example, joining the practice in 1810. Joseph W. Henderson, a graduate of Harvard Law School, joined the firm in 1917, expanding the firm’s reputation for legal excellence, and arguing numerous landmark cases before the Supreme Court. The Rawle and Henderson firm continues to prosper in 2008, employing a